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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-511, Ensuring Community Access to Recreational Spaces Act of 2018
- D.C. Council schedules a public hearing on Bill 22-958 Babies Safe at Home Act of 2018
- Department of Employment Services announces funding availability for the FY 19 Pathways for Young Adults Program (PYAP) Innovation Grants Program for Entrepreneurship and Post Secondary Education
- Department of For-Hire Vehicles updates service and fare requirements for the Transport DC Program
- Department of Health announces funding availability for expanding in-home parenting education
- Department of Housing and Community Development establishes procedures for implementing the District's Opportunity to Purchase Program
- Department of Housing and Community Development notifies the public of the District Opportunity to Purchase Program's selection criteria for prioritizing building(s) for purchase
- Department of Human Services announces funding availability for providing Technical Support for the Families First Program
- University of the District of Columbia adjusts tuition rates for degree granting programs beginning in the fall semester of 2019

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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DISTRICT OF COLUMBIA
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ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-511

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 7, 2018

To require the Mayor to issue permits for the use of school facilities in a way that maximizes use of the school facilities while maintaining the quality of the school facilities and ensuring compliance with Internal Revenue Service rules governing tax-exempt bond financed property, to establish levels of priority for the use of school facilities when more than one individual or entity submits an application to use the same school facility for the same period of time, to permit an entity to apply for a waiver or reduction of permit, custodial, or security fees associated with the use of a school facility, to establish the DCPS School Facility Fund, and to establish a Community Use of School Facilities Task Force.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Ensuring Community Access to Recreational Spaces Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Community use" means the recreational use of school facilities without a permit by any member of the community.

(2) "DCPS" means the District of Columbia Public Schools.

(3) "High-need community" means a neighborhood cluster, as that term is defined in section 1102a(2E) of the School Based Budgeting and Accountability Act of 1998, effective June 21, 2014 (D.C. Law 20-114; D.C. Official Code § 38-2801.01(2E)), where at least 50% of school-aged children qualify for free or reduced-price school meals.

(4) "School facility" means a field, playground, gymnasium, multipurpose room, and other area used for recreation under the control of DCPS.

Sec. 3. Use of school facilities; issuance of permits.

(a) School facilities shall be used according to the following order of priority:

(1) Use of the school facility by the public school where the school facility is located;

(2) Use of the school facility by DCPS;

(3) Community use at times designated by the Mayor; and

(4) Use of the school facility by permit holders.

(b)(1) The Mayor shall issue permits to applicants for the use of school facilities in a manner that maximizes use while maintaining the quality of the school facilities and ensuring compliance with Internal Revenue Service rules governing tax-exempt bond financed property.

(2) If more than one applicant submits a permit application to use the same school facility for the same period of time, the Mayor shall issue the permit according to the following order of priority:

(A) DCPS school program providers, including Adopt-a-School Program participants and School Partnership Fellows;

(B) Athletic programs organized by the Department of Parks and Recreation, District of Columbia public charter schools, or the District of Columbia State Athletic Association;

(C) Nonprofit organizations that principally serve District residents who are youths;

(D) Other nonprofit organizations that principally serve District residents;

(E) Individuals who are District residents or entities whose principal place of business is in the District; and

(F) Others.

(3) Where applicants for use of a particular school facility are of the same priority level under paragraph (2) of this subsection, the Mayor shall issue the permit to the applicant who submitted an application first.

(c) The Mayor may charge permit, custodial, or security fees associated with the use of a school facility.

Sec. 4. Waiver or reduction of fees for the use of school facilities.

(a) When applying for a permit under section 3, an entity may apply to the Mayor for a waiver or reduction of any permit, custodial, or security fee associated with the use of the school facility, if the entity:

(1) Is a nonprofit organization that is exempt from taxation under section 501(c)(3) or (4) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3) or (4)):

(2) Certifies that the entity has Clean Hands pursuant to D.C. Official Code §§ 47-2862 and 47-2863;

(3) Certifies that at least 75% of the people who will benefit from the issuance of the permit are District residents; and

(4) Demonstrates financial hardship.

(b) Within 180 days after the effective date of this act, the Mayor shall make publicly available on the DCPS website an application for the fee waiver described in subsection (a) of this section.

Sec. 5. Establishing the DCPS School Facility Fund.

(a) There is established as a special fund the DCPS School Facility Fund ("Fund"), which shall be administered by the Mayor in accordance with subsection (c) of this section.

(b) Any fees collected for the use of school facilities pursuant to section 3(c) shall be deposited in the Fund.

(c)(1) Money in the Fund shall be used for the following purposes:

(A) 75% of the money shall be transferred to DCPS schools, according to the formula described in paragraph (3) of this subsection, for cleaning, maintaining, and repairing school facilities.

(B) 25% of the money shall be transferred to the Department of General Services to administer the permitting process for the use of school facilities.

(2) Money transferred pursuant to paragraph (1) of this subsection shall be transferred by October 1 and February 1 of each year.

(3) Money transferred to DCPS schools under paragraph (1)(A) of this subsection shall be distributed to individual DCPS schools in amounts that are proportionate to the number of permits issued for the use of that DCPS school's school facilities.

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

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

(e) At least once per year, the Mayor shall provide an accounting of fees collected for each DCPS school pursuant to section 3(c), including the name and affiliation of each permit holder, to the principal of that DCPS school.

(f) The Mayor shall transmit an annual report to the Council, describing all fees collected pursuant to section 3(c), broken down by DCPS school and permit holder.

Sec. 6. Community Use of School Facilities Task Force.

(a) There is established a Community Use of School Facilities Task Force ("Task Force"). The Task Force shall:

(1) Identify the frequency and timing of community use;

(2) Identify existing barriers to community use;

(3) Identify, in coordination with the Department of General Services and the Office of the Chief Financial Officer, how any changes to the District's permitting processes as it relates to tax-exempt bond financed property might jeopardize the tax-exempt status of the District's bonds; and

(4) Develop recommendations to increase community use, including:

(A) When and for how long school facilities should be reserved for community use;

(B) Permissible types of community use;

(C) How to address existing barriers to community use; provided, that the Task Force shall not recommend shifting liability away from the District government for loss or injury resulting from community use;

(D) A list of any regulatory or statutory changes necessary to increase community use; and

(E) A list of all District property financed by tax-exempt bonds, an explanation of how proposed permitted uses of each property could violate Internal Revenue Service rules regarding tax-exempt bond financed property, and recommendations for how the Department of General Services and DCPS can ensure that the Department of General Services does not grant permits for proposed uses that could jeopardize the tax-exempt status of the District's bonds.

(b) The Task Force shall consult with organizations and individuals with experience in the fields of obesity, community health, personal or group liability insurance, and tort liability.

(c) The Task Force shall be composed of the following members:

(1) The Director of the Department of General Services, or the Director's designee;

(2) The Chancellor of District of Columbia Public Schools, or the Chancellor's designee;

(3) The Director of the Department of Parks and Recreation, or the Director's designee;

(4) The Executive Director of the Office on Aging, or the Executive Director's designee;

(5) The Chief Financial Officer, or the Chief Financial Officer's designee;

(6) Five community representatives appointed by the Mayor as follows:

(A) Three representatives from parent-teacher associations or organizations;

(B) One representative from a community-based recreational program serving high-need communities; and

(C) One representative from a District organization that provides recreational programming for children

(d) By October 1, 2019, the Task Force shall transmit a report to the Council that details the Task Force's findings and recommendations described in subsection (a) of this section.

Sec. 7. Rules.

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

ENROLLED ORIGINAL

Sec. 8. Fiscal impact statement.

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

Sec. 9. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED
Mayor
District of Columbia
APPROVED
October 31,2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-512

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 7, 2018

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish partnerships between the Department of Human Resources and District public high schools to promote pathways to government employment, to provide District high school graduates who are District residents with consideration priority for entry-level government jobs, and to establish apprenticeships in District government employment; and to amend An Act To provide for voluntary apprenticeship in the District of Columbia to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Pathways to District Government Careers Amendment Act of 2018".

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

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

(1) A new paragraph (7A) is added to read as follows:

"(7A) The term "entry-level" means a competitive District government position that:

"(A) Requires 3 or fewer years of prior work experience; and

"(B) Does not require educational certification above a high school diploma or its equivalent.".

(2) Paragraph (15A) is redesignated as paragraph (15B).

(3) A new paragraph (15A) is added to read as follows:

"(15A) The term "resident District graduate" means a resident who received a high school diploma from the District of Columbia Public Schools or a District public charter school or who received a GED or high school equivalency credential from the District of Columbia.".

(b) A new section 402a is added to read as follows:

"Sec. 402a. Pathway to government employment partnership program.

"The Department of Human Resources shall develop partnerships with schools and organizations, including District of Columbia Public Schools high schools and public charter high schools, adult education schools, and nonprofit organizations that prepare District residents for District high school diplomas or high school equivalency credentials, to foster employment applications from and the hiring of resident District graduates into District government employment. These partnerships may include:

"(1) Establishing a human resources recruiting unit or dedicating personnel to recruit current and future resident District graduates to internships, apprenticeships, and full-time employment in the District government;

"(2) A system for students to learn about and apply for District government apprenticeships and employment;

"(3) Paid internships in District government agencies;

"(4) Mentoring by District government employees;

"(5) Career exposure to a variety of District government jobs; and

"(6) Information on entry-level jobs, including how to prepare to be a qualified applicant and how to meet the suitability requirements outlined in Chapter 4 of Title 6-B of the District of Columbia Municipal Regulations (6-B DCMR § 400 *et seq.*).".

(c) Section 801 (D.C. Official Code § 1-608.01) is amended as follows:

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

(A) Paragraph (2) is amended by striking the semicolon and inserting the phrase "; provided, that resident District graduates shall receive consideration priority as provided in subsection (b-1) of this section;" in its place.

(B) Paragraph (11) is amended by striking the phrase "development," and inserting the phrase "development, with special emphasis on resident District graduates as provided in subsection (b-1) of this section,".

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

"(b-1)(1) For each entry-level job opening, a subordinate agency, or the Department of Human Resources acting on behalf of the subordinate agency, shall:

"(A) Directly solicit Career Service applications from resident District graduates through means that effectively target that population:

"(B) Accept applications for at least 5 business days;

"(C) Use numerical ratings, categorical rankings, or pass-fail ratings to score or rank entry-level job applicants as qualified or the equivalent of qualified, pursuant to regulations issued by the Mayor;

"(D) Conduct individual interviews with select candidates as part of its hiring process; and

"(E) Exclusively consider hiring resident District graduate applicants who are scored or ranked as at least qualified (or the equivalent of qualified), until that pool of resident District graduate applicants has been exhausted.

"(2) If a subordinate agency is unable to fill a position after considering all qualified (or equivalently scored or ranked) resident District graduate applicants, the subordinate agency may consider other candidates.

"(3) An applicant who claims resident District graduate consideration priority under this subsection shall submit proof of entitlement to the priority in a manner determined by the Mayor.

"(4) Nothing in this subsection shall be interpreted as superseding a collective bargaining agreement that:

"(A) Requires a subordinate agency to post vacant Career Service positions internally to allow agency bargaining unit term and temporary employees to apply and compete before posting the positions externally; or

"(B) Requires a subordinate agency to give consideration priority for Career Service entry-level jobs to applicants other than resident District graduates.

"(5) For the purposes of this subsection, the term "qualified" shall have the same meaning as provided in sections 809 through 810 of Title 6-B of the District of Columbia Municipal Regulations (6-B DCMR §§ 809-810), or subsequent regulations issued by the Mayor.".

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

"(g)(1) Each subordinate agency head shall submit to the Mayor and the Council quarterly reports detailing the names of all new employees and their pay schedules, titles, and place of residence and whether, for entry-level positions, the new employee is a resident District graduate.

"(2) The Mayor shall integrate into each subordinate agency's yearly performance objectives the rate of success in hiring District residents and resident District graduates.

"(3) The Mayor shall conduct annual audits of each subordinate agency's personnel records to ensure that all persons claiming a residency preference at time of hiring comply with the provisions of subsection (e)(2) of this section and that all persons receiving resident District graduate consideration priority submitted requisite proof of entitlement.

"(4) Audit reports shall be submitted annually to the Council.

(d) A new Title X-C is added to read as follows:

"TITLE X-C. GOVERNMENT APPRENTICESHIPS

"Sec. 1080. Definitions.

"(1) "Apprentice" means an employee of a District agency who is employed in an apprenticeship program.

"(2) "Apprenticeable occupation" means an occupation title included in the most recent version of the U.S. Department of Labor's List of Occupations Officially Recognized as Apprenticeable by the Office of Apprenticeship.

"(3) "Apprenticeship" means an employment position in the District government that is part of an apprenticeship program.

"(4) "Apprenticeship program" means an employment program in the District government established pursuant to this title, which combines on-the-job training with classroom instruction to prepare employees for a career in a particular occupation.

"(5) "Apprenticeship sponsor" means the entity responsible for registering an apprenticeship program with OAIT.

"(6) "DCHR" means the District of Columbia Department of Human Resources.

"(7) "DOES" means the Department of Employment Services.

"(8) "Host agency" means the District government agency that employs an apprentice.

"(9) "Initiative" means the District of Columbia Government Apprenticeship Initiative established by section 1081.

"(10) "Life skills training" means age-appropriate, non-technical skills training that helps individuals succeed in the workplace and includes training on communication, time management, appropriate work attire, and conflict resolution, and education on workplace drug testing.

"(11) "OAIT" means DOES's Office of Apprenticeship, Information and Training.

"(12) "Related technical instruction" means academic instruction, as required by approved apprenticeship standards, that supplements the concepts and processes of on-the-job learning in an apprenticeship program.

"Sec. 1081. Establishment of District of Columbia Government Apprenticeship Initiative.

"(a) There is established a District of Columbia Government Apprenticeship Initiative ("Initiative") to create apprenticeships in District agencies.

"(b)(1) DCHR and OAIT ("Administrators") shall develop and administer the Initiative in accordance with this title.

"(2) Each Administrator shall designate one employee to serve as the agency's Initiative coordinator.

"(c)(1) The Administrators shall consult with potential host agencies and labor union representatives to identify at least 5 apprenticeable occupations in the District government in which the District will create apprenticeship programs.

"(2) The Administrators shall identify apprenticeable occupations based on:

"(A) Review of apprenticeable occupations within District agencies;

"(B)(i) Consideration of previously open positions in District agencies;

"(ii) Upcoming position openings;

"(iii) Current permanent, term, and temporary positions;

"(iv) Positions filled by outside contractors; and

"(v) Positions that could become apprenticeships if classified at a lower grade;

"(C) The business needs of potential host agencies; and

"(D) The long-term employment opportunities and earning potential of workers in the occupation, including outside the District government.

"(3) At least one of the identified apprenticeable occupations shall be in information technology and at least one shall be in healthcare.

"(d)(1)(A) The Administrators shall submit a plan for creating and administering apprenticeship programs in the apprenticeable occupations identified pursuant to subsection (c) of this section to the Council within 180 days after the applicability date of the Pathways to District Government Careers Amendment Act of 2018, passed on 2nd reading on October 16, 2018 (Enrolled version of Bill 22-777).

"(B) For each apprenticeship program, the plan shall include:

"(i) The occupation covered by the apprenticeship program and the number of anticipated apprentices that will be employed in years 1, 2, and 3 of the Initiative;

"(ii) Which agency or agencies will serve as host agencies;

"(iii) Whether the host agency, DCHR, or another entity will serve as the apprenticeship sponsor;

"(iv) The division of responsibilities between each of the Administrators, the apprenticeship sponsor, and host agencies for the development and administration of the apprenticeship program, including which entity or entities will be responsible for ensuring that apprentices receive life skills training and requesting that the University of the District of Columbia Community College provide apprentices with related technical instruction if it will not be provided directly by the host agency or apprenticeship sponsor; and

"(v) A breakdown of costs by entity, including related technical instruction and life skills training.

"(2) Within 2 years after the applicability date of the Pathways to District Government Careers Amendment Act of 2018, passed on 2nd reading on October 16, 2018 (Enrolled version of Bill 22-777), the District government shall employ at least 2 apprentices in an apprenticeship program in each of the 5 apprenticeable occupations identified pursuant to subsection (c) of this section.

"(e) DCHR shall develop a process by which labor union representatives and potential host agencies, including independent agencies, may request the creation of an apprenticeship program in a specific occupation or agency. This process shall include DCHR meeting with labor union representatives at least 2 times per year.

"(f) DOES shall post all open apprenticeship positions on its DC Networks website.

"Sec. 1082. Apprenticeship program requirements.

"(a)(1) The apprenticeship sponsor shall register the apprenticeship program with OAIT in accordance with An Act To provide for voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1401 *et seq.*).

"(2) An apprenticeship program shall comply with standards, rules, and regulations issued pursuant to section 4 of An Act To provide for voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1403); provided, that no apprenticeship agreement may conflict with the terms or conditions of a District employee's employment under this act.

"(b) An apprenticeship program in a single occupation may have multiple host agencies.

"(c) A single host agency, DCHR, or another entity may serve as the apprenticeship sponsor for an apprenticeship program.

"(d) All apprenticeship programs shall include life skills training for apprentices.

"(e)(1) Federal funding sources shall be used to pay for related technical instruction before local funding sources.

"(2) DCHR, OAIT, or the host agency shall request the University of the District of Columbia Community College to provide apprentices with related technical instruction that is not provided directly by the host agency or apprenticeship sponsor.

"Sec. 1083. Positions for apprenticeships; apprenticeship eligibility and employment.

"(a) A host agency may convert existing positions into apprenticeships or create new, lower-grade positions for the purpose of establishing apprenticeships; provided, that nothing in this title may be interpreted as requiring the creation of new positions.

"(b)(1) New hires and existing employees may be eligible to become apprentices; provided, that no agency may require an employee in an apprenticeable occupation hired before the applicability date of the Pathways to District Government Careers Amendment Act of 2018, passed on 2nd reading on October 16, 2018 (Enrolled version of Bill 22-777), to become an apprentice.

"(2) Notwithstanding section 801(e)(7), an apprentice shall be a resident of the District of Columbia.

"(3) An apprentice shall receive compensation, benefits, and collective bargaining rights consistent with the classification of the apprentice's position under this act.

"(4) Section 10 of An Act To provide for voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 206; D.C. Official Code § 32-1410), shall govern the resolution of disputes arising from terms in an apprenticeship agreement not covered by this act or a collective bargaining agreement.

"Sec. 1084. Reports to Council.

"(a) By December 1, 2020, and each subsequent December 1, DCHR shall report to the Council on the Initiative. The report shall include:

"(1) A description of each established apprenticeship program, including:

"(A) The names and roles of participating entities;

"(B) The occupation covered;

"(C) Position titles of apprentices;

"(D) Apprentice grade levels and salary ranges;

"(E) The number of total, new, and female apprentices, and the number of apprenticeship graduates in the previous year;

"(F) Apprenticeship completion rates;

"(G) Length of apprenticeships;

"(H) Copies of curricula and training plans;

"(I) The name of the entity providing the related technical instruction;

"(J) The name of the entity providing the life skills training; and

"(K) A breakdown of costs, including costs attributed to program staff, related technical instruction, and life skills training, broken down by entity and federal or local funding source; and

"(2) Other information relevant to evaluating the implementation and progress of the Initiative.

"(b) By October 1, 2021, DCHR shall provide to the Council a 3-year plan for the establishment of additional apprenticeship programs in apprenticeable occupations for which no apprenticeship program exists.".

Sec. 3. Section 8 of An Act To provide for voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 206; D.C. Official Code § 32-1408), is amended as follows:

(1) The lead-in language is designated as subsection (a).

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

"(b) Notwithstanding subsection (a) of this section, the terms of an apprenticeship agreement executed pursuant to the District of Columbia Government Apprenticeship Initiative, established by Title X-C of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, passed on 2nd reading on October 16, 2019 (Enrolled version of Bill 22-777)), may not conflict with laws, rules, or regulations governing the terms or conditions of employment of an employee of the host agency, as that term is defined in section 1080(8) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, passed on 2nd reading on October 16, 2019 (Enrolled version of Bill 22-777).".

Sec. 4. Applicability.

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

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

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

ENROLLED ORIGINAL

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED
Mayor
District of Columbia
October 31,2018

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE OF INTENT TO ACT ON NEW LEGISLATION

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

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

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

BILLS

B22-1032	Bishop Sherman S. Howard Way Designation Act of 2018 Intro. 11-7-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
B22-1035	Direct Support Professionals Payment Rate Act of 2018 Intro. 11-13-18 by Councilmembers Nadeau, Silverman, Grosso, and Gray and referred to the Committee on Health with comments from the Committee on Human Services
B22-1036	The Development Expertise for ANCs Amendment Act of 2018 Intro. 11-13-18 by Councilmembers Nadeau, Gray, Silverman, R. White, and Grosso and referred to the Committee of the Whole with comments from the Committee on Housing and Neighborhood Revitalization
B22-1037	Office on Deaf and Hard of Hearing Establishment Amendment Act of 2018 Intro. 11-13-18 by Councilmembers Allen and Grosso and referred to the Committee on Health with comments from the Committee on Human Services

B22-1038	Vision Zero Enhancement Amendment Act of 2018 Intro. 11-13-18 by Councilmembers Allen and Grosso and referred to the Committee on Transportation and the Environment

PROPOSED RESOLUTIONS

PR22-1111	Medical Marijuana Ingestible Items Rulemaking Approval Resolution of 2018 Intro. 11-1-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
PR22-1125	Zoning Infractions Amendment Approval Resolution of 2018 Intro. 11-8-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
PR22-1126	Reimbursable Detail Subsidy Program Resolution of 2018 Intro. 11-7-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-1128	Sense of the Council in Support of Transgender, Intersex, and Gender Non-Conforming Communities Resolution of 2018 Intro. 11-13-18 by Councilmembers Grosso, R. White, Allen, Gray, Silverman, Nadeau, Evans, Cheh, Bonds, and McDuffie and Retained by the Council
PR22-1129	Sense of the Council Supporting Passage of the Justice for Victims of Lynching Act Resolution of 2018 Intro. 11-13-18 by Councilmembers Nadeau, Cheh, Gray, R. White, Evans, T. White, McDuffie, Silverman, Allen, Bonds, Todd, Grosso, and Chairman Mendelson and Retained by the Council

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION

ANNOUNCES A PUBLIC HEARING OF THE COMMITTEE

on

Bill 22-0958, "Babies Safe at Home Act of 2018"

Monday, December 3, 2018, at 10:00 AM
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, December 3, 2018, Councilmember Anita Bonds, Chairperson of the Committee on Housing & Neighborhood Revitalization, will hold a public hearing on Bill 22-0958, "Babies Safe at Home Act of 2018". The hearing will take place in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 10:00 a.m.

The stated purpose of Bill 22-0958, "Babies Safe at Home Act of 2018", is to establish a baby-proofing home modification grant program to aid qualified residents with the cost of improving the safety and well-being of infants and toddlers at home called the Babies Safe at Home Program.

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization, at (202) 724-8198, or email omontiel@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on November 30, 2018. Persons wishing to testify are encouraged to **submit 15 copies of written testimony**. Oral testimony should be limited to three minutes for individuals and five minutes for organizations.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Neighborhood Revitalization, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite G6, Washington, D.C. 20004. The record will close at 5:00 p.m. on December 17, 2018.

Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Roundtable
John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE

ANNOUNCES A PUBLIC ROUNDTABLE ON:

PR22-1093, the "Launchpad Development Revenue Bonds Project Approval Resolution of 2018"

Monday, November 19, 2018
9:45 a.m.
Room 412- John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Monday, November 19, 2018 at 9:45 a.m. in Room 412, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 22-1093, the "Launchpad Development Revenue Bonds Project Approval Resolution of 2018" would authorize for the issuance, sale, and delivery in an aggregate principal amount not to exceed $32 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds to assist Launchpad Development Company or Launchpad Development One DC, LLC, in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project includes financing the acquisition of land and a facility located at 2335 Raynolds Place SE in Ward 8 to be used as a public charter school campus, commonly known as Rocketship Rise Academy Public Charter School.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 9:45 a.m. on Friday, November 16, 2018. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA

CONSIDERATION OF TEMPORARY LEGISLATION

B22-1021, Health Insurance Marketplace Improvement Temporary Amendment Act of 2018 and **B22-1034**, Controlled Substance Testing Temporary Amendment Act of 2018, were adopted on first reading on November 13, 2018. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on December 4, 2018.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	November 16, 2018
Protest Petition Deadline:	December 31, 2018
Roll Call Hearing Date:	January 14, 2019

License No.:	ABRA-101261
Licensee:	GoBrands, Inc.
Trade Name:	goPuff
License Class:	Retailer's Class "A" Internet
Address:	1077 30th Street, N.W.
Contact:	Stephen J. O'Brien: (202) 625-7700

WARD 2 ANC 2E SMD 2E05

Notice is hereby given that this licensee has requested to transfer the license to a new location 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 January 14, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION

Licensee requests to transfer license from 3401 Water Street, N.W, to a new location at 1077 30th Street, N.W. Licensee is a Class A Internet retailer selling beer, wine, and spirits online only for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	November 16, 2018
Protest Petition Deadline:	December 31, 2018
Roll Call Hearing Date:	January 14, 2019
Protest Hearing Date:	March 13, 2019

License No.:	ABRA-112109
Licensee:	Wharf Rooftop Bar Lessee, LLC and GG DC, LLC
Trade Name:	TBD
License Class:	Retailer's Class "C" Tavern
Address:	801 Wharf Street, S.W.
Contact:	Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 6 ANC 6D SMD 6D04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on January 14, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **March 13, 2019 at 1:30 p.m.**

NATURE OF OPERATION

New Class "C" Tavern specializing in craft cocktails. Requesting an Entertainment Endorsement with Dancing, and a Summer Garden endorsement with 28 seats. Live Entertainment will be provided indoors only. Total Occupancy Load of 278 with seating for 172 patrons.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES AND SUMMER GARDEN)

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

HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES ONLY)

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	November 16, 2018
Protest Petition Deadline:	December 31, 2018
Roll Call Hearing Date:	January 14, 2019
Protest Hearing Date:	March 13, 2019
License No.:	ABRA-111924
Licensee:	ThreeWineGuys DC, LLC
Trade Name:	WineLAIR
License Class:	Retailer's Class "C" Tavern
Address:	1120 22nd Street, N.W.
Contact:	Stephen J. O'Brien: (202) 625-7700

WARD 2 ANC 2A SMD 2A06

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on January 14, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **March 13, 2019 at 4:30 p.m.**

NATURE OF OPERATION

New Tavern that will be a members-only club to store valuable wine and have wine tastings. Serving meats, cheeses, breads and light fare to be brought in from neighboring restaurants. Total Occupancy Load is 199.

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

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

HISTORIC PRESERVATION REVIEW BOARD

NOTICE OF PUBLIC HEARINGS

The D.C. Historic Preservation Review Board will hold a public hearing to consider application to designate the following properties historic landmarks in the D.C. Inventory of Historic Sites. The Board will also consider the nominations of the properties to the National Register of Historic Places:

Case No. 16-07: Washington Animal Rescue League Animal Shelter
71 O Street NW
Square 616, Lot 110
Affected Advisory Neighborhood Commission: 5E

Case No. 18-16: Folger Shakespeare memorial Library amendment (to designate interiors)
201 East Capitol Street SE
Square 760, Lot 31
Affected Advisory Neighborhood Commission: 6B

The hearing will take place at **9:00 a.m. on Thursday, December 20, 2018**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic designation application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates a property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may

apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District or Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JANUARY 9, 2019
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 SIX

19890 ANC 6C — **Application of Heather and Nathan Gonzales**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story rear addition to an existing, semi-detached principal dwelling unit in the RF-1 Zone at premises 910 6th Street N.E. (Square 831, Lot 39).

WARD THREE

19877 ANC 3C — **Appeal of ANC 3C**, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on August 7, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to approve a modification to the plans approved by BZA Order No. 19450, to construct a short-term family housing center in the RA-1 Zone at premises 3320 Idaho Avenue N.W. (Square 1818, Lot 849).

WARD THREE

19895 ANC 3C — **Appeal of Neighbors for Responsive Government**, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on August 7, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to approve a modification to the plans approved by BZA Order No. 19450, to construct a short-term family housing center in the RA-1 Zone at premises 3320 Idaho Avenue N.W. (Square 1818, Lot 849).

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
ለማሳተፍ ዕርዳታ ያስፈልግዎታል?
የተለየ እርዳታ ካስፈለገዎት ወይምየ ቋንቋ እርዳታ አገልግሎቶች (ትርጉምወይምማሸተርጎም)
ካስፈለገዎት እባክዎን ከስብሰባውአምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይምበኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡ 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 FOR-HIRE VEHICLES

NOTICE OF FINAL RULEMAKING

The Director of the Department of For-Hire Vehicles, pursuant to the authority set forth in Sections 8 (c) (1), (2), (3), (5), (7), (10), (12), (13), and (19); 14; 20; 20a; 20j; and 20l of the Department of For-Hire Vehicles Establishment Act of 1985 ("Establishment Act"), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301.07(c)(1), (2), (3), (5), (7), (10), (12), (13), and (19); § 50-301.13; § 50-301.19; § 50-301.20; and § 50-301.29 (2014 Repl. & 2017 Supp.)), hereby gives notice of the adoption of amendments to Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service) and Chapter 20 (Fines and Civil Penalties) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapter 18 by modifying the requirements: (1) that taxicab companies approved to provide service in Transport DC add a wheelchair-accessible vehicle for every 3,000 trips completed in the program, allowing the addition of these vehicles at such greater intervals as may be established in an administrative issuance; and (2) for a fixed, flat rate fare of thirty three dollars ($33) for each Transport DC trip, changing the requirement from a fixed fare to a cap on the fare. This final rulemaking also amends Chapter 20 by reestablishing a fine of five hundred dollars ($500) for serious violations of Title 31 DCMR.

Notice of emergency and proposed rulemaking was adopted by the Department and posted on the DFHV website on June 29, 2016. That emergency rulemaking expired on October 27, 2016. An additional emergency rulemaking was adopted and posted on the DFHV website on October 6, 2016, and expired on February 3, 2017. An emergency rulemaking was adopted and posted to the DFHV website on February 3, 2017, and expired June 3, 2017. An emergency rulemaking was adopted and posted to the DFHV website on June 3, 2017, and expired on September 30, 2017. A Notice of Emergency Rulemaking, which combined the Chapter 18 amendments with the Chapter 20 amendments listed below, was then adopted and posted on the DFHV website on November 30, 2017, expiring on March 30, 2018, and was published in the *D.C. Register* at 65 DCR 1087 (February 2, 2018), followed by a Notice of Second Combined Rulemaking, which was adopted by the DFHV on March 27, 2018, took effect immediately, and remained in effect until July 25, 2018, and was published in the *D.C. Register* at 65 DCR 7587 (July 20, 2018). Notice of Third Combined Emergency and First Proposed Rulemaking, published in the *D.C. Register* on July 27, 2018 at 65 DCR 7886, was adopted on July 26, 2018, took effect immediately, and remained in effect for one hundred twenty (120) days (expiring November 23, 2018). A public hearing took place on August 17, 2018. No comments were received during the public hearing.

The Department did not receive any comments during the forty-five (45) day comment period that expired September 10, 2018. The changes to this final rulemaking from the proposed rulemaking were made to correct grammar or lessen the burdens including the removal of fines for violations of provisions of Title 31 related to legacy meters which are no longer in use. No substantial changes have been made from the proposed rulemaking.

These rules were adopted as final November 1, 2018 and will take effect upon publication of this notice in the *D.C. Register*.

Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1806, TAXICAB COMPANIES AND OPERATORS - OPERATING REQUIREMENTS is amended as follows:

Subsection 1806.5(a), is amended to read as follows:

(a) Each company shall add a vehicle to its fleet which complies with paragraph (b) each time the company completes three thousand (3,000) Transport DC trips, or such greater number of trips as may be established in an administrative issuance.

Subsection 1806.10 is amended to read as follows:

1806.10 The rates and charges, and acceptable forms of payment, for each Transport DC trip shall be in accordance with the following requirements:

(a) The fare for a Transport DC trip shall not exceed a flat rate of thirty-three dollars ($33), or such lower amount as may be established in an administrative issuance, plus any gratuity which a passenger chooses to add to the total fare, payable as follows:

(1) Not more than five dollars ($5.00) of the Transport DC fare shall be paid by the passenger by any means allowed by Chapter 8, including a payment card or cash; and

(2) The remaining fare shall be paid by the District.

(b) No passenger surcharge shall be collected from a passenger for a Transport DC trip.

Chapter 20, FINES AND CIVIL PENALTIES, is amended as follows:

Subsection 2000.8 of Section 2000, FINES AND CIVIL PENALTIES, is amended as follows:

Schedule 3 (Fines for Entities, Owners, and Operators) is amended by amending the row of the schedule listing "Fraudulent and unlawful actions" and the associated fine, to read as follows:

Fraudulent and unlawful actions • Falsifying or tampering with manifest (§ 823) • Displaying, possessing, or presenting a fraudulent copy or altered government issued operator identification (Face) card or vehicle inspection (DFHV) card (§ 814.7) • Knowingly operating with non-functioning meter or operating without a meter • Improper conduct and/or unlawful actions (§ 816)	$500

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF FINAL RULEMAKING

The Director of the Department of Housing and Community Development ("Department"), pursuant to the authority set forth in Section 437 of the Rental Housing Conversion and Sale Act of 1980, effective December 24, 2008 (D.C. Law 17-286; D.C. Official Code § 42-3404.37 (2012 Repl.)), and Mayor's Order 2010-157, dated September 21, 2010, hereby gives notice of the adoption of a new Chapter 24, entitled "District Opportunity To Purchase," of Title 14 (Housing) of the District of Columbia Municipal Regulations ("DCMR").

The new chapter establishes procedures implementing the District's Opportunity to Purchase Program, which grants the District the opportunity to purchase certain rental housing accommodations, subordinate to the rights of tenants.

On December 22, 2017, a Notice of Proposed Rulemaking was published in the *D.C. Register* at 64 DCR 13102. In response to public comments received after the issuance of that notice, certain changes were determined necessary to effectively implement the District Opportunity to Purchase Program. On June 15, 2018, changes were published in a Second Notice of Proposed Rulemaking in the *D.C. Register* at 65 DCR 6602. The Department received one joint set of comments from the Coalition for Nonprofit Housing and Economic Development ("CNHED") and DC Appleseed Center for Law and Justice ("DC Appleseed") during the comment period which expired on July 15, 2018. The stakeholder advocacy groups suggested language to clarify the second proposed rules.

To ensure clarity, the Department made three (3) clarifying amendments to the final rulemaking as follows: (1) the definition of Affordable Rental Unit has been revised to add that any unit subject to a subsidy under Section 8 of the United States Housing Act of 1937 or any comparable local or federal rental assistance program be considered an Affordable Rental Unit; (2) the definition of Monthly Rent has been revised to include a carve out to ensure that projects with a significant number of Section 8 units are not exempt from the District Opportunity to Purchase Program under the definition of Affordable Rental Unit; and (3) the definition of Allowable Annual Increase has been updated to reflect that any increase to the level that a tenant who receives a Section 8 or similar subsidy is required to pay under Section 8 rules (or corresponding rules) must always be considered an Allowable Increase.

The Department received a comment from CNHED and DC Appleseed which recommended that the property selection criteria for which the Mayor will exercise the opportunity to purchase be added to the rules. The Department has decided to publish the selection criteria separately to allow for flexibility to alter the criteria to meet changing priorities.

In addition, CNHED and DC Appleseed suggested that a provision be added to outline the methodology for soliciting bids for DOPA eligible properties. The Department decided to include this methodology in a Request for Proposal process which will be published in a similar manner as other departmental programs.

Changes were also made to correct grammar and clarify initial intent. No substantial changes were made.

This rulemaking will become effective upon publication of this notice in the *D.C. Register*.

A new Chapter 24 is added to Title 14 DCMR, HOUSING, to read as follows:

CHAPTER 24 DISTRICT OPPORTUNITY TO PURCHASE

2401 GENERAL PROVISIONS

2401.1 This chapter establishes the rules governing the operation of the District's Opportunity to Purchase Program under Title IV-A of the Act.

2401.2 The purpose of the District's Opportunity to Purchase Program shall be to provide the District of Columbia with the opportunity to purchase or assign the right to purchase Housing Accommodations consisting of five (5) or more Rental Units, provided that twenty-five percent (25%) or more of the Rental Units are Affordable Rental Units.

2401.3 The Mayor's opportunity to purchase under Title IV-A of the Act is subordinate to a Tenant Organization's opportunity to purchase under Title IV of the Act. Tenant Organizations' rights shall not be abrogated.

2401.4 Third party contract purchasers shall act with full knowledge of tenants' rights, the Mayor's rights, and the public policy under the Act.

2401.5 All correspondence to the Mayor shall be in writing and shall be addressed to the Mayor c/o Department of Housing and Community Development, Rental Conversion and Sale Division, 1800 Martin Luther King, Jr. Avenue, S.E., Washington, D.C. 20020, or at any such address as designated by the Mayor.

2401.6 All correspondence to and from the Mayor shall be sent by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, by hand delivery, or by any other method designated by the Department of Housing and Community Development. If the Owner

delivers the notification to the Mayor by hand delivery, the Owner shall obtain a date stamped copy demonstrating the Mayor's receipt.

2401.7 All "days" shall be calendar days unless otherwise specified herein. If a time period under the chapter ends on a Saturday, Sunday, or legal holiday, it is extended until the next day which is not a Saturday, Sunday, or legal holiday.

2402 OPPORTUNITY TO PURCHASE & OFFER OF SALE

2402.1 Before an Owner may sell a Housing Accommodation consisting of five (5) or more Rental Units, the Owner shall provide the Mayor an opportunity to purchase the Housing Accommodation.

2402.2 If the Housing Accommodation consisting of five (5) or more Rental Units does not consist of at least twenty-five percent (25%) Affordable Rental Units, the Owner shall provide a written certification that the Housing Accommodation is not subject to Title IV-A of the Act:

(a) In a form approved by the Mayor;

(b) Submitted to the Mayor; and

(c) Submitted contemporaneously with the filing of any Offer of Sale under Title IV of the Act.

2402.3 If the Housing Accommodation qualifies under Subsection 2401.2, the Offer of Sale by the Owner to the Mayor shall contain:

(a) The asking price and material terms of sale;

(b) A statement as to whether a third party sale contract exists for the sale of the Housing Accommodation;

(c) A statement that the Owner shall provide to the Mayor the following information regarding the Housing Accommodation within seven (7) days after receiving a request for any of the following, if applicable:

(1) A copy of any third party sale contract for the Housing Accommodation;

(2) A list of tenant names with corresponding Rental Unit numbers the current Monthly Rent, and any monthly subsidy received for each Rental Unit as of the Offer of Sale issuance date;

(3) A list of vacant Rental Units and corresponding Rental Unit numbers the latest Monthly Rent, and any monthly subsidy

received, in accordance with Chapter 35 of the Rental Housing Act, for each Rental Unit as of the Offer of Sale issuance date;

(4) A list of Affordable Rental Units and corresponding Affordable Rental Unit numbers as of the Offer of Sale issuance date and the Owner's calculations for determining the Affordable Rental Units Monthly Rent;

(5) A floor plan, if available;

(6) An itemized list of monthly operating expenses for each of the two (2) preceding calendar years;

(7) Utility consumption rates for each of the two (2) preceding calendar years;

(8) Capital expenditures for each of the two (2) preceding calendar years;

(9) A disclosure of all liens, mortgages, deeds of trust, pending legal proceedings, including but not limited to tenant petitions, or any other matter affecting the title of the Housing Accommodation; and

(10) A disclosure of all warranties and assignable service contracts.

2402.4 In the absence of a third party sale contract, a *bona fide* offer is one in which the Mayor is offered the Housing Accommodation at an asking price and terms at least as favorable as and substantially conforming to the Offer of Sale made to the tenants under Title IV of the Act. An asking price shall be less than or equal to a price and other material terms comparable to that at which a willing seller and a willing buyer would sell and purchase the Housing Accommodation, or at the request of the District, the appraised value as determined by Section 402 of the Act (D.C. Official Code § 42-3404.02).

2402.5 In the case of the existence of a third party sale contract, a *bona fide* offer is one in which the Mayor is offered the Housing Accommodation at an asking price and material terms at least as favorable as and substantially conforming to the third party sale contract.

2402.6 The Owner shall notify the Mayor in writing within five (5) days if any of the following events occur:

(a) A fully executed sale contract between the Owner and the Tenant Organization is assigned, rescinded, terminated, or otherwise voided;

(b) A ratified third party sale contract between the Owner and a third party expires or is assigned, cancelled, rescinded, terminated, or otherwise voided;

(c) Expiration of the one hundred twenty (120) day contract negotiation period between the Owner and the Tenant Organization, as provided by Section 411 of the Act (D.C. Official Code § 42-3404.11); and if applicable, expiration of the fifteen (15) day right of first refusal period, as provided in Section 408 of the Act (D.C. Official Code § 42-3404.08), if no contract is signed with a Tenant Organization;

(d) The Tenant Organization declines or fails to exercise its right to purchase the Housing Accommodation;

(e) The Owner contracts with a Tenant Organization or a third party after an Offer of Sale has been provided to the Mayor, provided that the Owner shall provide a copy of the sale contract to the Mayor with the notification;

(f) The third party sale contract is assigned, amended, or otherwise modified, provided that the Owner shall provide the Mayor with a copy of the assigned, amended, or modified third party contract with the notification;

(g) The Tenant Organization or its assignee performs under the ratified sale contract between the Owner and the Tenant Organization or its assignee;

(h) A third party performs under the ratified third party sale contract between the Owner and the third party; or

(i) The Tenant Organization or its assignee fails to close or otherwise materially defaults under the ratified sale contract between the Owner and Tenant Organization or its assignee.

2402.7 Any response from the Mayor to an Offer of Sale under Title IV-A of the Act shall be in writing.

2402.8 The Mayor's rights under Title IV-A of the Act shall be subordinate to the Tenant Organization's or its assignee's exercise of tenant rights under Title IV of the Act.

2402.9 If the Owner has not sold or contracted to sell the Housing Accommodation within three hundred sixty (360) days from the date of the Tenants' receipt of an Offer of Sale or the Mayor's receipt of the Offer of Sale, whichever date is later, and if the Owner still desires to sell the Housing Accommodation at that time, the Owner shall comply anew with the requirements of Title IV and Title IV-A of the Act.

2403 MAYOR'S EXERCISE OF THE OPPORTUNITY TO PURCHASE

2403.1 The Mayor shall not exercise the opportunity to purchase unless at least twenty-five percent (25%) of the Rental Units in the Housing Accommodation are Affordable Rental Units.

2403.2 When determining whether to exercise the opportunity to purchase a Housing Accommodation, the Mayor shall consider whether a Housing Accommodation meets the selection criteria published in the *D.C. Register* by the Agency and modified as necessary.

2403.3 The Mayor shall have thirty (30) days from receipt of the Offer of Sale to provide the Owner with a written statement of interest and to send a copy of the written statement of interest to the Tenants.

2404 SALE CONTRACT NEGOTIATION & SETTLEMENT

2404.1 The Mayor shall have not less than one hundred fifty (150) days from the Owner's receipt of the Mayor's written statement of interest to negotiate a sale contract for the Housing Accommodation with the Owner, which time may be extended by the Owner's written consent.

2404.2 For every one (1) day of delay beyond the seven (7) days in which the Owner shall provide information as required by Subsection 2402.3(c) of this chapter, the negotiation period shall be extended by one (1) day.

2404.3 The Owner and Mayor shall bargain in good faith.

2404.4 In accordance with the Act, the following shall constitute prima facie evidence of bargaining without good faith:

(a) The Owner's failure to offer the Mayor a price or term at least as favorable as that offered to a third party or Tenant Organization;

(b) The failure of the Owner to make a sale contract with the Mayor that substantially conforms with the asking price and material terms of a third party sale contract;

(c) The intentional failure of the Owner or the Mayor to comply with the provisions of Title IV or Title IV-A of the Act; and

(d) The Owner contracts or sells the Housing Accommodation to a Tenant Organization or any other third party for a price more than ten percent (10%) less than the price offered to the Mayor.

2404.5 The Owner shall not require the Mayor to pay a deposit of more than five percent (5%) of the sale contract price in order to make a sale contract, or refuse to refund a deposit in the event of the Mayor's good faith failure to perform under the sale contract.

2404.6 If a Tenant Organization is formed and delivers an application for registration to the Mayor pursuant to Title IV of the Act, the Mayor shall have an additional fifteen (15) days to negotiate a sale contract with the Owner.

2404.7 The Mayor shall have up to sixty (60) days after the sale contract ratification to complete settlement.

2404.8 If the Owner provides any extension of time to a Tenant Organization under Title IV of the Act, the Owner shall automatically grant the Mayor the same extension of time under Title IV-A of the Act. The Owner shall provide prompt written notification to the Mayor of any extensions of time granted to a Tenant Organization.

2404.9 All time periods for negotiation and settlement by the Mayor are minimum time periods, and the Owner may give the Mayor a reasonable extension of such time periods in writing.

2404.10 At settlement, the Mayor or the Mayor's Assignee shall provide to each Household in the Housing Accommodation a written statement indicating the following:

(a) The name, address, and contact information of the new Owner;

(b) Instructions to send or make all payments;

(c) The current terms of tenancy status or lease agreement; and

(d) Any program verification requirements, as applicable.

2405 MAYOR'S RIGHT TO ASSIGN THE OPPORTUNITY TO PURCHASE

2405.1 The Mayor may exercise the opportunity to purchase a Housing Accommodation under Title IV-A of the Act by assigning the rights to an assignee that:

(a) Must be selected from the Agency's Pre-Approved Developer list. In order to become a Pre-Approved Developer, any interested developer must apply to a request for qualifications-published in the *D.C. Register*.

(b) Demonstrates the capacity to own and manage, either by itself or through a management agent, the Housing Accommodation and related facilities

for the remaining useful life of the Housing Accommodation, including consideration of the following factors:

(1) A demonstrated capacity and expertise in acquiring, renovating, maintaining and owning affordable multi-family rental housing including buildings containing five or more units, or renovating and selling affordable homeownership housing, in the District of Columbia, which may be evidenced by:

(A) A comprehensive list of prior affordable housing development and market-rate housing development in the District of Columbia including project addresses, number of units, description of project financing;

(B) The qualifications and capacity of proposed personnel and contractors to carry out the development, operation, and maintenance of a Housing Accommodation;

(C) A list of lenders and equity sources used in prior projects;

(D) A description of affordability covenants applicable to prior projects;

(E) An affirmative statement that Developer has never been in financial default as either a borrower or a guarantor; or, if to the contrary, explaining in complete detail all circumstances pertaining thereto;

(F) A description of Developer's typical marketing plan;

(G) A description of Developer's typical asset management plan;

(H) A description of Developer's typical property management plan; and

(I) Other criteria the Mayor determines appropriate to further the purposes of Title IV-A of the Act.

(2) A certification that, for the previous ten (10)-year period, the person or each principal in the entity has substantially complied with all applicable federal and local laws in the maintenance and operation of each multifamily building in which they have an ownership or management interest;

(3) An affirmative commitment to affordable housing in all future proposals submitted in response to a request for qualifications under Subsection 2405.1(a) of this chapter; and

(4) A contract affidavit signed by all development team members certifying that they are neither debarred from participation in any federal program nor have any unresolved default or noncompliance issues with the District of Columbia.

(c) Agrees to obligate itself and any successors in interest to maintain the affordability of the Housing Accommodation, in accordance with Section 433 of the Act (D.C. Official Code § 42-3404.33); and

(d) Is registered and licensed to do business in the District of Columbia.

2405.2 If the Mayor assigns the rights to purchase a Housing Accommodation under Title IV-A of the Act:

(a) The Mayor shall notify in writing the Mayor's Assignee, Owner, and Tenants of the Housing Accommodation of who has been designated to purchase the Housing Accommodation;

(b) The Mayor and the Mayor's Assignee shall both receive all communications regarding the Housing Accommodation under Title IV-A of the Act;

(c) The Mayor's Assignee shall have the Mayor's right to purchase under Title IV-A of the Act ; and

(d) Subject to the written approval of the Mayor, the Mayor's assignment of the rights to purchase a Housing Accommodation under Title IV-A of the Act may permit the further assignment of such rights to an entity controlled by the Mayor's Assignee.

2406 MAYOR'S OR MAYOR'S ASSIGNEE'S OBLIGATION TO MAINTAIN AFFORDABILITY

2406.1 The Mayor or Mayor's Assignee shall file a combined property report and affordability plan for the Housing Accommodation with the Agency within one hundred twenty (120) days after settlement and annually by December 31 of each year. The District may request additional relevant information to be included in the combined property report and affordability plan.

2406.2 The combined property report and affordability plan shall include, but not be limited to, the following:

(a) The number of, number of bedrooms in, and size of each Rental Unit;

(b) The names of each Household member occupying a Rental Unit;

(c) The Monthly Rent for each Rental Unit;

(d) The income and MFI Level of each Household occupying an Affordable Rental Unit;

(e) Proof of compliance with the Rental Housing Act, including but not limited to proof of rental registration, a certificate of occupancy, and a basic business license;

(f) Proof of insurance;

(g) A description of any income restrictions to be imposed on new Tenants in the Housing Accommodation;

(h) The proposed methodology to increase the number of Rent Restricted Units in the Housing Accommodation;

(i) A list of vacant Rental Units;

(j) A calculation of the percent of income each Household occupying a Rental Unit in the Housing Accommodation spends on Monthly Rent;

(k) A notation indicating which Rental Units qualified as Affordable Rental Units under the Act; and

(m) Such other information as may be required by the Agency.

2406.3 Upon written request by a District agency, an Owner, a Tenant, or a Household, the Director may waive any or all of the provisions of Subsections 2406.01 and 2406.02 of this chapter in the Agency's sole and absolute discretion.

2406.4 The Monthly Rent for an Existing Household shall not exceed the lesser of:

(a) The Existing Household's current Monthly Rent on the date the Offer of Sale was provided to the Mayor; or

(b) Thirty percent (30%) of the Existing Household's monthly income, as described in Subsections 2406.5 through 2406.7, on the date the Offer of Sale was provided to the Mayor.

In each case, the Monthly Rent shall be subject to Allowable Annual Increases.

2406.5 For purposes of Subsection 2406.4(b) of this chapter, the Mayor or Mayor's Assignee shall determine the income of each Existing Household in a manner consistent with the existing affordable housing programs encumbering the Housing Accommodation as administered by the local or federal governments, or if no affordable housing program exists, then consistent with 24 CFR § 5.609.

2406.6 An Existing Household may not be required to comply with income certification requirements unless doing so is an express obligation under its lease; accordingly:

(a) If an Existing Household does not provide information regarding current income and tenancy within the Rental Unit, including but not limited to lease documents, tax returns, pay stubs, and other information as reasonably requested by the Mayor or the Mayor's Assignee within thirty (30) days of such request, the Existing Household's rent will be determined in accordance with Subsection 2406.4(a) of this chapter, subject to Allowable Annual Increases; or

(b) In the event that the Existing Household's rent at the time of the Offer of Sale cannot be determined, the Existing Household's rent will be determined in accordance with the affordability plan approved by the Agency pursuant to Subsection 2406.9 of this chapter.

2406.7 For any Existing Household whose lease at the time of the Offer of Sale did not contain any obligation to comply with income certification requirements, any new lease provision so requiring shall not be considered grounds for eviction within the meaning of Section 501(b) of the Rental Housing Act (D.C. Official Code § 42-3505.01(b)) and shall not subject the Existing Household to eviction for any failure to comply.

2406.8 The Monthly Rent for Rent Restricted Units in a Housing Accommodation under Title IV-A of the Act shall not exceed the Maximum Rent for the applicable MFI Level in the Rent and Income Schedule. For purposes of this subsection, Monthly Rent does not include any payment under Section 8 of the United States Housing Act of 1937, approved September 1, 1937, or any comparable local or federal rental assistance program (with respect to such unit or occupants thereof).

2406.9 Unit Turnover

(a) If the Monthly Rent plus Utilities for a Rental Unit at the time the Mayor received the Offer of Sale was equal to or less than the Maximum Rent for a Rental Unit at the sixty percent (60%) MFI Level that Rental Unit shall become a Rent Restricted Unit at or below the sixty percent (60%) MFI Level, subject to the rights of Existing Households pursuant to Subsections 2406.4 through 2406.8 of this chapter;

(b) If the Monthly Rent plus Utilities for a Rental Unit at the time the Mayor received the Offer of Sale was equal to or less than the Maximum Rent for a Rental Unit at the thirty percent (30%) MFI Level that Rental Unit shall become a Rent Restricted Unit at or below the thirty percent (30%) MFI Level, subject to the rights of Existing Households pursuant to Subsections 2406.4 through 2406.8 of this chapter;

(c) The Mayor or Mayor's Assignee shall ensure that vacancies in Rental Units shall be filled and maintained so that the division of Rent Restricted Units in the Housing Accommodation is as close as practicable to the following distribution:

(1) One-third shall have a Maximum Rent affordable for Households at the thirty percent (30%) MFI Level and such units shall be occupied by Households with incomes at or below the thirty percent (30%) MFI Level at the time of initial income certification;

(2) One-third shall have a Maximum Rent affordable for Households at the sixty percent (60%) MFI Level and such units shall be occupied by Households with incomes at or below the sixty percent (60%) MFI Level at the time of initial income certification; and

(3) One-third shall have a Maximum Rent affordable for Households at the eighty percent (80%) MFI Level and such units shall be occupied by Households with incomes at or below the eighty percent (80%) MFI Level at the time of initial income certification.

(d) Income restrictions may be imposed upon the Rent Restricted Units by the Mayor, or an assignee of the Mayor provided that Existing Households shall be exempt from any income restrictions.

2406.10 Any Rental Unit subject to a subsidy under Section 8 of the United States Housing Act of 1937 (42 USC § 1437f), or rent restrictions under the federal Low-Income Housing Tax Credit Program, or similar rent restrictions under any comparable local or federal rental assistance or tax credit program, shall be exempt from the requirements of Section 433(c) of the Act (D.C. Official Code § 42-3404.33(c)) and Sections 2406.8 through 2406.9 of this chapter so long as such subsidy remains in effect.

2406.11 An Existing Household may, by petition filed with the Rent Administrator, challenge or contest the determination of the Existing Household Monthly Rent or Household Income. The petition shall be filed, heard, and determined according to the procedures established pursuant to the Rental Housing Act and the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 17-76; D.C. Official Code §§ 2-1831.01 *et seq.*).

2406.12 The Mayor or the Mayor's Assignee shall take all practicable steps to increase the number of Rent Restricted Units in the Housing Accommodation in accordance with the affordability plan approved by the Agency.

2406.13 The restrictions on Monthly Rent and income restrictions, if any, shall be memorialized in a DOPA Covenant. The DOPA Covenant shall include a provision providing for the whole or partial release or extinguishment of the DOPA Covenant only upon the reasonable approval of the Director of the Agency, or if the Housing Accommodation is transferred following foreclosure or deed-in-lieu of foreclosure to a mortgagee in first position or a mortgage in first position is assigned to the Secretary of the United States Department of Housing and Urban Development.

2499 DEFINITIONS

2499.1 For purposes of this chapter, the following words and phrases shall have the meaning ascribed:

Act – the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3401.01 *et seq.*).

Affordable Rental Unit – a Rental Unit for which the Monthly Rent, plus Utilities, at the time the Mayor received the Offer of Sale, was equal to or less than the Maximum Rent for a Rental Unit at the fifty percent (50%) MFI Level or a Rental Unit subject to a subsidy under section 8 of the United States Housing Act of 1937, approved September 1, 1937 (88 Stat. 662; 42 USC § 1437f), or any comparable local or federal rental assistance program that limits Monthly Rent to a proportion of an eligible occupant's income.

Agency – the District of Columbia Department of Housing and Community Development or other District agency to which the Mayor delegates authority to administer the Act.

Allowable Annual Increase – the allowable annual increase in Monthly Rent for a Rental Unit pursuant to Section 208(h) of the Rental Housing Act (D.C. Official Code § 42-3502.08(h)), provided that the Rental Unit is not exempt pursuant to Section 205 of the Rental Housing Act (D.C. Official Code § 42-3502.05), or in the case of any local or federal rental affordability program (with respect to such unit or occupants thereof), the increase permitted under such program.

CFR – the United States Code of Federal Regulations.

Director – the head of the District of Columbia Department of Housing and Community Development or other agency to which authority is delegated by the Mayor to administer the Act.

DOPA Covenant – a covenant recorded in the land records in a form found legally sufficient by the Office of the General Counsel of the Agency that shall bind all persons with a property interest in any or all of the Housing Accommodation, and all assignees, mortgagees, purchasers, and other successors in interest, to such declarations as the Agency may reasonably require.

Existing Household – a Household living in a Housing Accommodation on the date the Offer of Sale was issued, at least one member of which continues to live in the same Rental Unit in the Housing Accommodation on the date the Mayor or the Mayor's Assignee acquires the Housing Accommodation.

Household – all persons living in a Rental Unit, which may include a single family, one (1) person living alone, two (2) or more families living together, or any other group of related or unrelated persons who occupy a single Rental Unit.

Household Income – the combined income of all persons living in a Rental Unit, calculated according to 24 CFR § 5.609.

Housing Accommodation – a structure in the District of Columbia consisting of one (1) or more Rental Units and the appurtenant land.

Mayor's Assignee – an individual or legal entity who has been assigned the Mayor's rights under Title IV-A of the Act and this chapter.

Maximum Rent – the highest amount chargeable for a particular Rental Unit such that a Household of the Rental Unit's imputed Household size that earns the applicable MFI Level will expend no more than 30% of its annual income on Monthly Rent and Utilities, as set forth in the Rent and Income Schedule. For purposes of this paragraph, the imputed Household size applicable to a unit is: (i) in the case of a unit which does not have a separate bedroom, 1 individual; and (ii) in the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

Median Family Income (MFI) – the area median income for the Washington Metropolitan Statistical Area as set forth by the United States Department of Housing and Urban Development, adjusted for Household size, without regard to any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers. Adjustments of area median income for Household size shall be made as prescribed in Section 2(1) of the Housing Production Trust Fund Act, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(1)).

MFI Level – a specified percentage of MFI; for example, 50% MFI, 60% MFI, or 80% MFI.

Monthly Rent – the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a Rental Unit, its related services, and its related facilities, in accordance with Section 103(28) of the Rental Housing Act (D.C. Official Code § 42-3501.03(28)). This amount does not include any payment under Section 8 of the United States Housing Act of 1937, approved September 1, 1937 (88 Stat. 662; 42 USC § 1437f), or any comparable local or federal rental assistance program (with respect to such unit or occupants thereof).

Offer of Sale – a written statement provided to the Tenants and the Mayor in accordance with Sections 403 and 432 of the Act (D.C. Official Code §§ 42-3404.03 and 42-3404.32).

Owner – an individual, corporation, association, joint venture, business entity, government entity, and its respective agents, holding title to a Housing Accommodation.

Pre-Approved Developer – a person or legal entity selected through a competitive process, which meets certain standards and selection criteria published by the Agency.

Rent and Income Schedule – a document published in the *D.C. Register* pursuant to this chapter, which delineates rent restrictions based on income.

Rent Restricted Unit – A Rental Unit that has restricted Monthly Rent pursuant to Section 433 of the Act (D.C. Official Code § 42-3404.33) and Section 2406.8 of this chapter.

Rental Housing Act – the Rental Housing Act of 1985, effective December 24, 2008 (D.C. Law 17-286; D.C. Official Code §§ 42-3501.01 *et seq.*).

Rental Unit – a subset of a Housing Accommodation which is vacant, rented, or offered for rent for residential occupancy, including but not limited to an apartment, efficiency apartment, room, suite of rooms, and its appurtenant land.

Tenant – a person or persons entitled to possession, occupancy, or the benefits of a Rental Unit in a Housing Accommodation.

Tenant Organization – an organization registered with the Agency in accordance with Section 411 of the Act (D.C. Official Code § 42-3404.11) or its assignee.

Utilities – water, sewer, electricity, natural gas, trash, and any other fees required by the owner, property manager, or condominium or homeowners' association in order to occupy the unit, including but not limited to mandatory condominium, homeowners' association, amenity, administrative fees, or items consistent with

any existing affordable housing programs in effect on the property as administered by the local or federal government.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.0l(a); 38-1202.06(3), (13) (2012 Repl.) hereby gives notice of the adoption of amendments to Chapter 7 (Admissions and Academic Standards) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rule is to adjust tuition rates for degree granting programs beginning in the fall semester of 2019.

The substance of the rules adopted herein was published in the *D.C. Register* on October 5, 2018 at 65 DCR 011055 for a period of public comment of not less than thirty (30) days, in accordance with D.C. Official Code § 2-505(a)(2016 Repl.).

No public comment was received by the Board within the public comment period. The rule was adopted by the Board as final on November 7, 2018, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 7, ADMISSIONS AND ACADEMIC STANDARDS, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Subsections 728.1 -728.8 of Section 728, TUITION AND FEES: DEGREE-GRANTING PROGRAMS, are amended as follows:

728.1 The following tuition and fees have been approved by the Board of Trustees consistent with D.C. Official Code § 38-1202.06(8):

728.2 COMMUNITY COLLEGE ASSOCIATE DEGREE-GRANTING PROGRAMS

	Per Credit Hour
Washington, D.C. Residents	$114.00
Metropolitan Area Residents	$192.00
All Other Residents	$324.00

728.3 FLAGSHIP BACCALAUREATE DEGREE-GRANTING PROGRAMS

	Per Credit Hour
Washington, D.C. Residents	$316.00
Metropolitan Area Residents	$365.00
All Other Residents	$663.00

728.4 FLAGSHIP GRADUATE DEGREE-GRANTING PROGRAMS

	Per Credit Hour
Washington, D.C. Residents	$500.00
Metropolitan Area Residents	$562.00
All Other Residents	$962.00

728.5 DAVID A. CLARKE SCHOOL OF LAW DEGREE-GRANTING PROGRAMS FULL TIME PROGRAM STUDENTS (FALL & SPRING SEMESTERS ONLY)

	Per Semester
Washington, D.C. Residents	$6,067.00
Metropolitan Area Residents	$9,100.00
All Other Residents	$12,133.00

728.6 DAVID A. CLARKE SCHOOL OF LAW DEGREE-GRANTING PROGRAMS ALL OTHER STUDENTS

	Per Credit Hour
Washington, D.C. Residents	$412.00
Metropolitan Area Residents	$616.00
All Other Residents	$822.00

728.7 SCHOOL OF ENGINEERING BACCALAUREATE DEGREE-GRANTING PROGRAMS

	Per Credit Hour
Washington, D.C. Residents	$337.00
Metropolitan Area Residents	$390.00
All Other Residents	$707.00

728.8 Definitions

(a) **Full-Time Students**. Any undergraduate or community college student enrolled in at least twelve (12) credit hours per semester, or any graduate student enrolled in at least nine (9) credit hours per semester, shall be considered a full-time student for the purposes of calculation of tuition in accordance with this chapter. Full-time undergraduate and community college students shall be charged tuition for each semester in which they are enrolled in the amount of twelve (12) credit hours, regardless of the number of credit hours actually taken. Full-time graduate students shall be charged tuition for each semester in which they are enrolled in the amount of nine (9) credit hours, regardless of the number of credit hours actually taken.

(b) **Metropolitan Area Residents**. Any individual who can establish residency in one of the following counties and cities shall be considered a Metropolitan Area Resident: Montgomery County, Maryland; Prince

George's County, Maryland; Arlington County, Virginia; Alexandria County, Virginia; Fairfax County, Virginia; and City of Alexandria, Virginia. The standards used to establish residency shall be the same standards used to establish residency for District residents.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.0l(a); 38-1202.06(3),(13) (2012 Repl.), hereby gives notice of adoption of amendments to Chapter 13 (Leave and Benefits), of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rule is to amend the University's regulations at Section 1332 (Remitted Tuition), to clarify eligibility requirements, define the duration of the benefit for eligible employees, and extend the benefit to cover courses at the UDC David A. Clarke School of Law.

The substance of the rules adopted herein was published in the *D.C. Register* on October 5, 2018 at 65 DCR 011051 for a period of public comment of not less than thirty (30) days, in accordance with D.C. Official Code § 2-505(a)(2016 Repl.).

No public comment was received by the Board within the public comment period. The rule was adopted by the Board as final on November 7, 2018, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 13, LEAVE AND BENEFITS, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 1332, REMITTED TUITION, is amended to read as follows:

1332 REMITTED TUITION

1332.1 The University shall provide remitted tuition for "for-credit" courses at the University to eligible regular full-time staff, regular full-time faculty, retirees and their spouses and dependent children, in accordance with the requirements and limits established in the Internal Revenue Code.

1332.2 The following are not eligible for remitted tuition:

(a) Part-time staff;

(b) Employees with a temporary or time-limited appointment;

(c) Adjunct and visiting faculty;

(d) Individuals classified as independent contractors and volunteers; and

(e) Student workers.

1332.3 The University shall provide remitted tuition for courses in the undergraduate and graduate programs, but shall not provide remitted tuition for courses in the doctorate programs.

1332.4 To enroll in a course at the University, an applicant shall be required to meet and maintain all eligibility, admission and academic requirements.

1332.5 If a recipient of remitted tuition drops, withdraws, or fails a course for which remitted tuition had been previously provided by the University, the University shall not provide remitted tuition for the same course if the person decides to retake the course.

1332.6 Regular full-time staff of the University shall be eligible to participate in the remitted tuition program once the staff has been employed by the University for at least one year. Once the full-time staff has met the eligibility requirements, their spouse and dependent child(ren), as defined in the Internal Revenue Code, shall be eligible to participate in the remitted tuition program.

1332.7 The University shall provide remitted tuition for eligible full time staff, for a maximum of six (6) undergraduate credit hours and three (3) graduate credit hours each semester. This limitation on the number of credit hours does not apply to the eligible full-time staff's spouse and dependent children.

1332.8 Regular full-time faculty shall be eligible to participate in the remitted tuition program once the faculty has been employed by the University for at least one academic year. Once the full-time faculty has met the eligibility requirements, their spouse and dependent child(ren), as defined in the Internal Revenue Code, shall be eligible to participate in the remitted tuition program.

1332.9 The University shall provide remitted tuition for eligible full time faculty for a maximum of three (3) credit hours each semester. This limitation on the number of credit hours does not apply to the eligible faculty's spouse and dependent children.

1332.10 If an eligible employee, whether full-time staff or full-time faculty, either converts from regular full-time status to part-time status, or is separated from the University for any reason other than because of a reduction-in-force or retirement, the University shall provide remitted tuition benefits through the end of the applicable semester in which the eligible employee's employment status changed.

1332.11 If an eligible employee is separated from the University due to a reduction-in-force, the University shall provide remitted tuition benefits for such eligible employee (and their spouse and dependent child(ren)), for as long as such

employee remains on the University's preferential hiring or reduction-in-force employee list.

1332.12 If an eligible employee separates from the University due to retirement, the University shall provide remitted tuition upon retirement for the eligible retiree and their spouse and dependent child(ren), based on length of service as follows:

(a) Retirees that were eligible employees for fewer than ten (10) years, and their spouses and dependent children, shall not be eligible for remitted tuition.

(b) Retirees that were eligible employees for ten (10) years to twenty (20) years, and their spouses and dependent children, shall be eligible for sixty percent (60%) remitted tuition.

(c) Retirees that were eligible employees for more than twenty (20) years, and their spouses and dependent children, shall be eligible for hundred percent (100%) remitted tuition.

1332.13 Except as provided in subsection 1332.14 below, upon the death of an eligible employee or eligible retiree, the University shall provide remitted tuition for their surviving spouse and surviving dependent child(ren) based on the deceased's length of service as follows:

(a) Following the death of an eligible employee or retiree who was employed by the University for fewer than ten (10) years, the surviving spouse and dependent child(ren) shall not be eligible for remitted tuition.

(b) Following the death of an eligible employee or retiree who was employed by the University for ten (10) years to twenty (20) years, the surviving spouse and dependent child(ren) shall be eligible for two (2) full academic years of remitted tuition.

(c) Following the death of an eligible employee or retiree who was employed by the University for more than twenty (20) years, the surviving spouse and dependent child(ren) shall be eligible for three (3) full academic years of remitted tuition.

1332.14 If at the time of the death of an eligible employee or eligible retiree, both parents of a surviving child are deceased, then the University shall provide continuing remitted tuition at a hundred percent (100%), without regard to length of service, for so long as the surviving child is under the age of twenty-five (25).

1332.15 The University shall develop and implement standard operating procedures for the remitted tuition program.

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of For-Hire Vehicles ("Department" or "DFHV"), pursuant to the authority set forth in Sections 8(c) (2), (3), (5), (7), (10), (12) and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 ("Establishment Act"), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.07(c) (2), (3), (5), (7), (10), (12), and (19), 50-303.13, and 50-301.19 (2014 Repl. & 2017 Supp.), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2015 Repl. & 2017 Supp.)), hereby gives notice the intent to amend the District of Columbia Municipal Regulations (DCMR) by adding a new Title 31 (Vehicles for-Hire).

This proposed rulemaking would revise the entire Title 31. Written over the course of the agency's 30 year history (the Department's predecessor, the D.C. Taxicab Commission, was created by the Establishment Act in 1986), the existing title has been the subject of many changes. Many of these and prior regulatory changes over the title's history have grafted new concepts onto old ones as statutory law changed and the industry progressed. The result is a patchwork of old and new rules across 442 pages. This revision eliminates unnecessary legacy rules and redundancy; incorporates best practices of other jurisdictions; modifies provisions to use plain language; and reorganizes the title to be more user-friendly, among other streamlining and organizational changes.

While this proposed rulemaking is chiefly a transparency exercise along the foregoing lines, there are substantive changes in the proposed rules which would otherwise be the subject of individual notices of proposed rulemakings, but instead are included here because they were identified as necessary and appropriate during the revision process. Where a change is dependent on a legislative change, the language of the rulemaking reflects that the regulation's efficacy as requiring a statutory basis in order to be effective. These changes, deviating in substance from the existing rules, are:

- Section 202 refines the Department's authority to use pilot programs;
- Subsection 606.1 deleted provisions allowing taxi companies participating in Transport DC to renew after the deadline;
- The provisions authorizing a 180-day extension for taxicab companies to meet wheelchair accessibility vehicle requirements have been removed;
- Subsection 1001.3 adds a provision allowing vehicles to change classes;
- Subsection 1002.5(d) is amended to authorize the issuance of H-tags to the owners of fully electric or hybrid electric taxicabs;
- Subsection 1004.1 adds provisions for livery time contracts;
- Subsection 1204 creates conditions for decommissioning taxicabs;
- Subsection 1304.2 prohibits equipment in taxicabs other than those provided by the manufacturer, required for customer service or allowed in an administrative issuance;

- Subsection 1401.4 removes provisions allowing taxicab equipment manufacturers to renew their licenses after the deadline; and
- Changes have been made throughout to eliminate references to the legacy modern taximeter systems and payment service providers, which were abolished by final rulemaking on February 23, 2018; *See* 65 DCR 001870.

This proposed rulemaking also incorporates the following rulemakings which have been adopted by the Department:

- Emergency & proposed rulemaking for Chapters 18 and 20: Transport DC fares, vehicle purchase rules, and reinstitutes fines for serious violations; and

- Emergency and Proposed Rulemaking for Chapters 8 and 99: Establishing a special shared ride distance rate and reducing the wait time rate from $35.00 per hour to $25.00 per hour

The rules establishing the Office of Hearing Examiners are included in this rulemaking for renumbering purposes only and are not open to public comment. These rules were subject to a notice and comment period after which they were published in the August 11, 2017 *D.C. Register* at 64 DCR 007895.

The Digital Taxicab Solution ("DTS") rules are included in this rulemaking for renumbering purposes only and are not open to public comment. These rules were subject to two rounds of notice and comment and two public hearings, after which they were published in the February 23, 2018, *D.C. Register* at 65 DCR 001870.

The Director hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than forty-five (45) days after the publication of this notice in the *D.C. Register*. A public hearing will be held on the proposed rulemaking in not fewer than twenty (20) days from the date of publication. Directions for submitting comments may be found at the end of this notice.

Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

The name of Title 31 is amended to read as follows:

Title 31 VEHICLES FOR-HIRE.

TABLE OF CONTENTS

Chapter 1: Rules of Interpretation, General Requirements, and General Prohibitions: This material was previously located at Chapter 99.

Chapter 2: The Department of For-Hire Vehicles: This material was previously located at Chapter 1.
Chapter 3: Compliance and Enforcement: This material was previously located at Chapter 7.
Chapter 4: Office of Hearing Examiners: This material was previously located at Chapter 21.
Chapter 5: Civil Penalties and Fines: This material was previously located at Chapter 20.
Chapter 6: Equal Access to For-Hire Vehicles: This material was previously located at Chapter 18.
Chapter 7: Dispatch Services: This material was previously located at Chapter 16.
Chapter 8: Public Vehicle For-Hire Operator's License and Operating Requirements: This material was previously located at Chapters 8 and 10.
Chapter 9: Public Vehicle Insurance Requirements: This material was previously located at Chapter 9.
Chapter 10: Public Vehicle For-Hire License and Operations: The material in this chapter was previously located at Chapters 8 and 10.
Chapter 11: Public Vehicle For-Hire Business Licenses: The material in this chapter was previously located at Chapters 8 and 10.
Chapter 12: Operation of Taxicab Companies, Taxicab Associations, and Independent Owners: The material in this chapter was previously located at Chapter 5.
Chapter 13: Taxicab Parts and Equipment: The material in this chapter was previously located at Chapters 4 and 6.
Chapter 14: Taxicab Equipment Businesses: The material in this chapter was previously located in Chapters 4, 6, 13, and 15.
Chapter 15: [RESERVED]
Chapter 16: Private Vehicles For-Hire: The material in this chapter was previously located at Chapter 19.
Chapter 17: Fees and Bond Charts: The material in this chapter was previously located in Chapters 11, 15, and 16.
Chapter 99: Definitions: The material in this chapter is currently located in Chapter 99.

CHAPTER 1 - RULES OF INTERPRETATION, GENERAL REQUIREMENTS, AND GENERAL PROHIBITIONS

100 RULES OF INTERPRETATION

100.1 The Department may promulgate administrative issuances to aid in the administration, enforcement or interpretation of one or more provisions of this title. Entities seeking guidance with this title should review the administrative issuances issued by the Department.

100.2 The provisions of this title shall be interpreted to comply with the language and intent of the Establishment Act and the Impoundment Act.

100.3 In the event of a conflict between provisions in this title, the more restrictive provision shall control unless otherwise provided.

101 GENERAL REQUIREMENTS

101.1 Each licensee, permit holder, or person granted operating authority by the DFHV shall maintain all licenses, operating authority and insurance required to operate its business.

101.2 Each licensee, permit holder, or person granted operating authority by the DFHV shall maintain business records as may be required in an administrative issuance issued by the Department.

101.3 An owner of a DFHV licensed business, a member of a partnership that owns a DFHV licensed business, or an officer or shareholder holding more than five percent (5%) of the shares of a corporation or other entity that owns a DFHV licensed business, shall:

(a) Notify the Department in writing of his or her conviction for a crime no later than fifteen (15) days after the conviction; and

(b) Deliver to the Department a certified copy of the certificate of disposition issued by the clerk of the court no later than fifteen (15) days after the conviction.

101.4 Any change in the contact information and any material change in any other information provided to obtain a DFHV license, permit or operating authority shall be updated within three (3) business days of when the change occurs by the licensee, permit holder or person granted operating authority.

101.5 A DFHV licensed public vehicle for-hire business, or a person acting on its behalf, shall notify the Department in writing of the arrest of an operator no later than fifteen (15) days after knowledge of the arrest.

101.6 A DFHV licensed business owner and independent business owner shall notify the Department in writing not later than ten (10) business days after the suspension, revocation, or non-renewal of any license required by this title or license, permit, certificate, or authority granted to the licensee by an agency of the District of Columbia or other jurisdiction or the federal Government.

101.7 A DFHV licensed business owner and independent business owner shall timely and fully cooperate with the Department and all District enforcement officials in the enforcement of and compliance with all applicable provisions of this title and other applicable laws.

101.8 Each licensee, permit holder, registrant or person granted authority to operate in the District by the DFHV shall be chargeable with knowledge of the applicable provisions of this title and other applicable laws, applicable notices published in the *D.C. Register*, and applicable administrative issuances, instructions and guidance posted on the Department's website.

102 GENERAL PROHIBITIONS

102.1 No licensee, permit holder or person granted operating authority by the DFHV while performing duties and responsibilities as a licensee, permit holder or under a grant of operating authority shall commit or attempt to commit, alone or in concert with another, any act of bribery, forgery, fraud (including cheating on any Department administered examination), misrepresentation, larceny or any willful act of omission or commission, which is against the best interest of the traveling public, including but not limited to passengers, pedestrians, other motorists, and cyclists, even if not specifically prohibited by these rules. The Department may provide examples of fraud, misrepresentation or larceny in administrative issuances.

102.2 No licensee, permit holder, or person granted operating authority by the DFHV, while performing duties or responsibilities related to his or her permit granted under this title, shall:

(a) Threaten, harass, or abuse a Department representative, District government employee, or other person; or

(b) Use or attempt to use physical force against a Department representative, District government employee, or other person.

102.3 Notwithstanding any other provision of this title, no license, permit, operating authority, or registration shall be issued to a person not in good standing with the Department, including a person that holds a DFHV license which is pending an enforcement action, or that holds a DFHV license, operating authority, or registration that is then suspended or revoked.

102.4 All applicants for any license, operating authority, or permit shall be in compliance with the clean hands requirements of D.C. Official Code § 47-2862 (2015 Repl. & 2017 Supp.).

102.5 Unless otherwise provided in a section of this title, nothing in this title shall be

construed as soliciting or creating a contractual relationship, agency relationship, or employer-employee relationship between the District of Columbia and any other person.

102.6 No person, other than a District enforcement official or other person authorized by law, shall duplicate or transfer to another person any licensing document except with written permission from the Department. Such action shall constitute fraud for purposes of this title.

102.7 No individual shall operate a public vehicle for-hire in the District unless such individual has a valid DFHV operator's license (face card), the vehicle has a valid DFHV vehicle license, and the operator and vehicle are in compliance with all applicable provisions of this title and other applicable laws, unless the operator is in compliance with the reciprocity privilege provisions of Chapter 10.

102.8 No person shall drive, move, or permit the operation of any public for-hire vehicle which is mechanically unsafe, improperly equipped or otherwise unfit to be operated.

102.9 No public vehicle for-hire business, equipment business or dispatch service shall provide service for or to a person subject to regulation under this title which the business or service knows or has been informed by the Department is not in compliance with this title and other applicable laws.

102.10 No licensee, permit holder or person granted operating authority by the DFHV shall attempt through any means to contradict or evade the requirements of this title or other applicable laws.

CHAPTER 2 – THE DEPARTMENT OF FOR-HIRE VEHICLES

200 ORGANIZATION
201 FOR-HIRE VEHICLE ADVISORY COUNCIL
202 PILOT PROGRAMS
203 PUBLIC VEHICLES FOR-HIRE CONSUMER SERVICE FUND

200 ORGANIZATION

200.1 The Department of For-Hire Vehicles shall be comprised of the following offices:

(a) The Office of the Director;

(b) The Office of Regulatory Policy and Planning;

(c) The Office of Client Services;

(d) The Office of Compliance and Enforcement; and

(e) The Office of Hearings and Conflict Resolution.

200.2 The Office of the Director shall perform the following duties:

(a) Administrative support;

(b) Human resources;

(c) Budget and financial services;

(d) Technology and information services;

(e) Contracting and procurement;

(f) Compliance with legislative directives, analysis, and opinions to ensure appropriate rulemaking and operational activities;

(g) Providing updated facts pertaining to operations and rulemaking through various communication platforms, including press releases, testimony, speech, and the DFHV website;

(i) Serving as a liaison between the DFHV and the District Department of Transportation ("DDOT") on policies related to transportation; and

(j) Other duties as assigned by the Director.

200.3 The Office of Regulatory Policy and Planning shall perform the following duties:

(a) Regulatory policy;

(b) Industry-wide research, analysis, and planning related to the regulation of the vehicle for-hire industry; and

(c) Other duties as assigned by the Director.

200.4 The Office of Client Services shall perform the following duties:

(a) Administering all license examinations applicable to the taxicab industry;

(b) Providing all required training and refresher courses;

(c) Maintaining a system of electronic public records relating to licensed

owners and operators, public vehicles for-hire and public vehicle for-hire companies, associations, and fleets, including:

(1) Developing, maintaining, and keeping current a body of information relating to public vehicle for-hire industry operations within the District, regionally, and nationwide; and

(2) Providing statistics, analyses, studies, and projections relating to matters such as revenue, operational costs, passenger carriage, profits, practices, and technologies pertaining to the public vehicle for-hire industry.

(d) Maintaining accurate records of in-service public vehicles for-hire and retaining those records for a minimum of three years;

(e) Communicating with the vehicle for-hire industry and members of the public to inform them of agency procedures and regulations and solicit feedback to enhance public awareness; and

(f) Accepting applications for licenses applicable to public vehicle for-hire operators and vehicles and issuing new licenses and renewals;

(g) Collecting fees to recover the actual costs of producing and distributing official DFHV vehicle decals, stickers, and information placards;

(h) Collecting any other authorized fees; and

(i) Other duties as assigned by the Director.

200.5 The Office of Compliance and Enforcement shall perform the following duties:

(a) Auditing public vehicle for-hire companies, digital taxicab solutions, and private sedan businesses;

(b) Administering and enforcing all rules, rates, charges, and orders issued by the DFHV;

(c) Inspecting public vehicles for-hire for compliance with safety regulations established by the DFHV and the Department of Motor Vehicles;

(d) Performing hack inspections and issuing notices of infraction;

(e) Providing street enforcement of DFHV's rules and regulations through the use of vehicle inspection officers; and

(f) Other duties as assigned by the Director.

200.6 The Office of Hearings and Conflict Resolution shall perform the following duties:

(a) Conduct hearings adjudications, appeals, and any form of conflict resolution, including mediation;

(b) Receive, document, and manage all complaints lodged against the owners and operators of public vehicles for-hire and private sedans, digital taxicab solutions, and dispatch services; and

(c) Other duties as assigned by the Director.

201 FOR-HIRE VEHICLE ADVISORY COUNCIL

201.1 The For-Hire Vehicle Advisory Council ("FHVAC") shall meet at least once every three (3) months, and more often as needed, at times to be determined by the chairperson of the FHVAC at the first meeting of the FHVAC. The Chairperson shall designate the time and place of the general meeting. The notice of general meetings shall be provided in accordance with this chapter.

201.2 Membership.

(a) The FHVAC shall consist of eleven members, to include the following:

(1) The Director of the DFHV, or the Director's designee;

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

(3) Nine community representatives, who do not work for the District government, appointed by the Mayor as follows:

(A) Two District residents who operate public or private vehicles for-hire in the District;

(B) Two representatives of companies providing vehicle for-hire industry services in the District;

(C) Two representatives of the hospitality or tourism industry in
the District; and

(D) Three District residents, unaffiliated with the vehicle for-hire industry, who regularly use public or private vehicles for-hire in the District.

(b) The community representatives shall be appointed for a term of three (3) years, with initial staggered appointments of three (3) community representatives appointed for one (1) year, three (3) community representatives appointed for two (2) years, and three (3) community representatives appointed for three (3) years.

(c) The community representatives to serve the one-year term, the community representatives to serve the two (2)-year term, and the community representatives to serve the three (3)-year term shall be determined by lot at the first meeting of the FHVAC.

(d) Each community representative shall serve until the appointment of a successor. No community representative shall serve more than two (2) consecutive terms, which shall not include an appointment to fill a vacancy due to removal, resignation, or death of a member.

(e) The Mayor may remove a community representative for cause. An appointment to fill a vacancy occurring during a term due to removal, resignation, or death of a member shall be made in the same manner as other appointments and for the remainder of the unexpired term.

(f) A chairperson shall be elected from among the nine (9) community representatives at the first meeting of the FHVAC, for a term of two (2) years, and every two (2) years thereafter.

201.3 The DFHV shall provide the FHVAC with an annual operating budget, which shall include funds to maintain a website where the FHVAC shall provide a public listing of members, meeting notices, and meeting minutes.

201.4 The purpose of the FHVAC shall be to advise the DFHV on all matters related to the regulation of the vehicle for-hire industry.

201.5 At least semiannually, the Director of the DFHV, or the Director's designee, shall meet with the chairperson of the FHVAC to discuss recommendations provided by the FHVAC to the DFHV, after which, the DFHV shall make available on the DFHV website all recommendations discussed between the DFHV and the FHVAC, the DFHV's decision in response to the recommendations, and an explanation of the decision made by the DFHV.

201.6 The Chairperson may call an emergency meeting of the FHVAC as needed to address an urgent matter. The notice of an emergency meeting shall be provided in accordance with this chapter.

201.7 FHVAC meetings shall be open to the public and conducted in accordance with the Open Meetings Act.

201.8 The Chairperson shall distribute the proposed agenda to the FHVAC members at least forty-eight (48) hours or two (2) business days prior to the date of the meeting.

201.9 Matters not covered by these rules or other District of Columbia law or regulation, including but not limited to voting and meeting agendas, shall be decided in accordance with Robert's Rules of Order, Newly Revised.

201.10 A majority of the FHVAC members in office shall constitute a quorum for taking official action or votes at all meetings of the FHVAC. A meeting may commence for the consideration of matters not requiring official action or a vote when a majority of FHVAC members in office are not present.

201.11 Notices of FHVAC meetings shall be posted not less than forty-eight (48) hours or two (2) business days, whichever is greater, in advance of the meeting.

201.12 Notice of FHVAC meetings shall be made by:

(a) Posting on the FHVAC website; and

(b) Posting in the *D.C. Register*, as timely as practicable.

202 PILOT PROGRAMS

202.1 The Department may create a pilot program for any reasonable purpose related to vehicles for-hire. Each pilot program that requires or allows persons licensed or regulated by this title to engage in an activity by deviating from the requirements of this title shall be the subject of an administrative issuance that includes a description of how safety, consumer protection, and the requirements of the Establishment Act and other applicable laws will be protected and adhered to by the pilot's participants.

203 PUBLIC VEHICLES FOR-HIRE CONSUMER SERVICE FUND

203.1 The purpose of this section is to establish procedural and substantive rules governing assessment and collection of all funds to be deposited into the Public Vehicle For-Hire Consumer Service Fund as authorized by the Establishment Act.

203.2 The Public Vehicles For-Hire Consumer Service Fund shall consist of:

(a) All funds collected from a passenger surcharge on taxicab trips;

(b) All funds collected by the Department from the issuance and renewal of a public vehicle for-hire license pursuant to D.C. Official Code § 47-2829 (2015 Repl. & 2017 Supp.), including such funds held in miscellaneous trust funds by the Commission and the Commission of the People's Counsel prior to June 23, 1987, pursuant to D.C. Official Code § 34-912 (a) (2012 Repl. & 2017 Supp.);

(c) All funds collected by the Department from the Department of Motor Vehicles through the Out-Of-State Vehicle Registration Special Fund, pursuant to Section 3a of the District of Columbia Revenue Act of 1937, effective March 26, 2008 (D.C. Law 17-130; D.C. Official Code § 50-1501.03a (2014 Repl. & 2017 Supp.)) ("Revenue Act");

(d) All funds collected by the Department pursuant to D.C. Official Code § 50-301.07 (c)(20);

(e) All funds collected by the Department pursuant to D.C. Official Code § 50-301.31 (b)(11); and,

(f) All funds collected by the Department pursuant to D.C. Official Code §§ 50-301.20(c) and (d).

203.3 As provided for in D.C. Official Code § 50-320 (d) (2014 Repl.), each public vehicle for-hire operator licensed by the Department shall be assessed fifty dollars ($50) per year upon the issuance or renewal of each operator license identification (Face) card issued pursuant to D.C. Official Code §§ 47-2829 (e) and (h) (2017 Supp.).

203.4 The assessment levied pursuant to § 203.3 shall be paid by each public vehicle for hire operator licensed by the Department in addition to the annual license fee authorized pursuant to D.C. Official Code § 47-2829 (e) and (h) (2017 Supp.).

203.5 The Department shall collect the assessment levied at the time of the issuance or renewal of the operator license identification (Face) card of each public vehicle for hire operator.

203.6 The Department shall have deposited into the Public Vehicle For-Hire Consumer Service Fund all assessments collected from public vehicle for-hire operators licensed by the Department.

203.7 On an annual basis, or at other times as determined by the Department, the Department shall request that the Office of the Chief Financial Officer provide a

written report of all monies collected and deposited in the Fund.

203.8 Monies in the Public Vehicle For-Hire Consumer Service Fund shall be used by the Department to pay costs incurred by the Department, including, but not limited to, the costs of:

(a) Operating and administering programs, investigations, proceedings, and inspections;

(b) Improving the District's taxicab fleet;

(c) Administering the Fund;

(d) Establishing a program to provide taxicab fare discounts for low-income senior citizens aged sixty-five (65) and older and persons with disabilities; and

(e) Providing grants, loans, incentives and other financial assistance to owners of licensed taxicabs legally operating and incorporated in the District to incentivize the purchase and use of alternative-fuel vehicles and wheelchair-accessible vehicles, directing licensed taxicabs to underserved areas, and to offset costs associated with meeting the mandates of the Act.

203.9 A proceeding, as referenced in Chapter 2, includes, but is not limited to, any administrative action, process, adjudication, or rulemaking pending before, or initiated by, the Department.

203.10 A Department investigation may include, but is not limited to, an investigation into any of the following subjects:

(a) Rate studies;

(b) Public education and awareness;

(c) Education of taxicab operators and owners;

(d) Enforcement activities; or

(e) Discrimination in the taxicab industry.

203.11 Each trip provided by taxicab licensed by the Department, shall be assessed a twenty-five cent ($0.25) per trip passenger surcharge.

203.12 For purposes of this subsection, the term "trip" means any trip provided by a

public vehicle for hire licensed by the Department to one or more passengers at the same time which either originated in the District or originated outside of the District pursuant to a valid reciprocity agreement and for which a fare is or should have been collected.

203.13 All funds collected pursuant to this section shall be deposited into the Public Vehicle for Hire Consumer Service Fund.

CHAPTER 3 - COMPLIANCE AND ENFORCEMENT

300 APPLICATION AND SCOPE

300.1 This chapter is intended by the Department to establish fair and consistent rules for enforcement of and compliance with this title.

300.2 This chapter applies to all persons regulated by this title.

300.3 The provisions of this chapter shall apply to all matters and contested cases pending as of the effective date of this rulemaking, to the extent allowed by the Administrative Procedure Act and any other applicable laws.

300.4 The Department's failure to comply with a deadline established by a provision of this title shall not be a basis for the dismissal of an enforcement action except where the Respondent proves that the Respondent's substantial legal rights would be violated in the absence of a dismissal, and that no reasonable procedural remedy, such as a continuance or enlargement of time, can be fashioned to cure the violation.

301 ENFORCEMENT ACTIONS

301.1 The Department may take one or more of the following enforcement actions, in accordance with this chapter, where there are reasonable grounds to believe that a person has violated, or is violating, a provision of this title or other applicable law:

(a) Issue a notice of infraction ("NOI");

(b) Issue an order to cease and desist;

(c) Issue an order of immediate suspension of a license;

(d) Issue a notice of proposed suspension or revocation of a license; or

(e) Issue an order of impoundment of a vehicle pursuant to the Impoundment Act.

301.2 In addition to any other penalty or action authorized by a provision of this title, the Department may recommend to another government agency the denial, revocation or suspension of any license that may be issued by the other agency.

301.3 Each respondent shall respond to a notice of an enforcement action within the time stated in the notice or, if no time for a response is stated in the notice, as specified in this chapter. Failure to respond within the time required shall subject the respondent to the civil penalties and fines imposed therein.

301.4 The Department may modify, supplement or withdraw any enforcement action at any time, provided such action is consistent with fundamental fairness and the due process rights of the respondent.

301.5 The enumeration of enforcement actions in this section shall not limit or proscribe any legal remedy available to the Department in a court proceeding at law or in equity, including, but not limited to, entering into consent decrees and settlements, and enforcing the terms thereof.

301.6 The Department may, through the Office of the Attorney General, petition the District of Columbia Superior Court for injunctive relief, or take any other action authorized by law to enforce compliance with a provision of this title or other applicable law.

301.7 In addition to any other enforcement action authorized by this title or other applicable law, where a private sedan business certifies an intentionally false or misleading statement on a form required by this title or other applicable law, the Department may refer the matter for civil and/or criminal investigation by an appropriate agency of the District or Federal Government.

301.8 The circumstances giving rise to a respondent's suspension, or any other enforcement action, may be considered by the Department in any determination of whether to issue or renew a license to the respondent.

301.9 Each impoundment of a vehicle shall be conducted in compliance with the Impoundment Act.

301.10 The Department may audit the compliance of any licensees with the applicable eligibility of this title, and may initiate compliance or enforcement proceedings based on the outcome.

301.11 Except as otherwise specified, an appeal from any enforcement action under this chapter may be referred to the OHE or to the OAH as designated by the Department in its sole discretion. Decisions by hearing examiners shall be issued in accordance with this title but shall in no instances be appealable to the OAH.

301.12 In computing any applicable time period measured in days under this chapter:

(a) The day of the act, event, or default from which the period begins to run shall not be included;

(b) The last day of the period shall be included; and

(c) Unless otherwise specified, any reference to "days" means calendar days including holidays and weekends.

301.13 For purposes of this section, service shall be effective at the moment it is made.

302 ADMINISTRATIVE ISSUANCES

302.1 The Department may promulgate an administrative issuance ("AI") when it deems it necessary and appropriate to aid in the administration, enforcement, or interpretation of one or more provisions of this title. Each administrative issuance shall contain the following sections as appropriate:

(a) Background – explaining the issue;

(b) Purpose – identifying the goal;

(c) Policy – stating the findings and intent;

(d) Definitions – defining any new relevant term;

(e) Authority – cites to statutory or regulatory authority allowing the administrative issuance; and

(f) Procedures – instructions to licensees on how to comply with the administrative issuance.

302.2 Each issuance, instruction, and guidance shall be posted on the Department's website and shall become effective twenty-four (24) hours after it is posted or at such later time as stated in the issuance, instruction, or guidance provided, however, that an issuance, instruction, or guidance shall become effective upon posting if it states that it is effective upon posting based on a determination that such action is required to immediately protect passenger, operator, or public safety; for consumer protection; or where otherwise permitted by law.

302.3 Failure to comply with an administrative issuance may be evidence of the violation of the provisions of this title to which the administrative issuance applies.

302.4 Persons whose conduct is regulated by this title may contest the legality or wisdom of any or all provisions of an administrative issuance in any administrative hearing.

303 COMPLIANCE ORDERS

303.1 An authorized employee or official of the Department, or a District enforcement official, may issue a written or oral compliance order to any person licensed or regulated by this title or other applicable law. Oral compliance orders may be issued during traffic stops, as provided in this chapter.

303.2 A compliance order may require the respondent to take any lawful action related to enforcement, compliance, or verification of compliance, with this title or other applicable law, to the extent authorized or required by this title and the Establishment Act or other applicable law.

303.3 Each compliance order shall include the following information:

(a) The action the respondent must take to comply;

(b) Except for oral compliance orders, the deadline for compliance; and

(c) If the compliance order is in writing:

(1) A statement of the circumstances giving rise to the order;

(2) A citation to the relevant chapter of this title or other applicable law; and

(3) If the order requires a person to provide information to assist the Department or a District enforcement official in an enforcement action against a person with whom the respondent is believed to be or has been associated: the name of and contact information for such person to the extent available.

303.4 Where a compliance order is issued to a private sedan business to allow the Department to inspect and copy records, the following limitations shall apply:

(a) The Department's inspection shall be limited to safety and consumer protection-related records to ensure compliance with the applicable provisions of Chapter 16, where the Department has a reasonable basis to suspect noncompliance; and

(b) Any records disclosed to the Department shall not be released by the Department to a third party, including through a FOIA request.

303.5 The OHE or OAH may draw an adverse inference where any person who is required by this title or other applicable law to maintain documents or information fails to maintain such documents or information as required.

303.6 A written compliance order shall be served in the manner prescribed by this chapter.

303.7 The civil penalties for failure to comply with a compliance order are as provided by Chapter 5 of this title.

303.8 Each traffic stop shall comply with all applicable provisions of this title, any other applicable laws, and the following requirements:

(a) Compliance checks may conducted on any vehicle for-hire anytime it is found on a public street in the District of Columbia provided, however, no vehicle shall be stopped while transporting a passenger without reasonable suspicion of a violation of this title or other applicable laws.

(b) A traffic stop of an on-duty private or public vehicle for-hire in the act of transporting a fare shall only be conducted if there is a reasonable suspicion of a violation of this title or other applicable law.

(c) An oral compliance order may be issued in connection with a traffic stop for the purpose of determining compliance with this title and other

applicable laws, ensuring public safety and order, and for other lawful reasons as may be outlined in an administrative issuance.

(d) Notwithstanding the requirements of paragraph (b) of this section, a vehicle inspection officer shall not take possession of a device which may contain evidence relevant to the enforcement of this title or other applicable law, unless:

(1) The device is or appears to be a component of a taxicab's);

(2) The operator denies ownership, possession, or custody of the device;

(3) The operator abandons the device or attempts to transfer its possession with intent to prevent access to the device for purposes of enforcement; or

(4) The operator is determined to be an unlawful operator in violation of D.C. Official Code § 47-2829.

(e) The term "possession" as used in paragraph (c) of this section shall not include handling, operation, or examination of a device for purposes of enforcement of this title or other applicable law.

(f) A private sedan operator's lack of registration with a private sedan business registered under Chapter 16 may be considered evidence of a violation of D.C. Official Code § 47-2829.

304 NOTICES OF INFRACTION

304.1 The Department or a District enforcement official (including a vehicle inspection officer) may issue a Notice of Infraction (NOI), imposing a civil fine or other civil penalty, whenever the Department or the District enforcement official has reasonable grounds to believe the respondent is in violation of a provision of this title or other applicable law.

304.2 An NOI shall be in writing in a form prescribed by the Department.

304.3 Each NOI shall be served and filed in the manner prescribed by this chapter.

304.4 In response to an NOI, a respondent shall file a written answer with OAH within thirty (30) days of the date the NOI is served on the respondent. The answer shall:

(a) Admit the infraction and pay the fine;

(b) Admit the infraction with an explanation, and providing any supporting documentation; or

(c) Deny the infraction and request a hearing.

304.5 Payment of the fine shall not relieve the respondent of the obligation to abate the infraction cited in the NOI.

304.6 If a respondent admits an infraction in the NOI, the respondent may provide an explanation with his or her answer and include payment of the fine. If respondent pays the stated fine but fails to indicate a specific answer, the respondent shall be deemed to have admitted the infraction.

304.7 If a respondent responds to an NOI, does not pay the stated fine, and fails to state an answer as required by this chapter, the respondent shall be deemed to have denied the infraction.

304.8 If the respondent admits an infraction with an explanation, the respondent shall state on the NOI whether the respondent requests a hearing on the papers or an in-person hearing. The OAH may hold an in-person hearing in its sole discretion.

304.9 If a respondent denies an infraction, OAH may schedule an in-person hearing in accordance with its rules.

304.10 If a respondent does not answer the NOI within thirty (30) calendar days:

(a) OAH shall issue a default order; and

(b) A civil penalty equal to the amount of the fine imposed by the NOI shall be imposed by OAH in the default order.

304.11 A civil penalty, including a fine, may be downwardly modified by OAH if:

(a) The downward modification is not inconsistent with the provision of this title or other applicable law which is the basis for the penalty;

(b) The Department is provided with an opportunity to present to OAH its opinion on a proposed downward modification or fine reduction; and

(c) The downward modification is based on a consideration of all relevant mitigating and aggravating factors.

305 CEASE AND DESIST ORDERS

305.1 If the Department has reason to believe that a person is violating a provision of this title or other applicable law and the violation has caused or may cause immediate and irreparable harm to the public, the Department may issue a cease and desist order requiring the person to immediately, or within a specified period of time, cease the conduct or activity which is allegedly in violation of a provision of this title or other applicable law.

305.2 A cease and desist order shall be in writing in a form prescribed by the Department and shall include:

(a) The grounds for the order, including a citation to the law or regulation that the respondent is violating;

(b) A statement identifying the conduct which the respondent must cease, or the action the respondent must take, in order to correct the violation;

(c) The deadline by which such conduct must cease or such action must be taken. The date and time may be immediately upon service of the order;

(d) A statement that the respondent has a right to request a hearing, in writing, within fifteen (15) calendar days of service of the order;

(e) A statement explaining the process by which the respondent may request a hearing;

(f) A statement that the respondent's request for a hearing shall not stay, suspend, or delay the effectiveness or enforcement of the order; and

(g) A statement of the requirements, terms, and conditions of the cease and desist order, if any.

305.3 Each cease and desist order shall be served and filed in the manner prescribed by this chapter.

305.4 Upon receipt of a timely request for a hearing, the OHE, or OAH, as designated by the Department, shall conduct a hearing within fifteen (15) calendar days after the date of receipt of the request for a hearing and shall issue a decision within thirty (30) calendar days after the close of the record of the hearing.

305.5 If the respondent does not request a hearing, in writing, within fifteen (15) calendar days after service of the cease and desist order, the Order shall become final and shall incorporate the requirements, terms, and conditions of the cease

and desist order.

305.6 A cease and desist order shall be enforced pending a final decision on the merits.

305.7 If a respondent fails to comply with a cease and desist order, the Department may, through the Office of the Attorney General, petition the District of Columbia Superior Court for injunctive relief, or take any other action authorized by law to enforce compliance with a provision of this title or other applicable law.

306 IMMEDIATE SUSPENSION OF A VEHICLE OPERATOR'S LICENSE

306.1 The Department may order the immediate suspension of a license that allows an individual to operate a public vehicle for-hire whenever the Department has reasonable grounds to conclude that the licensee poses an imminent danger to the health, safety, or welfare of an operator, a passenger, or the public.

306.2 A determination of imminent danger to the health, safety, or welfare of an operator, a passenger, or the public, under this chapter, shall be based on evidence that the licensee:

(a) Has committed murder, manslaughter, mayhem, malicious disfiguring of another, arson, abduction, kidnapping, burglary, theft, breaking and entering, robbery, larceny, assault or battery, or any other felony;

(b) Has committed a sexual offense proscribed by D.C. Official Code § 22-1901 (incest), §§ 22-3101 to 22-3103 (sexual performance using minors), § 22-2701 to § 22-2722 (prostitution and pandering), §§ 22-3002 to 22-3020 (sexual abuse), or §§ 22-1831 *et seq*. (human trafficking);

(c) Has violated the District of Columbia Uniformed Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901.01 *et seq*.) or the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code §§ 48-1101 *et seq.)*;

(d) Has committed a criminal act outside the District which, if committed in the District, would fall into one of the categories in paragraphs (a)-(c) of this section;

(e) Has committed a criminal offense in connection with the operation of a vehicle which is licensed by the Department as a public vehicle for-hire;

(f) Has violated a traffic regulation in the District or outside the District in a manner that reflects recklessness, gross negligence, depravity; or wanton

disregard for the safety of other persons or property; or

(g) Has acted or failed to act in any manner which otherwise poses an imminent threat to the health or safety of passengers, operators, or the public, or to consumer protection or passenger privacy.

306.3 A determination of imminent danger to the health, safety, or welfare of an operator, a passenger, or the public, under this chapter, shall be made irrespective of evidence that the licensee:

(a) Has not been arrested, charged, prosecuted, presented, indicted, or convicted of a crime in connection with the facts giving rise to the determination;

(b) Has not been the subject of a civil or administrative proceeding in connection with the facts giving rise to the determination; or

(c) Has not engaged in prior, similar misconduct.

306.4 In determining whether a licensee poses an imminent danger to the health, safety, or welfare of an operator, a passenger, or the public, the Department may consider any and all relevant evidence, including evidence which may not be admissible in a criminal, civil, or administrative proceeding, including without limitation, a statement against interest, an admission, an arrest record, or a court order.

306.5 Each order of immediate suspension shall be in writing and shall be in a form prescribed by the Department in an administrative issuance.

306.6 Each order of immediate suspension pursuant to this section shall be served and filed in the manner prescribed by this chapter.

306.7 A preliminary hearing on an order of immediate suspension shall be held before OAH, or if authorized by the Establishment Act, by OHE, within three (3) business days of service of the order on the licensee. At the preliminary hearing, either party may request an evidentiary hearing on the order of immediate suspension. If a party requests an evidentiary hearing, OAH shall hold the evidentiary hearing within fifteen (15) calendar days of service of the order on the licensee.

306.8 Any review by OAH of an order of immediate suspension, at a preliminary hearing held pursuant to this chapter, or at any subsequent hearing, shall be limited to a determination of whether the Department has sufficient evidence to conclude that reasonable grounds exist to believe that the licensee poses an imminent danger to the health, safety, or welfare of an operator, a passenger, or

the public, as provided in this chapter. If OAH determines that the Department has sufficient evidence to conclude that reasonable grounds exist to believe that the licensee poses an imminent danger to the health, safety, or welfare of an operator, a passenger, or the public, as provided in this chapter, the order of immediate suspension shall remain in effect without modification by OAH through the end of the immediate suspension as stated in the order, or until a final ruling on the merits on a concurrent notice of proposed suspension or revocation is issued pursuant to this chapter, whichever is later.

306.9 Each order of immediate suspension issued pursuant to this section shall be issued concurrently with a notice of proposed suspension or revocation issued pursuant to this chapter.

307 IMMEDIATE SUSPENSION OF A LICENSE OTHER THAN A VEHICLE OPERATOR'S LICENSE

307.1 The Department may order the immediate suspension of a license other than a license allowing an individual to operate a public vehicle for-hire whenever the Department has reasonable grounds to believe the licensee poses an imminent danger to the public.

307.2 A determination under this section shall be based on evidence that the licensee:

(a) Has committed a willful or repeated violation of any provision of this title or other applicable law which carries a civil penalty of at least five hundred dollars ($500) for the current or most recent violation or for which license suspension is stated as an available civil penalty;

(b) Has allowed or induced activity by another person which would provide a ground for such person's suspension or revocation under this chapter;

(c) Poses an imminent or significant threat to the health or safety of passengers, operators, or the public, consumer protection, or passenger privacy; or

(d) Is using the license to engage in an activity prohibited by a provision of this title or other applicable law.

307.3 In determining whether a licensee poses an imminent danger to the public, the Department or District enforcement official may consider any and all relevant evidence, including evidence which may not be admissible in a criminal or civil, proceeding, including without limitation a statement against interest, an admission, an arrest record, or court order.

307.4 Each order of immediate suspension pursuant to this section shall be served and filed in the manner prescribed by this chapter.

307.5 Subsection 306.3 shall apply to all proceedings under this section. The adjudication of an order of immediate suspension of a license under this section shall be as set out in § 306.7 and § 306.8.

307.6 In addition to any other enforcement action available under this chapter, a digital dispatch service registered with the Department under chapter 7 which fails to comply with § 703.4 shall be subject to a cease and desist order and notice of proposed suspension until the digital dispatch service provides the Department with the bond(s) required by Chapter 7, consistent with any applicable administrative issuance.

307.7 Each order of immediate suspension issued pursuant to this section shall be issued concurrently with a notice of proposed suspension or proposed revocation issued pursuant to this chapter.

308 NOTICE OF PROPOSED SUSPENSION OR REVOCATION OF A LICENSE

308.1 Proposed suspension. The Department may issue a notice of proposed suspension of a license issued under this title based on any of the following grounds:

(a) A material misrepresentation, fraud, or concealment of material information in a communication with the Department in a document provided to the Department, or in connection with an activity for which the respondent is licensed;

(b) A determination that the respondent no longer meets the requirements for the license it was issued by the Department;

(c) A determination that a basis for suspension exists pursuant to a provision of another chapter of this title;

(d) The existence of one or more grounds for suspension of a license pursuant to § 306.2 or § 307.2, without regard to whether the Department has issued an order of immediate suspension;

(e) A criminal conviction involving fraudulent conduct, or in the case of an entity, a determination that an employee, agent, or independent contractor associated with the entity has been convicted of such conduct in connection with any activity regulated by this title;

(f) The use or subornation of a fraudulent or misleading device, method, or practice relating to any activity regulated by this title;

(g) A willful or repeated failure to obey one or more compliance orders issued by the Department;

(h) A willful or repeated failure to comply with one or more orders issued by OHE or OAH;

(i) A willful or repeated failure to pay one or more civil fines imposed by the Department;

(j) A willful or repeated failure to comply with one or more provisions of this title or applicable law; or

(k) Where identified as a civil penalty in a provision of this title.

308.2 Proposed revocation. The Department may issue a notice of proposed revocation of a license issued under this title based on any of the following grounds:

(a) The respondent's license is currently, or was previously, suspended under § 306, § 307, or § 308.1;

(b) The respondent has committed substantial or repeated acts that constitute grounds for immediate suspension under § 306.2 or § 307.2, without regard to whether the Department has issued an order of immediate suspension

(c) The respondent has committed substantial or repeated acts that constitute grounds for proposed suspension under § 308.1;

(d) A determination that a basis for revocation exists pursuant to a provision of another chapter of this title; or

(e) The respondent has failed to timely and fully comply with the terms and conditions of an order of suspension, or has committed further violations of this title or other applicable law during the pendency of a suspension.

308.3 A notice of proposed suspension or proposed revocation may be issued concurrently with an order of immediate suspension or at any time at least fourteen (14) days prior to a hearing on the merits, provided however, that such notice shall not be issued fewer than fourteen (14) days prior to a hearing on the merits without good cause shown by the Department, including access to new evidence, and a change in the law or regulations applicable to the action.

308.4 A notice of proposed suspension or proposed revocation of a license shall be in writing and shall state:

(a) The grounds for the proposed suspension or revocation;

(b) The date on which the proposed suspension or revocation will become effective which shall be no sooner than thirty-one (31) calendar days following service of the notice;

(c) If a proposed suspension is for a time certain, the duration of the suspension; or, if the suspension is for an indefinite period of time, the terms upon which the license may be reinstated in full; and

(d) A statement:

(1) That the respondent has the right to request a hearing before the OHE or OAH within thirty (30) calendar days of service of the notice;

(2) Explaining the process for requesting a hearing, at which the respondent is entitled to present arguments and evidence to an administrative law judge;

(3) Explaining the rights accorded under D.C. Official Code § 2-509; and

(4) That, if the respondent fails to file an appeal within thirty (30) calendar days, the proposed suspension or revocation shall become final.

308.5 A proposed suspension shall not exceed the current licensing period.

308.6 A proposed revocation shall exceed the current licensing period and shall contain a requirement that the respondent is not permitted to re-apply for a new license until after a specific date following the date on which the revocation becomes final.

308.7 The revocation of a license and the circumstances giving rise thereto may be considered by the Department at the time of a renewal of a license issued under this title.

308.8 Each notice of proposed suspension or proposed revocation shall be served and filed in the manner prescribed by this chapter.

309 PUBLIC COMPLAINTS

309.1 The Department shall receive oral and written complaints by members of the public through the following means: by telephone, through the Department's website, by email, in person, by U.S. Mail, by fax, or by private delivery service.

309.2 An oral complaint shall not be the basis of further action by the Department unless it has been reduced to writing. If the Department receives an oral complaint, it shall either: (1) contact the complainant to request that the complaint be filed in writing; or (2) promptly reduce the complaint to writing.

309.3 The Department shall notify each complainant that his or her complaint has been received within seventy-two (72) hours of receiving a complaint submitted in writing or within seventy-two (72) hours after receiving a written complaint which had been originally submitted orally. The notice shall be provided by U.S. Mail, email, or telephone call using the contact information provided by the complainant.

309.4 A public complaint shall be pursued by the Department if submitted within thirty (30) days following the event or occurrence giving rise to the complaint, provided however, that a complaint alleging that any individual suffered personal injury or engaged in criminal misconduct in connection with a public vehicle for-hire service may be pursued by the Department if submitted within twelve (12) months after the event or occurrence giving rise to the complaint.

309.5 Unless the Department determines that a public complaint is not actionable, it shall notify the respondent of the complaint within fourteen (14) calendar days after the public complaint has been submitted to the Department.

309.6 Each respondent who is the subject of a complaint shall be notified in writing that the complaint has been submitted and be given the opportunity to participate in a resolution conference in accordance with § 310.

309.7 The Department shall initiate any enforcement action based on a timely complaint not later than sixty (60) calendar days after the completion of a resolution conference as described in § 310.

310 RESOLUTION CONFERENCES

310.1 A resolution conference shall consist of an informal and voluntary meeting between the Department and the respondent, at a time and place designated by the Department, for the purpose of addressing a public complaint it has received, or an enforcement action it has filed or may file.

310.2 The Department shall extend an invitation to participate in a resolution conference in connection with a public complaint, where the Department would ordinarily file a notice of infraction seeking a civil fine. The Department shall not otherwise be required to extend an invitation to participate in resolution conference.

310.3 A respondent shall not be required to participate in a resolution conference. An invitation to participate in a resolution conference shall not be considered a compliance order pursuant to § 303.2.

310.4 A resolution conference shall be scheduled by the Department to occur within a reasonable period, provided, however, that where the Department is considering an immediate suspension, the resolution conference shall be scheduled for not later than three (3) business days following service of the invitation.

310.5 An invitation to participate in a resolution conference shall be accepted by the respondent not later than the deadline set by the Department, provided, however, that the deadline shall be ten (10) calendar days following service if the invitation is based on a public complaint, and two (2) business days if the Department is considering the issuance of an order of immediate suspension.

310.6 Each invitation to participate in a resolution conference shall be in writing and:

(a) Shall state the designated time and location for the resolution conference;

(b) Shall state the deadline for acceptance of the invitation, as prescribed by § 310.5;

(c) Shall provide a description of the circumstances giving rise to the invitation;

(d) Shall state that the Department may take an enforcement action in connection with the circumstances giving rise to the invitation, identifying the applicable regulations and potential penalties; and

(e) May include a request that the respondent bring with it, or submit in advance, documents or information.

310.7 Each invitation to participate in a resolution conference shall be served in the manner prescribed by § 311.

310.8 If the Department receives a timely acceptance from the respondent and the respondent appears on time for the resolution conference, the Department shall mediate the matter as stated in the invitation. If the Department does not receive a

timely acceptance from the respondent or the respondent does not appear on time for a resolution conference, the Department may initiate an enforcement action.

310.9 The Department may reschedule a resolution conference one time for good cause shown provided the request to reschedule is received by the Department not later than: three (3) business days before the resolution conference date, the deadline for acceptance of the invitation where the Department is considering the issuance of a notice of immediate suspension, or a shorter period if exigent circumstances (such as hospitalization) exist and are supported by appropriate documentation.

310.10 At the resolution conference, the parties may negotiate and reach agreement on any penalty that would be available if an enforcement action were taken (including a full or partial payment of a civil fine), admission of liability, execution of a compliance agreement or consent decree, suspension or revocation of a license, or any other relief authorized by law.

310.11 No fact related to or concerning the resolution conference shall be admissible in the adjudication of an enforcement action, including without limitation whether a resolution conference session occurred or did not occur, whether a resolution conference was rescheduled or not, and the substance or fact of a party's offer to compromise, provided, however, that any information or document not created in anticipation of resolution conference or which rebuts an allegation by the respondent that it was not given notice shall be admissible regardless of whether it was obtained in connection with a resolution conference. An enforcement action shall not be limited to the circumstances, evidence, civil infraction, or potential penalty stated in an invitation to participate in a resolution conference provided any change is based on subsequently-acquired information, further investigation, or additional analysis.

311 SERVICE

311.1 Each order of immediate suspension, each notice of proposed suspension, and each notice of proposed revocation of a non-District operator's reciprocity privilege pursuant to this section may be served by one of the following methods:

(a) By personal service upon the respondent or the respondent's agent at any time and place where the respondent or the respondent's agent may be found within the District, including without limitation at the time and place of any violation of this title by the respondent, and at the time and place of any hearing pursuant to this chapter;

(b) By depositing the document into first-class U.S. Mail, addressed to the address of the respondent or respondent's agent on file with the Department or OAH in any pending contested case; or

(c) By email to the respondent's email address which is required to be maintained on file with the Department; or

(d) By posting the document in a conspicuous place in or about the location of respondent's place of business provided that service cannot be effected under subparagraphs (a) through (c).

311.2 Unless otherwise specified, service pursuant to § 311.1 (b) is complete at the time the document is deposited into the U.S. Mail.

311.3 An individual licensed by the Department who defaces, alters, or removes a document posted without the approval of the Department shall be subject to a fine as specified in Chapter 5.

311.4 An entity licensed by the Department that allows or induces an individual to deface, alter, or remove a document posted pursuant to § 311.1 (c), without the approval of the Department shall be subject to a civil fine as set forth in Chapter 5.

311.5 Each document subject to service under § 311.1, other than a compliance order, cease and desist, or invitation to mediate, shall be filed promptly with the OHE or OAH in the manner prescribed by its rules and procedures.

CHAPTER 4 – OFFICE OF HEARING EXAMINERS

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400 APPLICATION AND SCOPE

400.1 This chapter is intended to create the Office of Hearing Examiners ("OHE") as an independent unit within the Department of For-Hire Vehicles, and to establish fair and consistent procedural rules for the hearing and adjudication of matters by OHE.

400.2 The provisions of this chapter shall apply to all matters heard or adjudicated by OHE.

400.3 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act and the Impoundment Act.

400.4 OHE shall have jurisdiction to adjudicate and conduct a hearing in a matter involving one or more of the following actions by the Department:

(a) A decision to deny a new license;

(b) A decision to deny a renewed license;

(c) A notice of proposed suspension of a license; or

(d) A notice of proposed revocation of a license.

400.5 Hearings shall be conducted at the administrative offices of the Department, or elsewhere in the District as designated in an administrative issuance.

400.6 All adjudications and hearings before OHE shall comply with this chapter, other applicable provisions of this title, the Administrative Procedure Act ("APA"), and other applicable laws.

400.7 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title other than Chapter 7, the provision of this chapter shall control.

401 EFFECT OF FAILURE TO APPEAL

401.1 If an appellant or respondent fails to timely appeal an action taken by the

Department enumerated in § 400.4, the action shall become final and not subject to appeal.

402 INDEPENDENCE AND IMPARTIALITY OF HEARING EXAMINERS

402.1 Hearing examiners shall be employees of the Department, but no hearing examiner shall be subject to the supervision, direction, control, or influence of an official, employee, agent, or counsel of the Department, except for purposes of time and attendance.

402.2 No official, employee, agent, or counsel of the Department shall engage in *ex parte* communications with an employee of OHE, or attempt to supervise, direct, control, or influence a hearing examiner in connection with the merits or facts of any matter.

402.3 No official, employee, agent, or counsel of the Department shall assign to a hearing examiner any task or duty which is unrelated to adjudications or hearings, or which limits a hearing examiner's availability to adjudicate matters, except for time and attendance and other administrative matters applicable to all District employees.

402.4 Hearing examiners shall be required at all times to act in a manner that promotes public confidence in the integrity and impartiality of OHE.

403 POWERS AND DUTIES OF HEARING EXAMINERS

403.1 All hearings shall be conducted by a hearing examiner. No other official, employee, agent, or counsel of the Department shall have authority to adjudicate contested cases before the Department.

403.2 Hearing examiners shall conduct fair and impartial hearings, in a manner which ensures that facts are fully and accurately elicited and that all issues are adjudicated expeditiously so as to not create undue delay.

403.3 Hearing examiners shall ensure that each hearing is conducted in an orderly manner, and shall have the authority to physically exclude from a hearing an appellant, respondent, or other individual who substantially interferes with or obstructs the orderly conduct of a hearing.

403.4 Within thirty (30) days following the receipt of a request for a hearing pursuant to § 2106, OHE shall schedule a hearing and serve notice thereof upon the parties.

403.5 Each hearing examiner shall have authority to:

(a) Administer oaths and affirmations;

(b) Examine witnesses and receive testimony;

(c) Rule upon offers of proof and receive evidence;

(d) Regulate the course and conduct of hearings;

(e) Rule upon motions and dispose of procedural requests and similar matters;

(f) Hear and decide questions of law and fact;

(g) Exclude information which is scandalous, impertinent, or not relevant to the adjudication of the matter;

(h) Issue a subpoena to compel a witness to testify; and

(i) Limit the evidence and number of witnesses to be heard, and the nature of testimony, to avoid cumulative evidence and to expedite the proceedings.

404 RECUSAL

404.1 A hearing examiner shall recuse himself or herself from a matter where he or she is unable to act in a fair and impartial manner. Notice of a recusal shall be provided to the senior hearing examiner.

404.2 Grounds for recusal shall include:

(a) A conflict of interest or the appearance thereof;

(b) Bias toward a party or the appearance thereof;

(c) An *ex parte* communication or pre-judgment of the matter by the hearing examiner of any fact or issue; and

(d) Any other reason for recusal supported by District law.

404.3 A party shall file a motion to recuse a hearing examiner from participating in the adjudication not later than five (5) days after receipt of the notice of hearing.

404.4 Each motion for recusal shall be supported by an affidavit setting forth the reasons for recusal. Failure to timely file a motion for recusal by the time required by § 2104.3 may be construed as a waiver of all grounds for recusal.

404.5 The senior hearing examiner shall rule upon each motion for recusal.

405 *EX PARTE* COMMUNICATIONS

405.1 Hearing examiners shall not engage in *ex parte* communications with any individual, including any official, employee, agent, or counsel of the Department.

405.2 Where a hearing examiner has engaged in *ex parte* communications, the hearing examiner shall disclose such communications on the record, and shall consider whether recusal is required by § 2104.1.

406 REQUEST FOR HEARING

406.1 An appeal shall be filed with OHE within the time prescribed by §§ 708 and 709.

406.2 Each request for a hearing shall include:

(a) The full name of the respondent or appellant, and the full name of the appellant's or respondent's representative, if any, appearing on the appellant's or respondent's behalf pursuant to § 2108;

(b) The mailing address, email address, and telephone number of the appellant or respondent, or of the appellant's representative, if any;

(c) A brief statement of the reasons for the appeal;

(d) A brief statement of the relief sought from OHE; and

(e) A copy of the document reflecting the Department's decision to deny a new or renewed license, the notice of proposed suspension, or the notice of proposed revocation.

407 SUMMARY ADJUDICATION

407.1 An appellant may request that an appeal of a decision to deny a new or renewed license be decided summarily, without a hearing.

407.2 Each motion for summary adjudication shall be supported by evidence that identifies the facts not in dispute, with appropriate affidavits, and citations to relevant legal authority.

408 REPRESENTATIVES

408.1 An appellant or respondent, at its' own expense, may appear through an attorney

or non-attorney representative.

408.2 Each representative shall file a notice of appearance at least two (2) days prior to the first scheduled hearing at which the representative expects to appear. The notice shall include the representative's full name, contact information, and, if applicable, the bar number and jurisdiction(s) of admission.

408.3 A representative shall not be heard and shall not file or serve documents, other than a request for a hearing, until a notice of appearance has been filed.

408.4 A representative may withdraw by serving and filing a notice of withdrawal upon all parties, provided that no motions are pending and no hearing has been scheduled. If a motion is pending or a hearing date has been scheduled, withdrawal shall be granted only by leave of the hearing examiner.

408.5 An attorney acting as a representative shall be in good standing in all jurisdictions where the attorney is admitted, and shall comply with the D.C. Rules of Professional Responsibility throughout the course of the representation.

408.6 Each representative shall exhibit professionalism and courtesy, and shall not mislead or make false statements to OHE.

409 FAILURE TO APPEAR

409.1 Where a respondent or appellant fails to appear for a scheduled hearing, the hearing examiner may enter a default, provided however, that the Department shall be required to proffer sufficient evidence to meet its burden of proof.

409.2 Where, following default, the Department proffers sufficient evidence to meet its burden of proof, the hearing examiner shall issue a default judgment, which shall constitute the hearing examiner's final decision in the matter.

409.3 A respondent or appellant may file a motion to set aside a default judgment within ten (10) days following the default judgment. If a respondent fails to file a motion to set aside a default judgment, the default judgment will become final. The hearing examiner may grant the motion for good cause shown.

410 MOTIONS

410.1 Motions shall be filed no later than ten (10) days prior to the hearing, shall state the nature of the motion and the relief sought, and shall be supported by appropriate documentation.

410.2 A response or opposition to a motion shall be filed not later than five (5) days

prior to the hearing, and shall be supported by appropriate documentation. Replies and sur-replies shall not be filed without leave.

410.3 Where leave is required to file a document, a motion for leave shall be filed within ten (10) days following service of the motion or order to which the document is addressed.

410.4 Each motion other than a motion made at a hearing shall be in writing and shall be served upon all parties to the matter. The filing or pendency of a motion shall not extend any deadline.

410.5 Motions made during a hearing may be made orally at the discretion of the hearing examiner.

411 COMPUTATION OF TIME

411.1 An applicable time period measured in days under this chapter shall be calculated using the computation of time rules prescribed by Chapter 7, if any, and, if none, then in calculating such period:

(a) The day of the act, event, or default from which the period begins to run shall not be included;

(b) The last day of the period shall be included;

(c) Unless otherwise specified, any reference to "days" means calendar days including holidays and weekends; and

(d) When the last day is a Saturday or a Sunday, or a national or District holiday, the period shall run until the close of business of the following business day.

412 ENLARGEMENTS OF TIME

412.1 When an act is required or allowed to be done within a specified time, a hearing examiner, upon motion demonstrating good cause, or *sua sponte*, may enlarge the time period.

412.2 If a motion is made to enlarge before the expiration of the period originally prescribed, the hearing examiner may grant enlargement of time for good cause shown.

412.3 If a motion for enlargement of time is filed after the expiration of the time period, the hearing examiner may grant the enlargement for good cause shown, provided

that the failure to file the motion prior to the expiration of the time period was the result of excusable neglect.

412.4 A motion for enlargement of time shall not apply to the time prescribed for filing an appeal.

413 CONTINUANCES OF HEARINGS

413.1 A hearing examiner may continue a hearing for good cause shown, including at a hearing, upon motion or *sua sponte*, provided the continuance does not unduly delay or disrupt the adjudication of a matter, and does not cause undue prejudice to the opposing party.

413.2 Each motion for continuance shall comply with § 2110.

414 DISMISSALS OF MATTERS

414.1 A respondent or appellant may file a motion to dismiss at any time.

414.2 Parties may file a joint motion to dismiss, with or without prejudice, at any time.

414.3 If a respondent or appellant fails to comply with a hearing examiner's order or with the requirements of this chapter, or fails to prosecute, the hearing examiner may dismiss the matter *sua sponte* or upon motion.

414.4 A dismissal shall be without prejudice, unless the hearing examiner orders otherwise.

414.5 Each motion to dismiss shall be in writing unless made orally at a hearing.

414.6 Each motion to dismiss shall state the reasons for dismissal and include supporting documentation.

415 SUBPOENAS

415.1 A hearing examiner shall have authority to issue a subpoena for the appearance of witnesses or the production of documents, *sua sponte* or upon the filing of a motion.

415.2 Each motion for a subpoena shall identify the relevance of the documents sought or witnesses requested, and shall be filed not later than ten (10) days prior to the hearing.

415.3 If a motion for subpoena is granted, the moving party shall serve the subpoena in the manner required by §§ 714.1(a) and (c), and shall serve a copy of the subpoena and proof of service upon the opposing party within one (1) day.

415.4 Proof of service of a subpoena shall be filed with OHE within three (3) days following service of the subpoena, or one (1) day prior to the hearing, whichever is earlier.

416 BURDEN OF PROOF

416.1 In all matters adjudicated by OHE, the Department shall bear the burden of proof to establish by a preponderance of the evidence an evidentiary basis for the Department's denial or nonrenewal of a license, or for the Department's proposed suspension or revocation of a license.

416.2 If the Department has presented all of its evidence and the hearing examiner determines that the Department has not met its burden of proof, the hearing examiner may enter judgment against the Department without the presentation of additional evidence.

417 EVIDENCE

417.1 Formal rules of evidence shall not apply to adjudications or hearings before OHE.

417.2 Hearsay may be considered during a hearing, provided however, that hearsay shall not serve as the sole evidentiary basis for a suspension or revocation of a license.

417.3 Irrelevant, immaterial, scandalous, cumulative, or unduly lengthy evidence may be excluded at the discretion of the hearing examiner.

417.4 Each party shall have the right to present witnesses, to conduct direct examination and cross examination, and to introduce documentary evidence.

417.5 Each party shall serve upon the opposing party and file with OHE, exhibit and witness lists, not later than five (5) business days prior to the hearing.

417.6 A hearing examiner may require the production of evidence by either party.

417.7 A hearing examiner may take judicial notice of generally accepted facts, but shall not take judicial notice of any facts in dispute.

418 DECISIONS

418.1 A hearing examiner shall issue a written decision within thirty (30) days following the hearing.

418.2 Each decision shall include:

(a) A list of the exhibits accepted in evidence and the witnesses who testified;

(b) Findings of fact based on the evidence adduced at the hearing; and

(c) Conclusions of law referencing the applicable law and identifying the findings of fact upon which the conclusions rest.

418.3 If the Establishment Act does not require that a hearing examiner's decision be approved by the Director, the decision shall be a final agency decision.

418.4 If the Establishment Act requires that a hearing examiner's decision be approved by the Director, the hearing examiner shall promptly refer the matter to the Director or his or her designee.

419 RECONSIDERATION

419.1 A motion for reconsideration of a hearing examiner's decision shall be filed within ten (10) days following the issuance of the decision.

419.2 Each motion for reconsideration shall state the grounds for reconsideration and shall be limited to:

(a) Errors of law; findings of facts not supported by the evidence, or

(b) Newly discovered evidence which was not reasonably available to the party at the time of the hearing.

419.3 The filing of a motion for reconsideration shall not stay a decision by the Department to deny a new license, but it shall stay a decision by the Department to deny a renewed license, a notice of proposed suspension, or a notice of proposed revocation.

420 APPEALS

420.1 This section shall apply to a decision of a hearing examiner which does not require the Director's approval under the Establishment Act.

420.2 In accordance with Chapter 7, either party may appeal a hearing examiner's decision to the Director or his or her designee within thirty (30) days of the

issuance of the decision.

420.3 Upon receipt of an appeal from a hearing examiner's decision, the Director or his or her designee shall render a final decision to affirm, reverse, or modify the decision, or to remand for further proceedings.

420.4 The filing of an appeal shall not stay a decision by the Department to deny a new license.

420.5 The filing of an appeal shall stay a decision by the Department to deny a renewed license, a notice of proposed suspension, or a notice of proposed revocation.

421 RECORDS OF HEARINGS

421.1 All hearings shall be recorded, and shall be available to the parties and to the public by transcript.

421.2 The administrative record shall consist of the OHE file, exhibits, transcripts, and all other documents filed with or issued by OHE.

421.3 A party appealing a decision of OHE shall bear the expense of producing the transcript where not already produced.

422 FINAL AGENCY DECISION

422.1 A decision of the Director or his or her designee on a matter referred under § 418.4 or appealed to the Director or his or her designee under § 2120 shall constitute a final agency decision.

422.2 A decision of a hearing examiner which is not timely appealed in accordance with § 2120.2 shall constitute a final agency decision.

CHAPTER 5 - CIVIL PENALTIES AND FINES

500 CIVIL PENALTIES

500 CIVIL PENALTIES

500.1 The schedules of fines established in this section shall apply to all violations of Title 31. For violations of any provision of Title 31 for which a civil fine is not specified, the fine shall not exceed (five hundred dollars) $500 for taxicab operators or (one thousand dollars) $1,000 for companies, entities, and associations regulated by this title.

500.2 All fines enumerated in this chapter shall be doubled for the second violation, and tripled for the third and any subsequent violation within any twenty-four (24)

month period. All fines in this chapter are maximum amounts to be assessed based upon the circumstances.

500.3 A District enforcement official shall have discretion to issue a warning in lieu of a fine for any first violation in Schedule 4 only.

500.4 The Department may, through an administrative issuance, establish procedures regarding offers of proposed settlements to operators, consisting of suspension of the operator's license in lieu of a scheduled fine for the first offense of any infraction enumerated in Schedule 4, as follows:

(a) Where the fine exceeds two hundred fifty dollars ($250): a proposed suspension of the operator's license for seven (7) days; and

(b) Where the fine is two hundred fifty dollars ($250) or less: a proposed suspension of the operator's license for two (2) days.

(c) Penalties agreed to under this subsection must be appealed to the Office of Hearing Examiners within thirty (30) days or are otherwise final.

500.5 The schedules of civil penalties under Title 31 are established as follows:

Schedule 1 **Fines For Entities** **Maximum Fines Based On Circumstances**	
Digital Dispatch Services ● Failure to transmit one percent (1%) of gross receipts to OCFO (§ 702.7) ● Failure to provide required certification (§ 702.8)	**$25,000 per day**
Taxicab Equipment businesses ● Fraud, bribery, acceptance of bribe, or failure to report a bribe by taximeter business (§ 103.1)	**$25,000 and business license revocation**
Dome Light Installation Businesses ● Threats, harassment, and abuse (§ 103.2)	**$10,000 and business license revocation**
Dome Light Installation Businesses ● Failure to notify Department (§ 1507.1) ● Unauthorized work (§ 1525)	**$5,000**
Private Sedan Businesses	**$25,000 per day**

● Failure to maintain adequate insurance coverage (§ 1604.1)	
Taximeter Businesses ● Failure to report to Department acceptance of unauthorized gratuity or bribe (§ 1317.2)	**$10,000**
Taximeter Businesses ● Allowing the registration of an operator where the private sedan business knew or should have known the operator was ineligible for registration (§ 1602.1) ● Failure to conduct background check (§ 1602.7)	**$7,500**
Taxicab Businesses ● Failure by taxicab business to notify Department of change in ownership (§ 1205.1)	**$5,000**
Private Sedan Businesses **Failure of a private sedan business to:** ● Maintain a required zero tolerance policy (§ 1602.9) ● Investigate an alleged violation of these rules by a passenger (§ 1602.10(a)) ● Suspend an operator when required to do so under applicable law or regulation (§ 1602.10(b)) ● Maintain adequate business records (§ 1602.15) ● Maintain a current and accurate registration of operators and vehicles associated with the business (§ 1602.2) ● Prevent a private sedan operator from logging into the app of the private sedan business's associate or affiliated digital dispatch service while the operator is suspended or after s/he has been terminated (§ 1602.22) ● Notify the Department upon suspension or termination of an operator (§ 1602.20) ● Providing service while under the influence of intoxicants (§ 1605.5) ● Maintain 24/7/365 communication for enforcement and compliance purposes (§ 1602.21) ● Conduct an appropriate motor vehicle safety inspection or failure	**$3,000**

to verify that such an inspection has been completed (§ 1602.4)	

Schedule 2 **Fines For Entities And Owners** **Maximum Fines Based On Circumstances**	
Fraudulent Actions Company allowing or inducing an individual to deface, alter, or remove a document posted pursuant to (§ 311.3)	**$2,500**
DTS Providers Prohibited discrimination in violation of § 604	**$2,500**
Taximeter Business Violations ● Unauthorized work (§ 1409.1)	**$5,000**
Digital Dispatch Services - Private Sedans ● Failure to ensure private sedan operator who is suspended or terminated is unable to log into app (§ 1604.8) ● Failure to provide required certification (§ 1605.4)	**$2,5000 per day**
Taximeter Business Violations ● Failure to notify Department of conviction or license suspension/revocation (§§ 102.3(a), 102.6) ● Failure to notify Department of occurrences specified in § 1408.7 ● Defective or missing certification/inspection/repair work (§ 1408.5)	**$1,000**
Dome Light Installation Businesses ● Failure to notify (§§ 1515, 1516, 1522) ● Installation without inspection (§ 1524) ● Defective certification/inspection (§ 1526) ● Requiring repair work (§ 1527)	**$1,000**
Any violation of Chapter 16 not specifically enumerated	**$1,000**

Failure to comply with cease and desist order by an entity (§305)	**$5,000 per day**
Dome Light Installation Businesses ● Change in fee schedule without notification (§ 1509) ● Installation, adjustment, correction or repair of dome light outside of premises of licensed dome light installation business (§ 1510.3) ● Failure to cooperate with Department (§ 1519) ● Work by Non-Certified Technician (§ 1520) ● Sale of unapproved dome light for installation on a taxicab licensed by DCTC (§ 1529)	**$500**
Dome Light Installation Businesses ● Failure to pay biennial license fee	**$500 and suspension after 30 days overdue**
False Dispatch (§ 1404.2)	**$500**
Unauthorized or unlicensed provision of L-class service (Chapter 12)	**$500**
Violations not otherwise specified by LCS Organizations (Chapter 12)	**$500**

Schedule 3 **Fines For Entities, Owners, and Operators** **Maximum Fines Based On Circumstances**	
Fraudulent actions ● Falsifying or tampering with manifest (§ 823) ● Displaying, possessing, or presenting a fraudulent copy or altered government issued operator identification (Face) card or vehicle inspection (DFHV) card (§ 814.7) ● Tampering with meter or meter seals (§ 1323) ● Knowingly operating with non-functioning meter or operating without a meter ● Improperly sealed meter (§ 1321) ● Improper conduct and/or unlawful actions	**$500**
License, Registration, and Insurance ● Unlicensed District resident or nonresident operator (§§ 828 and	**$500**

1000.1) ● Operating without a valid Face card or permitting operation without possession of a valid Face card (§ 814) ● Logging into a private vehicle for hire app if known that the app is not lawfully in operation (§ 1906.4) ● Operating without insurance (§§ 900.1, 1402.5, 1905) ● Fail to timely renew license (LCS vehicle owner) (§ 1202.9) ● Providing black car service without license (§1401.2)	
Operating without a special event vehicle for hire permit (§ 1016)	**$500**
Taximeter Business (Chapter 13) ● Installation, adjustment, correction, calibration, or repair of taximeter outside of premises of licensed taximeter business ● Change in fee schedule without notification ● Failure to pay biannual license fee ● Unlicensed business activity ● Failure to cooperate with Department ● Work by non-certified technician	**$500**
Failure to comply with compliance order (§ 303)	**$500**
Failure to comply with cease and desist order by individual (§305)	**$500 per day**
Violations of Chapter 18 by entities or owners (wheelchair accessible paratransit taxicab service)	**$500**
Failure to timely renew vehicle license (§ 501)	**$500**
Failure to report an accident to insurance company within a timely manner or to the Department within 3 business days (§ 906)	**$500**
● Use, threaten, or attempt physical force (§ 103) ● Threatening, harassing, or engaging in abusive conduct toward a District enforcement official (§ 103) ● Refusal to haul/discrimination (§604) ● Accepting a street hail (§ 1906.7)	**$500**
Operating with off size wheels or tires (Chapter 6)	**$500**
Operating without meter or with nonfunctional meter (§ 602)	**$500**
Transport DC violations by companies not otherwise specified (§ 1808.2)	**$500**
Failure to decommission public vehicle for-hire when operating under exclusive time contract (§ 800)	**$500**

Digital Dispatch Service Violations not specified by Chapter 16 (§ 1607)	**$500**
Conduct preventing surcharge from being collected (§ 1404)	**$500**
Exclusion by a keeper or proprietor of a licensed hotel of District-license taxicab operator from picking a passenger at a taxicab stand or other location where taxicabs are regularly allowed; exclusion of DCTC licensed taxicab by proprietor, owner, or agent (§ 821)	**$300**
Dome Light Installation Businesses ● Failure to notify Department (§ 1405.3) ● Improper replacement of certification sticker (§ 1405.7) ● Failure to safeguard or account for certification stickers (§§ 1405.8 and 1405.9) ● Unlicensed business activity (§ 1501) ● Failure to comply with signage requirements (§ 1512) ● Overcharge (§ 1528)	**$250**
Black Car Violations (§ 1402) ● Failure to cooperate with Department ● Failure to comply with documentation requirements ● Unlawful gratuity	**$100**

Schedule 4 **Fines for Owners and Operators** **Maximum Fines Based On Circumstances**	
Violations of Chapter 18 by operators (wheelchair accessible paratransit taxicab service)	**$250**
Smoking while transporting passengers (§ 807.1)	**$250**
Failure to render service to a Transport DC passenger (§ 1806.18)	**$250**
Failure by a private sedan operator to: ● Display trade address while providing service (§ 610.1) ● Maintain proof of insurance (§ 1904.1) ● Notify the Department within 3 business days where there has been an accident accompanied by the loss of human life or by serious personal injury (§ 1904.1) ● Charge an unlawful fare or require an unlawful gratuity (§	**$250**

1604.4)	
Violations of Chapter 6 (Taxicab Parts and Equipment)	**$250**
Taximeter business violations (Chapter 13) ● Failure to comply with signage requirements ● Overcharge ● Failure to keep appropriate records	**$250 for first two violations; $100 for recordkeeping violations**
Defective speedometer/odometer or operating without a meter (§§ 601.7 & 608)	**$250**
Operating with an expired inspection sticker (Chapter 6)	**$150**
Cruising Lights (Chapter 8) ● Failure to have ● Broken ● Failure to use properly	**$150 for failure to have $50 for failure to use properly or broken**
Improperly operating heating or A/C system (§ 601)	**$125**
Transport DC (CAPS-DC) Any violation of Chapter 18	**$100**
Service Animal violations (§ 801.10)	**$100**
Failure to: ● Display current inspection sticker or operate with valid sticker (Chapter 6) ● Display face card (§ 814) ● Failure to comply with administrative issuance on vehicle extensions (§ 1001) ● Report and deliver property left in vehicle to the Department (§ 803.21) ● Operate safe vehicle (§ 1304.3) ● Pick up or drop off at designated taxi or discharge stand (shared riding) (§§ 1216.1 and 1216.2) ● Maintain correct/current information (§ 801) ● Report accident to insurance carrier within specified time (§ 803.1) ● Provide proof of insurance (§ 803.2 and 1402.4)	**$100**

Improper Use of "On Call" or "Off Duty" Signs (§§ 1302.5, 1302.6)	**$100**
Asking for destination prior to accepting hail (§ 1215.20)	**$100**
Dome Light ● Failure to report for inspection (§ 1405.7) ● Failure to replace lost/mutilated sticker (§ 1405.7)	**$75**
Failure to Obey Compliance Order (§ 303)	**$50**
Illegal Shared Ride Fare (§ 1207) Illegal Share or Group ride (§ 1212)	**$50**
Improper use of taxicab stand (§§ 1217, 1501, 1605)	**$50**

CHAPTER 6 – EQUAL ACCESS TO FOR-HIRE VEHICLES

600 APPLICATION AND SCOPE

600.1 This chapter establishes licensing and other requirements applicable to taxicab companies, operators, and vehicles that are approved under this chapter to provide paratransit taxicab service, including wheelchair accessible service, as a participant in the Transport DC program, to ensure the safety of passengers and operators, to protect consumers, and for other lawful purposes within the authority of the Department. This chapter further establishes public vehicle for-hire accessibility requirements and applicable non-discrimination requirements.

601 OPERATOR TRAINING FOR WHEELCHAIR SERVICE

601.1 Prior to providing wheelchair service, each taxicab operator shall:

(a) Have completed wheelchair service training approved by the Department, including either:

(1) Current training offered by an approved taxicab company pursuant to this chapter which teaches a curriculum developed by the Department, including interfacing with persons with disabilities, operating mobility equipment, passenger assistance techniques, and operating wheelchair accessible vehicles;

(2) Prior training offered in connection with roll DC; or

(3) A combination of subparagraphs (1) and (2) as determined by the Department.

(b) Pass a written examination, administered by the Department, establishing the operator's competency to provide wheelchair service consistent with the Department's curriculum; and

(c) Be issued an Accessible Vehicle Identification ("AVID") operator's license by the Department.

601.2 Each taxicab company shall offer wheelchair service training to its associated operators to allow them to obtain AVID licenses, and shall provide reasonable incentives to operators to obtain such training.

601.3 Each taxicab company shall ensure that if a vehicle owned by the company is a wheelchair accessible vehicle, it is, in addition to any other requirements of this title, only operated by an operator who has a wheelchair service certification, as required by this chapter, and has been issued an AVID operator's license.

602 SPECIALLY-EQUIPPED VEHICLES

602.1 Specially-equipped vehicles, including but not limited to wheelchair accessible vehicles, may be approved by the Department to operate as taxicabs to transport persons with physical or medical disabilities.

602.2 An application for authorization to place a specially-equipped vehicle in service as a taxicab shall be made on a form provided by the Department, and shall comply with all requirements as contained in an administrative issuance.

602.3 In addition to the vehicle information required by this title, an applicant to place a specially-equipped vehicle in service as a taxicab shall provide the following information for each vehicle to be registered as a specially-equipped taxicab vehicle:

(a) A statement that the vehicle complies with the standards within Title II of the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 338; 42 USC §§ 12131-12134) (ADA), and the applicable Federal

Motor Vehicle Safety Standards for this type of vehicle;

(b) A list of the types of physical or medical disabilities that can be accommodated by this vehicle; and

(c) Verification that the applicant has applied for and is pre-approved for insurance for the specially-equipped vehicle as required by the Department.

603 PUBLIC VEHICLE FOR HIRE ACCESSIBILITY

603.1 Each public vehicle for-hire company with twenty (20) or more vehicles in its fleet that does not have wheelchair-accessible vehicles in its fleet shall provide contact information of public vehicle for-hire companies that do have such vehicles, when requested by a customer.

603.2 Each taxicab company with twenty (20) or more taxicab and each black car company with twenty (20) or more black cars shall dedicate a portion of such vehicles as follows:

(a) At least twelve percent (12%) of such vehicles shall be wheelchair-accessible by December 31, 2016; and

(b) At least twenty percent (20%) of such vehicles shall be wheelchair-accessible by December 31, 2018.

603.3 A taxicab or black car shall not be counted for purposes of compliance with § 603.2 where for fifty (50%) percent or more of the vehicle's aggregated operating time in any three (3) months during the calendar year it is:

(a) Under contract(s) to provide transportation for a service that is not a public vehicle for-hire service; or

(b) Used to provide transportation for a service that is not a public vehicle for-hire service.

603.4 Each operator of a wheelchair accessible vehicle shall ensure that wheelchair passengers are properly secured using the vehicle's wheelchair securement system, by providing assistance as necessary or if requested by the passenger. Notwithstanding the provisions of § 604.3, no operator shall be required to transport a wheelchair passenger who refuses to be properly secured by the vehicle's wheelchair securement system.

604 NON-DISCRIMINATION

604.1 No public or private vehicle for hire operator, taxicab company, taxicab association, or any other person or entity regulated by this title shall discriminate on the basis of any characteristic or trait protected by Federal or District law, including race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family status, family responsibilities, matriculation, political affiliation, genetic information, disability, or source of income, or place of residence or business.

604.2 Discriminatory conduct may include, but is not limited to the following:

(a) Not picking up a passenger on the basis of any protected characteristic or trait, including an individual with a service animal;

(b) Using derogatory or harassing language on the basis of a protected characteristic of the passenger under D.C. Official Code § 2-1402.31;

(c) Requesting that a passenger get out of a vehicle on the basis of a protected characteristic or trait;

(d) Other than for shared rides, requesting the destination before accepting a trip

(e) Refusing telephone, digital dispatch or street hails beginning or ending in specific geographic areas of the District;

(f) Refusal of service based solely on an individual's disability which leads to an appearance or to involuntary behavior which may offend, annoy, or inconvenience the operator or another individual;

(g) Rating a passenger on the basis of a protected characteristic; and

(h) Using dynamic street hail pricing in any manner that constitutes prohibited discrimination under this section or other applicable law.

604.3 It shall not constitute discrimination under D.C. Official Code § 2-1402.31 for an operator to refuse to provide service or to cease providing service to an individual who engages in violent, seriously disruptive, or illegal conduct.

604.4 No public or private vehicle for-hire operator shall refuse to transport a person while holding his or her vehicle for-hire, unless:

(a) Previously engaged;

(b) Unable or forbidden by the provisions of this title to do so;

(c) The vehicle for-hire operator has reason to believe the person is engaged in a violation of law;

(d) The operator has cause to fear injury to his or her person, property, or vehicle; or

(e) The person(s) or passenger(s) is engaged in lewd, lascivious, or sexual behavior in the vehicle for-hire at any time.

604.5 Passengers accompanied by animals.

(a) Service animals. A service animal shall be carried without charge.

(b) Animals other than service animals.

(1) When securely enclosed in a carrier designed for that purpose, small dogs or other small animals may accompany a passenger without charge. Other animals not so enclosed may be carried at the discretion of the operator.

(2) An operator may refuse to transport any passenger traveling with a small dog or other small animal if the operator presents to the passenger an exemption certificate from the Department that certifies that such operator suffers from a diagnosed medical condition, such as allergies, which prevents such operator from traveling with such small dogs or other animals;

(3) No operator shall have a personal pet or animal of any kind in a public vehicle for-hire while holding the vehicle out for hire or transporting passengers; and

(4) An operator may request an exemption certificate from the Department that certifies that such operator suffers from a documented diagnosed medical condition, such as allergies, which prevents such operator from traveling with such small dogs or other small animals securely enclosed in a carrier designed for that purpose. Without such exemption certificate, an operator may not refuse to transport any passenger traveling with a small dog or other small animal that is securely enclosed in such carrier. Each exemption certificate shall be on a form prescribed by the Department and notarized by an appropriately licensed medical professional (for example, a general practitioner or allergist). Each exemption certificate shall be renewed at each renewal of the DFHV operator's license.

604.6 A device for the aid of a disabled person, such as a folding wheelchair, when accompanying a passenger with a disability, shall be carried without charge. There shall be no additional charge for loading or unloading such device.

604.7 Each business regulated by this title shall establish a policy of zero tolerance for discrimination and discriminatory conduct on the basis of any protected characteristic under D.C. Official Code § 2-1402.31.

604.8 The Department reserves the right to investigate any alleged incident of discrimination.

605 TRANSPORT DC - GENERAL

605.1 No person shall participate in a Transport DC trip unless the taxicab company, operator and vehicle have been approved to participate in Transport DC under this chapter, and the taxicab company, operator, and vehicle are in compliance with all applicable provisions of this title and other applicable laws.

605.2 Each approved taxicab company shall acquire and operate wheelchair accessible vehicles for use in the Transport DC program as follows:

(a) Each approved taxicab company shall acquire one or more WMATA vans consistent with the approval under this chapter; all applicable District, WMATA, and Federal laws and regulations; and any applicable issuances, instructions, or guidance issued by the Department; and thereafter, shall operate such WMATA vans in the Transport DC program in the manner required by this chapter;

(b) In lieu of acquiring and operating a WMATA van as required by paragraph (a), an approved taxicab company may instead purchase and operate a new, best-available fuel, wheelchair accessible vehicle, which complies with this chapter; and

(c) If it is a wheelchair accessible vehicle, other than a WMATA van, or a wheelchair accessible vehicle that was associated with the taxicab company prior to its approval to participate in Transport DC, meets all applicable provisions of this chapter for use in Transport DC.

605.3 Each vehicle participating in Transport DC shall:

(a) Be in compliance with all applicable provisions of this title, including: vehicle licensing requirements; uniform color scheme and equipment requirements, and digital taxicab solution (DTS) requirements;

(b) If it is a wheelchair accessible vehicle, be operated only by an operator trained to provide wheelchair service, as required by this chapter;

(c) If it is a wheelchair accessible vehicle, other than a WMATA van, or a wheelchair accessible vehicle that was associated with the taxicab company prior to its approval to participate in Transport DC, meet all applicable provisions of this chapter for use in Transport DC; and

(d) Compliance with the reporting of any trip data for payment reconciliation and program compliance, in a manner and format directed by the Department.

605.4 Notwithstanding any applicable administrative issuance, instruction, or guidance previously issued by the Department, each WMATA van or wheelchair accessible vehicle acquired or purchased pursuant to this section shall be eligible to receive a new "H-tag" pursuant to all applicable rules and regulations of the DMV.

605.5 Each approved taxicab company shall maintain with the Department a current and accurate inventory of all active operators and vehicles approved for and providing Transport DC service, including all vehicles associated with the company pursuant to a dispatch agreement, updated in such manner and at such times as determined by the Department, with the following information:

(a) For each operator: name, cellular telephone number, DFHV operator's license number, and an indication of whether the operator has completed the wheelchair service training, and, if so, the date of completion; and

(b) For each vehicle: year, make, model, color, PVIN, tag number, and an indication of whether the vehicle is wheelchair accessible.

605.6 Taxicab companies approved to participate in Transport DC shall comply with the following provisions concerning vehicles:

(a) Each taxicab company shall add a vehicle to its fleet which complies with paragraph (b) each time the company completes three thousand (3,000) Transport DC trips, or such greater number of trips as may be established in a an administrative issuance.

(b) Each vehicle added pursuant to part (a) shall be a new wheelchair accessible vehicle which has a side or rear entry and a ramp which meets ADA requirements, and has one of the following sources of propulsion:

(1) Compressed natural gas (CNG);

(2) Gasoline-electric hybrid;

(3) Diesel or bio-diesel;

(4) Liquid propane; or

(5) Ethanol (E85).

(c) At the time a WMATA van is eligible to be replaced, it shall be replaced consistent with any additional terms and conditions imposed by the Department based on total participation in the program during that Fiscal Year, on District-wide demand for wheelchair service, on the need for wheelchair accessible vehicles in future programs targeted to serve underserved areas of the District, and on other lawful and appropriate considerations under the Act. A WMATA van eligible for transfer from a taxicab company to a third party shall be transferred only in compliance with all terms and conditions of the grant provided by the Department for its acquisition.

(d) A taxicab company that fails to comply with the requirements of paragraphs (a)-(c) shall be subject to suspension or revocation of its Transport DC approval, and may be required to refund to the Department any grant provided to the taxicab company for the acquisition of WMATA vans.

605.7 Each person that participates in the program shall timely produce to the Department all invoices, records, and reports of its Transport DC rides and its compliance with this section, with a grant agreement, and with any applicable administrative issuance, when requested to do so by the Department.

606 TRANSPORT DC - RATES AND RESERVATIONS

606.1 The rates and charges, and acceptable forms of payment, for each Transport DC trip shall be in accordance with the following requirements:

(a) The fare for a Transport DC trip shall not exceed a flat rate of thirty-three dollars ($33) as stated in an administrative issuance, plus any gratuity which a passenger chooses to add to the total fare, payable as follows:

(1) Not more than five dollars ($5.00) of the Transport DC fare shall be paid by the passenger by any means allowed by Chapter 12, including a payment card or cash; and

(2) The remaining fare shall be paid by District;

(b) No passenger surcharge shall be collected from a passenger for a Transport DC trip.

606.2 Each taxicab company shall make Transport DC service available through a telephone dispatch service to any Transport DC participant who requests service. Should a passenger request an accommodation to make Transport DC service available through other means, the taxicab company will use best efforts to provide this accommodation. If the taxicab company is unable to provide the accommodation requested, the taxicab company shall notify the Department immediately in order to work out a solution. Each taxicab company may also make Transport DC service available through a single digital dispatch service. All dispatch services shall be provided in accordance with the provisions of this chapter.

606.3 Each taxicab company shall accept each booking for a Transport DC trip anywhere within the District which is made at least one (1) hour prior to service.

606.4 Each wheelchair accessible vehicle participating in Transport DC shall be used to provide service in the following descending order of priority to the extent permitted by all applicable laws:

(a) A Transport DC passenger, for which the fare shall be consistent with § 604.1;

(b) Any passenger requesting a wheelchair accessible vehicle, for which the fare shall be consistent with the provisions of Chapter 12; and

(c) Any other passenger, for which the fare shall be consistent with the provisions of Chapter 12.

606.5 Each taxicab company shall ensure that wheelchair service is available at all times when Transport DC service or booking is required to be available under this chapter.

606.6 Each Transport-DC trip shall be between a MetroAccess approved location or facility in the District and another location in the District, or vice-versa.

606.7 Each taxicab company shall require each operator to verify that the photograph and information on the passenger's MetroAccess Card matches the information on the Transport DC debit card prior to the start of a Transport DC trip.

606.8 Each taxicab company shall provide invoices and reports of its Transport DC trips and its compliance with this chapter at such times and in such forms as directed in an applicable issuance, instruction, or guidance issued by the Department.

606.9 Where a vehicle dispatched to pick up a Transport DC passenger is unable to render service for any reason, including the passenger's inability to pay or equipment (DTS unit) malfunction, the following provisions shall apply:

(a) The operator shall immediately notify the passenger and the taxicab company of the circumstances;

(b) If the passenger is unable to pay, the operator shall provide service and the taxicab company shall promptly notify the Department and make appropriate arrangements for payment; and

(c) If there has been an equipment malfunction, the taxicab company shall immediately dispatch another vehicle to that location. The passenger may choose to wait inside the first vehicle until the second vehicle arrives, at no charge to the passenger. The operator shall comply with the requirements in this title concerning equipment malfunctions.

606.10 Notwithstanding any applicable administrative issuance, instruction, or guidance previously issued by the Department, each WMATA van or wheelchair accessible vehicle acquired or purchased pursuant to this subsection shall be eligible to receive a new "H-tag" pursuant to all applicable rules and regulations of DMV.

607 TRANSPORT DC - APPLICATION

607.1 Any taxicab company which has current operating authority under Chapter 11 of this title, is in good standing with the Department, and is interested in participating in Transport DC, may apply to the Department to be approved as a participant in the Transport DC program.

607.2 Each taxicab company interested in participating in Transport DC ("applicant") shall be in compliance with the requirements of this section at the time of its application.

607.3 Each applicant shall be in compliance with all applicable provisions of this title in addition to those set forth in this chapter.

607.4 Each applicant shall possess all necessary endorsements on its Department of Consumer and Regulatory Affairs ("DCRA") basic business license for provision of Transport DC, if any.

607.5 Each applicant shall possess insurance under Chapter 9 which extends to its participation in Transport DC, including the participation of its associated operators and vehicles.

607.6 Each applicant shall provide the following information and documentation to the Department:

(a) The name of the applicant;

(b) The trade name(s) and logo used by the taxicab company, if any;

(c) Information and documentation showing that the business is in compliance with, or ready and able to comply with, all the eligibility requirements and all the operating requirements in this chapter;

(d) Information and documentation showing that the business seeks and would be eligible to receive a grant from the Department for the purpose of acquiring and placing into service one or more wheelchair accessible paratransit vans transferred from the Washington Metropolitan Area Transit Authority ("WMATA vans"), pursuant to this chapter; and

(e) Such other information and documentation as the Department deems necessary to determine that the applicant meets the requirements for approval under this title and other applicable laws.

607.7 Each application filed with the Department under this section shall be:

(a) Full and complete;

(b) Accompanied by full and complete documentation;

(c) Notarized and provided under penalty of perjury;

(d) Submitted no later than the deadline stated in any applicable administrative issuance, instruction, or guidance issued by the Department; and

(e) Accompanied by an application fee of five hundred dollars ($500).

607.8 The Department shall review each application pursuant to the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118, D.C. Official Code §§ 47-2861, *et seq*.) and shall deny the application of any applicant not in compliance with the Clean Hands Act.

607.9 An application may be denied if the applicant does not cooperate with the Department during the application process, if the application is not complete, or if the applicant provides materially false information for the purpose of inducing the Department to grant the application.

607.10 If the Department denies an application:

(a) The Department shall state the reasons for its decision in writing; and

(b) The applicant may file an appeal of the decision to the OHE within fifteen (15) calendar days, and, otherwise, the decision shall constitute a final decision of the Department. An appeal is filed on the day the OHE receives it during business hours. The OHE shall issue a decision on an appeal within thirty (30) calendar days. A timely appeal of a denial shall extend any existing approval pending the OHE's decision. A decision of the OHE to affirm or reverse a denial shall constitute a final decision of the Department. A decision of the OHE to remand to the Department for further review of an application shall extend any existing approval pending the final decision of the Department.

607.11 Each Transport DC approval for a participating company shall be effective for twelve (12) months, provided however, that the approval shall not be effective during any time when the taxicab company's operating authority has been suspended, revoked, or not renewed.

607.12 The Department shall provide to the applicant a physical certificate reflecting the Department's approval of the applicant to participate in Transport DC. The certificate shall be the property of the Department, and shall be returned to the Department at the expiration of the approval period or otherwise as provided in this title.

607.13 The Department shall maintain on the Department's website the name and contact information of each taxicab company approved to participate in Transport DC.

608 TRANSPORT DC - RENEWAL

608.1 Each taxicab company shall apply to renew its Transport DC approval not later than sixty (60) days prior to the expiration date of its existing approval. Each taxicab company that fails to timely apply for renewal shall be required to surrender its certificate of Transport DC approval at the end of the approval period, and apply for a new approval.

608.2 Each taxicab company which applies to renew its Transport DC approval shall, at the time it files its renewal application, be in full compliance with this title and

other applicable laws.

608.3 Unless the Department provides otherwise in writing, all requirements for a new approval shall apply to a renewal approval.

CHAPTER 7 - DISPATCH SERVICES

700 APPLICATION AND SCOPE

700.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing dispatch services, and establishes the District of Columbia Taxicab Industry Co-op.

700.2 Additional provisions applicable to the businesses, owners, operators, and vehicles which participate in providing vehicle for-hire services appear in other chapters of this title including: public vehicle for-hire Licenses and Operations (Chapter 10); black cars (Chapters 12 and 14); and private sedans (Chapter 16).

700.3 The phrase “company that uses digital dispatch for public vehicle for-hire service”, as used in the Establishment Act, shall include only a digital dispatch service, as defined in Chapter 1, and shall not include any other person regulated by this title in connection with the provision of a public vehicle for-hire service, such as a taxicab company.

700.4 No person shall provide telephone or digital dispatch, or digital payment, for public vehicles for-hire in the District, except in compliance with this chapter, all applicable provisions of this title then in effect, and other applicable laws.

700.5 Nothing in this chapter shall be construed as: Delegating to any person a non-delegable legal duty of the Department. A rule or standard of the Co-op shall not be construed as a rule or regulation of the Department.

701 TELEPHONE DISPATCH SERVICE – OPERATING REQUIREMENTS

701.1 No telephone dispatch service shall participate in providing a vehicle for-hire service in the District unless it is operated by a taxicab company with current operating authority under Chapter 11.

701.2 Each telephone dispatch service shall operate in compliance with this title and other applicable laws.

701.3 Each telephone dispatch service shall be licensed to do business in the District of Columbia.

701.4 Each gratuity charged by a telephone dispatch service shall comply with the definition of "gratuity".

701.5 Each telephone dispatch service shall comply with the requirements for passenger rates and charges set forth in Chapters 6, 7, and 12.

701.6 Each telephone dispatch service shall provide a passenger seeking wheelchair service with such service, when available, and if not available through the telephone dispatch service, shall make reasonable efforts to assist the passenger in locating available wheelchair service through another source within the District.

701.7 Where a telephone dispatch service shares a request for wheelchair service with another person, the passenger's destination shall not be provided.

701.8 Each telephone dispatch service shall maintain a customer service telephone number for passengers with a "202" prefix or a toll-free area code, posted on its website, which is answered or replied to promptly during normal business hours.

701.9 Each telephone dispatch service shall maintain a website with current information that includes:

(a) The name of the telephone dispatch service;

(b) Contact information for its *bona fide* administrative office or registered agent authorized to accept service of process;

(c) Its customer service telephone number or email address;

(d) The following statement prominently displayed:

"Vehicle for-hire services in Washington, DC are regulated by the Department of For-Hire Vehicles
2235 Shannon Place, S.E., Suite 3001
Washington, D.C. 20020-7024
www.dctaxi.dc.gov
DFHV3@dc.gov 1-855-484-4966 TTY: 711";

and

(e) A link to § 801 allowing passengers to view applicable rates and charges.

701.10 Each telephone dispatch service shall provide its service throughout the District.

701.11 Each telephone dispatch service shall perform the service agreed to with a passenger in a dispatch, including picking up the passenger at the agreed-upon time and location, except for a bona fide reason specified by Chapter 6 or other applicable provision of this title.

701.12 Each telephone dispatch service shall protect certain information relating to passenger privacy and safety. A telephone dispatch service shall not:

(a) Release information to any person that would result in a violation of the personal privacy of a passenger or that would threaten the safety of a passenger or an operator; or

(b) Permit access to real-time information about the location, apparent gender, or number of passengers awaiting pickup by a person not authorized by the telephone dispatch service to receive such information. Where a telephone dispatch service shares a request for wheelchair service with another person pursuant to this chapter, the passenger's destination shall not be provided.

701.13 Subsection 701.12 shall not limit access to information by the Department or a District enforcement official.

701.14 A telephone dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until the trip has been booked.

701.15 Each telephone dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records related to compliance with its legal obligations under this title available for inspection and copying as directed by the Department, and retain its business records for five (5) years.

701.16 Each telephone dispatch service shall comply with all applicable provisions of this title and other laws regulating origins and destinations of trips, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle for-hire service such as the reciprocity rules in Chapter 10.

702 DIGITAL DISPATCH

702.1 Each digital dispatch service shall operate in compliance with this title and other applicable laws.

702.2 Each digital dispatch service shall calculate fares and, where applicable, provide receipts to passengers, as provided in this title for the different classes of vehicles.

702.3 Each digital dispatch service shall submit proof that the company maintains a

website containing information on its:

(a) Method of fare calculation;

(b) Rates and fees charged; and

(c) Customer service telephone number or email address.

702.4 If a digital dispatch service charges a fare other than a metered taxicab rate, the company shall, prior to booking, disclose to the passenger:

(a) The fare calculation method;

(b) The applicable rates being charged; and

(c) The option to receive an estimated fare.

702.5 Each digital dispatch service shall review any complaint involving a fare that exceeds the estimated fare by twenty percent (20%) or twenty-five dollars ($25), whichever is less.

702.6 Each digital dispatch service shall provide its service throughout the District.

702.7 Every three (3) months, based on the District's fiscal year calendar, each digital dispatch service shall separately transmit to the Office of the Chief Financial Officer (OCFO), for deposit into the Consumer Service Fund in accordance with Chapter 11 of the title, each of the following amounts, reflecting business activity from (1) October through December; (2) January through March; (3) April through June; and (4) July through September:

(a) For trips by taxicabs: the per trip taxicab passenger surcharge; and

(b) For trips by black cars, and private sedans vehicles: one (1) percent of all gross receipts.

702.8 An authorized representative of each digital dispatch service shall certify in writing under oath, using a form provided by the Department, that each amount transmitted to OCFO pursuant to § 702.7 meets all of this chapter and is accompanied by documentation of the digital dispatch service's choosing which reasonably supports the amount of the deposit. Each certification and supporting documentation shall be provided to OCFO.

702.9 Each digital dispatch service shall ensure that its website and mobile applications are accessible to the blind and visually impaired, and the deaf and hard of hearing.

702.10 Each digital dispatch service shall train its associated operators in the proper and safe handling of mobility devices and equipment, and how to treat individuals with disabilities in a respectful and courteous manner. Completion of training

acceptable to qualify an individual for an AVID operator's license issued by the Department shall satisfy this training requirement.

703 DIGITAL DISPATCH SERVICE - REGISTRATION

703.1 No digital dispatch service shall operate in the District unless it is registered with the Department as provided in this section.

703.2 Each digital dispatch service operating in the District on the effective date shall register with the Department within five (5) business days of the effective date of this chapter, and all other digital dispatch services shall register with the Department prior to commencing operations in the District.

703.3 Where a digital dispatch service provides digital dispatch for an associated or affiliated private sedan business, the digital dispatch service and its associated or affiliated private sedan business shall contemporaneously apply for registration under this chapter and Chapter 16, respectively.

703.4 Each digital dispatch service shall register by completing an application form made available by the Department, that shall be:

(a) Executed under oath by an individual with authority to complete the filing; and

(b) Accompanied by a filing fee of five hundred dollars ($500) regardless of the number of vehicle for-hire services dispatched by the digital dispatch service.

703.5 In addition to the requirements of § 703.4, each application for registration shall include information and documentation:

(a) Demonstrating that the digital dispatch service is licensed to do business in the District;

(b) Demonstrating that the digital dispatch service maintains a registered agent in the District;

(c) Demonstrating that the digital dispatch service maintains a website that complies with this chapter;

(d) Describing in writing the digital dispatch service's app, with accompanying screenshots, to allow District enforcement officers to understand the functionality of the app, and to verify during a traffic stop:

(1) If the vehicle is a public vehicle for-hire: that the operator and the vehicle are associated with the digital dispatch service;

(2) If the vehicle is a private sedan: that the operator and the vehicle

are registered with the DDS's associated or affiliated private sedan business and not under suspension; and

(3) The time and location of the most recent request for service.

(e) A certification that the digital dispatch service is in compliance with the operating requirements of this chapter.

703.6 The Department shall complete its review of a registration application form within fifteen (15) business days of filing. Each applicant shall cooperate with the Department to supplement or correct any information needed to complete the review. The Department may deny registration where it appears the private sedan business will not be operating in compliance with this title and other applicable laws.

703.7 Each registration under this section shall be effective for twenty four (24) months.

703.8 Each registered digital dispatch service shall renew its registration at least fourteen (14) days prior to its expiration as provided in this chapter.

703.9 Each registered digital dispatch service shall promptly inform the Department of any of the following occurrences in connection with its most recent registration:

(a) A change in the operation of its app which affects how a District enforcement official uses the app during a traffic stop to determine that the operator and vehicle are in compliance with this title and other applicable laws;

(b) A change in contact information; and

(c) A materially incorrect, incomplete, or misleading statement.

703.10 A claim may be made by the Department against any bond provided by a digital dispatch service pursuant to Chapter 17 for any amount owed to the District of Columbia by the digital dispatch service which remains unpaid for more than thirty (30) days. The Department shall give written notice to the digital dispatch service of its intent to make a claim against a bond not less than ten (10) days prior to taking the action.

704 OPERATIONAL REQUIREMENTS - GENERALLY

704.1 No dispatch service shall impose additional or special charges for an individual with a disability for providing services to accommodate the individual or require the individual to be accompanied by an attendant.

704.2 No fee charged by a dispatch service in addition to a taximeter fare shall be processed by a DTS unit, except for a telephone dispatch fee under § 1207, or where a digital dispatch service and the DTS have integrated.

704.3 Each digital dispatch service shall ensure that a private sedan operator cannot log in to the digital dispatch service's app while the operator is suspended or after the operator has been terminated by the private sedan business.

704.4 The provisions of this chapter shall be enforced pursuant to Chapter 3.

704.5 A dispatch service that violates this chapter shall be subject to:

(a) A civil fine established by a provision of Chapter 5;

(b) Enforcement action other than a civil fine, as provided in Chapter 3; or

(c) A combination of the sanctions enumerated in parts (a) and (b).

705 DIGITAL DISPATCH SERVICES – OPERATING REQUIREMENTS

705.1 Each digital dispatch service shall operate in compliance with this title and other applicable laws.

705.2 Each digital dispatch service shall calculate fares and, where applicable, provide receipts to passengers, as provided in: Chapters 7 and 12.

705.3 Each digital dispatch service shall submit proof that the company maintains a website containing information on its':

(a) Method of fare calculation;

(b) Rates and fees charged, and

(c) Customer service telephone number or email address.

705.4 If a digital dispatch service charges a fare other than a metered taxicab rate, the company shall, prior to booking, disclose to the passenger:

(a) The fare calculation method;

(b) The applicable rates being charged; and

(c) The option to receive an estimated fare.

705.5 Each digital dispatch service shall review any complaint involving a fare that exceeds the estimated fare by twenty percent (20%) or twenty-five dollars ($25), whichever is less.

705.6 Each digital dispatch service shall provide its service throughout the District.

705.7 Every three (3) months, based on the District's fiscal year calendar, each digital dispatch service shall separately transmit to the Office of the Chief Financial Officer (OCFO), for deposit into the Consumer Service Fund in accordance with

Chapter 2 of this title, each of the following amounts, reflecting business activity from (1) October through December; (2) January through March; (3) April through June; and (4) July through September:

(a) For trips by taxicab: the per trip taxicab passenger surcharge; and

(b) For trips by black cars and private sedans: one (1) percent of all gross receipts.

705.8 An authorized representative of each digital dispatch service shall certify in writing under oath, using a form provided by the Department, that each amount transmitted to OCFO pursuant to Chapter 7 meets the requirements of Chapter 7, accompanied by documentation of the digital dispatch service's choosing which reasonably supports the amount of the deposit. Each certification and supporting documentation shall be provided to OCFO.

705.9 Each digital dispatch service shall train its associated operators in the proper and safe handling of mobility devices and equipment, and how to treat individuals with disabilities in a respectful and courteous manner. Completion of training acceptable to qualify an individual for an AVID operator's license issued by the Department shall satisfy this training requirement.

705.10 Each digital dispatch service shall:

(a) Use technology that meets or exceeds current industry standards for the security and privacy of all payment and other information provided by a passenger, or made available to the digital dispatch service as a result of the passenger's use of the digital dispatch service;

(b) Promptly inform the Department of a security breach requiring a report under the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237, D.C. Official Code §§ 28-3851 *et seq.*), or other applicable law;

(c) Not release information to any person that would result in a violation of the personal privacy of a passenger or that would threaten the safety of a passenger or an operator; and

(d) Not permit access to real-time information about the location, apparent gender, or number of passengers awaiting pickup by a person not authorized to receive such information. Where a digital dispatch service shares a request for service with another person for the purpose of providing wheelchair service to a passenger, the passenger's destination shall not be provided.

705.11 Subsection 705.11 shall not limit access to information by the Department.

705.12 During a state of emergency declared by the Mayor, a digital dispatch service

which engages in surge pricing shall limit the multiplier by which its base fare is multiplied to the next highest multiple below the three highest multiples set on different days in the sixty (60) days preceding the declaration of a state of emergency for the same type of service in the Washington Metropolitan Area.

705.13 Each digital dispatch service shall comply with reciprocity rules in Chapter 10.

706 PROHIBITIONS

706.1 No dispatch service shall impose additional or special charges for an individual with a disability for providing services to accommodate the individual or require the individual to be accompanied by an attendant.

706.2 No fee charged by a dispatch service in addition to a DTS fare shall be processed by a digital taxicab solution (DTS), or displayed on or paid using any component of a DTS unit, except for a telephone dispatch fee under Chapter 12 or where a digital dispatch service and the DTS have integrated pursuant to Chapter 13.

706.3 Each digital dispatch service shall ensure that a private sedan operator cannot log in to the digital dispatch service's app while the operator is suspended or after the operator has been terminated by the private sedan business.

707 DC TAXIAPP

707.1 Each DFHV taxicab operator shall provide service in response to each request generated via the District of Columbia Taxicab App ("DC TaxiApp").

707.2 Each taxicab owner shall ensure that all of its vehicles are equipped, if necessary, to allow its associated taxicab operators to comply with the provisions of this section. A violation of this subsection shall subject the owner to a civil fine of fifty dollars ($50) per vehicle.

707.3 Nothing in this title shall be construed to prevent any person from using an app provided by a registered digital dispatch service other than the Co-op.

707.4 The Department shall enact no rule or regulation respecting the rates and charges, if any, for trips booked through the DC TaxiApp. Such rates and charges shall be established only by the Co-op, as provided in this chapter.

707.5 Any person developing an app ("app developer") for taxicab service may engage in live field testing after approval from the Department.

707.6 The Department, by written notice upon the app developer, may suspend or revoke its approval for live field testing where the testing:

(a) Is conducted in violation of this chapter (including violation of any terms or conditions stated in the Department's approval;

(b) Threatens safety, consumer protection, or the payment to the District of the passenger surcharge; or

(c) Interferes with the Department's ability to enforce any provision of this title or other applicable law.

707.7 An app which is the subject of approved live field testing shall not be launched in the District unless and until it is provided by a digital dispatch service registered as required by this chapter and other applicable law.

707.8 No person shall conduct or participate in live field testing of an app for the dispatch of taxicabs in the District except as provided in this section. An entity which conducts or participates in live field testing in violation of this section shall be subject to a civil fine not to exceed one thousand dollars ($1,000) per day based on the circumstances. An operator who knowingly participates in live field testing that violates this section shall be subject to a civil fine of twenty five dollars ($25) for each trip booked through the app.

707.9 Each taxicab company required by D.C. Official Code § 50-301.31 to provide dispatch services shall participate in live field testing of the DC TaxiApp if required to do so in an administrative issuance.

708 THE CO-OP

708.1 The Co-op shall be a cooperative association authorized by the Business Corporation Act of 2011, D.C. Official Code §§ 29-301.01, *et seq.,* which allows the Co-op and all of its members to meet all the requirements of this title and other applicable laws, provided however, that if the Co-op is not a cooperative association, it shall be organized to comply with all applicable provisions of this section, to the maximum extent feasible, as determined by the Department in connection with its review of the draft bylaws pursuant to this chapter.

708.2 The Co-op shall be owned and operated for the mutual benefit of all of its members, for the purpose of promoting the use of available DFHV-licensed taxicabs, including wheelchair accessible vehicles, by the residents of and visitors to the District, and such other purposes as stated in this section and this chapter. Consistent with the foregoing, no category of persons identified in Chapter 7 shall be excluded from meaningful opportunities to participate in the management of the Co-op through a representative on the board of directors or other common means, and no person shall be excluded from meaningful opportunities to participate in the ownership of the Co-op through stock ownership or other common means, provided however, that a member may be excluded for a bona fide business purpose such as the lack of a capital contribution or material non-compliance with applicable provisions of this title or other applicable law.

708.3 Unless otherwise provided in a license agreement with the Department, the Co-op shall provide all necessary management, service, and support for the DC TaxiApp

in the manner prescribed by this section and this chapter, and by the license agreement.

708.4 Any two or more persons who are permitted or required by this chapter to be members of the Co-op shall incorporate the Co-op.

708.5 Following incorporation of the Co-op, the incorporators shall:

(a) Promptly obtain a physical place of business for the Co-op within the District;

(b) Cooperate with the Department to conduct any necessary testing of the DC TaxiApp;

(c) Take or facilitate all actions required by this chapter and other applicable law to ensure that the Co-op is ready and able to begin full operations not later than the implementation date; and

(d) Schedule a meeting to be held within thirty (30) to sixty (60) days after the issuance of public notice to all prospective members of the Co-op, to:

(1) Elect a board of directors;

(2) Adopt the Co-op's bylaws following their approval by the Department; and

(3) Engage in such other business as necessary to begin full operation of the Co-op and to enable the use of the DC TaxiApp by all taxicab operators not later than the implementation date.

708.6 The Co-op shall be governed by its bylaws, as approved by the Department pursuant to this chapter.

708.7 The draft bylaws filed with the Department pursuant to this chapter shall include terms and conditions providing that:

(a) The Co-op shall not give preferential treatment to any person or group of persons in the taxicab industry through its operations, through the marketing, availability, or functionality of the DC TaxiApp, through the rates and charges which the Co-op sets for trips booked through the DC TaxiApp, or through the revenue generated by the DC TaxiApp. Preferential treatment shall include but not be limited to denying a member of the Co-op meaningful opportunities to participate in the management or ownership of the Co-op, as otherwise required by this section or this chapter.

(b) The Co-op shall establish and maintain a digital dispatch service, registered and operated in compliance with this chapter, which at all times,

maintains integration between the DC TaxiApp and each DTS in a manner consistent with Chapter 14, to ensure that:

(1) Each passenger who books a ride through the DC TaxiApp may choose to make either an in-vehicle payment (cash or payment card) or a digital payment;

(2) The passenger surcharge is collected from the passenger and paid to the District for each trip; and

(3) The DTS is able to comply with all obligations under this title.

(c) The provisions of § 708.7 shall not apply if the DC TaxiApp does not provide the functionality needed for integration;

(d) The Co-op shall establish competitive, market-based rates and charges for trips booked through the DC TaxiApp;

(e) The Co-op shall execute any necessary license agreement with the District for the use of the DC TaxiApp, shall comply with all terms and conditions thereof, and shall not use, acquire, license, test, market, develop, or otherwise be associated with any other app without the written approval of the Department;

(f) The Co-op shall develop, distribute, and require the acceptance of terms of service for the use of the DC TaxiApp by taxicab operators and passengers;

(g) The Co-op shall ensure that operators receive the revenue they generate through the use of the DC TaxiApp within twenty four (24) hours or one (1) business day;

(h) The Co-op shall promote the availability of wheelchair accessible taxicab service, and may use incentives to owners and operators to support such availability;

(i) The Co-op shall carry such commercial insurance as necessary in connection with the use of the DC TaxiApp;

(j) The Co-op's membership shall be limited to:

(1) Persons required to be members: each taxicab company with current operating authority that is required by D.C. Official Code § 50-329.02 to provide dispatch services and who pays the required capital contribution; and

(2) Persons allowed but not required to be members:

(A) Each individual who holds a current DFHV taxicab operator's license (Face card);

(B) Each individual who holds a current DFHV taxicab vehicle license other than a DFHV transferable taxicab vehicle license;

(C) Each taxicab company with current operating authority, other than a taxicab company required to be a member under § 708.7 (j) (1); and

(D) Each taxicab association with current operating authority;

(k) Each Co-op member shall make a capital contribution as determined by the board of directors, which shall be consistent with the provisions of this section and other applicable laws;

(l) The Co-op may allow a fair return to members who choose to make additional capital contributions to fund the establishment and/or operations of the Co-op, and to investors;

(m) The Co-op shall maintain a fair, reasonable, and non-discriminatory system which allows the passenger to rate the operator based on the quality of service received;

(n) The Co-op shall establish standards for its operations, including standards for the safe and prompt provision of service through the DC TaxiApp;

(o) The Co-op may prevent an operator from using the DC TaxiApp for not more than two (2) hours total during any seven (7) calendar day period based on material violations of the standards established by the Co-op, provided the Co-op promptly notifies the operator of the basis of the suspension and allows the operator to respond in writing;

(p) The Co-op may suspend an operator from using the DC TaxiApp for more two (2) hours total during any seven (7) calendar day period based on violations of the standards established by the Co-op, provided the Co-op maintains a system of discipline which gives operators the following minimum procedural protections:

(1) Written notice of a suspension accompanied by relevant documentation, which shall be provided in advance of the suspension except in the event of a clear threat to safety or consumer protection;

(2) Representation by an attorney or other individual, at the operator's expense;

(3) An opportunity to respond to the notice;

(4) One (1) level of review of the Co-op's decision;

(5) No suspension shall exceed thirty (30) calendar days; and

(6) An operator's suspension shall not be considered for purposes of determining the appropriate length of a subsequent suspension more than three (3) years thereafter.

(q) The Co-op may file a public complaint with the Department against any person in connection with a violation of this section or this chapter. The Co-op shall file a public complaint with the Department against any person who engages in conduct which constitutes a clear threat to public safety or consumer protection, or which constitutes grounds for immediate suspension of a vehicle operator's license under Chapter 3;

(r) The Co-op shall annually publish a report containing:

(1) A summary of the Co-op's major activities for the prior twelve (12) months;

(2) The names of the Co-op's members and their taxicab company or taxicab association affiliations, if any;

(3) The names of the Co-op's principal officers and members of the board of directors;

(4) The name and address of each entity in which the Co-op has a legal or equitable interest, or with which it conducts a business activity in a partnership or joint venture;

(5) The name and address of each entity with which the Co-op transacts business in excess of ten thousand dollars ($10,000) per calendar year; and

(6) Such other information as the Co-op deems appropriate;

(s) No person or associated group of persons shall:

(1) Control more than forty percent (40%) of the membership of the board of directors;

(2) Hold legal or equitable title to more than forty percent (40%) of the par value of the Co-op's total debt obligations, if any; or

(3) Hold legal or equitable title to more than forty percent (40%) of the par value of any single class of the Co-op's stock, if any, or the par value of all combined classes of the Co-op's stock, if any;

(t) Each of the following individuals ("filers") shall be required to file a confidential disclosure statement with the Co-op annually, and at the time of the filer's association with the Co-op or at the time of the filer's association with an entity in which the Co-op has a legal or equitable interest:

(1) Each member of the board of directors and each principal officer of the Co-op;

(2) Each member of the board of directors and each principal officer of an entity in which the Co-op has a substantial legal or equitable interest; and

(3) Each person with which the Co-op transacts or proposes to transact business in excess of twenty five thousand dollars ($25,000) in any calendar year;

(u) Each form which the Co-op intends to be used as a confidential disclosure statement form shall be reviewed by the Department prior to its use. The form shall be substantially similar in substance to the confidential disclosure statement required by the D.C. Board of Ethics and Government Accountability for employees, excluding matters not relevant to the Co-op. The form shall require the filer to disclose under oath each of the following matters, and to provide a written explanation and documentation where necessary, as the Co-op deems appropriate:

(1) The filer, and the filer's spouse, domestic partner, and dependent children, have filed and paid all income and property taxes owed to the Federal government and each jurisdiction where the filer is required to pay such taxes;

(2) The filer, and the filer's spouse, domestic partner, and dependent children, have not received anything of value, such as a credit, offset, gift, favor, service, loan, gratuity, discount, meals, hospitality, contribution, employment, or a promise of the receipt of anything of value in the future, exceeding a total of one hundred dollars ($100) from all sources, based on any understanding that the filer's official actions or judgment or vote while associated with the Co-op would be influenced;

(3) The filer, and the filer's spouse or domestic partner, have not been arrested for, charged with, or convicted of any of the following criminal offenses: bribery, tax evasion, insurance fraud, a violation of or a predicate offense under a Racketeer Influenced and Corrupt Organizations Act (Federal or state), any criminal offense which involves dishonesty or violence, or any criminal offense

punishable by incarceration of one (1) year or more or a fine of ten thousand dollars ($10,000) or more;

(4) The filer, and the filer's spouse or domestic partner, have not been sued for, had a judgment entered against him or her for, entered into a settlement admitting liability for, or paid a civil fine for any of the following civil violations and causes of action: tax evasion, insurance fraud, a violation of or a predicate offense under a Racketeer Influenced and Corrupt Organizations Act (Federal or state), any civil violation or cause of action which involves dishonesty or violence, or any civil violation which is punishable by a civil fine payable to a government agency of ten thousand dollars ($10,000) or more;

(5) The filer, the filer's spouse or domestic partner, and dependent children, and the persons with whom the filer has a legal relationship such as employment, independent contractor, and partnership, are not involved in a scheme or conspiracy to violate the Co-op's bylaws, or to violate any Federal, District or state law concerning or related to the Co-op or its activities, any entity in which the Co-op has a legal or equitable interest, or any member of the Co-op's board of directors or its principal officers; and

(6) The filer, or the filer's spouse or domestic partner, has not had a business or professional license suspended or revoked by a government agency.

(v) Matters subject to disclosure under §§ 708.7(u)(1)-(6), whether or not disclosed in a confidential disclosure statement, shall be treated as the Co-op deems appropriate, provided however that no individual shall serve as a member of the board of directors or a principal officer of the Co-op, own shares of the Co-op's stock, own debt issued by the Co-op, if any, or directly or indirectly control any interest in the Co-op other than as a member pursuant to § 708.7(j) if:

(1) The individual willfully provides false, misleading, or materially incomplete information in a confidential disclosure statement or to the Department, or in connection with a civil or criminal investigation concerning or related to the Co-op or its activities by any government agency;

(2) The individual, the individual's spouse or domestic partner, or the individual's children, have received items of value exceeding a total of one hundred dollars ($100) from all sources as enumerated in § 708.7(u) (2);

(3) The individual, or the individual's spouse or domestic partner, has been convicted of a crime enumerated in § 708.7(u)(3);

(4) The individual, or the individual's spouse or domestic partner, has had a judgment entered against him or her for, has entered into a settlement admitting liability for, or has paid a civil fine for a civil violation or cause of action enumerated in § 708.7(u)(4);

(5) The individual, the individual's spouse or domestic partner, the filer's dependent children, or a person with whom the filer has a legal relationship, are involved in a scheme or conspiracy as enumerated in § 708.7(u)(5); or

(6) The individual, or the individual's spouse or domestic partner, has had a business or professional license suspended or revoked by a government agency within the prior five (5) years.

(w) The Co-op shall not associate with, transact business with, or form a legal or equitable relationship with:

(1) An individual who is restricted by § 708.7(v) or

(2) An entity, where an individual who is restricted by § 708.7(v) serves as an owner, manager, partner, member of the board of directors, principal officer, stockholder, or lender.

(x) The Co-op shall maintain its business records for five (5) years, provided however that each executed confidential disclosure statement shall be maintained throughout its filer's association with the Co-op and for ten (10) years thereafter;

(y) The Co-op shall allow the Department to inspect and copy its business records, but the Department shall not copy an executed confidential disclosure statement;

(z) A designee of the Department shall be permitted to attend, and be provided with the minutes of, each Co-op event, including a meeting of the board of directors, except at such times when an event is closed in order to consider a confidential matter such as a litigation or personnel issue. At such events, the designee may observe, ask questions, and provide information, and shall receive copies of the documents made available to other attendees, but shall have no vote on any Co-op business;

(aa) The Co-op shall enact no change to its bylaws which conflicts with a material provision of this title or other applicable law, without a prior amendment to this chapter authorizing such change, and shall promptly correct any errors or omissions in its bylaws;

(bb) The Co-op shall comply with all applicable District and federal laws and regulations, and shall engage only in fair and lawful competition;

(cc) The District may enforce the requirements of this section and this chapter through an appropriate action at law or in equity, including an action by the Attorney General of the District of Columbia in *parens patriae*;

708.8 The draft bylaws filed with the Department pursuant to this chapter may:

(a) Allow the Co-op to engage in any activity which is authorized by law, not inconsistent with the required terms and conditions for its bylaws set forth in chapter, and in the interest of its members, including:

(1) Offering insurance, such as life, health, dental, disability, and vehicle;

(2) Providing retirement and savings plans, and other benefits;

(3) Offering discounts on goods and services of interest to members; and

(4) Operating a subsidiary which engages only in activities related to the authorized activities of the Co-op; and

(b) Contain such additional terms and conditions as are necessary and appropriate to establish, support, and maintain the Co-op, which are not inconsistent with the required terms and conditions for its bylaws set forth in this subsection or with other applicable laws.

708.9 The bylaw drafting advisory group shall file the draft bylaws with the Department for its approval.

708.10 The draft bylaws shall include the names of the bylaw drafting advisory group members who agree to the draft, and alternative text and comments, if any, from any member of the bylaw drafting advisory group who does not concur with the text agreed to by the other members.

708.11 The Department shall review the draft bylaws to determine whether they comply with this title and shall issue a written decision within ten (10) days of receiving draft bylaws which appear to comply with this title. If the Department does not approve the draft bylaws, it shall state the basis of its decision in writing. Thereafter, the bylaw drafting advisory group shall revise the draft bylaws to address the issues identified in the Department's decision and shall re-file the draft bylaws within ten (10) days.

708.12 The Department shall develop and test the DC TaxiApp which is and shall remain the intellectual property of the District Government. The Department shall grant to the Co-op an exclusive right to use the DC TaxiApp for taxicab service in the

District. The District Government shall retain all other rights to the DC TaxiApp, including the right to license the DC TaxiApp for any other purpose, including for use outside the District.

708.13 The Co-op's decision to suspend an operator's use of the DC TaxiApp shall not be admissible to establish that a provision of this title or other applicable law was violated by the operator.

708.14 The Co-op may use a name or trade name other than the "District of Columbia Taxicab Industry Co-Op", provided the name or trade name is not misleading or confusing to the public. The Co-op may use a name or trade name for the DC TaxiApp other than the "District of Columbia Universal Taxicab App," provided the name or trade name is not misleading or confusing to the public.

CHAPTER 8 - PUBLIC VEHICLE FOR-HIRE OPERATOR'S LICENSE AND OPERATING REQUIREMENTS

800 GENERAL REQUIREMENTS

800.1 An individual applying to provide public vehicle for hire service (taxicab, black car, and limousine service) is required to obtain a DFHV operator's license (Face card).

801 APPLICATION AND LICENSING

801.1 The Department shall accept for filing a completed application form, executed under oath, which includes: the applicant's name, address, mobile and home telephone numbers, email address, and social security number, and any additional information that may be prescribed in an administrative issuance issued by the Department.

801.2 An individual shall be eligible for a DFHV's operator's license if the individual:

(a) Resides within the MSA;

(b) Is at least eighteen (18) years of age;

(c) Reads, writes, and speaks the English language;

(d) Possesses a current and valid motor vehicle operator's permit (driver's license) issued by a motor vehicle licensing agency within the MSA;

(e) Is not covered by diplomatic immunity;

(f) Does not have a physical or mental disability or disease which would provide the Department with good cause to believe the individual cannot safely operate a vehicle for-hire;

(g) Is not employed by a federal or District agency which, if notified of the individual's application, would prohibit the individual from providing public vehicle for-hire service;

(h) Is not employed by an employer whose business is concerned directly with the issuance of licenses to operate public vehicles for-hire or the enforcement of the laws, rules, and regulations related to the operation of motor vehicles or vehicles for-hire;

(i) Has not been convicted of an offense against the traffic regulations of the District or any jurisdiction with a frequency or of such severity as to indicate a disrespect for traffic laws, that fact being established by the point system described in § 303 of Title 18 DCMR, or for a serious traffic offense or offenses which indicate a disregard for the safety of other persons or property, and does not have eight (8) or more points on the applicant's license from any jurisdiction;

(j) Is not currently abusing alcohol;

(k) Is not addicted to the use of any legal or illegal drugs;

(l) Is not on parole or probation at the time of the filing of the application for a license, except that if the applicant is on parole or probation based on a conviction other than one in paragraph (m) of this subsection, the parolee's or probationer's application may be considered if accompanied by a letter from the appropriate parole or probation officer expressing the officer's recommendation and support for the issuance of the license;

(m) Has not been convicted of or served any portion of a sentence for crimes or an attempt to commit any of the felonies prescribed in an administrative issuance within the seven (7) years immediately preceding the filing of the application;

(n) Has successfully completed such testing and training as may be required by the Department pursuant to this title or other applicable law as prescribed in an administrative issuance;

(o) Submits proof of insurance covering the operator and vehicle which meets the requirements of Chapter 9; and

(p) Has met any additional reasonable requirements, including additional terms and conditions for a provisional operator's license, contained in an administrative issuance, related to:

(1) Passenger, operator, or public safety;

(2) Consumer protection; or

(3) Any other purpose within the jurisdiction of the Department; and

801.4 Upon successful completion of the operator education course and successful passage of the written examination approved by the Department, an applicant shall have six (6) months from the date of the notification letter from the Department (or unless otherwise stated in writing by the Department), to file an application for licensure.

801.5 Every person holding an identification card shall maintain with the Department their correct name, residence address and telephone number, and if affiliated with a company or association, the association, company, organization or owner for which they drive. In the event of any change in this information, the licensee shall inform the Department of the change within five (5) business days. Failure to do so will result in a fine in accordance with Chapter 5. Any fine imposed pursuant to this section shall be collected at the time of the licensee's renewal period.

801.6 No person shall be issued or allowed to renew a license for a public vehicle for-hire DFHV operator's identification (Face card) unless that person has paid, together with the cost of the license; any outstanding assessment ordered by the Department; all fines imposed for notices of infractions issued for violations of Department rules or District traffic or parking regulations involving the operation of a public vehicle for-hire; and all other outstanding taxes, fines, fees, penalties, or interest owed to the District in excess of one hundred dollars ($100). If the applicant has properly and timely filed an appeal of the assessment, taxes, fines, fees, penalties or interest and the appeal is still pending, the applicant shall be given temporary operating authority (a temporary license) pending disposition of the appeal.

801.7 The Department shall not issue a new or renewal DFHV operator's license to an applicant who has not successfully completed disability sensitivity training that is available online or other disability sensitivity training approved by the Department.

801.8 The Department may retain a portion of the license fee, not to exceed twenty-five percent (25%), for the administrative costs of processing applications that are denied after intake and processing.

801.9 A false statement made in the application may result in denial of application for licensure or subsequent suspension or revocation of the license once issued.

802 PHYSICAL FITNESS

802.1 Each application (including a renewal application) to operate any public vehicle for-hire vehicle shall be accompanied by a certificate from a licensed physician, certifying that, in, the opinion of that physician, the applicant does not have physical or cognitive limitations which, with or without reasonable accommodation, would disqualify him from safely operating a vehicle for-hire.

802.2 The applicant's fitness must be certified by a licensed physician, and on forms provided by the Department, with information and items as prescribed in an administrative issuance issued by the Department.

802.3 Each application (including a renewal application) shall also be accompanied by a certificate signed by the applicant on a form prescribed by the Department certifying that, to the best of the applicant's knowledge and belief, he or she has no disease or disability which would render him or her unsafe or unsatisfactory as an operator of a public vehicle for-hire. The form may provide for additional information relating to the applicant's past or present medical history or condition.

802.4 The Department may deny an operator's license or renewal for any applicant whose medical condition, in the opinion of the Department, may render the applicant unsafe or unsatisfactory as an operator of a public vehicle, unless he or she provides a certificate from a licensed physician who is a resident of the MSA certifying that, in the opinion of that physician, the person's impairment, as may be currently treated, does not negatively impact his or her ability to meet the requirements of this chapter with respect to the operation of a taxicab. If the applicant's medical condition substantially changes during the period of licensure in a manner which may render the applicant unsafe or unsatisfactory, he or she shall provide a re-certification from a physician who is a resident of the MSA or shall immediately surrender his or her license to the Department.

803 OPERATING REQUIREMENTS

803.1 Each vehicle operator shall:

(a) Maintain continuous, current, and valid public vehicle for-hire insurance under Chapter 9 for the operator, and for the vehicle, if the vehicle held by the operator, is owned or rented by the operator;

(b) Provide service consistent with any applicable administrative issuance and the following operating requirements:

(1) Accept, respond to, and provide courteous, professional, safe, and efficient service in fulfillment of all ride requests;

(2) Display the licensing decals provided by the Department;

(c) Fully and timely cooperate with vehicle inspection officers, police officers, and other District enforcement officials, during traffic stops, and during all other enforcement and compliance actions under this title and other applicable laws.

(d) In the event of an accident:

(1) Provide the operator's personal motor vehicle insurance information to all parties, insurance adjusters, and District enforcement officials;

(2) Notify the Department of the accident within forty-eight (48) hours; and

(3) Take such other reasonable steps as may be required in an administrative issuance;

(e) Maintain an election with the Department about the operator's choice of providing additional services, which, if elected, shall require the operator to provide service in the manner required in an applicable administrative issuance;

(f) Operate the vehicle at all times in a safe, prudent, and reasonable manner, in strict compliance with all applicable motor safety laws and regulations of the District of Columbia;

(g) Not discriminate against any individual while providing vehicle for-hire service. Discriminatory conduct shall include but not be limited to any conduct described in § 604.2:

(h) Not provide service while using, or under the impairment of, alcohol or intoxicating drugs; and

(i) Meet additional reasonable safety, consumer protection, and other requirements within the jurisdiction of the Department as stated in an administrative issuance.

803.2 Each vehicle operator shall at all times carry on his or her person, or have readily available inside the vehicle for production upon demand by a District enforcement official, the following documents:

(a) The operator's current and valid personal driver's license issued by a jurisdiction within the MSA;

(b) A current and valid motor vehicle registration issued by a jurisdiction within the MSA;

(c) The operator's current and valid DFHV operator's license identification card or DFHV provisional license identification card (face Id); and

(d) An insurance card or policy, or digital or electronic version thereof evidencing a valid and effective commercial insurance policy meeting the requirements of Chapter 9. The Department may issue an administrative issuance approving the forms of digital and electronic information acceptable as proof of insurance under this paragraph.

803.3 No operator shall provide service or sign into a DDS or DTS if either the operator or the vehicle does not have all current and valid licenses required by this title and other applicable laws.

803.4 No operator shall provide service while under the influence of illegal intoxicants, or under the influence of legal intoxicants that have been prescribed with a warning against use while driving or operating equipment.

803.5 No operator shall accept a payment from a passenger, or provide service, unless the amount of the fare (including any gratuity), and the method of payment, comply with all applicable provisions of this chapter and title.

803.6 No operator shall access or attempt to access a passenger's payment information after the payment has been processed.

803.7 No vehicle operator of a taxicab, or black car service shall fail or refuse to timely accept a ride request received through the digital meter while the operator is signed in and available to provide service. Proof that an operator has failed to accept two (2) or more requests for service transmitted to the operator through the app of any DDS registered with the Department under Chapter 7, including but not limited to the DC TaxiApp, during the same two (2) hour period of any tour of duty, shall be treated as a refusal to haul under Chapter 12.

803.8 No vehicle operator of a taxicab, or limousine service shall fail or refuse to timely accept a request for an additional service where the operator has elected to offer such service, if the request is received through the digital meter while the operator is signed in and available to provide service. Proof that an operator has failed to provide service as required by this title shall be sufficient to permit the Department to administratively suspend the operator from providing additional services for a reasonable period not to exceed thirty (30) days provided that if the operator does not consent to the suspension, the operator may appeal the suspension to OHE or OAH in accordance with § 308.4.

803.9 Each operator of a taxicab equipped with a DTS unit, and each operator of a black car, shall comply with the requirements of this section in effect on the date of publication of this final rulemaking (allowing the use of either a paper or electronic manifest).

803.10 The operator of a taxicab equipped with a DTS unit shall use only the electronic manifest incorporated in the DTS unit to permanently record all for-hire activity by the vehicle during the most recent forty eight (48) hours. Paper manifests are not permitted.

803.11 Each DTS electronic manifest shall contain the information required by § 1209.3 for DTS receipts, the information required by the DC TaxiApp and by any other app with which the DTS is integrated, and the following:

(a) The date, time, and vehicle mileage each time the operator logs in or out; and

(b) The vehicle's PVIN and "H" tag number.

803.12 No person shall alter or attempt to alter an electronic manifest maintained by a DTS unit or the DTS provider.

803.13 Each operator and owner of a vehicle equipped with a DTS unit shall make the electronic manifest available for inspection and printing upon demand by a District enforcement official.

803.14 Manifest violations including: failure to have the manifest in an approved form; failure to have possession of a manifest; failure to properly complete and maintain a manifest; and failure to provide a manifest to District enforcement official, are subject to a letter of reprimand for the first infraction in a twenty-four (24)-month period.

803.15 No person shall drive or be in physical control of a taxicab unless they have in their possession a valid identification card issued to them and a valid District of Columbia motor vehicle operator's permit or, for non-District residents or persons exempt from obtaining a District motor vehicle operator's permit, a valid motor vehicle operator's permit issued by a state that is a party to the Driver License Compact Act (D.C. Official Code §§ 50-1001 *et seq*. (2014 Repl.)).

803.16 No person shall provide vehicle for-hire service in a public vehicle for-hire when the operator does any of the following:

(a) Is not clean in dress or in person; or

(b) Is not fully attired or is attired in such a manner as to give offense to the public.

803.17 No operator shall have his or her own personal pet or animal of any kind in a public vehicle for-hire while holding the vehicle out for hire or transporting passengers. When securely enclosed in a carrier designed for that purpose, small dogs or other small animals may accompany a passenger without charge. Other animals of the passenger not so enclosed may be carried at the discretion of the operator.

803.18 No person shall drive or be in physical control of any public vehicle for-hire for the purpose of carrying passengers or parcels for a period in excess of twelve (12) hours in any twenty-four (24) hour period, unless the driving time is broken by a period of eight (8) continuous hours of rest.

803.19 No person shall drive a public vehicle for-hire for any period of time which, when added to the period of time they have driven any vehicle other than a public vehicle for-hire, totals more than twelve (12) hours in any twenty-four (24) hour period, unless the driving time is broken by a period of eight (8) continuous hours of rest.

803.20 Taxicab operators shall travel the most direct and reasonable route between the origin and destination of each trip, as reasonably determined by the operator. To the extent feasible, taxicab operators shall utilize a global positioning system ("GPS") device or a smartphone containing a GPS function to determine the most direct and reasonable route. The operator, if at all possible or in instances where

the operator is unsure of the route, shall accept direction from the passenger to travel a certain route to the destination.

803.21 No public vehicle for-hire operator shall stop to load or unload passengers on the traffic side of the street, while occupying any intersection or crosswalk, or in such a manner as to unduly interfere with the orderly flow of traffic. All public vehicle for-hire operators shall pull as close to the curb or edge of the roadway as possible to take on or discharge passengers.

803.22 No public vehicle for-hire operator shall stop or park a public vehicle for-hire adjacent to any curb except as follows:

(a) While actually taking on or discharging passengers;

(b) When occupying a designated public vehicle stand for taxicabs;

(c) When answering a call or delivering a parcel; or

(d) When not holding his or her vehicle for-hire, in which event the identification card shall be removed from the taxicab and the operator shall be away from the taxicab on business of his or her own.

803.23 Upon concluding operations each day, the operator shall make a diligent inspection of the vehicle for safety purposes, and to determine whether personal property has been left therein by a passenger. The operator shall promptly turn in all property of any value to any police district station.

804 PROVISIONAL LICENSES

804.1 The Department may issue a provisional DFHV operator's service license for public vehicle for-hire service (taxicab, black car, and/or limousine) consistent with the requirements of this chapter and pursuant to an administrative issuance.

804.2 A provisional DFHV operator's license shall require the applicant to satisfy such portion of the requirements for a full DFHV operator's license as the Department determines are necessary for safety, consumer protection, and other reasonable requirements within the jurisdiction of the Department, which shall be contained in an administrative issuance.

804.3 Within three (3) business days, the Department shall issue a decision to grant or deny an application by a DFHV operator's license applicant for a provisional DFHV operator's license or a full operator's license.

804.4 If the Department issues a provisional DFHV operator's license to an operator,

the Department shall thereafter issue a full DFHV operator's license to the operator if and when it determines that the remaining requirements for full licensing have been met.

804.5 If, at any time, the Department determines that an individual who has been issued a provisional DFHV operator's license is not eligible for a full DFHV operator's license, the Department shall, in the same document:

(a) Provide notice of the denial of a full DFHV operator's license to the individual and a summary of the reasons for that decision; and

(b) Order the immediate suspension of the individual's provisional DFHV operator's license.

805 SPECIAL PUBLIC VEHICLE OPERATOR'S LICENSE

805.1 The Department may issue a special public vehicle operator's identification license to allow for the transport of for-hire vehicles for hack-ups, repairs, and other *bona fide* non-hire purposes. The applicant must have required insurance, complete the application and comply with any additional other requirements as prescribed in an administrative issuance. Once licensed, the operator shall comply with all requirements of this chapter and as prescribed in an administrative issuance issued by the Department.

806 SURCHARGE ACCOUNTS FOR INDEPENDENT OWNERS OPERATING WITHOUT A DTS

806.1 Each independent owner may elect to provide service without a DTS if the owner:

(a) Uses one (1) meter app that is part of an approved DTS;

(b) Uses one (1) or more registered OPTs that are integrated with such app;

(c) Maintains a surcharge account as provided in this Section, unless all the OPTs selected by the owner have transfer account capability to ensure the OPT pays all collected passenger surcharges directly to the District; and

(d) Remains compliant with all other applicable regulations and laws.

806.2 Each owner who elects to provide service without a DTS is liable for all surcharges owed to the District.

806.3 Each surcharge account shall be administered as follows.

(a) The minimum account balance is twenty dollars ($20). DFHV shall deposit the minimum if the account is opened when the owner's operator license (face card) is issued. Otherwise, the owner shall pay the minimum to open the account.

(b) If an account balance falls below the required minimum, DFHV shall promptly email a notice to the owner stating that:

(1) The owner must either: replenish the account; or close the account, pay all passenger surcharges owed, and obtain an approved DTS; and

(2) If the owner fails to comply within two (2) business days, the meter will be deactivated until the owner comes into compliance.

(c) Each account shall accrue interest at one percent (1%) annually. The remaining balance with accrued interest shall be paid to the owner when an account is closed.

(d) The burden shall at all times be on the owner to establish eligibility to operate under this Section, including by executing an application provided by the Department. Each application shall be granted or denied within two (2) business days.

806.4 The Department may post an administrative issuance concerning this Section.

CHAPTER 9 - PUBLIC VEHICLE INSURANCE REQUIREMENTS

900 APPLICATION AND SCOPE

900.1 The insurance requirements of this chapter shall apply as follows:

(a) This chapter shall apply to each taxicab owner or operator and to each owner or operator of a public vehicle for-hire, except for Washington Metropolitan Area Transit Authority vehicles; and

(b) It shall be unlawful to operate a taxicab or public vehicle for-hire in the District of Columbia unless and until there shall have been filed with and accepted by the Department evidence that the vehicle is covered by the following:

(1) A surety bond; or

(2) Liability insurance in a surety or insurance company authorized to do business in the District of Columbia.

900.2 Each insurance policy for a public vehicle for-hire shall provide the coverage required by DISB at 26-A DCMR § 801.4, as may be amended from time to time.

900.3 Each insurance policy form shall be approved by the Commissioner of the Department of Insurance, Securities and Banking and by the Department.

900.4 Each bond shall be in a form approved by the Commissioner of the Department of Insurance, Securities and Banking and by the Department and shall contain a description of each vehicle covered by the bond, including the name of the vehicle's manufacturer and the vehicle identification number.

900.5 Each insurance policy or bond shall have attached to it an endorsement prescribed by the Department.

900.6 If an owner elects to take out a blanket insurance policy or a blanket bond, the owner must satisfy the Commissioner of the Department of Insurance, Securities and Banking that he or she is in possession of, and will continue to be in possession of, financial ability to pay judgments obtained against him or her.

900.7 Compliance with this section shall be evidenced in one (1) of the following manners:

(a) By depositing with the Commissioner of the Department of Insurance, Securities and Banking, for each vehicle, a certificate of insurance in the form prescribed by the Commissioner of the Department of Insurance, Securities and Banking; or

(b) By depositing with the Commissioner of the Department of Insurance, Securities and Banking, a bond issued by the Commissioner of the Department of Insurance, Securities and Banking.

900.8 Failure of a taxicab operator or operator of a passenger vehicle for hire to have current insurance is an offense subject to a civil fine as provided by Chapter 5 and impoundment of the taxicab vehicle pursuant to the Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code § 50-301.14 (2014 Repl. & 2017 Supp.)).

900.9 Each operator of a public vehicle for-hire shall carry a hard copy, or electronic or

digitally-produced insurance identification card or insurance policy, displaying proof of current insurance, in his or her name, in each vehicle he or she operates that is licensed under the provisions of D.C. Official Code § 50-314 (2014 Repl. & 2017 Supp.) at all times. The Department may issue an administrative issuance approving the forms of digital and electronic information acceptable as proof of insurance under this subsection. Failure to have current proof of insurance in his or her possession is a violation of this section subject to the penalties provided in § 907.

900.10 No certificate of insurance or surety bond shall be accepted from an insurance company or corporate surety unless there is on file with the Department a valid and true copy of a certificate of approval issued by the Commissioner of the Department of Insurance, Securities and Banking.

900.11 No insurance identification cards shall be issued by an insurance company or corporate surety unless there is on file with the Department a true copy of the certificate of approval issued by the Commissioner of the Department of Insurance, Securities and Banking.

901 NOTICE OF CANCELLATION

901.1 Notice of cancellation of insurance or bond shall be given in writing to the Commissioner of the Department of Insurance, Securities, and Banking and the Department on a form provided by the Department.

901.2 Five (5) days' notice of cancellation shall be given for nonpayment of premium; and twenty (20) days' notice shall be given when cancellation occurs for any other reason.

901.3 Cancellation shall be effective at 12:00 midnight on the fifth (5th) day following the date of receipt by the Department of notice of cancellation for nonpayment of premium, and at 12:00 midnight on the twentieth (20th) day following the date of receipt by the Department of notice of cancellation for any other reason. Cancellation of insurance shall be effective at 12:00 midnight on the last day of the calendar month for which the premium is paid unless the policy is renewed by payment of the premium for the next following calendar month, in-advance.

901.4 The notice shall be on a form as provided by the Department and shall be effective 12:00 midnight on the tenth (10th) day following the receipt of notice by the Department.

901.5 Withdrawal of notice of cancellation of insurance or bond shall be made on a form provided by the Department. A separate withdrawal of notice of cancellation for each vehicle shall be given on a form approved by the

Commissioner of the Department of Insurance, Securities and Banking.

901.6 Withdrawal of notice of cancellation shall be valid and acceptable to the Department only if filed on or before the date of cancellation. If withdrawal of notice of cancellation is not filed within the time prescribed, a new certificate of insurance or bond shall be filed.

902 INSURANCE COMPANIES

902.1 No insurance company or corporate surety shall engage in or conduct the business of insuring or bonding any risk arising out of the operation of a taxicab or public vehicle for-hire unless the company is authorized to do business in the District and possesses a certificate of approval issued by the Commissioner of the Department of Insurance, Securities, and Banking.

902.2 Each insurance company or corporate surety insuring or bonding any risk arising out of the operation of a taxicab or public vehicle for-hire shall comply with the rules and regulations pertaining to insurance companies promulgated by the Commissioner of the Department of Insurance, Securities, and Banking.

CHAPTER 10 - PUBLIC VEHICLE FOR-HIRE LICENSE AND OPERATIONS

1000 APPLICATION AND SCOPE

1000.1 This chapter shall apply to licensing of all classes of public vehicles for-hire.

1001 GENERAL REQUIREMENTS

1001.1 Each owner of a public vehicle for-hire prior to operating in the District shall obtain a DFHV vehicle license from the Department, except as provided in § 1001.3.

1001.2 An owner or lessee of a vehicle proposed to be operated as a taxicab or luxury class vehicle (“applicant”), in the District shall first obtain a DFHV vehicle

license for such vehicle from the Department prior to applying for the respective H-Tags or L-Tags at the DMV.

1001.3 Each vehicle placed in service shall display the vehicle tag and contain the type of equipment required for its respective class.

(a) Taxicabs shall contain the equipment requirements in Chapter 13, and as provided in an administrative issuance.

(b) No vehicle shall be placed in service if it is beyond the mileage or age requirement for the respective class as delineated in this chapter.

(c) Each vehicle may be converted from one class to another, if in compliance with the vehicle age requirements and mandatory equipment standards for the respective class.

1001.4 A DFHV vehicle license is not required for the following vehicles:

(a) Sightseeing vehicles owned by a school, school board, or similar body;

(b) Sightseeing vehicles transporting passengers to the District from a point outside the District, if the total operation of the vehicle does not exceed fifteen (15) days during any license year (April 1st through March 31st); and

(c) Sightseeing vehicle registered elsewhere than in the District which does not operate for more than fifteen (15) days during any license year (April 1st through March 31st).

1001.5 Each public vehicle for-hire shall be inspected annually by DMV, acting as agent for the Department, to determine compliance with:

(a) All applicable DMV regulations and other applicable laws; and

(b) All applicable provisions of this title and any applicable administrative issuance.

1001.6 Beginning January 1, 2017 all taxicab vehicles which are not in compliance with §§ 1001.7 - 1001.9 shall be removed from service.

1001.7 Maximum age: eight (8) model years.

1001.8 Maximum mileage: three hundred fifteen thousand (315,000) miles.

1001.9 Pursuant to §§ 1001.7 and 1001.8, a vehicle shall be retired not later than the earlier of the following:

(a) December 31st of the calendar year in which the vehicle reaches its maximum age, as provided in § 1001.7; or

(b) When it reaches its maximum mileage, as provided in § 1001.8.

1001.10 No vehicle shall be placed into service if:

(a) It would have one (1) year or less prior to retirement under § 1001.9;

(b) It has been driven more than one hundred thousand (100,000) miles, regardless of whether it has previously been used as a public vehicle for-hire; or

(c) It has been salvaged, rebuilt or declared a total loss.

1001.12 Notwithstanding the provisions of § 1304, the owner of a vehicle may file an application with the Department for approval of a proposed conversion of the vehicle's propulsion and/or wheelchair accessibility, to be professionally and timely completed by an established business recognized in the public vehicle for-hire industry as performing such conversions to all applicable industry standards and provisions of this title and other applicable laws, including all ADA standards. If the conversion is approved, it shall be timely performed, and following inspection of the vehicle by the Department, the vehicle's remaining service life shall be based on the conversion. Written evidence of the approval shall thereafter be carried in the vehicle at all times and presented upon demand by a District enforcement official.

1001.13 Notwithstanding the requirements of § 1001.6, no vehicle that is licensed and in active service on the effective date of this rulemaking shall be required to be retired sooner than required by the prior vehicle retirement rules published in the *D.C. Register* on January 2, 2015 at 62 DCR 000119.

1001.14 If the Department issues an administrative issuance requiring owners to provide the Department with periodic updates about the safety and mechanical condition of an extended vehicle, or its mileage, each owner of an extended vehicle shall comply with such administrative issuance. Notwithstanding any other provision of this title, failure to comply with such administrative issuance may result in the following enforcement actions:

(a) An immediate suspension of the vehicle extension;

(b) A proposed suspension of the vehicle extension;

(c) A civil fine as provided by Chapter 5;

(d) Any civil penalty provided by another provision of this title; or

(e) A combination of the penalties in subparagraphs (a)-(d).

1002 VEHICLE LICENSE APPLICATION

1002.1 A vehicle owner ("applicant") shall file an application on a form provided by the Department, and shall provide the owner's full name, place of residence and business addresses, an indication of whether the applicant intends to operate the vehicle as a taxi, limousine, or a black car and any other information and documentation as may be required in an administrative issuance issued by the Department.

1002.2 Each applicant shall present evidence that the vehicle has been inspected by the DMV and is in compliance with provisions of this title relating to vehicle safety and passenger comfort, or other requirements that may be provided in an administrative issuance.

1002.3 Each applicant shall submit the application to the Department of the Chief Financial Officer ("OCFO") for a determination of applicable taxes. OCFO shall note compliance with any applicable tax requirements upon the application.

1002.4 Each applicant shall present evidence satisfactory to the Department that the vehicle is insured under the provisions of Chapter 9. The Department shall act as agent for the purpose of enforcing insurance regulations and shall maintain records necessary to perform that function.

1002.5 A new DFHV taxicab vehicle license (and corresponding set of DMV "H" tag) shall be issued to each applicant who meets all the following requirements and all other applicable requirements of this title and other applicable laws and regulations of the District, pursuant to an applicable administrative issuance:

(a) The applicant proves to the satisfaction of the Department that:

(1) The applicant surrendered his or her "H" tags to DMV as follows:

(A) During the three (3) year period beginning on July 6, 2007, through and including July 6, 2010);

(B) In good faith compliance with (vehicle retirement rules); and

(C) For a *bona fide* reason identified in an administrative issuance, such as a family or personal health need, an unaffordable vehicle failure or accident, a legal obligation, and *not* merely to engage in other economic or non-economic activity, such as travel or working in another industry; and

(2) The applicant either:

(A) Has never made a request to the Department for a new or "returned" DFHV taxicab vehicle license or to DMV for new or "returned" H tags because the applicant reasonably believed the request would have been futile; or

(B) If the applicant made a request to the Department for a new or "returned" DFHV taxicab vehicle license or to DMV for new or "returned" H tags, the applicant did so within the twelve (12) month period ending on the latest date by which the Department determines that the bona fide reason, identified in subpart (1) (C) of this part, would have no longer have prevented the applicant from operating a taxicab;

(b) The applicant has possessed a current and valid DFHV taxicab operator's license continuously and without interruption since at least the earliest date by which the Department determines that the *bona fide* reason, identified in subpart (1) (C) of this part, would no longer have prevented the applicant from operating a taxicab, through the date of the application;

(c) The applicant participates in Transport DC (CAPS-DC) for a period of not less than three (3) years from the date the license is issued, and executes a written a dispatch agreement with a taxicab company participating in Transport DC, during which period the vehicle shall be in continuous active service and available for dispatch in accordance with all of the applicable operating requirements of Chapter 6 of this title;

(d) The applicant uses the DFHV taxicab vehicle license to operate vehicles as follows, which the applicant shall acknowledge in writing:

(1) At the time the license is issued, the applicant shall place into service a new fully electric or hybrid electric vehicle;

(2) At the time the license is issued, the applicant shall place into service, notwithstanding any contrary provision of §§ 1001 or 605, a wheelchair accessible vehicle not more than two (2) model years older than the current calendar year, or such earlier model year, as the Department may establish in an administrative issuance; or

(3) At the time the license is issued, the applicant shall place into service any vehicle which complies with § 1001, provided however, that when the applicant has completed three thousand (3,000) Transport DC trips among any number of vehicles, the applicant shall purchase and place into service a new wheelchair accessible vehicle.

(e) If the applicant is not a District resident, the applicant shall form and maintain an independent vehicle business, if such a business is then authorized by the provisions of this title, in order to comply with the DMV requirements for registering the vehicle in the District;

(f) The Department shall deny the application of an applicant who, in connection with an application under this subsection, makes a written or oral material misrepresentation to the Department or who fails to cooperate fully with the Department.

(g) The Department shall make a decision to grant or deny an application within twenty one (21) calendar days of the date on which the application is filed, provided however, that the failure to comply with this deadline shall not be a ground for the issuance of any DFHV license to any person; and

(h) A license issued under this subsection shall be subject to suspension or revocation if, at any time or for any reason, the vehicle or applicant fails to comply with the provisions of subparts (c), (d), (e), or (f) (only as to written or oral material misrepresentations, not for lack of cooperation).

1003 SPECIAL EVENT VEHICLE LICENSE

1003.1 The Department may issue a special event vehicle for-hire license to authorize any vehicle licensed in another jurisdiction to operate for hire in the District of Columbia for a period of not more than ninety (90) days in connection with a special event, such as a Presidential Inauguration.

1004 LIVERY TIME CONTRACTS

1004.1 A public vehicle for-hire operator may enter a time contract other than as a public vehicle for-hire, which is paid by one party to provide transportation of goods or passengers who do not pay. The contract must be written and contain all material information, including the parties to the contract, the class of goods or persons to be transported, the effective dates and times, and any other information as required by an administrative issuance. While operating under a livery time contract, the vehicle and operator shall be exempt from compliance with certain public vehicle for-hire operating requirements and prohibitions such as maintaining a manifest, and no loitering. The complete list of exemptions and prohibitions shall be provided in an administrative issuance, and the burden shall be on the operator to prove the operator is operating either under a livery time contract, or in compliance with all public vehicle for-hire equipment and operating requirements. This rule is only applicable to luxury vehicle operators and shall not apply to taxicabs.

1005 GENERAL OPERATING REQUIREMENTS – PUBLIC VEHICLES FOR-HIRE

1005.1 A vehicle shall be authorized to provide public vehicle for-hire services if it:

(a) Has been licensed by the Department pursuant to this chapter;

(b) Is registered and displays valid and current tags from DMV and/or a DFHV vehicle decal, where required for the class of service in which the vehicle operates (taxicab, black car, or limousine);

(c) Has a valid and current inspection from DMV sticker or certification issued pursuant to this title and applicable DMV regulations;

(d) Is operated in compliance with all of the operating requirements of this title applicable to the class of service in which the vehicle operates (taxicab, black car, or limousine); and

(e) Is in compliance with the insurance requirements of Chapter 9.

1005.2 No signage, markings, or advertising shall be displayed on any public vehicle for-hire except as may be authorized in an administrative issuance. This section shall in no way affect any sign, sticker, or the like required by this title or any other public authority. This section shall not apply to exterior rooftop advertising signs displayed on taxicabs pursuant to the Taxicab Commercial Advertising Amendment Act of 1992.

1005.3 A District enforcement official may inspect and test a vehicle's lights, brakes, steering assembly, tires, horn, component of a system used to calculate fares,

process payments or print receipts, or any other device or equipment installed in the vehicle or authorized or required by a provision of this title or Title 18 DCMR, at any time when such vehicle is on the public streets or on public space.

1005.4 The vehicle identification card (DFHV license) shall be made available for inspection upon the request of any vehicle inspection officer or other enforcement official.

1005.5 The for-hire vehicle tag, when required by this title or other applicable law, shall be visible and properly affixed on the vehicle at all times.

1005.6 Pursuant to Section 3 (a) and (b) (4) of the Mandatory Use of Seat Belt Act of 1985 (Seat Belt Act), all drivers and passengers in a motor vehicle being operated in the District of Columbia must wear a seat belt.

1005.7 Taxicab operators are exempt from wearing a seatbelt when operating for-hire between the hours of 6:00 p.m. and 6:00 a.m. Pursuant to section 7(f) of the Seat Belt Act, operators of public vehicles for-hire are not responsible for ensuring that passengers comply with the seat belt requirement. All public vehicles for-hire shall have operating seat belts for each passenger and display a sign which states the following:

"District of Columbia law requires mandatory use of seat belts. A fifty dollar ($50) fine applies for violations."

1006 RECIPROCITY

1006.1 Public vehicles for-hire licensed outside of the District of Columbia will be permitted to enter the District of Columbia as provided in this section and under conditions prescribed in an administrative issuance that may be issued by the Department:

(a) Public vehicles for-hire licensed outside of the District of Columbia will be permitted to enter the District of Columbia to pick up passengers on a prearranged basis. Public vehicles for-hire shall pick up passengers on a prearranged basis only. Street hails and the use of taxicab stands is strictly prohibited;

(b) Public vehicles for-hire licensed outside of the District of Columbia and entering the District of Columbia for the purpose of discharging passengers may, at the destination of the discharged passenger(s), pick up and directly transport passengers to the jurisdiction where such taxicabs are licensed. Street hails and the use of taxicab stands is strictly prohibited;

(c) Public vehicles for-hire licensed outside of the District of Columbia and entering the District of Columbia for the purpose of discharging passengers are not permitted to transport passengers within the District of Columbia;

(d) Dispatchers (including electronic, internet and other computer-based applications and services) shall only dispatch an operator of a public vehicle for-hire licensed outside of the District of Columbia to pick up in the District of Columbia while the operator is in his or her licensing jurisdiction. The dispatching of a public vehicle for-hire unlicensed in the District, while in the District to another District location is strictly prohibited.

1006.2 For trips made under this section, passenger information, and other information as required by the Department shall be recorded in a manifest prior to the public vehicle for-hire entering the District.

1006.3 The manifest shall be kept in the vehicle during trips and shall be subject to inspection by any vehicle inspection officer, law enforcement official, or other person authorized by the Department. Failure to present such a manifest maintained in the manner prescribed by this chapter when requested by a vehicle inspection officer, law enforcement official, or other person authorized by the Department shall be presumptive evidence of unlicensed operation in violation of the Department's rules, including failure to obey, unlicensed operator (non-resident), and unlicensed vehicle (non-resident).

1006.4 The manifest shall be maintained and available for a period of two (2) years. The manifest shall be provided to the Department upon request and to any vehicle inspection officer, law enforcement official, or other person authorized by the Department.

1006.5 A public vehicle for-hire owner is responsible for each operator who operates his or her vehicle as his or her agent and acknowledges that his or her operator may accept service of notices of infractions or summonses from a vehicle inspection officer, law enforcement official, or other person authorized by the Department. Such acceptance shall accomplish service of process to the vehicle owner.

1006.6 An individual who has been issued a public vehicle for-hire license by a jurisdiction within the Washington Metropolitan Area other than the District ("non-District operator"), or any unlicensed individual, who violates a provision of this section is subject to fine and penalty for unlicensed operator (non-resident) and unlicensed vehicle (non-resident) and is subject to the fine and penalty set forth in Chapter 5, impoundment of the vehicle or, upon conviction, imprisonment

for not more than ninety (90) days pursuant to D.C. Official Code § 47-2846. A non-District operator whose privilege to operate in the District within the limited authority provided by this section has been suspended or revoked under Chapter 3 shall be considered an unlicensed operator who is operating an unlicensed vehicle.

CHAPTER 11 – PUBLIC VEHICLE FOR-HIRE BUSINESS LICENSES

1100 APPLICATION AND SCOPE

1100.1 This chapter shall apply to and govern the licensing and operating requirements of all public vehicle for-hire businesses, which include taxicabs, limousines and black car businesses that are owned and operated independently or through a business entity.

1101 APPLICATION AND LICENSING

1101.1 Each application for a new or renewal public vehicle for-hire business certificate of operating authority shall be made on a form prescribed by the Department, executed under oath, which shall contain a sworn and notarized statement that the information contained in the application is true under penalty of perjury.

1101.2 Additional information may be requested in an administrative issuance issued by the Department.

1101.3 The Department shall accept for filing a completed application form, which includes:

(a) For each public vehicle for-hire business applicant: the name, address, telephone number, and email address of its owner, manager, and registered agent; its taxpayer identification number; the trade name and any design, insignia, logo, term, symbol, lettering, or other exterior object, pursuant to this chapter; proof that the applicant is a new District-based business, registered with DCRA, with a *bona fide* place of business in the District; and information regarding the vehicles to be associated with its business,

association, or owned by the applicant as prescribed in an administrative issuance issued by the Department.

(b) For each independently owned and operated public vehicle for-hire applicant: the applicant's name, address, mobile and home telephone numbers, email address, and social security number, the applicant's DFHV operator's license number (Face card number), if any, a copy of Certificate of Occupancy for the applicant's administrative office, if applicable; Certification of tax compliance from the Internal Revenue Service for the prior tax year; and the trade name and any design, insignia, logo, term, symbol, lettering, or other exterior object, pursuant to this chapter;

(c) For each public vehicle for-hire vehicle license sought by any applicant: the make, model, model year, vehicle identification number (VIN), and similar information about the vehicle that may be requested in an administrative issuance issued by the Department; and

(d) Such other reasonable information and documentation the Department may require in an administrative issuance.

1101.4 The Department shall deny an initial or renewal certificate of operating authority to a taxicab company which is not in compliance with § 603.2.

1101.4 The Department shall issue a decision to grant or deny an application for an initial or renewed certificate of operating authority within thirty (30) days.

1101.5 Operating authority for a public vehicle for-hire vehicle business shall be effective for twelve (12) months.

1101.6 Annually on or before **December 15** and at other times as may be required by the Department, each public vehicle for-hire business shall renew its certificate of operating authority by filing an application with the Department. The renewal application shall request information and items as prescribed by an administrative issuance issued by the Department.

1101.7 Failure to file an application to renew a public vehicle for-hire business operating authority within the time established by the Department shall result in the loss of the operating authority. The application deadline shall not be extended.

1102 BONA FIDE DISTRICT OFFICE

1102.1 Each public vehicle for-hire business shall maintain a *bona fide* District office with the name of the business prominently displayed on the outside of the site designated as the business address, and that has a working telephone number, at

least one (1) person on site to respond to consumer calls and receive visitors, and that is open during normal business hours.

1102.2 If multiple public vehicle for-hire businesses share office space, but not ownership, each must have a separate Certificate of Occupancy for their business or the Certificate of Occupancy must reflect the name of each business operating within the office space; and each must have clearly distinguishable administrative office space that meets all of the requirements of this section.

1102.3 Failure to have a *bona fide* District office shall result in the revocation of the certificate of operating authority for the public-vehicle for-hire business, if the failure is not cured within fifteen (15) business days after the date of a written notice.

1103 GENERAL OPERATING REQUIREMENTS

1103.1 During the certificate of operating authority period, any change in information related to eligibility or application requirements required by this section shall be reported by each public vehicle for-hire vehicle business to the Department within five (5) business days after the change.

1103.2 Each public vehicle for-hire business shall comply with the provisions of this title and administrative issuance issued by the Department for leasing the vehicle co-titled in its name. A lease executed in violation of this requirement shall be null and void.

1103.3 Each public vehicle for-hire business shall comply with all applicable provisions of this chapter.

1103.4 A public vehicle for-hire may provide service, including wheelchair accessible service, in response to a dispatch, as provided in this title, provided that at all times while licensed and equipped as a public vehicle for-hire, the vehicle shall be operated only in compliance with all applicable provisions of this title and other laws applicable to public vehicles for-hire.

1103.5 Additional and more specific operating requirements applicable only to taxicab companies are contained in Chapter 12 of this title.

1103.6 A public vehicle for-hire business, other than taxicab business, shall not dispatch a for-hire vehicle from any location other than that specified in the business certificate of authority.

1103.7 A public vehicle for-hire business shall maintain and enforce rules, consistent with this chapter and the laws of the District of Columbia, governing the conduct

of affiliated operators while performing their duty as public for-hire vehicle operators.

1103.8 A public vehicle for-hire business that operates limousine or black car vehicles shall not hold itself out for business as a "taxi" or "taxicab" service or in any way use the word "taxi" or "taxicab" to describe the business.

1104 ADDITIONAL LIMOUSINE SERVICE OPERATING REQUIREMENTS

1104.1 Limousine service shall not be provided unless, from the time each trip is booked, through the conclusion of the trip, all of the following requirements are met:

(a) The operator is in compliance with the requirements of this title;

(b) The trip is booked by contract reservation based on an hourly rate;

(c) The trip is not offered in response to a street hail solicited or accepted by the operator or by any other person acting on the operator's behalf; and

(d) Each limousine operator shall provide service only if all the passengers in the vehicle are passengers who have been picked up pursuant to a booked by contract reservation. No other passenger shall be allowed in the vehicle.

1105 LIMOUSINE RATES

1105.1 Each limousine business shall, at all times, post its current rates and charges for its limousine service(s) on its website and shall file with the Department its rates and charges and notify the Department when the business introduces any change to the rates and charges filed with the Department.

1105.2 Limousine rates and charges may be established on a daily basis and shall not be changed until the following day, provided however that rates and charges may be changed at any time if reasonably based on a declaration of emergency affecting the entire District of Columbia as issued by the Mayor of the District of Columbia.

1105.3 No fare may be charged by a limousine business based on a rate or charge that is not posted or maintained with the Department as provided in this subsection at the time of the booking. This subsection shall not be construed to allow a limousine business to alter or amend a pre-existing contract for service.

1106 ADDITIONAL BLACK CAR OPERATING REQUIREMENTS

1106.1 Each black car trip shall be provided in accordance with the vehicle and operator requirements of this title. Additional provisions applicable to the digital dispatch services which participate in providing black car service appear in Chapter 7.

1106.2 Each black car trip shall be booked through a digital dispatch and paid for by a digital payment processed by a digital dispatch service which is in compliance with this title.

1106.3 Each black car business shall ensure that the fare for black car service, if any, shall:

(a) Be based on time and distance rates as set by the DDS except for a set fare for a route approved by the Department through an administrative issuance for a well-traveled route, including a trip to an airport or to an event;

(b) Be consistent with the DDS' statement of its fare calculation method posted on its website pursuant to Chapter 7;

(c) Be disclosed to the passenger in a statement of the DDS' fare calculation method in accordance with Chapter 7;

(d) Be used to calculate an estimated fare, if any, and disclosed to the passenger prior to the acceptance of service;

(e) State whether demand pricing applies and, if so, the effect of such pricing on the estimate; and

(f) Not include a gratuity that does not meet the definition of a "gratuity" as defined in this title.

1106.4 Each charge other than a passenger rate or charge, such as a trip cancellation fee, membership fee, or other similar charge, shall be disclosed to the passenger prior to acceptance of the service.

1106.5 Each black car operator shall provide service only if all the passengers in the vehicle are passengers who have been picked up pursuant to a digital dispatch. No other passenger shall be allowed in the vehicle.

1107 INDEPENDENT PUBLIC VEHICLE FOR-HIRE BUSINESSES

1107.1 An individual not domiciled in the District ("applicant") may apply for a certificate of operating authority to operate an independent public vehicle for-hire business ("IVB"). An independent public vehicle for-hire business shall allow the applicant to register a taxicab, limousine or black car vehicles in the District, with

the independent public vehicle for-hire business as co-owner and co-registrant of the vehicle, as required by the rules and regulations of DMV, and other applicable laws.

1107.2 If the application is for an IVB certificate of operating authority to operate an independent taxicab vehicle business, new DFHV vehicle licenses or DMV "H tags" will only be issued during such times when the Department makes new DFHV vehicle licenses available. This section does not authorize the issuance of new DFHV vehicle licenses or DMV "H tags". Existing independent taxicab vehicle businesses may apply pursuant to this section to renew their operating authority provided they meet all requirements for independent public vehicle for-hire business in effect at that time.

1107.3 Applicants shall be required by the Department as a condition for the issuance of a new DFHV vehicle license to meet the applicable requirements of this title and other applicable laws. In addition, each applicant may be required by the Department to:

(a) Purchase or lease a vehicle that uses electric or other efficient means of propulsion, and/or is wheelchair accessible;

(b) Provide service in underserved areas of the District, as identified by the Department; or

(c) Meet other requirements to enhance safety and consumer protection, to improve customer service, or to achieve other lawful purposes within the jurisdiction of the Department, as determined by the Department in an administrative issuance.

1107.4 For all purposes of this title, the Establishment Act, the Impoundment Act, and other applicable laws (excluding the regulations and laws applicable to DMV):

(a) The IVB shall be considered and treated by the Department as the legal *alter ego* of the individual for all purposes of this title, with the effect of imposing upon the individual all obligations applicable to the IVB under this title, provided however that where a provision of this title authorizes the imposition of a civil penalty upon either the IVB or the individual, either penalty may be applied upon the individual; and

(b) Notwithstanding any contrary provision of this title, notice of any action including without limitation any enforcement action or legal proceeding initiated by the Department or the Office of the Attorney General shall be valid, binding, and fully enforceable against either or both the individual

and the IVB, provided it is otherwise properly served upon either the individual or the IVB.

1107.5 Nothing in this chapter shall be construed to alter the legal rights or obligations of any person under any provision of the D.C. Municipal Regulations or District law other than the rules and regulations of this title.

1107.6 An individual ("applicant") shall be eligible to apply for an initial or renewed certificate of operating authority under this section where:

(a) The individual is not domiciled in the District;

(b) The individual holds a DFHV operator's license (Face card) to operate a public vehicle for-hire;

(c) The individual owns or agrees in writing to purchase a new vehicle or a vehicle which is not required to be replaced within two (2) years from the date of application under this title or other applicable law;

(d) No person other than the applicant has acquired, or is designated to receive, a legal or beneficial interest in the business, in any contract, will, or other legal document, and the applicant has not become domiciled in the District, requirements which shall appear in the charter documents from DCRA;

(e) The business is a District-based business with a *bona fide* place of business in the District, registered with DCRA and subject to all other requirements for a District-based business, and eligible under all applicable District regulations and laws (other than those in this title) to appear on the title as co-owner of the vehicle for which the application is filed; and,

(f) The individual and the vehicle are in full compliance with all other requirements of this title, including all applicable licensing and operating requirements, as may be required through an administrative issuance.

1107.7 For renewal applications, applicants shall submit such additional supporting information and documentation as may be required by the Department, including information and documentation showing the business is in compliance with all operating requirements.

1107.8 If the application is for an independent taxicab vehicle business, the individual shall own or agree in writing to purchase a new vehicle or a vehicle which is not

required to be replaced within two (2) years from the date of the application and shall:

(a) Hold a current DFHV vehicle license as an independent owner-operator, for a vehicle titled and registered with the DMV; or

(b) Be a co-owner of a vehicle with a taxicab company or association and has obtained a release of the taxicab company's or taxicab association's interests in the vehicle.

1107.9 Each application for independent public vehicle for-hire business operating authority shall:

(a) Contain such information and documentation as may be required by the Department, including information and documentation about the applicant, the vehicle, and the business;

(b) Be accompanied by the original charter documents for the business demonstrating compliance with this section;

(c) Be provided under penalty of perjury and notarized before a notary public;

(d) Be filed not later than any deadline stated in an applicable administrative issuance; and

(e) Be accompanied by an application fee specified in Chapter 17.

1107.10 The Department shall issue a decision to grant or deny an application for an initial or renewed certificate of operating authority within thirty (30) days.

1107.11 Operating authority for an independent public vehicle for-hire business shall be effective for twelve (12) months. The Department may establish a uniform renewal date through an administrative issuance.

1107.12 At the time an applicant is issued a certificate of operating authority, the applicant shall also be issued a DFHV vehicle license in the name of the applicant and the business under Chapter 8, which shall be automatically suspended or revoked if the independent public vehicle for-hire business' operating authority or the applicant's DFHV operator's license (Face card) is suspended or revoked.

1107.13 Failure to file an application to renew an independent public vehicle for-hire business operating authority within the time established by the Department shall result in the loss of the operating authority. The application deadline shall not be extended.

1107.14 Each IVB shall comply with Chapter 12 for leasing the vehicle co-titled in its name. A lease executed in violation of this requirement shall be null and void.

1107.15 An independent public vehicle for-hire business operating authority shall be null and void, and thereby subject to immediate suspension, proposed suspension, and proposed revocation, if any time:

(a) A person other than the applicant acquires, or is designated to receive, a legal or beneficial interest in the business, in any contract, will, or other legal document; or

(b) The applicant becomes domiciled in the District, provided however that in the event business operating authority becomes null and void for this reason, the applicant shall be entitled to be issued a DFHV vehicle license as the exclusive owner of the vehicle where the applicant notifies the Department of the change in domicile within thirty (30) days of the change.

1107.16 Tags issued by the DMV based on a DFHV vehicle license issued pursuant to this section shall be immediately surrendered to the DMV if any of the following licenses are suspended (other than an immediate suspension), revoked, or not renewed:

(a) The applicant's DFHV operator's license;

(b) The vehicle's DFHV vehicle license; or

(c) The independent public vehicle for-hire business operating authority.

1107.17 Tags required to be surrendered, pursuant to this title, shall not be reissued, reclaimed, restored, or returned.

CHAPTER 12 – OPERATION OF TAXICAB COMPANIES, TAXICAB ASSOCIATIONS, AND INDEPENDENT OWNERS

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1200 APPLICATION AND SCOPE

1200.1 This chapter shall apply to and govern operations of all taxicab companies, associations, and independently owned taxicabs, in the District of Columbia.

1201 CERTIFICATE OF OPERATING AUTHORITY

1201.1 No person shall operate a taxicab company or association in the District without first obtaining a certificate of operating authority issued by the Department.

1201.2 An applicant for a new or renewal certificate of operating authority license for taxicab companies, associations, or independently owned taxicabs shall be made pursuant to Chapter 11 of this title.

1202 TAXICAB COMPANY AND ASSOCIATION - OPERATING REQUIREMENTS

1202.1 This section shall apply to all independent taxicab owners and taxicab companies.

1202.2 Each independent taxicab owner, taxicab company, or association shall maintain a computerized data system capable of electronically submitting to the Department all information required by this title and other applicable law, or as required in an administrative issuance.

1202.3 Each independent taxicab owner, taxicab company, and association shall provide one or more safety devices for all its owned and associated vehicles which conform to the equipment standards of Chapter 13, as specified in an administrative issuance, including a device which also provides for operator's safety.

1202.4 Each independent taxicab owner, taxicab company, or association shall maintain a website containing current and accurate information about the taxicab company or taxicab association.

1202.5 Each taxicab company shall report the sales tax for all taxicab rentals to DCRA, Office of Tax and Revenue, or other appropriate agency.

1202.6 Each taxicab company or association shall maintain a *bona fide* 24-hour customer service telephone number which is either a toll free number or a local number with a "202" area code.

1202.7 Each taxicab company and association shall maintain a data system which allows it to track its owned and associated vehicles in real time whenever such vehicles are providing taxicab service. The system shall not be used to track in real time an independently owned vehicle that is not providing taxicab service.

1202.8 Each taxicab business or association shall maintain the following current and accurate records, in an electronic format, for each of its owned or associated vehicles:

(a) Whether the vehicle is owned or associated;

(b) The make, model, year of manufacture, and vehicle identification number;

(c) The PVIN;

(d) The odometer reading;

(e) Whether the vehicle is wheelchair accessible; and

(f) The type of fuel used by the applicant's vehicle.

1202.9 Each taxicab company and association shall require each operator with whom it is associated to comply with the requirements of Chapter 8 through a lease or other written agreement.

1202.10 No taxicab company and association shall seek to prevent a taxicab owner from terminating the owner's legal relationship with the business or association, provided however, that a company or association may, as a condition for termination, require the taxicab owner to:

(a) Fulfill any outstanding contractual obligations; and

(b) Satisfy any outstanding debts or liabilities owed to a third party.

1202.11 A party to a termination or proposed termination of the legal relationship between a taxicab owner and a taxicab company or association may request mediation by

the Department pursuant to an administrative issuance. Mediation offered by the Department shall be voluntary and any mediation decision shall be non-binding.

1202.12 Each taxicab company and association shall post the hours of operation of any building or property it owns, leases, or uses in the District for its taxicab business ("taxicab business property"). The hours of operation shall be visible to the public from the outside of the building or, if the building or property is enclosed by a fence, from outside the perimeter of the fenced-in area.

1202.13 Each taxicab company and association shall prohibit the parking of taxicabs on any public street in front of, alongside, or in the rear of any taxicab business property as follows:

(a) Parking outside of the posted hours of operation of the taxicab business property shall be prohibited; and

(b) Parking during the posted hours of the taxicab business property shall be prohibited unless the operator of the taxicab is carrying on business at the taxicab business property and only for so long as the operator is carrying on such business.

1202.14 If a taxicab business or association acquires space for long-term parking, it shall provide notification to the Department within thirty (30) days after the acquisition. The notification shall also be provided with each application for renewal of the operating authority of the taxicab business or association pursuant to this chapter.

1202.15 Beginning September 1, 2017, each taxicab company may operate a digital taxicab solution ("DTS"), and may equip its owned and/or associated vehicles, or any other licensed taxicab, with a DTS unit. Beginning January 1, 2018, each taxicab company shall operate a DTS and shall equip each of its owned and associated vehicles with a DTS unit. Each DTS shall be approved and operated pursuant to Chapter 6, other applicable provisions of this title, other applicable laws, and any applicable administrative issuance. Each DTS unit shall be installed and operated pursuant to a written agreement. Until a taxicab company operates an approved DTS, it shall continue to provide one or more safety devices for all of its owned and associated vehicles that conforms to the equipment requirements of § 603.8(n)(3), as specified in an administrative issuance, including a device which provides for operator safety.

1202.16 Each taxicab company shall maintain a website containing only current and accurate information about the company, including, if it operates a DTS:

(a) If it uses dynamic street hail pricing: a prominent, clear, and complete

disclosure of its current discount, if any, on the street hail rates and charges in Chapter 8, which shall be the same as the disclosure that appears on the passenger console of each DTS unit; and

(b) A general description of the DTS and its components, the most recent date on which the DTS was approved by the Department pursuant to Chapter 13, and a disclosure of the DTS contract terms including its pricing structure.

1203 OWNER RESPONSIBILITIES

1203.1 For purposes of enforcement of and compliance with this title, each taxicab company and association shall be responsible for the conduct of its employees, contractors, agents, associated operators (where applicable), and associated owners (where applicable). The conduct for which each taxicab company and association shall be responsible includes ensuring that taxicabs are operated:

(a) With the licenses required by this title and other applicable law;

(b) With the insurance required by this title and other applicable law;

(c) In a safe and lawful manner; and

(d) By an operator who is not impaired by lawful or unlawful intoxicants.

1204 DECOMMISSIONING OF TAXICABS

1204.1 Immediately upon withdrawing a vehicle from use as a taxicab for any reason, for a period of more than six (6) months, the owner, business, or association shall remove any design, insignia, logo, term, symbol, lettering, or other exterior object or trade, association, business or owner's name, vehicle number and notify the taxicab company or taxicab association and immediately remove and surrender the H-tag to DMV and return the dome light to the Department.

1204.2 If a vehicle is temporarily withdrawn from use as a taxicab for any reason, for a period of six (6) months or less, the owner, business, or association shall ensure the vehicle continues to be covered by insurance, in compliance with this title, and is parked off street for the full duration of vehicle withdrawal from service. The owner, business, or association shall keep the vehicle H-tag affixed on the vehicle for the full duration of vehicle withdrawal from service. The Department or the DMV shall not hold taxicab vehicle H-tags for temporary withdrawal from service.

1204.3 The withdrawal of any vehicle from operation for the purpose of conditioning,

overhauling or repairing shall not be considered withdrawing a vehicle from use as a taxicab.

1204.4 Leasing of a taxicab vehicle pursuant to the provisions of this title shall not be considered withdrawing a vehicle from use as a taxicab.

1205 TAXICAB COMPANY TRANSFERS

1205.1 Each taxicab company and association shall file an application for transfer approval with the Department prior to transferring its ownership, operation, or management to a new party.

1205.2 The application shall include the name, address, telephone number, e-mail address, and fax number of all parties leaving or entering the ownership of the taxicab company or association, and any other information or items as prescribed in an administrative issuance issued by the Department.

1205.3 The Department may, upon request, transmit a copy of the application to the taxicab company, or association, that the owner or operator leaves or enters or share the fact that a request for transfer of ownership has been filed with those drivers affiliated with the taxicab company, or association.

1205.4 Notice of any change in the information provided in the application for transfer approval shall be filed with the Department immediately, if the application has not yet been approved, or within five (5) business days of the change, if the application has been approved.

1205.5 An application for transfer approval may be denied if:

(a) The Certificate of Operating Authority of the taxicab company, or association is not in good standing with the Department;

(b) Either the transferor or transferee is unable to qualify for a Clean Hands Certificate;

(c) If the documentation presented is incomplete, incorrect, conflicting, misleading, or fraudulent; or

(d) The taxicab company, or association, fails to be in compliance with any of the licensing requirements.

1206 PAYMENT TO OPERATORS

1206.1 Except where a taxicab company and taxicab operator otherwise agree, each

taxicab company that contracts with a digital taxicab solution provider for DTS units in its associated vehicles shall pay each of its associated operators the portion of the revenue received from the DTS to which the associated operator is entitled within twenty-four (24) hours or one (1) business day of when the revenue is received by the taxicab company from the DTS.

1207 TAXICAB FARES

1207.1 No person regulated by this title shall charge a rate, charge, or fare for taxicab service in the District in excess of the amounts established by this section. Notwithstanding any other provision of this title, a DTS provider may elect to offer dynamic street hail pricing based on a discount on the total amount of all rates and charges established by this section for rides booked by street hail or by telephone dispatch (if the provider is a taxicab company registered to provide telephone dispatch under Chapter 16), consistent with an applicable administrative issuance. A dynamic street hail discount may be in any amount up to one hundred percent (100%).

1207.2 No operator shall solicit, charge, or accept any amount for a taxicab trip before service is rendered, except if the operator has a notice of prepayment on file with the Department as provided in this section.

1207.3 Each taxicab company, independent owner, and taxicab operator shall accept only cash, cashless payments, or vouchers.

1207.4 No person regulated by this title shall manually enter any amount into any device, other than an authorized additional charge under this section, or a gratuity, if any.

1207.5 The equipment used by taxicab operators to process payments shall be as follows:

(a) The taximeter shall be engaged for each trip by taxicab, regardless of whether the trip is booked by street hail, telephone dispatch, or digital dispatch; and

(b) If a taxicab trip is booked through a street hail, a telephone dispatch, or a DDS which does not process digital payments, the operator shall use the vehicle's DTS unit to process an in-vehicle payment for the entire trip and shall not use any other device.

1207.6 Taxicab fares shall be as follows:

(a) Each taximeter fare shall consist only of the time and distance charges, and authorized additional charges provided in this subsection, as applicable.

(b) The hourly contract rate for a taxicab trip booked on a time basis by advance contract shall be thirty-five dollars ($35) for the first one (1) hour or fraction thereof, and eight dollars and seventy-five cents ($8.75) for each additional fifteen (15) minutes or fraction thereof, without regard to distance. No additional charges are authorized, other than gratuity.

(c) Fare for trips booked by a street hail, a telephone dispatch or a digital dispatch by a DDS that does not process digital payments (in-vehicle payment only) shall be as follows:

(1) The time and distance charges that shall be automatically generated by the taximeter for a taxicab trip booked by a street hail, telephone dispatch, or digital dispatch by a DDS that does not process digital payments are established as follows:

(A) Minimum fare (flag drop rate): three dollars and twenty five cents ($3.25) plus the first one eighth (1/8) of a mile.

(B) Distance (after the first one eighth (1/8) of a mile):

(i) General distance rate: two dollars and sixteen cents ($2.16) per mile (or twenty seven cents ($0.27) per one-eighth (1/8) of a mile); or

(ii) Special shared ride distance rate: one dollar and twenty cents ($1.20) per mile (or fifteen cents ($0.15) per one-eighth (1/8) of a mile).

(C) Time (wait time):

(i) Twenty-five dollars ($25) per hour, to be calculated in sixty (60) second increments;

(ii) Time shall be charged when the vehicle is stopped, and when the vehicle is slowed to a speed of less than ten (10) miles per hour for longer than sixty (60) seconds;

(iii) Time shall be charged for delays and stopovers en route at the direction of the passenger;

(iv) If the vehicle is responding to a dispatch, time shall be charged beginning five (5) minutes after the time

pickup was requested by the customer. There shall be no additional charge for early arrival.

(2) The authorized additional charges which shall be generated automatically by the taximeter for a taxicab trip booked by street hail, by telephone dispatch, or by digital dispatch through a DDS that does not process digital payments, are established as follows:

(A) A fee for telephone dispatch, if any, which shall be two dollars ($2.00);

(B) A taxicab passenger surcharge, which shall be twenty-five cents ($.25) (per trip or per segment of a shared ride, and not per passenger);

(C) A charge for delivery service where there is no passenger present shall be determined by an applicable administrative issuance or other document approved by the Department;

(D) The amount of any airport surcharge or toll paid by the taxicab operator;

(E) An additional passenger fee for each segment of a group or shared ride where more than one (1) passenger is present in the vehicle, which shall be one dollar ($1.00) regardless of the number of additional passengers (the total additional passenger fee shall never exceed one dollar ($1.00)), provided however, that no additional passenger fee shall be charged when the special shared ride distance rate applies; and

(F) A snow emergency fare when authorized under this title.

1207.7 Charges for group and shared rides shall be assessed as follows, and in the manner set forth in an applicable administrative issuance:

(a) For shared rides, only one flag drop rate shall be charged, without regard to the number of destinations. Shared rides may be arranged through digital meters approved by the Department pursuant to this title, which shall allow passengers to apportion the total fare in a manner that maximizes consumer choice and operator income pursuant to an administrative issuance.

(b) For group rides booked by street hail, telephone dispatch, or digital

dispatch, and paid through in-vehicle payment, the metered fare, including the additional passenger fee under this section, shall be paid by the last passenger(s) leaving the taxicab.

(c) For group rides booked by digital dispatch and paid through digital payment, the fare shall be charged and paid consistent with all applicable requirements of this title applicable to a trip which is not a group ride.

1207.8 Notwithstanding any other provision of this chapter, a person subject to licensing, registration, or regulation by the Department pursuant to this title or the Establishment Act, that participates in a pilot, grant, donation agreement, or other program, with the approval of the Department, or that engages in approved live field testing of an app pursuant to Chapter 7, shall use the rates and charges, if any, established or approved by the Department in connection with such pilot, grant, donation agreement, or other program, if any, in lieu of the rates and charges otherwise applicable pursuant to this subsection.

1208 PAYMENT OF FARES

1208.1 When the operator does not have available sufficient currency to change a large bill in payment of the fare, the operator shall inform the passenger of that fact while en route to the passenger's destination, and ask whether change will be required.

1208.2 If the passenger states that change will be required, the operator shall stop en route and provide an opportunity to change the bill in question. No charge for the stop shall be permitted.

1208.3 A Department approved sign displayed within the passenger's view, stating that the operator can only change a designated bill, may be considered as notice to the passenger of the operator's limitation on making change.

1208.4 If the operator has informed the passenger of the lack of change and the passenger presents the operator, at the destination, with a bill requiring change which the operator is unable to provide, the operator may allow the meter to continue running (or reset the meter if it has been stopped) to take the passenger to obtain change and return to the passenger's original destination. The passenger must pay the total fare.

1208.5 In no other circumstances shall a charge be imposed for deviations or stops required in order to obtain change.

1209 DTS RECEIPTS

1209.1 Each taxicab providing service using a DTS unit shall comply with this section.

1209.2 At the end of the ride, the passenger shall be given a receipt as follows:

(a) If the ride was booked by e-hail, the receipt shall be sent through the app used to book the ride; and

(b) If the ride was booked by street hail or telephone dispatch, the passenger shall be provided with a printed receipt.

1209.3 Each receipt shall contain the following information:

(a) The taxicab owner's name and telephone number;

(b) The taxicab's PVIN number;

(c) The operator's DFHV operator license (Face ID) number;

(d) The trip number;

(e) The date;

(f) The starting and ending times;

(g) The distance traveled;

(h) The amount paid by the passenger, showing the total fare and the gratuity, if any, and an indication of whether dynamic street hail pricing was used by the DTS provider, and, if so, the applicable discount;

(i) A depiction of the navigational path of the vehicle during the ride;

(j) Contact information for the Department; and

(k) Such other information about the ride that the Department may reasonably require through an administrative issuance.

1209.4 The Department may issue an administrative issuance to allow or require operators to provide a DFHV ride code or other information to the passenger in lieu of or in combination with any of the requirements for receipts under this section, and to establish additional criteria for DTS receipts for safety, consumer protection, and other reasonable purposes within the jurisdiction of the Department.

1210 SNOW EMERGENCIES

1210.1 During a snow emergency fare period, as may be declared by the Mayor or the DFHV Director, a flat fee of fifteen dollars ($15) per trip originating in the District of Columbia shall be added to the metered fare.

1210.2 Snow emergency fare periods shall begin at such times as the Mayor or the Director makes a public announcement that snow emergency fares are authorized. The Director shall make that announcement when informed by the Department of Public Works that it is necessary to dispatch snow plows. The Director or the Mayor may also make an announcement under the following conditions:

(a) It is snowing and there has been significant accumulation of snow on the streets;

(b) The Metropolitan Police Department and the Department of Public Works have informed the Director or the Mayor that hazardous driving conditions exist throughout the city; or

(c) Additional accumulation is predicted of such significant proportions that hazardous driving conditions are expected to persist for at least twelve (12) hours.

1210.3 The public announcement shall be promulgated in accordance with established Department procedures and communicated to the news media.

1210.4 Snow emergency fare periods shall automatically expire twelve (12) hours after they are declared in effect unless the Mayor or the Department determines during the first twelve (12) hour period that the snow emergency fare shall be effective for an additional fixed period.

1210.5 If the original snow emergency fare period is extended, that decision shall be communicated in accordance with established Department procedures.

1210.6 Announcements concerning the snow emergency fare period shall be disseminated to all news media, the Metropolitan Police Department, and other appropriate organizations.

1210.7 Each taxicab driver shall check regularly, during periods when the snow emergency fare may be in effect, with the news media, the Metropolitan Police Department, or the Department, to determine whether the snow emergency fare is authorized.

1210.8 Whenever the taxicab driver is to charge the snow emergency fare, upon the passenger entering the taxicab the driver shall inform the passenger that snow

emergency fares are in effect and explain the fare.

1210.9 During snow emergency periods, there shall be prominently displayed on the back of the front seat of the taxicab announcing the fifteen dollar ($15) snow emergency surcharge.

1211 GROUP RIDES AND SHARED RIDES

1211.1 Group riding, for pre-formed groups shall be permitted at all times. No operator shall refuse to transport a pre-formed group.

1211.2 Shared riding, for groups of passengers not pre-formed, shall be permitted only when originating at a location designated by the Department in an administrative issuance.

1211.3 For the purpose of shared riding, the operator may ask the destination of the passenger before the passenger is in the taxicab.

1212 SIGNAGE

1212.1 No signs, stickers, bumper-stickers, labels, and printed advertising shall be affixed to the interior or exterior of any taxicab except as provided in an administrative issuance.

1212.2 This section shall not apply to exterior rooftop advertising pursuant to the Taxicab Commercial Advertising Amendment Act of 1992.

1213 LEASING OF DFHV-LICENSED VEHICLES

1213.1 A taxicab company, association, or independent taxicab owner that leases a DFHV-licensed taxicab vehicle shall, within thirty (30) days of entering into the lease agreement, file with the Department the executed lease agreement as provided in an administrative issuance.

1213.2 A taxicab company, association, or independent taxicab owner may file a written complaint with the Department for unauthorized use of the vehicle when the lessee fails to return the vehicle to the owner after the expiration of the lease agreement or failure of the lessee to have a current insurance sticker.

1214 TAXICAB DELIVERIES

1214.1 Taxicabs licensed by the Department may engage in a pick-up and delivery service limited to messages and parcels, or as provided in an administrative issuance; provided that the service is subordinate to their primary obligation to

transport passengers.

1215 CUSTOMER SERVICE AND TAXICAB OPERATOR STANDARDS

1215.1 The DFHV vehicle license identification card shall be displayed at all times in the taxicab for which it is issued.

1215.2 The vehicle identification card shall be made available for inspection upon the request of any vehicle inspection officer or law enforcement personnel.

1215.3 At all times when the taxicab is occupied by the operator; the original operator identification shall be displayed in a bracket or receptacle of a type approved by the Department and shall be firmly attached to the right sun visor so as to be visible to passengers.

1215.4 At all times when the operator is not in the vicinity of the taxicab, the operator shall remove the operator identification card from the vehicle to prevent theft. For purposes of this section "vicinity" means within twenty-five feet (25 ft.) of the taxicab.

1215.5 There shall be displayed in a suitable frame on the right side of the back of the front seat of each taxicab, in a position clearly visible to passengers, a sign displaying the tag number, the taxicab company, taxicab association, or owner's name, and the taxicab number.

1215.6 It shall be the duty of the owner of a taxicab and their agent or lessee to prevent any person from driving a taxicab unless the person has in their possession a valid identification card issued to him or her and a valid District of Columbia motor vehicle operator's permit or, for non-District residents or persons exempt from obtaining a District motor vehicle operator's permit, a valid motor vehicle operator's permit issued by a state that is a party to the Driver License Compact Act.

1215.7 No owner of a taxicab or their agent shall knowingly permit any taxicab owned by him or her to be driven in violation of time restrictions in Chapter 8.

1215.8 No taxicab shall carry more passengers than allowed by the rated designed capacity of the vehicle.

1215.9 Each taxicab in service shall be kept clean both inside and out, including the trunk. The inside shall be kept in a sanitary condition and shall be swept and dusted thoroughly. The exterior shall be thoroughly cleaned.

1215.10 At the request of the passenger, the operator shall turn off or lower the volume of

the vehicle's radio, except for a radio used for dispatch.

1215.11 Nothing shall be transported in any taxicab that will cause the interior of the vehicle to become soiled or offensive to passengers because of odor or appearance.

1215.12 Administrative suspensions, issued with the consent of the operator, shall not become part of an operator's file and shall not be used for determining the eligibility of an operator. An administrative suspension which has been appealed by the operator and adjudicated by OHE or OAH in accordance with § 308.4 shall become part of an operator's file and shall be used for determining eligibility of an operator.

1215.13 No person shall solicit business for taxicabs on public streets or space, within or on the grounds of railroad stations, airports, bus stations, buildings or sidewalks.

1215.14 No taxicab operator, or any person on his or her behalf, shall solicit business on behalf of any hotel, restaurant or other establishment, or attempt to divert patronage or business from any hotel, restaurant or other establishment in any manner whatsoever.

1215.15 No taxicab operator shall loiter with a taxicab around or in front of any hotel, theater, public building, or place of public gathering, except to take on or discharge a passenger.

1215.16 Taxicab operators shall, at all times when on duty and not engaged, furnish service on demand to any person, except as provided for in § 1216.18.

1215.17 Any taxicab occupying a taxicab stand shall be considered to be held for-hire.

1215.18 Any taxicab being operated on the streets shall be considered held for-hire when:

(a) Not occupied by a passenger; or

(b) Not displaying an "On Call," "Off Duty," or "Out of Service" sign as authorized by the Department's rules and regulations.

1215.19 For the purposes of this chapter, a taxicab is not considered for hire when the following occurs:

(a) The operator ceases to hold his or her vehicle for hire and the "Off Duty" sign is displayed in accordance this chapter;

(b) The operator is on call, has a previous appointment, or is engaged by the

hour for the carriage of passengers or making an emergency delivery of a parcel or package and is displaying the "On Call" sign in compliance with the Department's rules and regulations;

(c) The taxicab is loaded to the designed capacity of the vehicle;

(d) The taxicab is disabled or faced with an emergency and the "Out of Service" sign is displayed in accordance with the Department's rules and regulations; or

(e) During group riding and the passengers occupying the taxicab have not consented to the operator engaging in shared riding.

1215.20 The operator shall not ask the destination of the passenger until the passenger is in the taxicab, except in shared riding. A dispatcher shall not ask the destination of a passenger. If the dispatcher learns the destination of a passenger, that dispatcher shall not then convey the destination when dispatching an operator to pick up the passenger unless requested to do so by the passenger or the passenger has an emergency.

1215.21 Once a taxicab trip has been accepted by a public or private vehicle for-hire operator through a digital dispatch service, the vehicle for-hire operator shall not fail to pick up the passenger or to complete the trip after the passenger has been picked up except for a bona fide reason not prohibited by this chapter or other applicable provision of this title. A violation of this subsection shall be treated as a refusal to haul pursuant to this chapter.

1215.21 No person subject to regulation by the Department shall tamper with, damage, destroy, deface, vandalize, remove, modify, or in any way attempt to defeat or bypass equipment authorized or required by this title.

1215.22 No person subject to regulation by the Department shall aid, abet, or be an accessory after the fact to a violation of title.

1216 TAXICAB STANDS

1216.1 A taxicab stand may be occupied only by a District of Columbia-licensed taxicab that is available for-hire. No other class of for-hire vehicle shall park in or use a taxicab stand.

1216.2 Taxicabs shall be placed on stands only from the rear and shall be moved forward and to the front of the stand immediately as space becomes available by the departure or movement of preceding taxicabs. It shall be within the passenger's discretion to determine which taxicab to engage on a taxi stand.

1216.3 The operator of every taxicab occupying a stand shall stay within five feet (5 ft.) of his or her taxicab at all times.

1216.4 In the event any taxicab on a taxicab stand attempts to leave, other taxicabs on the stand shall, if necessary, move so as to permit the taxicab to leave.

1216.5 No taxicab stand shall be occupied by a taxicab in violation of regulations prohibiting parking, stopping, or standing on the street on which it is located during the hours 7:00 a.m. to 9:30 a.m., and 4:00 p.m. to 6:30 p.m. or during the existence of any snow or other emergency declared.

1216.6 No keeper or proprietor of a licensed hotel in the District of Columbia, or a person employed by or acting on his or her behalf, shall exclude a District-licensed taxicab operator from picking up passengers at a taxicab stand or other location where taxicabs are regularly allowed to pick up passengers on the hotel premises.

CHAPTER 13 – TAXICAB PARTS AND EQUIPMENT

1300 APPLICATION AND GENERAL REQUIREMENTS

1300.1 This chapter shall be applicable to and governs parts and equipment of taxicabs licensed in the District of Columbia (District).

1300.2 Nothing in this section shall be construed to solicit or create a contractual relationship between the District of Columbia and any person.

1300.3 Each taxicab licensed under D.C. Official Code § 47-2829(d) (2015 Repl. & 2017 Supp.) shall be a sedan, compact or midsize sport utility vehicle (as defined in Subsection 1004.2(a)), station wagon, or minivan, shall be equipped with at least two (2) rear doors in addition to the door or doors which give access to the operator's seat and shall meet all other size and safety requirements as may be prescribed in an administrative issuance. Passenger capacity in all vehicles shall not exceed seat belt capacity of that vehicle.

1300.4 Each vehicle used as a taxicab shall be in compliance with the uniform color scheme requirements of this title or other applicable law if:

(a) It is entering service using a new taxicab vehicle license (and corresponding new "H tag" from DMV);

(b) It is entering service as a replacement vehicle, using an existing vehicle license, for a vehicle being retired as required by the vehicle retirement rules of Chapter 10 or based on the owner's decision; or

(c) The owner chooses to repaint in whole or in part for any reason, including changes in association or affiliation.

1300.5 The Department may allow or require enhancements to or modifications of the uniform color scheme for a vehicle that participates in a pilot, grant, donation agreement, or other program, or that is equipped with a digital taxicab solution ("DTS")

1300.6 Each vehicle used as a taxicab shall only bear letters, numberings and markings that are approved in writing by the Department or authorized by the Department through an Administrative Issuance.

1300.7 All taxicabs shall maintain an electronic manifest at all times.

1301 METER REQUIREMENTS

1301.1 Beginning September 1, 2017:

(a) No legacy (non-digital) taximeters shall be approved by the Department; and

(b) No person shall participate in dispatching or otherwise providing taxicab service in the District without a taximeter that is part of an approved digital taximeter that is part of an approved digital taxicab solution ("DTS").

1301.2 Beginning January 1, 2018:

(a) The Department shall approve only DTSs, each of which shall incorporate a digital taximeter;

(b) The approval of each legacy taximeter's operating authority shall terminate; and

(c) No person shall participate in dispatching or otherwise providing taxicab service if the service is provided without an approved DTS.

1301.3 Each DTS shall be provided and maintained by a taxicab company or by the D.C. Taxicab Industry Co-op ("Co-op") (collectively for purposes of this section, "provider"). Each DTS shall comply with the technology and service requirements of this section. The Co-op shall seek approval of its DTS not later than six months following its registration as a DDS.

1301.4 Each DTS shall include any digital taximeter and one or more OPT (payment processor), as determined by the DTS provider, provided however, that:

(a) If the Department makes a digital taximeter available to the industry free of charge, then each DTS provider shall incorporate such digital taximeter into its DTS within ninety (90) days of its availability, or such longer period as set by administrative issuance, provided however, that each DTS provider may in lieu thereof incorporate any other digital taximeter that meets or exceeds the performance and features of the Department's digital meter; and

(b) If the Department makes an arrangement with a payment card processor to process DTS payments at a total cost under two and seventy five one hundredths percent (2.75%) per swipe (total charges) the benefits of which are available to the entire industry free of charge, then each DTS provider shall use such payment card processer for all card payments through its DTS within ninety (90) days of its availability, or such longer period as set by administrative issuance, provided however, that each DTS provider may in lieu thereof use any other payment card provider that charges at least one tenth of one percent (1/10 of 1%) less (of the total transaction) per swipe (total charges) than the cost of using the District's payment card processor.

1301.5 The Department may issue an administrative issuance concerning DTSs, DTS units, and OPTs to:

(a) Establish requirements for when approval or renewal of approval is required, including:

(1) Establishing uniform approval periods of not less than twelve (12) months;

(2) Establishing an annual DTS open season during which DTS providers approved for the next uniform approval period may compete for customers during such period;

(3) Establishing an annual deadline by which DTSs must apply for approval or renewal in order to be approved for the next uniform

approval period and to participate in the next DTS open season, or otherwise be considered only for approval during the uniform approval period starting one (1) year after the next uniform approval period; and

(4) Establishing standards from when re-approval is required due to a material modification of a DTS during an approval period;

(b) Interpret and provide guidance about DTS technology and service requirements;

(c) Establish reasonable requirements related to surcharge bonds;

(d) Establish reasonable requirements for the use, operation, configuration, placement, and installation of DTS units and their components, such as requirements for accessibility and use by disabled passengers including visually-impaired and blind customers, which shall be in full compliance with federal law including but not limited to Section 508 of the Rehabilitation Act, 29 USC § 794 (d);

(e) Establish reasonable requirements concerning the use of dynamic street hail pricing, including the placement of signs in and/or on vehicles to inform passengers about such pricing;

(f) Establish reasonable requirements concerning the requirements for separate mechanisms for the operator and the passenger to discreetly summon assistance;

(g) Interpret and provide guidance on the requirements for a digital taximeter to meet or exceed the performance and features of the Department's digital meter made available to the industry for free, if applicable.

(h) Interpret and provide guidance on the requirements for a payment card processor that a DTS provider seeks to use to process payments;

(i) Provide guidance on the technical and other reasonable requirements for the registration of an OPT;

(j) Provide guidance for independent owners who choose to operate without affiliating with a DTS provider;

(k) Establish other reasonable requirements for DTSs and DTS units related to safety, passenger privacy, consumer protection, compliance with any other applicable law, and other reasonable purposes within the jurisdiction of

the Department; or

(l) Take any action with respect to achieving PCI compliance, as measured or determined by the PCI Security Standards Council.

1301.6 The approval of a DTS may be suspended or revoked, and a renewed approval may be denied, in addition to other civil penalties under this title, if the DTS provider fails to comply with an applicable administrative issuance.

1301.7 Each application for the approval of a DTS shall be executed under oath by an individual with authority to file the application, and shall contain the following information and documentation:

(a) Contact information for the applicant, including name, telephone number, email, and website URL;

(b) Information and documentation about each component of the DTS unit, including its digital meter, driver console, passenger console, and credit card processing device, and how it interacts with the vehicle's dome light or innovation cruising light, including a narrative, photographs, and screenshots for each component;

(c) Information and documentation showing the DTS complies with all service and technology requirements of this section, other requirements of this title, the Establishment Act, and other applicable laws;

(d) A certification that the applicant owns the rights to, or holds a license to use, all the intellectual property that comprises the DTS other than intellectual property required by this section to be used in connection with a digital meter or an arrangement with a payment card processor made available to the industry for free by the Department;

(e) Information showing the applicant is in good standing with the Department and is in compliance with all applicable laws pertaining to its business, including without limitation the Clean Hands Act;

(f) Information demonstrating that the applicant will collect from the passenger and pay to the District the taxicab passenger surcharge of twenty five cents ($0.25);

(g) A sample of each agreement with owners and operators used by the applicant;

(h) An explanation of the provider's pricing structure, and whether the provider expects to offer dynamic street hail pricing; and

(i) A certification that the DTS is fully integrated with the DC TaxiApp, as required by this section, Chapter 7, and any applicable administrative issuance, and the names of any other apps with which the DTS is also integrated.

1301.8 Each application shall be accompanied by a filing fee of two thousand five hundred dollars ($2,500), regardless of whether: it is a new or renewal application; or it seeks re-approval of a DTS due to its material modification by its provider during an approval period.

1301.9 Each application for the approval of a DTS shall be accompanied by a bond, naming the District as obligee, to secure the payment of the passenger surcharges owed to the District under this title and the Establishment Act during the current approval period. Such bond(s) shall:

(a) Be in effect throughout the current approval period and for one (1) year thereafter; and

(b) Be in the amount of one hundred fifty thousand dollars ($150,000).

1301.10 An application may be denied if it contains or was submitted with materially false information provided orally or in writing.

1301.11 An applicant seeking to renew the approval of a DTS shall meet all requirements for a new approval, or such portion thereof, as the Department may require by administrative issuance.

1301.12 The Department shall issue all decisions to grant or deny the approval of a DTS within the period established in an administrative issuance.

1301.13 Each approval of a DTS shall be for the duration of the uniform approval period set forth in an administrative issuance, or the remainder of the current period, whichever is less.

1301.14 Service requirements for DTSs. Each DTS provider shall:

(a) Ensure that each of its DTS units is in compliance with the technology and other requirements of this title and other applicable laws, including proper operation and connectivity with a cruising light or legacy dome light;

(b) Comply with the following requirements for the taxicab passenger surcharge. It shall—

(1) Collect the surcharge as an authorized additional charge under Chapter 8;

(2) Remit to the District, at the end of each seven (7) day period, a payment to the D.C. Treasurer reflecting all surcharges owed to the District for such period based on the number of trips during such period, regardless of whether or not the surcharge was actually collected;

(3) Transmit to the Department a report certifying its payment to the District, and containing a basis for the amount of the payment and such other information reasonably related to the payment as may be required by an administrative issuance; and

(4) Cooperate with the Department to resolve any issue related to compliance with this subsection, including a discrepancy in the amount of a payment. If the issue remains unresolved to the satisfaction of the Department within thirty (30) days following notice of the issue to the payer, the Department shall have discretion to make a claim against the payer's surcharge bond, as necessary and appropriate to satisfy the amount of the discrepancy. A surcharge bond shall be returned to the payee within thirty (30) days following the expiration of the bond, or, upon written request of the payer, at an earlier date if the payer establishes to the satisfaction of the Department that the payer's obligations under this section have been fully discharged;

(c) Pay each owner or operator with which it is associated the portion of its revenue to which such owner or operator is entitled within twenty four (24) hours or one (1) business day of when such revenue is received, provided however, that such periods may be extended to not more than one (1) calendar week or five (5) business days if such terms are clearly and transparently disclosed in the contract; and

(d) Pay all costs and fees related to the DTS, including without limitation, the costs for development, improvement, installation, maintenance, service, support, and legal compliance, provided however, that such costs may be allocated pursuant to a written agreement that clearly and transparently discloses each and every cost, and does not exceed the length of the approval period. No person other than the provider shall pay a cost or fee

related to a DTS which has not been fully disclosed in the manner required by this subsection.

1301.15 Each payment processor seeking to register with DFHV as a OPT provider shall submit a completed registration application which will be available online.

1301.16 Each OPT shall be capable of working or operating with one or more approved digital taximeters for trip data and surcharge collection and OPT hardware shall be PCI compliant as determined by the PCI Security Standards Council.

1301.17 Each OPT shall have an open API beginning January 1, 2018, which shall be published on its website.

1301.18 The approval of a DTS may be suspended or revoked if its provider integrates with or uses the app of a DDS not registered or operated as required by this title and other applicable laws.

1301.19 A taxicab equipped to provide taxicab service using a DTS unit shall use the DTS unit for each and every trip.

1301.20 No taxicab shall be equipped with or use more than one digital taxicab solution (DTS) unit.

1301.21 An operator shall not pick up or transport a passenger unless the taxicab and its DTS unit are functioning properly and the DTS unit is able to provide receipts.

1301.22 Each approved DTS and each approved digital taximeter shall be listed on the Department's website.

1301.23 Technology requirements for DTS units. Each DTS unit shall:

(a) Operate in a manner which ensures the vehicle owner and operator, and the DTS provider, are able to comply with all requirements of this title and other applicable laws, and all applicable administrative issuances;

(b) Use open architecture, open application program interfaces, and a modular design, to ensure proper interaction among:

(1) A driver console incorporating a digital taximeter that—

(A) Is fully integrated with the DC TaxiApp and, at the option of the provider, the app of any other DDS registered and operated as required by this title and other applicable laws;

(B) Processes shared and group rides, calculates fares (including dynamic street hail prices, if offered by the provider), and provides receipts as required by Chapter 8;

(C) Provides the Department with real-time trip and location data when the operator is on duty, and such other information as reasonably required by an administrative issuance;

(D) Is linked electronically, or via a DFHV network, API or, integration hub, website, mobile app, URL, or hardware, to one or more registered digital dispatch services, including at a minimum, full integration with the DC TaxiApp, for the purpose of receiving ehails and allowing ehail passengers to choose in-vehicle or digital payment; payments; and

(E) Provides the operator and District enforcement officials with the ability to view the vehicle's electronic manifest as required by § 823 for the prior forty eight (48) hours. Manifest records shall be maintained for at least two (2) years.

(2) A passenger console;

(3) A credit card processing device;

(4) Any other device the provider wishes to include that does not impair the required function and performance of the DTS; and

(5) Complies with all other applicable requirements of this title and other applicable laws, and any applicable administrative issuance;

(c) Interact with the vehicle's legacy dome light or cruising light to properly control its functions in the manner required by this chapter.

(d) Be integrated with two or more registered OPTs at the time of renewal of the DTS' operating authority.

(e) Bear the costs of integrating with any OPTs beyond the initial two with which it is integrated.

1301.24 The approval of a DTS may be suspended or revoked if its provider integrates with or uses the app of a DDS not registered or operated as required by this title and other applicable laws.

1301.25 A taxicab equipped to provide taxicab service using a DTS unit shall use the DTS unit for each and every trip.

1301.26 No taxicab shall be equipped with more than one DTS unit.

1301.27 An operator shall not pick up or transport a passenger unless the taxicab and its DTS unit are functioning properly and the DTS unit is able to provide receipts.

1301.28 Each approved DTS and each approved taximeter shall be listed on the Department's website.

1301.29 Each taxicab vehicle shall operate only through the use of a digital taxicab solution approved by the Department pursuant to an administrative issuance, which satisfies the following requirements:

(a) Provides a safety device for the operator and two-way messaging capability for use by the operator when the vehicle is not in motion;

(b) Is integrated with a rear console that provides a safety device assisting the passenger to contact a District enforcement official and that incorporates features for payment processing;

(c) Offers passengers the option of making an in-vehicle cash or cashless payment, or a digital electronic payment;

(d) Provides features to allow operators to offer additional services;

(e) Allows system upgrades to improve security and functionality, and enhance customer service;

(f) Allows the passenger to rate the ride experience in a manner set forth in an administrative issuance;

(g) Is operated by a business which:

(1) Provides the Department with vehicle location and trip sheet data whenever the operator is on duty, in real-time if digital; and

(2) Is, or is integrated with, one or more dispatch services registered with the Department pursuant to an administrative issuance, to

allow the operator to receive requests for service, and to allow the dispatch service to process a digital payment when that form of payment is selected by the passengers;

(h) Meets the installation, certification, training, and inspection requirements as prescribed by an administrative issuance issued; and

(i) Meets other reasonable technical, safety, consumer protection and other requirements within the jurisdiction of the Department as stated in an administrative issuance.

1302 DOME LIGHTS

1302.1 Each taxicab in service on September 13, 2016, and each vehicle introduced as a replacement vehicle under § 1001, may continue to be equipped with an existing legacy dome light or may be equipped with a cruising light, at the option of the owner, subject to the requirements of this section. Each legacy dome light shall continue to be subject to the legacy dome light regulations to the extent such regulations do not conflict with this section, provided however, that each legacy dome light shall interact with a DTS and otherwise operate as required by this chapter and any applicable administrative issuance if a DTS is installed in the vehicle.

1302.2 Beginning January 1, 2018, or such later date established by an administrative issuance, each vehicle placed into service other than as a replacement vehicle under § 1001, shall be equipped only with a cruising light approved by the Department pursuant to this section, which interacts with the DTS and otherwise operates as required by this title and any applicable administrative issuance.

1302.3 Each approved DTS provider shall be responsible for ensuring the interconnectivity and proper functioning of a DTS unit and the legacy dome light or cruising light.

1302.4 The Department may approve as a cruising light any light which—

(a) Shall be constructed in a manner that meets or exceeds industry best practices;

(b) Shall display the vehicle's PVIN;

(c) Shall indicate whether the vehicle is available for booking by street hail;

(d) Shall interact with the vehicle's legacy taximeter or DTS as required by this chapter;

(e) May incorporate features to indicate that the taxicab is an autonomous or semi-autonomous vehicle; and

(f) May incorporate features to indicate that the operator is engaged in delivering goods or performing services.

1302.5 The Department may issue an administrative issuance which:

(a) Approves one or more products meeting the requirements for a cruising light under this section;

(b) Provides guidance to DTS providers for installing cruising lights and ensuring their proper operation with DTS units;

(c) Provides guidance to affected stakeholders about the transition from the legacy dome light to the cruising light;

(d) Provides guidance to owners about the transfer of legacy dome lights from vehicles already in service to replacement vehicles, and about the decommissioning of legacy dome lights, where required by this section; and

(e) Establishes additional criteria for the appearance, functionality, connectivity, and installation of the cruising light, for safety, consumer protection, and other reasonable purposes within the jurisdiction of the Department.

1302.6 A legacy dome light shall not be used on a vehicle placed into service unless the vehicle is replacing one already in service. An owner may elect to transfer a legacy dome light to a replacement vehicle at the owner's expense.

1302.7 At the time a vehicle equipped with a legacy dome light is retired from service, if the light is not transferred to a replacement vehicle, it shall be decommissioned by the deadline and in the manner required by an administrative issuance; an owner that fails to comply with such administrative issuance shall be subject to the suspension of the owner's vehicle license and/or other civil penalties for the violation of such administrative issuance.

1302.8 No taxicab shall be operated without a properly functioning legacy dome light or cruising light. The operation of a taxicab without a properly functioning legacy dome light or cruising light, as required or permitted by this title, shall give rise to a rebuttable presumption that the operator knew the condition of the light and operated the taxicab with such knowledge.

1303 INSPECTIONS

1303.1 All taxicab vehicles shall be inspected annually or at other times as required by the Department for safe operating condition and compliance with DMV motor vehicle regulations.

1304 PROHIBITIONS

1304.1 No taxicab shall be operated unless its dome light is in proper working condition. The operation of a taxicab with a broken dome light shall give rise to a rebuttable presumption that the operator knew of the condition and operated the taxicab with such knowledge.

1304.2 No taxicab shall contain added equipment other than that equipment included in the vehicle by the manufacturer, any equipment required to provide good customer service, or any other equipment approved or required by this title, or an administrative issuance.

1304.3 No person shall drive, move, or permit the operation or use of any taxicab which is mechanically unsafe, improperly equipped, or otherwise unfit to be operated. Such vehicles shall be towed off the public streets and impounded pursuant to the Impoundment Act.

CHAPTER 14 – TAXICAB EQUIPMENT BUSINESSES

1400 SCOPE AND APPLICATION

1400.1 The purpose of this chapter is to establish rules for the licensing, administration and operation of companies that provide equipment to taxicabs.

1400.2 No payment service provider (“PSP”) shall be approved by the Department to operate, or to market MTS units, after December 31, 2017.

1401 LICENSING PROCESS - GENERAL

1401.1 Each applicant for a digital taxicab solution (DTS) or dome light license

(collectively "taxicab equipment business") shall file an application provided by the Department that meets the following requirements:

(a) Includes the name, address, telephone number and email address of its owner, manager, and registered agent, if any; its taxpayer identification number; and proof that it has authority to operate in the District;

(b) Applicants shall be fingerprinted, for purposes of securing criminal history records from the Federal Bureau of Investigation;

(c) The Department shall have the right to reject the proposed name of any taxicab equipment business that is substantially similar to any name in use by another taxicab equipment business licensee; and

(d) Such other reasonable information and documentation showing that the applicant meets the eligibility and operating requirements of this chapter as the Department may require in an administrative issuance.

1401.2 The Department shall complete the review process and issue its decision to grant or deny a taxicab business license within thirty (30) days after the application is filed, provided however, that such period may be extended by the Department as needed with notice to the applicant that more time is needed to review the applicant's qualifications.

1401.3 Each taxicab equipment business license shall be valid and effective for twelve (12) months.

1401.4 Each taxicab equipment business licensee shall submit a renewal application at least sixty (60) days before the expiration of the approval, unless the Department grants a waiver in writing for good cause shown. The procedures applicable to new applications shall apply to renewal applications, except as otherwise required by this chapter or other applicable law.

1402 ELIGIBILITY REQUIREMENTS - GENERAL

1402.1 An applicant is eligible for a taxicab equipment business license if the applicant:

(a) Carries and provides proof of insurance as necessary in connection with its business and worker's compensation insurance for its workplace;

(b) Completes the taxicab equipment business licensing requirements; and

(c) Has met any additional requirements which may be contained in an administrative issuance.

1403 OPERATING REQUIREMENTS - GENERAL

1403.1 Each applicant for an initial taxicab equipment business license or renewal license shall deposit with the Department and shall keep in full force and effect throughout the license period, a bond as required by Chapter 17.

1403.2 Each taxicab equipment business shall file with the Department a schedule of fees, which shall be available to the public, and shall not charge more than the listed fees.

1403.3 An applicant may be scheduled for one or more demonstrations of its proposed equipment, where the Department's technical staff shall examine and test the equipment and ask questions of the applicant's technical staff, who shall attend.

1403.4 A request for approval may be denied if the applicant does not cooperate with the Department during the review process, or if the applicant provides materially false information orally or in writing during the review process.

1403.5 Taxicab equipment businesses shall maintain and retain business records for at least five (5) years and make its business records available for inspection and copying during regular business hours at the Department or at its office within five (5) business days of its receipt of a written demand from the Department.

1403.6 A taxicab equipment business owner, including a member of a partnership or any officer or shareholder of a corporation, shall notify the Department in writing of his/her conviction for a crime within fifteen (15) days of such conviction, and he or she shall deliver to the Department a certified copy of the certificate of disposition issued by the clerk of the court within fifteen (15) days of conviction.

1403.7 A taxicab equipment business owner shall notify the Department of any material change in the information contained on such owner's latest taximeter business license application or renewal within three (3) business days of the change.

1403.8 A taxicab equipment business owner shall immediately notify the Department in writing of any suspension or revocation of any license granted to the licensee, or any other person acting on his behalf, by any agency of the District of Columbia or federal government.

1403.9 Meet any other operating requirements that the Department may prescribe in an administrative issuance.

1404 PROHIBITIONS - GENERAL

1404.1 A taxicab equipment business owner shall not:

(a) Without the prior consent of the Department, transfer any interest in a taxicab equipment business, including, but not limited to, the transfer of any ownership interest, or any agreement to transfer an ownership interest in the future; or

(b) Without prior notification and approval by the Department, make any change in location, mailing address, corporate name, trade name, corporate officers, or any other material deviation from the description of the business as stated in the original or renewal application

1405 DOME LIGHT BUSINESS OPERATING REQUIREMENTS

1405.1 A dome light business must have a bona fide office in the district.

1405.2 By installing a dome light, the dome light installation business certifies that the dome light installation has been tested and operates in accordance with these rules.

1405.3 A dome light installation business shall notify the Department immediately, and in writing within twenty-four (24) hours, of any of the following occurrences:

(a) Receipt of a stolen or lost dome light;

(b) Receipt of a dome light that has been illegally tampered with; or

(c) Knowledge that a licensee of the Department has attempted to illegally operate a meter that has been tampered with.

1405.4 Any notice required to be provided to the Department hereunder shall contain, at a minimum, the following information:

(a) The taxicab name and number and vehicle tag number;

(b) The name(s) and license number(s), if any, of the driver(s) who presented the vehicle to the dome light installation business;

(c) The date of the inspection or repair; and

(d) A detailed description of the dome light.

1405.5 By installing a dome light, the dome light installation business certifies that at the time of such installation and testing it has:

(a) Accepted and installed a dome light that meets the specifications of the Department found at Chapter 13 of this title; and

(b) Properly installed the dome light with the taxicab's PVIN assigned to the taxicab by the Department.

1405.6 The dome light installation business owner shall record the results of any inspections or tests, and the dome light make, model, and serial number on a form prescribed by the Department, which the dome light installation business licensee shall submit to the Department within seven (7) days of such inspection.

1405.7 Upon a determination that a dome light installation has passed an inspection, the dome light installation business owner shall affix a certification sticker, prescribed and approved by the Department, to the dome light. Any certification sticker shall not be re-affixed to the dome light installation if removed.

1405.8 A dome light installation business owner shall provide for the safekeeping of certification stickers, shall control their sequence of issuance, and shall ensure that such stickers are placed only on dome lights in accordance with these regulations.

1405.9 A dome light installation business owner shall account for all certification stickers procured and issued by the dome light installation business licensee.

1405.10 A dome light installation business owner shall account for all new or used dome lights that the dome light installation business licensee buys, loans, rents, exchanges, or accepts in trade.

1405.11 A dome light installation business owner shall keep records of all sales, installations, inspections, re-inspections, calibrations, and repairs and the results thereof.

1405.12 The Department may issue an administrative issuance prescribing requirements for the sale, testing, installation or calibration of dome lights.

CHAPTER 15 – [RESERVED]

CHAPTER 16 – PRIVATE VEHICLES FOR-HIRE

1600 PRIVATE VEHICLES FOR-HIRE
1601 BUSINESS REGISTRATION
1602 PRIVATE SEDAN OPERATORS
1603 OPERATOR REQUIREMENTS

1604 INSURANCE
1605 COMPLIANCE

1600 PRIVATE VEHICLES FOR-HIRE

1600.1 This chapter establishes regulations for the businesses, operators, and vehicles which participate in providing private vehicle for-hire ("private sedan") service.

1600.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, and of the Impoundment Act.

1600.3 The definitions in Chapter 1 shall apply to all terms used in this chapter. The phrase "company that uses digital dispatch for public vehicle for-hire service", as used in the Establishment Act, shall include only a digital dispatch service, as defined in Chapter 1, and shall not include any other person regulated by this title in connection with the provision of a public vehicle for-hire service, such as a taxicab company or association.

1601 BUSINESS REGISTRATION

1601.1 Each private sedan business shall be registered under this chapter.

1601.2 Each digital dispatch service associated or affiliated with a private sedan business shall be registered with the Department under Chapter 7.

1601.3 The District shall have no liability for the negligent, reckless, illegal, or otherwise wrongful conduct of any individual or entity which provides private sedan service.

1601.4 Each private sedan business operating in the District shall register with the Department within five (5) business days of the effective date of this chapter, and all other private sedan businesses shall register with the Department prior to commencing operations in the District.

1601.5 Each private sedan business and its associated or affiliated digital dispatch service shall contemporaneously apply for registration under this chapter and Chapter 7.

1601.6 Each private sedan business shall apply for registration by providing a certification on a form made available by the Department, which shall include the following information and documentation:

(a) Proof that the private sedan business is licensed to do business in the District;

(b) Proof that the private sedan business maintains a registered agent in the District;

(c) Proof that the private sedan business maintains a website that includes the

information required by chapter;

(d) Proof that the private sedan business has established a trade dress required by this chapter, including an illustration or photograph of the trade dress;

(e) Identification of the private sedan business's associated or affiliated digital dispatch service;

(f) Proof that the private sedan business or its associated private sedan operators are in compliance with the insurance requirements of Chapter 9, including a complete copy of the policy(ies), the accord form(s), all endorsements, the declarations page(s), and all terms and conditions; and

(g) Contact information for one or more designated individuals with whom the Department shall be able to communicate at all times for purposes of enforcement and compliance under this title and other applicable laws, including cellphone number(s) and an email address which shall be dedicated exclusively to the purposes of this paragraph.

1601.7 Each certification filed under this chapter shall be executed under oath by an individual with authority to complete the filing and shall be accompanied by a filing fee of twenty five thousand dollars ($25,000) for each initial certification, and one thousand dollars ($1,000) for each renewal certification.

1601.8 The Department shall complete its review of a certification within fifteen (16) business days of filing. All proof of insurance shall be subject to a review by DISB. Each applicant shall cooperate with the Department to supplement or correct any information needed to complete the review. The Department may deny registration where it appears the private sedan business will not be operating in compliance with this title and other applicable laws.

1601.9 Each registration under this section shall be effective for twenty-four (24) months.

1601.10 Each registered private sedan business shall renew its registration by filing a certification at least fourteen (14) days prior to its expiration as provided in this chapter.

1601.11 Each registered private sedan business shall promptly inform the Department of either of the following occurrences in connection with its most recent registration:

(a) A change in contact information; or

(b) A materially incorrect, incomplete, or misleading statement.

1601.12 No document submitted with an application for registration under this chapter shall contain any redaction or omission of original text or an original attachment, provided however that insurance premium information may be redacted from the

proof of insurance required by Chapter 9.

1601.13 Proof of insurance consistent with Chapter 9 shall immediately be filed with the Department for each insurance policy obtained by a private sedan business to replace an existing, lapsing, terminated, or cancelled policy. The Department shall review the proof of insurance within ten (10) business days of filing. The private sedan business shall cooperate with the Department to supplement or correct any information needed to complete the review. The Department may suspend or revoke the private sedan business's registration where it appears the private sedan business will not be operating in compliance with the insurance requirements of this title or other applicable laws.

1602 PRIVATE SEDAN OPERATORS

1602.1 Each private sedan business shall create an application process for an individual to apply to the private sedan business to register as a private sedan operator.

1602.2 Each private sedan business shall maintain a current and accurate registry of the operators and vehicles associated with the business.

1602.3 Each private sedan business shall display the following information on its website:

(a) The private sedan business's customer service telephone number or electronic mail address;

(b) The private sedan business's zero tolerance policies established pursuant to this chapter;

(c) The private sedan business's procedure for reporting a complaint about an operator who a passenger reasonably suspects violated the zero tolerance policy pursuant to this chapter; and

(d) A telephone number or electronic mail address for the Department.

1602.4 Each private sedan business shall verify that an initial safety inspection of a motor vehicle used as a private sedan was conducted within ninety (90) days of when the vehicle enters service and that the vehicle passed the inspection and was determined to be safe by a licensed mechanic in the District, pursuant to D.C. Official Code § 47-2851.03(a)(9) or an inspection station authorized by the State of Maryland or the Commonwealth of Virginia to perform vehicle safety inspections, provided however, that an initial safety inspection need not be conducted if the vehicle is compliant with an annual state-required safety inspection.

1602.5 Each safety inspection conducted pursuant to § 1602.4 shall check the following motor vehicle equipment to ensure that such equipment is safe and in proper operating condition:

(a) Brakes and parking brake;

(b) All exterior lights, including headlights, parking lights, brake lights, and license plate illumination lights;

(c) Turn signal devices;

(d) Steering and suspension;

(e) Tires, wheels, and rims;

(f) Mirrors;

(g) Horn;

(h) Windshield and other glass, including wipers and windshield defroster;

(i) Exhaust system;

(j) Hood and area under the hood, including engine fluid level and belts;

(k) Interior of vehicle, including driver's seat, seat belts, and air bags;

(l) Doors;

(m) Fuel system; and

(n) Floor pan.

1602.6 Each private sedan business shall verify the safety inspection status of a vehicle as described in this chapter on an annual basis after the initial safety inspection is conducted.

1602.7 Each private sedan business shall perform the background checks required by each applicant before such individual is allowed to provide private sedan service and update such background checks every three (3) years thereafter.

1602.8 Each private sedan business shall establish and maintain a trade dress policy as follows:

(a) A trade dress:

(1) Utilizing a consistent and distinctive logo, insignia, or emblem;

(2) Which is sufficiently large and color contrasted so as to be readable during daylight hours at a distance of at least fifty (50) feet; and

(3) Which is reflective, illuminated, or otherwise patently visible in darkness;

(b) A policy requiring the trade dress to be displayed in a specific manner in a designated location on the vehicle at all times when the operator is logged into the private sedan business's associated or affiliated DDS, in a manner consistent with all DMV regulations and other applicable laws, and removed at all other times.

1602.9 Each private sedan business shall establish and maintain a policy of zero tolerance for the use of alcohol or illegal drugs or impairment by the use of alcohol or drugs while a private sedan operator is logged into the private sedan business's associated or affiliated DDS.

1602.10 Each private sedan business shall:

(a) Conduct an investigation when a passenger alleges that a private sedan operator violated the zero tolerance policy established by § 1903.9; and

(b) Immediately suspend for the duration of the investigation required by subparagraph (b) of this subsection, a private sedan operator upon receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by this chapter.

1602.11 Each private sedan business shall establish a policy of zero tolerance for discrimination and discriminatory conduct on the basis of any protected characteristic under D.C. Official Code § 2-1402.31, while a private sedan operator is logged into a private sedan business's associated or affiliated DDS.

1602.12 Discriminatory conduct prohibited by this section includes, but is not limited to:

(a) Not picking up a passenger on the basis of any protected characteristic or trait, including not picking up a passenger with a service animal;

(b) Requesting that a passenger get out of a taxicab on the basis of a protected characteristic or trait;

(c) Using derogatory or harassing language on the basis of a protected characteristic or trait;

(d) Refusing a telephone or digital dispatch to a specific geographic area of the District; and

(e) Using dynamic street hail pricing in any manner that constitutes prohibited discrimination under this section or other applicable law.

1602.13 It shall not constitute discrimination under § 1602.11 for a private sedan operator to refuse to provide service or to cease providing service to an individual who

engages in violent, seriously disruptive, or illegal conduct.

1602.14 Each private sedan business shall:

(a) Conduct an investigation when a passenger makes a reasonable allegation that an operator violated the zero tolerance policy established by § 1602.11; and

(b) Immediately suspend, for the duration of the investigation conducted pursuant to subparagraph (a) of this subsection a private sedan operator upon receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by § 1602.11.

1602.15 Each private sedan business shall maintain records relevant to the requirements of this section for the purposes of enforcement.

1602.16 Each private sedan business shall register private sedan operators in accordance with the following requirements:

(a) Each individual applying to register with a private sedan business ("applicant") shall be at least twenty-one (21) years of age.

(b) A third party accredited by the National Association of Professional Background Screeners or a successor accreditation entity shall conduct the following examinations:

(1) A local and national criminal background check;

(2) The national sex offender database background check; and

(3) A full driving record check.

(c) A private sedan business shall reject an application and permanently disqualify an applicant who:

(1) As shown in the local or national criminal background check conducted in accordance with subparagraph (b) of this subsection, has been convicted within the past seven (7) years of:

(A) An offense defined as a crime of violence under D.C. Official Code § 23-1331(4);

(B) An offense under Title II of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code §§ 22-3002 *et seq*.)

(C) An offense under Section 3 of the District of Columbia

Protection Against Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; D.C. Official Code § 22-3102);

(D) Burglary, robbery, or an attempt to commit robbery under An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1323; D.C. Official Code §§ 22-801, 22-2801 and 22-2802);

(E) Theft in the first degree under Section 112 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3212);

(F) Felony fraud or identity theft under Sections 112, 121, or 127b of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code §§ 22-3212, 22-3221, and 22-3227.02); or

(G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparagraphs (A), (B), (C), (D), (E), and (F) of this paragraph if committed in the District;

(2) Is a match in the national sex offender registry database;

(3) As shown in the national background check or driving record check conducted in accordance with subparagraphs (b)(l) and (b)(3) of this section, has been convicted within the past seven (7) years of:

(A) Aggravated reckless driving under Section 9(b-1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-2201.04 (b-1));

(B) Fleeing from a law enforcement officer in a motor vehicle under Section 10b of the District of Columbia Traffic Act, 1925, effective March 16, 2005 (D.C. Law 16-239; D.C. Official Code § 50-2201.05b);

(C) Leaving after colliding under Section 10c of the District of Columbia Traffic Act, 1925, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code § 50-2201.05c);

(D) Negligent homicide under Section 802(a) of An Act To

amend an Act of Congress entitled "An Act to establish a Code of Law for the District of Columbia", approved March 3, 1901, as amended, by adding three new sections to be numbered 802(a), 802(b), and 802(c), respectively, approved June 17, 1935 (49 Stat. 385; D.C. Official Code § 50-2203.01);

(E) Driving under the influence of alcohol or a drug, driving a commercial vehicle under the influence of alcohol or a drug, or operating a vehicle while impaired under Sections 3b, 3c, or 3e of the Anti-Drunk Driving Act of 1982, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code §§ 50-2206.11, 50-2206.12, and 50-2206.14);

(F) Unauthorized use of a motor vehicle under Section 116 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3216); and

(G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparts (A), (B), (C), (D), (E), or (F) of this part if committed in the District; or

(4) Has been convicted within the past three (3) years of driving with a suspended or revoked license under Section 13(e) of the District of Columbia Traffic Act,1925, approved March 3,1925 (43 Stat. 1123; D.C. Official Code § 50-1403.01(e)), according to the driving record check conducted in accordance with § 1902.16 (b).

1602.17 Each private sedan business shall allow its operators to use only vehicles which:

(a) Have a manufacturer's rated seating capacity of eight (8) persons or fewer, including the operator;

(b) Have at least four (4) doors and meet applicable federal motor vehicle safety standards for vehicles of its size, type, and proposed use; and

(c) Are not more than ten (10) model years of age at entry into service and not more than twelve (12) model years of age while in service.

1602.18 A private sedan business may offer service at no charge, suggest a donation, or charge a fare, provided however, that if a fare is charged the private sedan business shall comply with the provisions of Chapter 17.

1602.19 Each private sedan business shall possess the insurance required by Chapter 16

and be registered with the Department as set forth in Chapter 16.

1602.20 Each private sedan business shall notify the Department immediately upon the suspension or termination of an operator, by providing the operator's name, address, driver's license information, and the vehicle's make, model, year, color, and tag information.

1602.21 Each private sedan business shall designate and maintain one or more individuals with whom the Department shall be able to communicate at all times for purposes of enforcement and compliance under this title and other applicable laws, whom the private sedan business shall identify in its registration under this chapter and shall maintain an email address dedicated exclusively to the purposes of this paragraph.

1602.22 Each private sedan business shall ensure a private sedan operator cannot log in to the app of the private sedan business's associated or affiliated DDS app while the operator is suspended or after the operator is terminated by the private sedan business.

1603 OPERATOR REQUIREMENTS

1603.1 Each private sedan operator shall comply with the following requirements for providing private sedan service in the District:

(a) The operator shall provide service only when registered with and not under suspension by a private sedan business which is registered under this chapter. The provision of private sedan service while under suspension shall be deemed a failure to be registered with any private sedan business.

(b) The operator shall accept trips only through the use of, and when logged into, an app provided by a digital dispatch service, registered under Chapter 7, and associated or affiliated with the private sedan business with which the operator is registered.

(c) The operator shall not solicit or accept a street hail, engage in false dispatch, or use a taxicab or limousine stand.

(d) The operator shall not be logged in to the app of a private sedan business's associated or affiliated digital dispatch service without displaying the trade dress of such private sedan business in the manner required by its trade dress policy as established pursuant to Chapter 16.

(e) The operator shall keep the following items present in the vehicle, readily accessible for inspection by a vehicle inspection officer, police officer, and other District enforcement official:

(1) A current and valid personal driver's license issued by a

jurisdiction within the MSA;

(2) Written proof of the personal motor vehicle insurance coverage required by D.C. Official Code § 31-2403; and

(3) A device through which the operator provides service and demonstrates compliance with this title and other applicable laws.

(f) The operator shall fully and timely cooperate with vehicle inspection officers, police officers, and other District enforcement officials, during traffic stops, and during all other enforcement and compliance actions under this title and other applicable laws. A violation of this paragraph shall be treated as a violation of a compliance order under Chapter 3.

(g) The operator shall, in the event of an accident arising from or related to the operation of a private sedan originating in or occurring in the District:

(1) Notify the private sedan business with which the operator is associated if required by the private sedan business; and

(2) Notify the Department within three (3) business days if the accident is accompanied by the loss of human life or by serious personal injury without the loss of human life. The notice shall include a copy of each report filed with MPD or other police agency, a copy of each insurance claim made by the private sedan operator, and such other information and documentation as required by the Department.

(h) The operator shall be chargeable with knowledge of the applicable provisions of this title and other applicable laws, applicable notices published in the *D.C. Register*, and applicable administrative issuances, instructions and guidance posted on the Department's website.

1604 INSURANCE

1604.1 Each private sedan business or private sedan operator shall maintain a primary automobile liability insurance policy that provides coverage for the vehicle and the operator when the operator is engaged in a prearranged ride of at least one million dollars ($1,000,000) per occurrence for accidents involving a private sedan operator, for all private sedan trips originating in or occurring in the District, under which the District is a certificate holder and a named additional insured.

1604.2 Each private sedan business or private sedan operator shall maintain a primary automobile liability insurance policy that provides coverage for the vehicle and the operator, for all private sedan trips originating in or occurring in the District, under which the District is a certificate holder and a named additional insured, for

the time period when the operator is logged in to a private sedan business's DDS, showing that the operator is available to pick up passengers but is not engaged in a prearranged ride.

1604.3 The coverage amounts under § 1604.2 shall be minimum coverage of at least fifty thousand dollars ($50,000) per person per accident, with up to one hundred thousand dollars ($100,000) available to all persons per accident, and twenty-five thousand dollars ($25,000) for property damage per accident and either:

(a) Offers full-time coverage similar to the coverage required under § 16 of the Act;

(b) Offers an insurance rider to, or endorsement of, the operator's personal automobile liability insurance policy as required by § 7 of the Compulsory/No Fault Motor Vehicle Insurance Act (D.C. Official Code §§ 31-2401 *et seq.*); or

(c) Offers a liability insurance policy purchased by the private sedan business that provides primary coverage for the time period in which the operator is logged into the private sedan business's DDS showing that the operator is available to pick up passengers.

1604.4 Each private sedan business that purchases an insurance policy under this chapter shall provide proof to the Department, at the time of registration, that the private sedan business has secured the policy, and shall provide proof of its compliance with this chapter within five (5) business days of such compliance.

1604.5 A private sedan business shall not allow a private sedan operator who has purchased his or her own policy to fulfill the requirements of this chapter to accept a trip request through the DDS used by the private sedan business until the private sedan business verifies that the operator maintains insurance as required under this chapter. If the insurance maintained by a private sedan operator to fulfill the insurance requirements of this chapter has lapsed or ceased to exist, the private sedan business shall provide the coverage required by this chapter beginning with the first dollar of a claim.

1604.6 If more than one insurance policy purchased by a private sedan business provides valid and collectable coverage for a loss arising out of an occurrence involving a motor vehicle operated by a private sedan operator, the responsibility for the claim shall be divided on an equal basis among all of the applicable polices; provided, that a claim may be divided in a different manner by written agreement of all of the insurers of the applicable policies and the policy owners.

1604.7 In a claims coverage investigation, a private sedan business shall cooperate with any insurer that insures the private sedan operator's motor vehicle, including providing relevant dates and times during which an accident occurred that

involved the operator to determine whether the operator was logged into a private sedan business's DDS showing that the operator is available to pick up passengers.

1604.8 The insurance requirements set forth in this chapter shall be disclosed on each private sedan business's website, and the business's terms of service shall not contradict or be used to evade the insurance requirements of this chapter.

1604.9 Within ninety (90) days of the effect, a private sedan business that purchases insurance on an operator's behalf under this chapter shall disclose in writing to the operator, as part of its agreement with the operator:

(a) The insurance coverage and limits of liability that the private sedan business provides while the operator is logged into the business's DDS showing that the operator is available to pick up passengers; and

(b) That the operator's personal automobile insurance policy may not provide coverage, including collision physical damage coverage, comprehensive physical damage coverage, uninsured and underinsured motorist coverage, or medical payments coverage because the operator uses a vehicle in connection with a private sedan business.

1604.10 An insurance policy required by this chapter may be obtained from an insurance company authorized to do business in the District or with a surplus lines insurance company with an AM Best rating of at least A-.

1604.11 Each private sedan business and operator shall have one hundred twenty (120) days from the effective date to procure primary insurance coverage that complies with the requirements of § 1604.2; provided however, that until such time, each private sedan business shall maintain a contingent liability policy meeting at least the minimum limits of § 1604.2 that will cover a claim in the event that the private sedan operator's personal insurance policy denies a claim.

1604.12 Each insurance policy required by this chapter shall provide that the Department receive all notices of policy cancellations and changes in coverage.

1604.13 Each private sedan business shall ensure that the Department receives all notices of policy lapses.

1604.14 Each private sedan business shall file proof of insurance as required by this chapter whenever an insurance policy is obtained to replace an existing, lapsing, terminated, or cancelled policy, including where a private sedan business changes from allowing its associated operators to provide the coverage required by the chapter to providing the coverage itself.

1605 COMPLIANCE

1605.1 No person shall violate any applicable provision of this chapter.

1605.2 No private sedan operator shall threaten, harass, or engage in abusive conduct, or attempt to use or use physical force against any District enforcement official.

1605.3 No private sedan operator shall provide service if such operator is not registered with a private sedan business registered under this chapter.

1605.4 No private sedan operator who has been suspended by a private sedan business shall provide service through that private sedan business. An operator suspended by a private sedan business shall be deemed not registered with such private sedan business.

1605.5 No private sedan operator shall provide service while under the influence of illegal intoxicants, or under the influence of legal intoxicants that have been prescribed with a warning against use while driving or operating equipment.

1605.6 No private sedan operator shall solicit or accept a street hail, engage in false dispatch, or use a taxicab or limousine stand.

1605.7 No private sedan operator shall access or attempt to access a passenger's payment information after the payment has been processed.

1605.8 No private sedan operator or private sedan business shall engage in conduct which hinders or prevents the District from receiving an amount which the private sedan business's associated or affiliated digital dispatch service must transmit to OCFO pursuant to this chapter.

1605.9 No private sedan business shall commence operating in the District unless it has been granted a registration by the Department pursuant to this chapter.

1605.10 No insurance policy which provides the coverage required by this chapter shall contain language that does not conform with this title or the Act.

1605.11 No private sedan business or private sedan operator shall attempt through any means to contradict or evade the requirements of this title or other applicable laws.

CHAPTER 17 – FEES AND BONDS CHARTS

1700 FEES
1701 BONDS

1700 FEES

1700.1 The fees for licenses, permits, operating authority and other services under this title shall be:

Chapter 6 – Equal Access to For Hire Vehicles	
Transport DC Application Fee	$500
Chapter 7 – Dispatch Services	
Registration	$500
Chapter 8 – Public Vehicle Operator's Licensing and Operating Requirements	
Hack License/Face Card	$250 for two (2) years
Limo License/Face Card	$300 for two (2) years
Fingerprint Fee	$41.50
Chapter 10 – Public vehicle for-hire Licenses and Operations	
DFHV Vehicle License (taxi and limo)	$75 per year (DC resident) $100 per year (nonresident)
Chapter 11 – Public vehicle for-hire Business Licenses (including Luxury Services and Black Car Businesses)	
Luxury Service Vehicle Business	$475
Luxury Service Vehicle Owner	$250
Operating Authority Application	$250
Per Vehicle Registration Fee -- Initial and Renewal Applications	$50
Chapter 12 – Taxicab Companies, Associations, and Independent Owners	
Application for Independent Taxicab Vehicle Business Operating Authority	$150
Application for Independent Taxicab Owner Operating Authority	$50

Transfer of Ownership -- Taxicab Company, Association, or Fleet	$500
Per Vehicle Registration Fee -- Initial and Renewal Applications	$50
Chapter 13 – Taxicab Parts and Equipment	
Vehicle Age Waiver Fee	$50
Chapter 14 – Taxicab Equipment Businesses	
Application Fee	$5,000 and surcharge bond of $100,000
Taximeter cable seals	$0.50
Taximeter Business License Fee	$2,000; $500 non-refundable
Dome Light Business Application Fee	$500
Dome Light Business Biennial Renewal Application Fee	$1,500
Chapter 15 – Reserved	
Chapter 16 – Private Vehicles-for-Hire	
Private Sedan Business Application Fee	$25,000
Renewal Fee	$1,000
Digital Dispatch Service Amend Fee	$300
Digital Dispatch Service Application Fee	$500

1701 BONDS

1701.1 As part of their licensing requirements, certain businesses licensed by the DFHV shall provide bonds payable to the DC Treasurer to be conditioned on the licensee complying with all provisions of this title including, but not limited to, compliance with the Clean Hands Act and payment of any fines or judgments against the licensee by any court or administrative agency, including, but not limited to, the Office of Administrative Hearings for violations of this title.

1701.2 The amounts of the bonds applicable to the title are as follows:

Business	**Bond Amount**
Taximeter Business	$50,000
Digital Taxicab Solution Provider	$150,000
Dome Light Business	$50,000
Dispatch Service Provider	$50,000

CHAPTER 99 - DEFINITIONS

9900 APPLICATION AND SCOPE
9901 DEFINITIONS

9900 APPLICATION AND SCOPE

9900.1 [RESERVED]

9900.2 [RESERVED]

9901 DEFINITIONS

9901.1 For the purposes of this title, the following words and terms shall have the meanings ascribed:

"Accessible" -- shall mean "wheelchair accessible vehicle" as defined in this chapter.

"Accessible Vehicle Identification" (AVID") -- an operator's license that allows its bearer to operate a wheelchair accessible vehicle and any other type or class of public vehicle for-hire.

"Act" -- the District of Columbia Taxicab Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.01 *et seq*.

(2014 Repl. & 2017 Supp.).

"Active status" -- a status in which an operator or vehicle participates in providing service without a cessation of any nature or duration, or without an interruption of more than ten (10) calendar days.

"Administrative Procedure Act" ("APA") -- The District of Columbia Administrative Procedure Act, effective October 8, 1975, (D.C. Law 1-19; D.C. Official Code §§ 2-502 *et seq*. (2014 Repl. & 2017 Supp.)).

"Americans with Disabilities Act" ("ADA") -- the Americans with Disabilities Act of 1990 (104 Stat. 328; 42 USC §§ 12101 *et seq.*).

"Application" ("App") -- a piece of software designed to fulfill a particular purpose, which is downloadable by a user to a mobile device, such as a tablet or smartphone. For purposes of this title, unless otherwise stated, an app's purpose shall be assumed to be the digital dispatch of, or the digital dispatch and digital payment of, trips by vehicles for-hire.

"Approved digital taximeter" – the taximeter app component of any approved DTS, as defined in this chapter.

"Autonomous vehicle" – a vehicle in which operation occurs without direct operator input to control the steering, acceleration, and braking, and which is capable of monitoring road conditions and performing navigation for an entire trip without human conduction.

"Associated" -- voluntarily related through employment, contract, joint venture, agency or other legal affiliation. For the purposes of this chapter, an association not in writing shall be ineffective for compliance purposes.

"Autonomous vehicle" - a vehicle in which operation occurs without direct operator input to control the steering, acceleration, and braking, and which is capable of monitoring road conditions and performing navigation for an entire trip without human conduction.

"Black car" -- a public vehicle for-hire, that is no more than ten (10) model years of age at entry into service and no more than twelve (12) model years of age while in service, which operates exclusively through advance reservation made by a digital dispatch service, which may not solicit or accept street hails, and for which the fare is calculated by time and distance. The term "black car" in this title is synonymous with the term "sedan" as defined in the Establishment Act.

"***Bona fide* D.C. Office**" -- a public vehicle for-hire business office located in the District that has a valid Certificate of Occupancy for the business pursuant to DCRA rules and regulations.

"Booked trip" -- a trip that has been agreed to and accepted by the customer.

"Chairperson" -- the chairperson of the For-Hire Vehicle Advisory Council.

"Clean Hands Act" -- The Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118; D.C. Official Code § 47-2862 (2015 Repl. & 2017 Supp.)).

"CNG vehicle" -- an automobile powered exclusively by compressed natural gas.

"Co-op" -- the District of Columbia Taxicab Industry Co-op, as defined in this chapter.

"Complainant" -- a member of the public who submits a complaint against a person or entity regulated under this title.

"Compliance order" -- an order issued by the Department or a District enforcement official to any person regulated by this title or other applicable law, requiring the person to undertake or to refrain from an action for the purpose of achieving such person's compliance with a provision of this title or other applicable law.

"Compulsory/No Fault Motor Vehicle Insurance Act" -- the Compulsory/No Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2406 (2012 Repl. & 2017 Supp.)).

"Consumer Personal Information Security Breach Notification Act" -- the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237; D.C. Official Code §§ 28-3851 *et seq.* (2012 Repl.)).

"Consumer Service Fund" -- the Public Vehicle-for-Hire Consumer Service Fund as authorized by the Establishment Act, as defined in this chapter.

"Contract reservation" -- an advance booking for limousine service that includes the start time and the hourly rate. Reservation of a vehicle operated by a hotel, airline or other entity used exclusively to provide rides to its guests or employees and not available to the public, commonly known as a "house car" or "courtesy car," shall not be considered a

contract reservation.

"**Cooperate**" -- timely and fully answer the Department's questions and timely provide additional information and documentation required by the Department;

"Coordinated Alternative to Paratransit Services" -- a pilot program to provide paratransit service, including wheelchair accessible service, to eligible patients.

"Credit card processing device" – a component of a DTS unit that allows passengers to make payments using credit cards and other methods of non-cash payment in the manner required by the Act and other applicable laws.

"Day" -- a calendar day unless otherwise stated.

"DCRA" -- the District of Columbia Department of Consumer and Regulatory Affairs.

"Department of For-Hire Vehicles" ("Department") -- the Department of For-Hire Vehicles established under Section 5 of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301.04 (2014 Repl. & 2017 Supp**.)**

"DFHV operator's license" -- a license issued by the Department allowing its bearer to operate a taxicab, limousine, black car or silver vehicle.

"DFHV operator license identification card" ("DFHV ID card" or "Face Card") -- a licensing document (a card) stating that its bearer is licensed by the Department to operate one or more classes of public vehicle for-hire as stated on the document and issued pursuant to D.C. Official Code § 47-2829 (e) (2015 Repl. & 2017 Supp.).

"DFHV public vehicle for-hire license" -- a vehicle license issued pursuant to D.C. Official Code § 47-2829 (h) (2015 Repl. & 2017 Supp.).

"Digital dispatch" – hardware, software applications and networks, including mobile phone applications, used for the electronic booking of vehicle for-hire services.

"Digital dispatch service" (**"DDS"**) -- a dispatch service that provides digital dispatch for vehicles for-hire. The phrase "company that uses digital dispatch for public vehicle for-hire service", as used in the Establishment

Act, D.C. Official Code § 50-301.04, shall include only a digital dispatch service, and shall not include any other person regulated by this title in connection with the provision of a public vehicle for-hire service, such as a taxicab company.

"Digital payment" -- a non-cash payment processed by a digital dispatch service and not by the vehicle operator. A "cashless payment" is not considered a digital payment.

"Digital services" -- digital dispatch, or both digital dispatch and digital payment, for public vehicles for-hire.

"Digital taxicab solution" or "DTS" – a technology solution for the operation of taxicabs that consists at a minimum of a digital taximeter running on a driver console, as defined in this chapter, a passenger console, and a credit card processing device, as such terms are defined in this chapter, and any optional components that the DTS provider may choose to include.

"Director" -- the Director of the Department of For-Hire Vehicles.

"DISB" -- the District of Columbia Department of Insurance, Securities and Banking.

"Dispatch" -- a means of booking a vehicle for-hire through advance reservation.

"Dispatched public vehicle for-hire" – a public vehicle for-hire, including a rented or leased vehicle, or former taxicab, that is not a salvaged vehicle, that has a seating capacity of eight (8) or fewer passengers exclusive of the driver, and that is hired by digital dispatch, for which the fare is calculated by a digital dispatch service based on time and distance, and which is required to be operated pursuant to the requirements of Chapter 15.

"Dispatch service" -- an organization, including a corporation, partnership, or sole proprietorship, operating in the District that provides telephone or digital dispatch, as defined in this chapter, for vehicles for-hire.

"Dispatch or payment solution" -- any combination of technology, such as a tablet or smartphone running an app provided by a DDS, which, together, allows the DDS to provide taxicabs with digital dispatch or digital dispatch and digital payment.

"District" -- the District of Columbia.

"District enforcement official" -- a vehicle inspection officer or other authorized

employee of the Department, or any law enforcement officer authorized to enforce a provision of this title or other applicable law.

"District of Columbia Taxicab Industry Co-op" -- an industry-owned cooperative association which provides service and support for the use of the District of Columbia Universal Taxicab App, as defined in this chapter, and for other lawful purposes.

"District of Columbia Universal Taxicab App" ("DC TaxiApp") -- a software application which allows passengers to book available DFHV-licensed taxicabs by digital dispatch.

"DMV" – the District of Columbia Department of Motor Vehicles.

"Dome light" -- an instrument or device approved by the Department which is attached to the top of a DFHV-licensed taxicab to illuminate the assigned PVIN and display the vehicle's availability for hire.

"Dome light installation business"-- a business that engages, in whole or in part, in the manufacture, sale (whether of new or used equipment), installation, repair, or adjustment of dome lights for use on licensed taxicabs.

"Driver console" – a component of a DTS unit, as defined in this chapter, which: incorporates a digital meter and other DTS functions used by operators during taxicab rides; is safely-secured in the vehicle; and is accessible to District enforcement officials during traffic stops and compliance surveys.

"DTS unit" – an individual unit of a DTS, as defined in this chapter, that is installed in a vehicle.

"Dynamic street hail pricing" – a District-wide variable pricing structure for rides booked by street hail or telephone dispatch, which is established, maintained, and publicized by a DTS provider, as defined in this chapter

Ehail" – digital dispatch, as defined in this chapter. As used in this title, the terms "ehail" and "digital dispatch" are synonymous.

"EPA" -- the United States Environmental Protection Agency.

"Establishment Act" -- the District of Columbia Taxicab Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.01 *et seq*. (2014 Repl. & 2017 Supp.)).

"Evidence" - papers, notarized statements, photographs, and other things a party believes are helpful to a case.

"*Ex parte* communications" – direct or indirect communications about the merits or facts of a matter or impending matter which do not occur in the presence of all parties, and which do not include scheduling or other procedural matters unrelated to the merits or facts of a matter.

"Extended vehicle" – a vehicle which is the subject of an extension under Chapter 10.

"Freedom of Information Act" ("FOIA") -- The District of Columbia Freedom of Information Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.* (2016 Repl. & 2017 Supp.)).

"General distance rate" – the taximeter distance rate for all rides other than a shared ride in a vehicle with a legacy (non-digital) taximeter which has been reprogrammed for the special shared ride distance rate, as defined in this chapter.

"Gratuity" -- a voluntary payment by the passenger after service is rendered, in an amount determined solely by the passenger.

"Group ride" -- a taxicab trip for a group of two (2) or more passengers arranged by the passengers or otherwise as provided in an administrative issuance.

"Hack Inspector" -- a vehicle inspection officer as defined in this chapter.

"Hack-up" -- to outfit a vehicle as a taxicab and obtain approval from the Department for that vehicle to serve as a taxicab for the first time.

"Hearing examiner" – an attorney who hears and adjudicates cases at OHE.

"Implementation date" -- the date for implementation of one or more provisions of a chapter as stated in the chapter.

"Impoundment" -- seizure of a vehicle because of a violation of this title or other applicable law.

"**Impoundment Act" --** the District of Columbia Taxicab and Passenger Vehicle for Hire Impoundment And Removal Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code § 50-331 (2014 Repl. & 2017 Supp.)).

"Independent vehicle business" ("IVB") -- A District-based business which appears as co-owner and co-registrant of a vehicle owned by an individual who is not domiciled in the District, for the purpose of allowing the individual to register a public vehicle for-hire in the District pursuant to all applicable District laws and regulations.

"Independent taxicab" -- a taxicab operated by an individual who owns the vehicle or co-owns the vehicle with an IVB. An independent taxicab may be associated with a taxicab company or a taxicab association.

"Integration" -- a commercial arrangement between a digital taxicab solution and a digital dispatch service for the real-time sharing of electronic information between such businesses that complies with industry best practices and allows each of them to meet all obligations imposed by this title.

"Integration agreement" -- an agreement between a digital taxicab solution and a digital dispatch service to allocate the rights and obligations pertaining to integration under this title.

"In-vehicle payment" -- a payment made to the operator by the passenger inside the vehicle, consisting only of a cash payment or a cashless payment. A digital payment is not an in-vehicle payment.

"Legacy dome light" – the patented and licensed dome light required for use on all taxicabs as of September 12, 2016.

"Legacy dome light regulations" – the regulations applicable to the legacy dome light, appearing in § 605.1 and in effect on September 12, 2016.

"License" -- includes the whole or part of any permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission granted by the Mayor or any agency (as defined in the Administrative Procedure Act, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code § 2-502 (2016 Repl. & 2017 Supp.)).

"Licensing document" -- a physical or electronic document issued to a person as evidence that such person is the holder of a license issued pursuant to this title, such as a DFHV operator's license (face card).

"Limousine" -- a public vehicle for-hire, that is no more than ten (10) model years of age at entry into service and no more than twelve (12) model years of age while in service, which operates exclusively through advance reservation, may not solicit or accept street hails, and for which the fare is

calculated by time.

"Loitering" -- waiting around or in front of a hotel, theater, public building, or place of public gathering or in the vicinity of a taxicab or limousine stand that is occupied to full capacity; stopping in such locations, except to take on or discharge a passenger; or unnecessarily slow driving in front of a hotel, theater, public building, or place of public gathering or in the vicinity of a taxicab or limousine stand that is occupied to full capacity for fifteen (15) minutes or longer, provided, however, that the Department may extend the time by an administrative issuance.

"LCS Organization" – A person, partnership, or corporation engaging in the business of owning and operating at least two (2) luxury class service vehicles.

"Manifest" -- a daily log of all trips, or of a particular trip through digital dispatch, by the vehicle in either an electronic, written, or other form as approved by the Department**.**

"Matter" - a contested case, as defined in the Administrative Procedures Act.

"Member" -- a member of the For-Hire Advisory Vehicle Council or his or her designated agent.

"MetroAccess Card" -- an identification card issued by WMATA to passengers who participate in its MetroAccess program.

"Modern taximeter system" (**"MTS"**) -- the technology solution that was the predecessor to digital taxicab solutions (DTS). MTSs may no longer be used under this Title.

"MTS unit" -- a single MTS unit as defined in this chapter.

"Multi-State Area" (**"MSA")** -- the geographic area comprised of the District of Columbia, the State of Maryland, and the Commonwealth of Virginia.

"New vehicle" – any vehicle owned by its manufacturer, or a dealer holding a valid franchise for the sale of such vehicle, or a bank or a finance company and which has never before been titled or registered in this or any other jurisdiction, except the kind of title issued only to dealers, provided however that:

(a) A vehicle may also be classified as a "new" vehicle when titled for the first time in the District by any person applying for a certificate

of title who produces a manufacturer's statement of origin or other evidence of ownership in the form required by the laws of the jurisdiction in which the vehicle was purchased, and which vehicle has never before been titled or registered in any jurisdiction, and

(b) The model year of the vehicle cannot be more than one (1) year earlier than the current calendar year.

"Open Meetings Act" -- the Open Meetings Amendment Act of 2010, effective March 31, 2011 (D.C. Law 18–350; D.C. Official Code §§ 2-571 *et seq.* (2016 Repl. & 2017 Supp.)).

"Operator" -- a person who operates a public vehicle for-hire.

"Option for payment technology" and "OPT" - a payment processing service that meets the technical requirements of DFHV, including the reporting of trip data and the collection of passenger surcharges, the ability to work with one or more approved digital taximeters, with which it is integrated at its own expense, and that processes payments at a total cost at or below two and seventy-five one hundredths percent (2.75%) per swipe.

"Owner" -- A person, individual, partnership, company, association, or corporation that holds legal title to a public vehicle for-hire which is licensed by the Department or the registration of which is required in the District of Columbia to own and operate a taxicab or taxicabs. The term may also include a lessee, a trustee, or a receiver appointed by a court, operating, controlling, managing, or renting a passenger vehicle for-hire in the District of Columbia except as to operations licensed under D.C. Official Code § 47-2829(d) (2015 Repl. & 2017 Supp.).

"Passenger console" – a component of a DTS unit, as defined in this chapter, which provides passengers with: the operator's license number; the vehicle's navigational path; applicable rates and charges (including if the provider uses dynamic street hail pricing: a disclosure of its current discount, if any, which shall be the same as the disclosure that appears on the DTS provider's website); advertising; any audiovisual content required by the Department; a statement about payment and receipt options.

"Passenger surcharge" -- a per-trip fee currently set at twenty-five cents ($.25) per trip, required to be assessed to and collected from passengers and remitted to the District for each trip in a taxicab.

"Payment card" -- a credit or debit card, including Visa, MasterCard, American Express, and Discover.

"Payment card on file" -- a payment card, direct debit, or prepaid account that allows a person to process a payment without requiring the person authorizing the payment to present the original payment information.

"Payment service provider" (**"PSP"**) – the predecessor entities to digital taxicab solution (DTS) providers. Effective January 1, 2018, PSPs may no longer operate or process payments in DFHV-licensed taxicabs.

"PCI Compliant" – Adherence to set of policies and procedures developed by the PCI Security Standards Council to protect credit, debit and cash card transactions and prevent the misuse of cardholders' personal information.

"Person" -- shall have the meaning ascribed to it in the District of Columbia Administrative Procedure Act, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code § 2-502 (2016 Repl. & 2017 Supp.)) and shall specifically include a firm, company, institution, receiver, or trustee, and, is further defined as including, any individual, company, business, association or entity regulated by this title, any individual or entity that engages in an activity regulated by this title which requires Department of For-Hire Vehicle licensure or authorization to operate but has not obtained such appropriate license or authorization, or any individual or entity whose Department of For-Hire Vehicle license or authorization has lapsed, been suspended, or been revoked.

"Personal service" -- in the context of the provision of taxicab service to a passenger, assistance or service requested by a passenger that requires the taxicab operator to leave the vicinity of the taxicab.

"Prearranged ride" -- A period of time that begins when a private sedan operator accepts a requested ride through digital dispatch (an app), continues while the operator transports the passenger in the operator's private sedan, and ends when the passenger departs from the private sedan.

"Preponderance of the evidence" - evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, sufficient evidence to convince the hearing examiner that something is more likely to have occurred than to not have occurred.

"Private sedan" -- a private vehicle for-hire that shall:

(a) Have a manufacturer's rated seating capacity of eight (8) or fewer,

including the private vehicle for-hire operator;

(b) Have at least four (4) doors and meet applicable federal motor vehicle safety standards for vehicles of its size, type, and propose use;

(c) Be no more than ten (10) model years of age at entry into service and no more than twelve (12) model years of age while in service; and

(d) Not be registered as, nor bear the license plate designation of a vehicle for hire from any state, subdivision, or locality.

The term "private sedan" in this title is synonymous with the term "private vehicle for-hire", as defined in the Establishment Act.

"**Private sedan business" --** an organization, including a corporation, partnership, or sole proprietorship, operating in the District, that uses digital dispatch to connect passengers to a network of operators of private sedans, as defined in this chapter.

"Private sedan operator" -- an individual who operates a personal motor vehicle to provide private sedan service, as defined in this chapter, in association with a private sedan business, as defined in this chapter.

"Private sedan service" -- a class of transportation service by which a network of private sedan operators, as defined in this chapter, registered with a private sedan business, as defined in this chapter, provides vehicle for-hire service through a digital dispatch service, as defined in this chapter.

"Proceeding" - the entire adjudication process, from the issuance of a notice of hearing through the issuance of a decision, including the disposition of any motion for reconsideration.

"Provisional operator's license" – a DFHV operator's license issued to an operator of a public vehicle for-hire which, following its issuance, may be subject to additional requirements or conditions, including the completion of a background check by the Federal Bureau of Investigation, prior to full licensing consistent with the requirements of this title and other applicable laws.

"Public vehicle for-hire" -- classes of for-hire transportation which exclusively use operators and vehicles licensed by the Department pursuant to D.C. Official Code § 47-2829 that has a manufacturer's rated seating capacity

of fewer than ten (10) people and includes: taxicabs, black cars, and limousines vehicles.

"Public vehicle for-hire business" -- a business that provides one or more classes of public vehicle for-hire service.

"Public vehicle for-hire identification number" ("PVIN") -- a unique number assigned by the Department to a public vehicle for-hire.

"Rate of fare" -- the established fare which may be charged by a licensed taxicab other than for trips booked through digital dispatch, which fare has been promulgated by the Department and may include, but is not limited to, surcharges and waiting times.

"Respondent" -- a person against whom an enforcement action is taken, a public complaint is made, or an order of investigation or order to show cause is directed.

"Revocation" -- the recall or annulment of a privilege or authority granted by the Department.

"rollDC" -- the Metropolitan Washington Council of Government's Wheelchair Accessible Taxicab program.

"Seal" -- a device installed on a taximeter, wire, wiring mechanism, gear or other device, so that no adjustment, repair, alteration or replacement can be made without removing or mutilating the device.

"Sedan" -- a black car as defined in this chapter and in the Establishment Act. The terms "sedan" and "black car" are synonymous in this title.

"Semi-autonomous vehicle" – a vehicle which has automation of at least two primary control functions designed to work in unison to relieve the operator of control of these functions, such as adaptive cruise control with lane centering.

"Senior hearing examiner" – a hearing examiner, as defined in this chapter, who also performs administrative duties for OHE as allowed or required by OHE rules and by other applicable laws and regulations.

"Service animal" – An animal that accompanies a passenger with a disability that is trained to assist or perform tasks for him or her, consistent with the Americans with Disabilities Act and its implementing regulations.

"Shared ride" -- a taxicab trip for a group of two (2) or more passengers arranged by a starter or otherwise as provided in an administrative issuance.

"Smoking Restriction Act" -- the District of Columbia Smoking Restriction Act of 1979, effective September 28, 1979 (D.C. Law 3-22; D.C. Official Code § 7-1703(5) (2012 Repl.)).

"Special shared ride distance rate" – the taximeter distance rate for a shared ride in a vehicle with a legacy (non-digital) taximeter which has been reprogrammed for this rate.

"Surcharge account" – an account established and maintained with the District for the purpose of processing the passenger surcharge.

"Suspension" -- a temporary bar of a person from the privilege or authority conferred by the Department for a period of time after which period the privilege or authority is automatically re-instated or the person must request re-instatement.

"Taxicab" -- a public vehicle for-hire which is hired by dispatch or by street hail, and for which the fare complies with Chapter 12

"Taxicab Association" -- a group of taxicab owners organized for the purpose of engaging in the business of taxicab transportation for common benefits regarding operation, name, logo or insignia. For the purposes of this title, an association not in writing shall be ineffective for compliance purposes.

"Taxicab database management system" "(TDMS)" -- the information system operated by the Department.

"Taximeter" -- an instrument or device approved by the Department that automatically calculates and displays a passenger's fare while the passenger is being transported.

"Taximeter business" -- a business which engages, in the manufacture, sale (new or used equipment), installation, repair, adjustment, testing, sealing, or calibrating of taximeters, to be used in a taxicab licensed in the District of Columbia.

"Taximeter business owner" -- an individual, partnership or corporation licensed by the Department to own and operate a taximeter business.

"Taximeter fare" -- the taxicab fares established by Chapter 12 which shall be

used for all taxicab trips booked by street hail, telephone dispatch or by Digital Dispatch Services.

"Telephone dispatch" -- a traditional means for dispatching a vehicle for-hire, originating with a telephone call by the passenger. The term "telephone dispatch" in this title is synonymous with the term "dispatch" as defined in the Establishment Act.

"Telephone dispatch company" -- a taxicab company which provides telephone dispatch for taxicabs.

"Tour of duty" -- the period of time when an operator is signed into a digital taxicab solution.

"Trade dress" -- a logo, insignia, or emblem established by a private sedan business for display on its associated vehicles while providing service.

"Transport DC" -- a program, formerly known as CAPS-DC that provides paratransit service, including wheelchair accessible service, to eligible passengers.

"Transport DC debit card" -- a payment card issued by the District to MetroAccess participants who have consented to participate in Transport DC.

"Transport DC MOU" -- the memorandum of understanding between WMATA and the District, executed on June 23, 2014, and any amendments, modifications, or innovations thereof, providing general terms, conditions, and requirements for WMATA's and the District's participation in the Transport DC Pilot Program.

"Transport DC trip" -- a one-way trip to or from an eligible Transport DC location as established in this title.

"Trip" -- a trip provided by a public vehicle for-hire licensed by the Department to one (1) or more passengers at the same time for which a fare is or should have been collected.

"Uniform resource locator" - a protocol for specifying addresses on the Internet.

"URL" – a uniform resource locator, as defined in this chapter.

"Vehicle for-hire" -- a public vehicle for-hire or a private sedan, as defined in this chapter.

"Vehicle inspection officer" -- a Department employee trained in the laws, rules, and regulations governing vehicle for-hire service to ensure the proper provision of service and to support safety through street enforcement efforts, including traffic stops of vehicles for-hire, pursuant to this title, the Establishment Act, and other applicable laws.

"Washington Metropolitan Area" -- the area encompassed by the District; Montgomery County, Prince Georges County, and Frederick County in Maryland; Arlington County, Fairfax County, Loudon County, and Prince William County and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia.

"Washington Metropolitan Area Transit Authority" ("WMATA") -- the regional transportation agency created by interstate compact to serve the Washington Metropolitan Area.

"Wheelchair accessible vehicle" ("WAV") -- a vehicle compliant with the Americans with Disabilities Act and its implementing regulations, including 49 CFR part 38.1-38.39, which accommodates a passenger using a wheelchair or other personal mobility device who needs a ramp or lift to enter or exit the vehicle.

"Wheelchair securement system" -- a system which meets the requirements of 49 CFR part 38, § 38.23(d), to safely secure a wheelchair in a wheelchair accessible vehicle.

"Wheelchair service" -- service provided by a wheelchair accessible vehicle.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dfhv@dc.gov or by mail to the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020, no later than forty-five (45) days after the publication of this notice in the *D.C. Register*.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Sections 6 and 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.05 & 7-1671.13 (2012 Repl. & 2018 Supp.)), and Mayor's Order 2011-71, dated April 13, 2011, hereby gives notice of her intent to adopt the following amendments to Section 5608 (Ingestible Items) of Chapter 56 (General Operating Requirements) of Subtitle C (Medical Marijuana) of Title 22 (Health) of District of Columbia Municipal Regulations (DCMR)

The purpose of this proposed rulemaking is to amend the current regulations for ingestible items to implement requirements for the production and sale of chocolate medical marijuana-infused product cultivated and sold in the District's Medical Marijuana Program.

The Director gives notice of the intent to finalize these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, and upon Council's approval of the rulemaking by resolution. If the Council does not disapprove of the rulemaking during the thirty (30) day period of review, the rulemaking shall be deemed approved.

Chapter 56, GENERAL OPERATING REQUIREMENTS, of Title 22-C, MEDICAL MARIJUANA, is amended as follows:

Section 5608, INGESTIBLE ITEMS, is amended as follows:

Subsection 5608.1 is amended to read as follows:

5608.1 A cultivation center engaged in the production of any medical marijuana or of any product containing medical marijuana distributed by a dispensary in an edible form, or other form which is intended to enter the body of a patient, shall:

(a) Prepare the product at a cultivation center facility that meets all requirements of a retail food establishment, including any Department licensing and certification requirements;

(b) Comply with all District of Columbia health regulations relating to the production, preparation, and sale of prepared food items in accordance with Title 25 DCMR, Subtitle A (Food and Food Operations); and

(c) Submit a Hazard Analysis and Critical Control Points (HACCP) plan to the Department for each food product it will produce, and receive written approval of the HACCP plan or written approval from the Department that a HACCP plan is not necessary before producing any ingestible products.

Subsection 5608.5 is amended to read as follows:

5608.5 A cultivation center shall not process or transfer a marijuana item:

(a) That by its shape, design or flavor is likely to appeal to minors, including but not limited to:

(1) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or

(2) Products in the shape of an animal, vehicle, person or character;

(b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items;

(c) That contains dimethyl sulfoxide (DMSO); or

(d) That contains more than 10mg of THC per serving.

A new Subsection 5608.6 is added to read as follows:

5608.6 Chocolate marijuana-infused products shall comply with the following requirements:

(a) Each serving size piece shall be individually wrapped;

(b) Each serving size piece shall be affixed with a stamp or the imprinted letters "THC;"

(c) Each serving size piece shall contain a maximum of 10 mg of THC; and

(d) The packaging and labeling of the product shall be in only black and white.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN RESOURCES

NOTICE OF PROPOSED RULEMAKING

The Director of the D.C. Department of Human Resources (DCHR), with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-604.04(a), 1-612.01, 1-616.51, and 1-613.51 through 1-613.53 (2016 Repl.)), hereby gives notice of the intent to adopt the following rules amending Chapter 12 (Hours of Work, Legal Holidays, and Leave), Chapter 14 (Performance Management), and Chapter 16 (Corrective and Adverse Actions; Enforced Leave; and Grievances), of Subtitle B (Government Personnel) of Title 6 (Personnel), of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the publication of this notice in the *D.C. Register*.

The proposed rules would amend three chapters of Title 6-B DCMR. Specifically, the proposed rules would amend Subsection 1210.5 of Chapter 12 to incorporate language to allow a personnel authority to increase the maximum hours allowable under a compressed work schedule to more readily accommodate the operational needs of an agency, such as the Office of Unified Communications. Chapter 14 would be amended by: (i) removing the deadline for establishing a performance improvement plan (PIP) (currently June 30th); (ii) clarifying that a supervisor must make a determination as to whether an employee has met the requirements of the PIP within ten (10) business days (as opposed to calendar days) following the "end" of the PIP period (Section 1410); (iii) adding language that a written determination may serve as notice of proposed reassignment, reduction in grade or removal and be provided to the employee in accordance with Chapter 16, or that an agency may choose to issue a separate notice for these actions in accordance with the process contained in Chapter 16; (iv) adding references to Chapter 36 (Legal Service), concerning performance-related rules for Legal Services employees, where applicable; and (v) adding definitions for the terms "Days," "Intermittent appointment," and "Paper review" (Section 1499). Additionally, DCHR is proposing amendments to Chapter 16, which make clear that negotiated grievance procedures within a collective bargaining agreement supersede the grievance provisions of Chapter 16, consistent with D.C. Official Code § 1-616.52.

Chapter 12, HOURS OF WORK, LEGAL HOLIDAYS, AND LEAVE, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

Subsection 1210.5 of Section 1210, COMPRESSED WORK SCHEDULE, is amended to read as follows:

1210.5 Unless otherwise approved by the personnel authority, the established work schedule of an employee under a compressed work schedule program may not exceed ten (10) hours for any workday.

Chapter 14, PERFORMANCE MANAGEMENT, is amended as follows:

Section 1400, APPLICABILITY, is amended to read as follows:

1400 APPLICABILITY

1400.1 The provisions of this chapter apply to the following:

(a) Employees in the Career Service under the authority of Section 801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01);

(b) Employees in the Educational Service in the Office of the State Superintendent of Education under the authority of Section 801a of the CMPA (D.C. Official Code § 1-608.01a);

(c) Uniformed members of the Metropolitan Police Department at the ranks of Lieutenant, Captain, Inspector, Commander, and Assistant Chief; and uniformed members of the Fire and Emergency Medical Services Department in the positions of Deputy Fire Chief, Battalion Fire Chief, Assistant Fire Chief (Operations), and Assistant Fire Chief (Services);

(d) Employees in the Excepted Service appointed under the authority of Section 903 of the CMPA (D.C. Official Code § 1-609.03);

(e) Employees in the Excepted Service appointed as Capital City Fellows, as specified in Section 1419; and

(f) Employees in the Management Supervisory Service appointed under the authority of Sections 951 through 958 of the CMPA (D.C. Official Code §§ 1-609.51 through 1-609.58), except for the provisions of section 1414.

1400.2 Performance provisions contained in Chapter 36 apply to employees in the Legal Service appointed under the authority of Sections 851 through 862 of the CMPA (D.C. Official Code §§ 1-608.51 through 1-608.62). Performance Plans for supervisors and non-supervisory attorneys, as described in Sections 3606 and 3607 of Chapter 36 of these regulations, shall be prepared in accordance with Sections 1406, 1407, 1408, and 1409 of this chapter.

Section 1401, EXCLUSIONS, is amended as follows:

Subsection 1401.1 is amended to read as follows:

1401.1 The provisions of this chapter shall not apply to the following employees:

(a) Uniformed members of the MPD at the ranks of Officer, Master Patrol Officer, Detective, Investigator, and Sergeant, who shall continue to be covered under the performance evaluation system in effect as of the effective date of these regulations;

(b) Uniformed members of the FEMSD in positions other than those listed in Subsection 1400.1(c);

(c) Intermittent appointments in the Career Service, also known as "When-Actually-Employed" (WAE) appointments, under the authority of Section 801 of the CMPA (D.C. Official Code § 1-608.01) and Chapter 8 of Title 6-B of the District of Columbia Municipal Regulations.

Section 1410, PERFORMANCE IMPROVEMENT PLAN, is amended to read as follows:

1410 PERFORMANCE IMPROVEMENT PLAN

1410.1 This section shall not apply to probationary employees in the Career Service.

1410.2 A Performance Improvement Plan (PIP) is designed to facilitate constructive discussion between an employee and his or her immediate supervisor to clarify areas of work performance that must be improved. Once the areas for improvement have been identified, the PIP provides the employee the opportunity to demonstrate improvement in those areas and his or her ability to meet the specified performance expectations.

1410.3 A PIP issued to an employee shall last for a period of thirty (30) to ninety (90) days and must:

(a) Identify the specific performance areas that require improvement; and

(b) Provide concrete, measurable action steps the employee can take to improve in those areas.

1410.4 An employee's immediate supervisor or, in the absence of the employee's immediate supervisor, the reviewer, as the term is defined in Section 1499, shall complete a PIP when the employee's performance has been observed by the immediate supervisor as requiring improvement.

1410.5 Within ten (10) business days after the end of the PIP period, the employee's immediate supervisor or, in the absence of the employee's immediate supervisor, the reviewer, shall issue a written decision to the employee as to whether the employee has met or failed to meet the requirements of the PIP.

1410.6 If the employee fails to meet the requirements of the PIP, the written decision shall state the reason(s) the employee was unsuccessful in meeting those requirements and:

(a) Extend the PIP for an additional period, in accordance with Subsection 1410.8; or

(b) Reassign, reduce in grade, or remove the employee.

1410.7 The written decision may serve as a notice of proposed reassignment, reduction in grade, or removal and be provided to the employee when the decision complies with the provisions of Chapter 16. Alternatively, the agency may issue a written decision and subsequently issue a separate notice of proposed reassignment, reduction in grade or removal.

1410.8 If a PIP is extended pursuant to Subsection 1410.6(a), the additional period shall begin on the date provided in the written decision. However, no employee shall be subject to a PIP for more than ninety (90) days inclusive of any extension(s). For the purposes of this subsection, the ninety (90)-day time limit excludes:

(a) The time between the end of a PIP period and the issuance of a written decision to extend that PIP; and

(b) The time period between the issuance of a written decision and the start of an extension of a PIP.

1410.9 Within ten (10) business days after the end of any additional period of time provided to further observe the employee's performance, the employee's immediate supervisor or, in the absence of that individual, the reviewer, shall issue a written decision to the employee as to whether the employee has met the requirements of the PIP.

1410.10 If the employee fails to meet the requirements of the PIP after the additional period of time provided, the written decision shall reassign, reduce in grade, or remove the employee.

1410.11 Whenever an immediate supervisor or, in the absence of the immediate supervisor, a reviewer, fails to issue a written decision within the specified time period as provided in Subsections 1410.5 or 1410.9, the employee shall be deemed to have met the requirements of the PIP.

1410.12 Whenever an employee fails to meet the requirements of a PIP and it results in a reassignment, reduction in grade, or termination action as specified in Subsection 1410.6(b) or 1410.10, the action taken against a Career Service employee or an Educational Service employee in the Office of the State Superintendent of Education shall comply with Chapter 16.

1410.13 Any reduction in grade or termination action as specified in Subsection 1410.6(b) taken against a Legal Service employee who is not "at-will" shall be taken pursuant to Chapter 36.

1410.14 The Chief of Police may elect not to use a Performance Improvement Plan for officials above the rank of Captain.

Section 1415, EMPLOYEE REQUEST FOR REVIEW, is amended to read as follows:

1415.1 This section shall not apply to probationary employees in the Career Service.

1415.2 Employees' requests for review of performance ratings shall be handled at the hiring agency level by the person(s) or entity designated by the agency head to handle such matters. Subordinate agencies must establish an internal Reconsideration and Resolution Committee (RRC) to formally review overall performance ratings of *Inadequate Performer* (Level 1) and *Marginal Performer* (Level 2) when an employee requests a review. The RRC shall also conduct a paper review, as defined in Section 1499 of this chapter, of overall ratings of *Valued Performer* (Level 3), and *Highly Effective Performer* (Level 4) when an employee requests a review. The paper review excludes the hearing of testimony.

1415.3 The D.C. Department of Human Resources (DCHR) will serve in an impartial advisory capacity in the administration and disposition of performance rating review cases in subordinate agencies.

1415.4 An employee may, within ten (10) business days after participating in a performance rating year-end discussion with his or her immediate supervisor and receipt of an official rating, request a review of the rating by submitting the request for review to the subordinate agency head (or designee).

1415.5 An employee's request for review of an official annual performance rating shall be in writing, and shall be submitted in accordance with procedures issued by the appropriate personnel authority.

1415.6 Pursuant to D.C. Official Code § 1-606.03(a), an employee may appeal a final agency decision regarding a performance rating that results in removal of the employee with the Office of Employee Appeals within thirty (30) calendar days.

1415.7 Upon receipt of a request for review, the subordinate agency head (or designee) shall take either of the following actions:

(a) Dismiss the employee's request for review on technical grounds (*i.e.*, procedural or regulatory violation) and sustain the performance rating; or

(b) Accept the employee's request for review, and refer the request to the agency's RRC for review and disposition.

1415.8 Independent personnel authorities may establish a review process for their employees.

1415.9 The provisions of Subsection 1415.6 of this section shall not apply to any performance rating that results in the removal of a Legal Service employee as

described in Subsection 1400.2 of this chapter. The right of appeal of such an employee shall be governed by Chapter 36 of these regulations.

1415.10 Rating appeal rights of Metropolitan Police Department employees shall be in accordance with procedures established by the agency.

Section 1499, DEFINITIONS, Subsection 1499.1, is amended by adding definitions to the following new terms:

Days – calendar days for all periods of more than ten (10) days; otherwise, business days for periods of ten (10) days or less (unless explicitly stated as calendar days).

Intermittent appointment – temporary appointment under which the employee serves on an intermittent basis that is non-full-time and without a prescheduled regular tour of duty. This type of temporary appointment is also referred to as when-actually-employed (WAE) appointment.

Paper review – a review of relevant performance-related documentation (from employee or manager) by the agency Reconsideration and Resolution Committee (RRC) for the purpose of making a decision to retain or increase an employee's performance rating. A paper review involves the review and consideration of submitted written documentation but excludes hearing testimony from witnesses.

Chapter 16, CORRECTIVE AND ADVERSE ACTIONS; ENFORCED LEAVE; AND GRIEVANCES, is amended as follows:

Section 1625, APPEAL RIGHTS, is amended to read as follows:

1625.1 An employee who disputes a final agency reprimand or a final agency corrective, adverse, or enforced leave action under this chapter may seek one (1) of the following remedies:

(a) For enforced leave actions of less than ten (10) days and for corrective actions, the employee may elect to pursue a grievance within ten (10) days after the issuance date of the final agency action;

(b) For enforced leave actions of ten (10) or more days and adverse actions, the employee may elect to appeal the final agency action to the Office of Employee Appeals (OEA) no more than thirty (30) days after the effective date of the final agency decision; and

(c) For any other agency actions under this chapter, the employee may elect to pursue a grievance no more than forty-five (45) business days after the date of the alleged violation or final action, whichever is later.

1625.2 Notwithstanding Subsection 1625.1, a system of grievance resolution negotiated between the District and a labor organization shall take precedence over the procedures of this chapter for employees in a bargaining unit represented by the labor organization.

1625.3 Neither a grievance nor an appeal to OEA shall delay implementation of a final agency action under this chapter.

Section 1628, FILING A GRIEVANCE; TIME LIMITS, is amended to read as follows:

1628.1 All grievances shall be made using a grievance form provided by the Director of the District of Columbia Department of Human Resources (DCHR). DCHR shall maintain the grievance form on its internet website.

1628.2 Each grievance shall include the following:

(a) The name, e-mail address, and phone number of the applicant or employee seeking the relief;

(b) For employees, the name, e-mail address, phone number, and agency of his or her immediate supervisor;

(c) The name of the agency at issue;

(d) A concise written statement of facts, including dates, that establishes the alleged violation;

(e) A written statement as to the applicant or employee's injury; and

(f) The relief sought by the applicant or employee.

1628.3 For purposes of this chapter, grievance official means:

(a) For applicants seeking employment in agencies under the authority of the Mayor, the Director of DCHR, or his or her designee;

(b) For applicants seeking employment in a District government agency independent of the Mayor's personnel authority, the personnel authority for the independent agency, or his or her designee; and

(c) For employees, the employee's supervisor who has the authority to resolve the grievance and for whom there is no conflict of interest (typically the immediate supervisor or the immediate supervisor's immediate superior).

1628.4 Grievances of corrective actions and of enforced leave actions of less than ten (10) days shall be filed with the appropriate grievance official within ten (10) days of the issue date of the final decision.

1628.5 All other grievances shall be filed with the appropriate grievance official no more than forty-five (45) business days from the date of the alleged violation or the final action, whichever is later.

1628.6 Grievances may be filed with the grievance official by one of the following means:

(a) By mail to the official's principal business address;

(b) By e-mail to the grievance official; or

(c) By hand delivery to the grievance official's principal business address.

Subsection 1634.1 of Section 1634, GRIEVANCES UNDER COLLECTIVE BARGAINING AGREEMENTS, is amended to read as follows:

1634.1 Notwithstanding any other provision in this chapter, a negotiated grievance procedure established within a collective bargaining agreement shall supersede and replace the grievance procedures established in this chapter.

Comments on these proposed regulations should be submitted, in writing, within thirty (30) days of the date of the publication of this notice to the D.C. Department of Human Resources, Policy and Compliance Administration. Comments may be submitted by mail to 1015 Half Street, S.E., 8th Floor, Washington, D.C. 20003, or by e-mail to dchr.policy@dc.gov.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) and § 34-2202.16 (2012 Repl. & 2017 Supp.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)); and in accordance with Chapter 40 (Retail Ratemaking) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR), hereby gives notice that at its regularly scheduled meeting on November 1, 2018, the Board adopted Resolution #18-73 to propose the amendment to Section 4101 (Rates and Charges for Sewer Service) of Chapter 41 (Retail Water and Sewer Rates and Charges), of Title 21 (Water and Sanitation) DCMR.

The purpose of this rulemaking is to amend the retail sanitary sewer service rate for discharges of groundwater from unimproved real properties, properties under construction and properties under groundwater remediation. The retail sanitary sewer service rate for discharges of cooling water and non-potable water sources remain the same as the prevailing retail sanitary sewer service rate provided in Subsection 4101.1(a).

The Board will also receive comments on this proposed rulemaking at a public hearing at a later date. The Notice of Public Hearing will be published in a subsequent edition of the *D.C. Register*. 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*.

This proposed rulemaking, if finalized, would be effective October 1, 2019.

Chapter 41, RETAIL WATER AND SEWER RATES AND CHARGES, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 4101, RATES AND CHARGES FOR SEWER SERVICE, Subsection 4101.2, is amended as follows:

4101.2 The retail rates for sanitary sewer service for the discharge of groundwater, cooling water, and non-potable water sources shall be:

(a) The retail groundwater sewer charge for an unimproved real property, property under construction or under groundwater remediation shall be two dollars and eighty-three cents ($2.83) per Ccf ($3.78 per 1,000 gallons) for groundwater discharged into the District's wastewater sewer system.

(b) The retail cooling water sewer charge shall be the retail sanitary sewer service rate as provided in section 4101.1(a) for cooling water discharged into the District's wastewater sewer system.

(c) The retail non-potable water source sewer charge shall be the retail sanitary sewer service rate as provided in section 4101.1 (a) for non-potable water discharged into the District's wastewater sewer system.

Comments on these proposed rules should be submitted in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Linda R. Manley, Secretary to the Board, District of Columbia Water and Sewer Authority, 5000 Overlook Ave., S.W., Washington, D.C. 20032, by email to Lmanley@dcwater.com, or by FAX at (202) 787-2795. Copies of these proposed rules may be obtained from DC Water at the same address or by contacting Ms. Manley at (202) 787-2332.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF SECOND EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) (2012 Repl. & 2017 Supp.), and delegated in Mayor's Order 2001-96, dated June 28, 2001, hereby gives notice of the adoption of emergency rules to amend Chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking amends 23 DCMR § 718.2 and § 718.3 by increasing the percentage of distribution of subsidies paid by the Alcoholic Beverage Regulation Administration (ABRA) to the Metropolitan Police Department (MPD) from sixty percent (60%) to sixty-five percent (65%) when covering the costs incurred by Alcoholic Beverage Control (ABC) licensees participating in the District of Columbia's MPD Reimbursable Detail Subsidy Program ("RDO Program" or "Program").

By way of background, the RDO Program assists licensed establishments by defraying the costs of retaining off-duty MPD officers to patrol the surrounding area of an establishment or an outdoor special event or pub crawl event for the purposes of ensuring the peace, order, and quiet of the community, including the remediation of traffic congestion and promoting public safety. The Board regularly revises the reimbursable detail coverage percentage on an as-needed basis. Most recently, the ABC Board reduced the reimbursable distribution percentage from seventy percent (70%) to sixty percent (60%) based on then-existing Fiscal Year 2017 funding levels and the potential increase in demand by pub crawl event promoters who are now able to request RDO officers for their events. *See MPD Reimbursable Detail Subsidy Program Notice of Final Rulemaking*, at 65 DCR 4647 (April 27, 2018).

On June 6, 2018, the Board adopted the *MPD Reimbursable Detail Subsidy Program Notice of Emergency and Proposed Rulemaking* (Notice of Emergency and Proposed Rulemaking), by a vote of seven (7) to zero (0). The Notice of Emergency and Proposed Rulemaking increases the reimbursable percentage from sixty percent (60%) to sixty-five percent (65%). The Board's decision to seek an increase of the reimbursement percentage was based on the following: (1) the existence of sufficient funds in ABRA's Fiscal Year 2018 and 2019 budgets; (2) the increase in the number of persons patronizing ABC-licensed establishments during the summer; and (3) the Council of the District of Columbia's adoption of extended hours for the World Cup Tournament and the 2018 All-Star Game. Although the summer as well as the end of the World Cup Tournament and 2018 All-Star Game has come and gone, the existence of sufficient funds in ABRA's Fiscal Year 2019 still support the Board's decision to seek to amend 23 DCMR § 718.2 and 718.3 by increasing the reimbursable percentage.

The Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on August 31, 2018, at 65 DCR 9070 for notice and comment by the public. The thirty (30)-day comment period ended on September 30, 2018. After any changes that need to be made in

response to comments that the Board receives, the rules will be submitted to the Council for the statutory ninety (90)-day review period. The emergency rules are set to expire on October 4, 2018, which is before the conclusion of the Council's review period. In order to ensure that there is not any disruption or reduction in the reimbursable percentage, and in order to preserve the health, safety, and welfare of District of Columbia residents, particularly those residing in areas in which there is a large concentration of ABC-licensed establishments, the Board finds that emergency action is warranted pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, effective October 2, 1968 (82 Stat. 1026; D.C. Official Code § 2-505(c)(2016 Repl.)).

These emergency rules were adopted by the Board on September 26, 2018, by a vote of seven (7) to zero (0), to take effect on July 1, 2018. The emergency rules will remain in effect for up to one hundred twenty (120) days from adoption, expiring January 24, 2019, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 718, REIMBURSABLE DETAIL SUBSIDY PROGRAM, is amended by replacing Subsections 718.2 and 718.3 to read as follows, and renumbering the following subsections:

718.2 ABRA will reimburse MPD sixty-five percent (65%) of the total cost of invoices submitted by MPD to cover the costs incurred by licensees for MPD officers working reimbursable details on Sunday through Saturday nights. The hours eligible for reimbursement for on-premises retailer licensees shall be 11:30 p.m. to 5:00 a.m. ABRA will also reimburse MPD sixty-five percent (65%) of the total costs of invoices submitted by MPD to cover the costs incurred for pub crawl events and for outdoor special events where the Licensee has been approved for a One Day Substantial Change License or a Temporary License. The hours eligible for an outdoor special event operating under a One Day Substantial Change License or a Temporary License or a pub crawl event operating under a pub crawl license shall be twenty-four (24) hours a day.

718.3 MPD shall submit to ABRA on a monthly basis invoices documenting the sixty-five percent (65%) amount owed by each licensee. Invoices will be paid by ABRA to MPD within thirty (30) days of receipt in the order that they are received until the subsidy program's funds are depleted.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Behavioral Health ("the Department"), pursuant to the authority set forth in Sections 5113, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.06 and 7-1141.07 (2012 Repl. & 2017 Supp.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 62 (Reimbursement Rates for Services Provided by the Department of Behavioral Health Certified Substance Abuse Providers) and Chapter 64 (Reimbursement Rates for Services Provided by the Department of Behavioral Health Chapter 63 Certified Substance Use Disorder Providers) to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking involves reimbursement rates to Department of Behavioral Health-certified substance abuse disorder providers for Adult Substance Abuse Rehabilitation Services (ASARS). It repeals a duplicative Chapter 62 (Reimbursement Rates for Services Provided by the Department of Behavioral Health Certified Substance Abuse Providers) to Title 22-A DCMR (Mental Health), and updates Chapter 64 (Reimbursement Rates for Services Provided by the Department of Behavioral Health Chapter 63 Certified Substance Use Disorder Providers) of Title 22-A DCMR (Mental Health). A comprehensive rate analysis had not been conducted since 2013. Thus, the Department of Behavioral Health, with the assistance of providers and stakeholders, conducted a comprehensive rate analysis of DBH's current Medicaid community-based rates for covered behavioral health services provided to children, youth and adults under the District's approved Medicaid State Plan and used a rate-setting methodology to ensure that reimbursement rates reflected the cost-basis of the services. As a result of the analysis, DBH is proposing a number of changes to current ASARS rates. The aggregate fiscal impact of the rate changes is an increase in Medicaid expenditures of $270,738.27 in fiscal year (FY) 2019 and $277,777.47 in FY 2020.

Issuance of these rules on an emergency basis is necessary for the immediate preservation of the critical substance use disorder treatment and recovery services that will ensure the health, safety, and welfare of children, youth, and adults with a substance use disorder in need of treatment and recovery services. It is necessary for the stability of the providers. Any delay in promulgating the new rates will lead to possible reduction in services, to the detriment of the population served by the public behavioral health system.

DBH is working in collaboration with the Department of Health Care Finance to implement Medicaid reimbursement changes. These rules correspond to a related State Plan amendment (SPA) to the District of Columbia Medicaid State Plan, which requires approval by the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services (CMS). Implementation of the proposed rules for the reimbursement of services provided to Medicaid beneficiaries is contingent upon approval of the corresponding SPA by CMS with an effective date of November 1, 2018 or the effective date established by CMS in its approval of the corresponding SPA, whichever is later.

The emergency rulemaking was adopted on October 31, 2018 and is effective for services rendered on or after October 31, 2018, or the effective date established by CMS in its approval of the corresponding SPA, whichever is later, by a provider certified pursuant to Chapter 63 of this title. The emergency rules will remain in effect for one hundred twenty (120) days after adoption, expiring February 28, 2019, unless superseded by publication of another rulemaking notice in the *D.C. Register*.

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

Chapter 62, REIMBURSEMENT RATES FOR SERVICES PROVIDED BY THE DEPARTMENT OF BEHAVIORAL HEALTH CERTIFIED SUBSTANCE ABUSE PROVIDERS, of Title 22-A DCMR, MENTAL HEALTH, is amended as follows:

Section 6201, REIMBURSEMENT RATE, is repealed in its entirety.

Section 6401, REIMBURSEMENT RATE, of Chapter 64, REIMBURSEMENT RATES FOR SERVICES PROVIDED BY THE DEPARTMENT OF BEHAVIORAL HEALTH CHAPTER 63 CERTIFIED SUBSTANCE USE DISORDER PROVIDERS, is amended to read as follows:

6401 REIMBURSEMENT RATE

6401.1 Reimbursement for substance abuse services shall be as follows:

SERVICE	CODE	RATE per UNIT	UNIT
Urinalysis (Laboratory)	**H0003**	**15.00**	**Per service**
Breathalyzer Collection	**H0048**	**8.80**	**Per service**
Urinalysis Collection	**H0048LR**	**8.80**	**Per service**
Case Management	**H0006**	**21.97**	**15 min.**
Case Management (HIV)	**H0006HKHF**	**21.97**	**15 min.**

SERVICE	CODE	RATE per UNIT	UNIT
Clinical Care Coordination	T1017HF	26.42	15 min.
Counseling, Group	H0005	7.21	15 min.
Counseling, Group, Psycho-educational	H2027HQ	6.07	15 min.
Counseling, Group , Psycho-educational (HIV)	H2027HQHF	6.07	15 min.
Counseling, Individual, On-site, Behavioral Health Therapy	H0004HF	28.81	15 min.
Counseling, Individual, Off-site	H0004HFTN	29.43	15 min.
Counseling, Family with Client	H0004HFHR	28.81	15 min.
Counseling, Family without Client	H0004HFHS	28.81	15 min.
Crisis Intervention	H0007HF	36.93	15 min.
Short-term MMIWM	H0010	598.12	Per diem
Behavioral Health Screening, Initial, Determine eligibility	H0002HF	86.43	Per service
Behavioral Health Assessment, on-going, Risk Rating	H0002TG	150.77	Per service
Diagnostic Assessment, Comprehensive, Adult	H0001	259.28	Per service

SERVICE	CODE	RATE per UNIT	UNIT
Diagnostic Assessment, Brief, Modify Tx Plan	H0001TS	86.43	Per service
Medication Assisted Treatment, Methadone, Clinic or Take Home	H0020	8.58	Dose
Medication Assisted Therapy, Administration	H0020HF	8.58	Per Service
Medication Management, Adult	H0016	50.26	15 min.
Multi-systemic Therapy for Transition Age Youth (TAY) (ACRA) (ages 21 – 24)	H2033HF	63.11	15 min.
Residential Treatment, Room & Board	H0043	101.14	Per diem
Residential Treatment, Room & Board, Woman w/1 child	H0043UN	210.00	Per diem
Residential Treatment, Room & Board, Woman w/2 children	H0043UP	215.00	Per diem
Residential Treatment, Room & Board, Woman w/3 children	H0043UQ	220.00	Per diem

SERVICE	CODE	RATE per UNIT	UNIT
Residential Treatment, Room & Board, Women w/4 or more children	H0043UR	225.00	Per diem
Recovery Support Evaluation, Alcohol/drug Assessment	H0001HF	86.43	Per service
Case Management, Recovery Support	T1017	21.97	15 min.
Environmental Stability, Supported Housing, Individual	H0044HF	849.00	Per month
Environmental Stability, Supported Housing, Woman w/children	H0044HFUN	1000.00	Per month
Prevention Education Service, Recovery Mentoring, Coaching	H0025HF	24.27	15 min.
Training and Skills Development, Life Skills, Individual	H2014	24.27	15 min.
Training and Skills Development, Life Skills, Adult, Group	H2014HQ	6.07	15 min.
Substance Use Disorder Services NOS, Spiritual Support Group	H0047HF	6.07	15 min.

SERVICE	CODE	RATE per UNIT	UNIT
PsychoSocial Rehabilitative Service, Recovery Social Activities, Group	**H2017HQ**	**6.07**	**15 min.**
PsychoSocial Rehabilitative Service, Education Services, Individual	**H2017HF**	**24.27**	**15 min.**
PsychoSocial Rehabilitative Service, Education Services, Group	**H2017HFHQ**	**6.07**	**15 min.**

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Ms. Marina Soto, Program and Policy Coordinator, Department of Behavioral Health at 64 New York Avenue, N.E., 3rd Floor, Washington, D.C. 20002-4347 or via e-mail at marina.soto@dc.gov. Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the Department of Behavioral Health's website at www.dbh.dc.gov.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOXING AND WRESTLING COMMISSION

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Boxing and Wrestling Commission ("Commission"), pursuant to the Authority set forth in Section 7 of the District of Columbia Boxing and Wrestling Commission Act of 1975, effective October 8, 1975 (D.C. Law 1-20; D.C. Official Code § 3-606 (2012 Repl.)) ("Act"), hereby gives notice of the adoption of amendments to Chapter 20 (Boxing and Wrestling: General Rules) and Chapter 24 (Mixed Martial Arts Uniform Rules) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would amend the general rules applicable to boxers, wrestlers, kickboxers, martial artists and mixed martial artists by adopting the internationally recognized anti-doping standards for all combative sports contestants in the District. It would also amend the rules governing the number and length of rounds for mixed martial arts contest in order to allow flexibility to permit new styles of competition in the District.

Emergency rulemaking action, pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), is necessary for the immediate preservation of the health, safety and welfare of licensed mixed martial artists in the District. Specifically, the rules will ensure tighter regulation concerning the use of performance enhancing drugs and methods, and will prohibit certain dangerous tactics used by contestants that may jeopardize the health and safety of the fighters in the ring during impending events. Additionally, these rules will allow the Commission to permit a quickly approaching mixed martial arts event that would otherwise be barred by the current rules. Thus, this action is also being taken on an emergency basis in order to safeguard and promote continued economic growth in the area of mixed martial arts by making the District more hospitable as a venue for promoters seeking to present such events in new and innovative ways.

This emergency rulemaking was adopted by the Commission on October 11, 2018, and became effective immediately. The emergency rules will remain in effect for one hundred and twenty (120) days, until February 8, 2019, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Commission gives notice of the intent to take final rulemaking action in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

To clearly show the changes being made to the DCMR, additions shown in <u>underlined</u> text and deletions are shown in ~~strikethrough~~ text.

Chapter 20, BOXING AND WRESTLING: GENERAL RULES, of Title 19 DCMR, AMUSEMENTS, PARKS AND RECREATION, is amended as follows:

Section 2030, [RESERVED], is amended to read as follows:

2030 ~~[RESERVED]~~ PROHIBITED DRUGS AND METHODS

2030.1 Unless a therapeutic use exemption (TUE) has been granted in accordance with this section, the Commission may take disciplinary action against a contestant's license, or bar a contestant's participation in any bout, if it finds that the contestant, at any time before or during a contest, has used any prohibited substance or prohibited method as established in the current version of The World Anti-Doping Code, The Prohibited List International Standard (Prohibited List) as adopted by World Anti-Doping Agency (WADA) (https://www.wada-ama.org/en/resources/science-medicine/prohibited-list) as of October 15, 2018. Any changes made to the Prohibited List after October 15, 2018 shall be voted on and approved by the District of Columbia Boxing and Wrestling Commission prior to adoption and publication in the *District of Columbia Register*.

2030.2 All contestants licensed by the commission may be required to submit to testing for prohibited substances at any time.

2030.3 Any contestant who has at any time tested positive for a prohibited substance or prohibited method that has been confirmed by any state athletic commission shall be required to provide a urine specimen for drug testing prior to competing in any bout.

2030.4 Contestants with documented medical conditions requiring the use of a prohibited substance or a prohibited method may be granted a TUE from the Commission.

2030.5 A TUE shall not be granted for any form of Testosterone Replacement Therapy, including any use of natural or synthetic testosterone to treat or replace testosterone deficiency in men, except as required by law.

2030.6 A contestant may request a TUE, no less than thirty (30) days prior to an event, by submitting a request form prescribed and provided by the Commission.

2030.7 Each of the following shall accompany the TUE request form:

(a) Medical information, which shall include:

(1) Diagnosis and etiology based upon the treating physician's evaluation;

(2) An evaluation by licensed physician in the appropriate medical field;

(3) Patient medical history, which must be consistent with the standard of practice in the appropriate medical field relevant to the exemption requested;

(4) A physical exam, which must be consistent with the standard of practice in the appropriate medical field relevant to the exemption requested;

(5) A testing/laboratory evaluation, which must be consistent with the standard of practice in the appropriate medical field relevant to the exemption requested;

(6) Name of the prohibited substance or prohibited method;

(7) Dosage taken or to be taken;

(8) Method of administration; and

(9) Duration of treatment.

(b) A copy of the medical records in which the contestant's medical condition is well documented, and which must reflect that the condition existed prior to any test for a TUE request was performed.

(c) An attestation of a licensed physician in the appropriate field of medicine that the contestant qualifies for an exemption in accordance with this section, and that the contestant is currently physically fit to compete safely.

2030.8 No less than five (5) days before a scheduled bout, a licensee requesting a TUE shall be subject to a pre-fight drug test by a certified laboratory designated by the Commission. If the laboratory determines that a value for the for the therapeutic agent in question is found to be out of the normal range, the contestant's medical provider should take action to correct the level by repeating the lab and/or adjusting medication appropriately, which must be documented in records submitted to the Commission.

2030.9 On the day of the bout, a licensee requesting a TUE shall be subject to drug testing for agent specific levels by a certified laboratory designated by the Commission.

2030.10 The Commission shall waive the time period specified in § 2030.6 for submitting a request, and may retroactively approve a request for TUE, in cases where emergency treatment or treatment of an acute medical condition was medically necessary.

2030.11 All costs of providing information to provide a complete TUE request process shall be the contestant's responsibility.

2030.12 Any request approved pursuant to this section shall be valid for one approved competition. If a contestant intends to compete in any future event or competition that may subject the contestant to drug testing by the Commission, the contestant

must submit a separate request for a TUE for any prohibited substance in advance of such event or competition in accordance with the provisions of this section.

2030.13 The Commission may deny a request for a TUE without further action under the following circumstances:

(a) The current licensure status of the contestant's treating physician cannot be verified;

(b) The contestant failed to submit a complete request in accordance with § 2030.7; or

(c) The contestant failed to comply with the drug testing requirements of §§ 2030.8 or 2030.9.

2030.14 If the Commission reasonably determines that a TUE request has been submitted for the purpose of enhancing the contestant's performance and/or giving the contestant an advantage over his/her competitor(s), the Commission shall deny the request.

2030.15 A TUE shall not be granted when the Commission reasonably concludes that denying the TUE request is in the best interests of protecting the public, or the health and safety of licensed contestants.

2030.16 If a request for TUE is denied pursuant to §§ 2030.14 or 2030.15, the Commission shall provide the licensee with a notice of the intended action and an opportunity for a hearing in accordance with § 2043 of this chapter.

2030.17 Information provided to or obtained by the Commission pursuant to this section, including the identity of persons providing such information and the reports or documents provided by health care providers and medical facilities pursuant to § 2030.7, as well as files, records, findings, opinions, recommendations, evaluations, and reports of the Commission, shall be confidential and shall only be subject to disclosure for the purposes of an administrative proceeding held pursuant to §§ 2030.16 and 2043 of this chapter.

2030.18 Information gathered by the Commission pursuant to this section shall not be used for any purpose other than making a determination of eligibility for a TUE. The information shall not be disclosed by any person under any circumstances, except that such data in the aggregate may be published in the annual report by the Commission.

Section 2043, NOTICE OF PROPOSED ACTION AND OPPORTUNITY FOR A HEARING, is amended to read as follows:

2043 NOTICE OF PROPOSED ACTION AND OPPORTUNITY FOR A HEARING

2043.1 Each applicant or licensee shall be notified and given an opportunity to be heard before the Commission takes any of the following actions:

(a) Denies a license for any cause other than failure to pass a required test or physical examination;

(b) Suspends a license;

(c) Revokes a license;

(d) Restricts or places conditions upon a license;

(e) Reprimands or censures a licensee;

(f) Refuses to restore a license;

(g) Refuses to renew a license for any cause other than failure to pay the prescribed fees;

(h) Imposes a civil fine or penalty; ~~or~~

(i) Orders a contestant's purse forfeited to the promoter; or

(j) Denies a request for a therapeutic use exemption (TUE) pursuant to §§ 2030.14 or 2030.15.

Chapter 24, MIXED MARTIAL ARTS UNIFORM RULES, is amended as follows:

Section 2411, ROUND LENGTH, is amended to read as follows:

2411 ROUND LENGTH

2411.1 Except as provided for in § 2411.3, e~~E~~ach non-championship mixed martial arts contest shall be three rounds, of five minutes duration, with a one-minute rest period between each round.

2411.2 Except as provided for in § 2411.3, e~~E~~ach championship mixed martial arts contest shall be five rounds, of five minutes duration, with a one-minute rest period between each round.

2411.3 The number and duration of rounds for any mixed martial arts contest may be modified upon approval by the Commission.

All persons desiring to comment on these proposed regulations should submit comments in writing to Robert Finn, Legislative and Public Affairs Officer, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., 5th Floor, Washington, D.C. 20024, or via e-mail at Robert.finn@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. The agency can be reached by telephone at 202-442-4400. A copy fee of one dollar ($1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at dcra.dc.gov by going to the "About DCRA" tab, clicking "News Room", and clicking on "Rulemaking."

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-088
November 13, 2018

SUBJECT: Expansion of the Boundaries and Extension of the Term of the Golden Triangle Business Improvement District, Pursuant to the Business Improvement Districts Act of 1996

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, D.C. Official Code § 1-204.22(11) (2016 Repl.), and pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996, D.C. Law 11-134, D.C. Official Code §§ 2-1215.01 *et seq.* (2016 Repl. and 2017 Supp.) ("**Business Improvement Districts Act**"), it is hereby **ORDERED** that:

1. a. The application submitted by the Golden Triangle Business Improvement District, pursuant to section 9(a) of the Business Improvement Districts Act (D.C. Official Code § 2-1215.09(a)), to expand to include the properties of 2141 K Street, NW, 2175 K Street, NW, 1308 19th Street, NW, 1310 19th Street, NW, 1312 19th Street, NW, 1314 19th Street, NW, filed with the Department of Small and Local Business Development on May 11, 2018, is approved.

   b. In accordance with section 9(b) of the Business Improvement Districts Act (D.C. Official Code § 2-1215.09(b)), the expansion of the Golden Triangle Business Improvement District to include the properties of 2141 K Street, NW, 2175 K Street, NW, 1308 19th Street, NW, 1310 19th Street, NW, 1312 19th Street, NW, and 1314 19th Street, NW, which was approved by the Council in the Golden Triangle Business Improvement District Emergency Amendment Act of 2018, effective July 16, 2018 (D.C. Act 22-403; 65 DCR 7520), and thereafter approved by the Council pursuant to the Golden Triangle Business Improvement District Amendment Act of 2018, effective October 11, 2018 (D.C. Law 22-161; 65 DCR 7680), shall be effective on July 16, 2018.

2. a. The application submitted by the Golden Triangle Business Improvement District, pursuant to section 9a(a) of the Business Improvement Districts Act (D.C. Official Code § 2-1215.09a(a)), to expand to include the properties of 1200 16th Street, NW, and 1701 Rhode Island Avenue, NW, was filed with the Department of Small and Local Business Development

on January 11, 2018, and DSLBD issued a finding on January 31, 2018, that the application was in order. No order approving or rejecting the addition was issued within the thirty (30)-day period following the filing of the request, and the expansion was therefore deemed approved on February 10, 2018.

b. As provided in section 9a(b)(3) of the Business Improvement Districts Act (D.C. Official Code § 2-1215.09a(b)(3)), 1200 16th Street, NW, shall be added to the Golden Triangle Business Improvement District at the next regularly scheduled billing after January 31, 2018.

c. As provided in section 202(b)(4) of the Business Improvement Districts Act, effective March 17, 2005 (D.C. Law 15-257; D.C. Official Code D.C. Code § 2-1215.52(b)(4)), the expansion of the Golden Triangle Business Improvement District to include 1701 Rhode Island Avenue, NW, shall be effective on October 1, 2019.

3. a. The Golden Triangle Business Improvement District on October 11, 2017, filed an application with the Department of Small and Local Business Development, pursuant to section 9a(a) of the Business Improvement Districts Act (D.C. Official Code § 2-1215.09a(a)), to expand to include the property of 1700 H Street, NW. No order approving or rejecting the addition was issued within the thirty (30)-day period following the filing of the request, and the expansion was therefore deemed approved on November 10, 2017, pursuant to section 9a(b) of the Business Improvement Districts Act (D.C. Official Code § 2-1215.09a(b)).

b. As provided in section 9a(b)(3) of the Business Improvement Districts Act (D.C. Official Code § 2-1215.09a(b)(3)), 1700 H Street, NW, shall be added to the Golden Triangle Business Improvement District at the next regularly scheduled billing after November 10, 2017.

4. The application submitted by the Golden Triangle Business Improvement District, pursuant to section 19 of the Business Improvement Districts Act (D.C. Official Code § 2-1215.18), to extend the end of the term of the Golden Triangle Business Improvement District from September 30, 2018, to September 30, 2023, filed with the Department of Small and Local Business Development on May 18, 2018, is approved.

5. Mayor's Order 2018-074, dated September 28, 2018, is hereby rescinded.

6. **EFFECTIVE DATE**: This Order shall become effective immediately; except, paragraphs 1.a. and 4 shall be effective *nunc pro tunc* to September 29, 2018.

MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-089
November 14, 2018

SUBJECT: Appointment – Acting Director, Department of General Services

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), pursuant to section 1024 of the Department of General Services Establishment Act of 2011, effective September 14, 2011, D.C. Law 19-21; D.C. Official Code § 10-551.03 (2013 Repl.), and section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142; D.C. Official Code § 1-523.01 (2017 Supp.), it is hereby **ORDERED** that:

1. **KEITH ANDERSON** is appointed Acting Director, Department of General Services, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2017-205, dated September 6, 2017.

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

MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-090
November 14, 2018

SUBJECT: Appointment— Interim Director, Office of Planning

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 83-25, dated January 3, 1983, and section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142; D.C. Official Code § 1-523.01 (2017 Supp.), it is hereby **ORDERED** that:

1. **ANDREW TRUEBLOOD** is appointed as Interim Director of the Office of Planning, and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2015-087, dated March 16, 2015.

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

MURIEL BOWSER
MAYOR

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

BREAKTHROUGH MONTESSORI PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Janitorial Services

Breakthrough Montessori PCS (BMPCS) is seeking a competitive bid for janitorial services commencing December 1, 2018 for our two charter school facilities.

BMPCS is seeking competitive bids for Janitorial Services at its Taylor St. campus and its Eastern Ave. campus, including but not limited to: day porter cleaning services of facilities on a daily basis during operational hours (7:30am-6:00pm), general housekeeping of facilities on a daily basis after operation hours, "deep cleaning" services to occur on scheduled breaks during which school programming is not occurring (i.e. scheduled school closures), provisioning and procurement of all required materials and equipment.

To Obtain a full copy of the RFP, please contact Emily Hedin at 202-246-1928 or emily.hedin@breakthroughmontessori.org.

Bids must include evidence of experience in field, qualifications and estimated fees. Please send proposals to emily.hedin@breakthroughmontessori.org and include "RFP Janitorial Services" in the heading.

Proposals must be received no later than November 13, 2018.

DEMOCRACY PREP CONGRESS HEIGHTS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Financial/Accounting Services

Democracy Prep Congress Heights Public Charter School solicits proposals for Financial/Accounting Services.

The full text of the request for proposals can be obtained by emailing Jeff Cooper at jeff@thetensquaregroup.com

Deadline for submissions is November 23, 2018.

Please email all questions and submit final proposals to jeff@thetensquaregroup.com

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

CITYWIDE REGISTRATION SUMMARY

As Of October 31, 2018

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	47,479	3,053	626	195	199	11,893	**63,445**
2	32,026	5,829	241	223	165	11,191	**49,675**
3	39,707	6,326	371	190	149	11,439	**58,182**
4	50,349	2,254	537	122	172	9,260	**62,694**
5	54,526	2,472	600	159	254	10,037	**68,048**
6	57,793	7,659	535	332	247	14,533	**81,099**
7	49,356	1,362	435	79	186	7,235	**58,653**
8	47,977	1,488	482	74	197	7,851	**58,069**
Totals	379,213	30,443	3,827	1,374	1,569	83,439	**499,865**
Percentage By Party	**75.86%**	**6.09%**	**.77%**	**.27%**	**.31%**	**16.69%**	**100.00%**

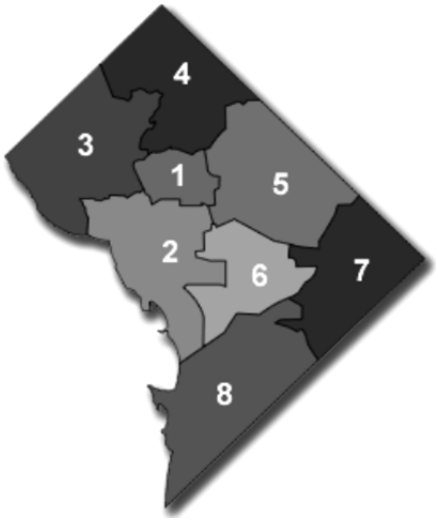
DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF

VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS

AS OF THE END OF October 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 October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,626	34	9	3	8	298	**1,978**
22	4,013	425	30	15	15	1,046	**5,544**
23	3,046	240	43	15	17	830	**4,191**
24	2,801	273	27	23	10	816	**3,950**
25	4,006	443	46	20	13	1,125	**5,653**
35	3,812	219	53	19	12	873	**4,988**
36	4,424	255	51	14	20	1,041	**5,805**
37	3,718	180	42	12	26	889	**4,867**
38	3,013	138	43	15	13	784	**4,006**
39	4,277	177	67	17	15	975	**5,528**
40	3,980	195	84	9	14	1,021	**5,303**
41	3,816	208	74	11	16	1,056	**5,181**
42	1,880	93	26	9	9	483	**2,500**
43	1,885	74	24	7	7	387	**2,384**
137	1,182	99	7	6	4	269	**1,567**
TOTALS	**47,479**	**3,053**	**626**	**195**	**199**	**11,893**	**63,445**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	929	176	7	10	10	548	**1,680**
3	1,750	374	17	9	12	675	**2,837**
4	2,070	522	9	14	11	792	**3,418**
5	2,145	606	16	21	13	805	**3,606**
6	2,422	817	20	19	17	1,296	**4,591**
13	1,344	235	6	6	6	431	**2,028**
14	3,003	461	26	23	10	970	**4,493**
15	3,172	406	33	24	13	922	**4,570**
16	3,526	444	32	25	16	1,006	**5,049**
17	5,010	649	26	37	23	1,514	**7,259**
129	2,466	421	12	12	13	944	**3,868**
141	2,553	326	18	13	11	676	**3,597**
143	1,636	392	19	10	10	612	**2,679**
TOTALS	**32,026**	**5,829**	**241**	**223**	**165**	**11,191**	**49,675**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,328	403	11	6	5	588	**2,341**
8	2,483	628	26	6	9	820	**3,972**
9	1,249	482	7	10	10	498	**2,256**
10	1,931	410	19	13	11	710	**3,094**
11	3,578	837	45	41	21	1,283	**5,805**
12	509	172	1	5	4	217	**908**
26	3,067	360	25	11	8	879	**4,350**
27	2,529	244	21	10	3	581	**3,388**
28	2,593	460	39	16	11	811	**3,930**
29	1,368	223	14	11	8	415	**2,039**
30	1,310	209	11	3	4	315	**1,852**
31	2,515	303	19	8	12	589	**3,446**
32	2,856	290	29	7	12	595	**3,789**
33	3,000	269	25	4	7	664	**3,969**
34	4,026	428	40	15	7	1,143	**5,659**
50	2,233	278	17	9	7	536	**3,080**
136	896	73	9	2	2	271	**1,253**
138	2,236	257	13	13	8	524	**3,051**
TOTALS	**39,707**	**6,326**	**371**	**190**	**149**	**11,439**	**58,182**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,405	70	31	9	6	383	**2,904**
46	2,913	102	31	8	14	519	**3,587**
47	3,550	140	37	10	17	760	**4,514**
48	2,864	131	32	6	5	571	**3,609**
49	940	44	14	3	7	220	**1,228**
51	3,407	507	25	9	10	648	**4,606**
52	1,265	150	10	2	6	237	**1,670**
53	1,268	73	23	3	4	246	**1,617**
54	2,423	92	28	5	7	465	**3,020**
55	2,509	83	17	4	17	451	**3,081**
56	3,223	97	37	12	14	652	**4,035**
57	2,529	68	29	8	11	508	**3,153**
58	2,322	62	20	4	5	386	**2,799**
59	2,625	84	29	10	7	425	**3,180**
60	2,206	74	25	6	11	615	**2,937**
61	1,637	59	16	3	4	301	**2,020**
62	3,202	128	23	3	4	404	**3,764**
63	3,861	137	59	4	15	696	**4,772**
64	2,395	67	21	5	6	387	**2,881**
65	2,805	86	30	8	2	386	**3,317**
Totals	**50,349**	**2,254**	**537**	**122**	**172**	**9,260**	**62,694**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,612	211	65	10	20	999	**5,917**
44	2,919	237	31	11	19	677	**3,894**
66	4,698	108	47	9	16	653	**5,531**
67	2,929	106	22	5	8	436	**3,506**
68	1,973	167	24	11	9	417	**2,601**
69	2,145	78	21	2	12	306	**2,564**
70	1,504	69	23	0	4	245	**1,845**
71	2,477	70	23	7	10	388	**2,975**
72	4,465	156	37	11	30	761	**5,460**
73	2,011	94	24	6	8	379	**2,522**
74	4,962	282	62	19	24	1,041	**6,390**
75	4,120	236	47	28	23	868	**5,322**
76	1,746	100	20	7	8	410	**2,291**
77	3,017	128	30	5	13	556	**3,749**
78	3,059	99	46	6	13	522	**3,745**
79	2,163	80	26	4	14	412	**2,699**
135	3,174	181	36	14	17	631	**4,053**
139	2,552	70	16	4	6	336	**2,984**
TOTALS	**54,526**	**2,472**	**600**	**159**	**254**	**10,037**	**68,048**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,668	617	42	32	19	1,342	**6,720**
18	4,997	388	47	21	19	1,161	**6,633**
21	1,213	63	10	7	1	257	**1,551**
81	4,747	385	54	18	19	1,000	**6,223**
82	2,640	258	27	13	6	631	**3,575**
83	5,962	799	44	39	27	1,585	**8,456**
84	2,017	418	21	11	11	547	**3,025**
85	2,749	497	18	16	6	748	**4,034**
86	2,262	256	21	11	7	445	**3,002**
87	2,748	302	22	6	18	626	**3,722**
88	2,160	305	23	9	6	501	**3,004**
89	2,673	635	25	21	11	781	**4,146**
90	1,647	238	14	7	14	483	**2,403**
91	4,243	431	36	20	21	970	**5,721**
127	4,315	312	47	25	21	919	**5,639**
128	2,593	231	30	14	11	626	**3,505**
130	792	316	5	3	3	263	**1,382**
131	3,508	946	31	41	18	1,113	**5,657**
142	1,859	262	18	18	9	535	**2,701**
TOTALS	**57,793**	**7,659**	**535**	**332**	**247**	**14,533**	**81,099**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,503	92	20	5	4	296	**1,920**
92	1,618	36	12	1	5	239	**1,911**
93	1,640	42	19	2	8	258	**1,969**
94	2,045	62	19	5	9	289	**2,429**
95	1,715	52	14	1	3	289	**2,074**
96	2,441	62	14	0	11	364	**2,892**
97	1,424	47	14	2	8	227	**1,722**
98	1,954	46	22	6	9	291	**2,328**
99	1,582	50	18	7	7	301	**1,965**
100	2,523	48	16	3	9	328	**2,927**
101	1,628	36	15	6	5	198	**1,888**
102	2,435	61	20	3	14	320	**2,853**
103	3,571	81	39	4	11	524	**4,230**
104	3,258	93	32	3	20	491	**3,897**
105	2,446	75	19	4	10	400	**2,954**
106	2,901	65	23	3	12	400	**3,404**
107	1,839	58	15	1	8	264	**2,185**
108	1,091	31	6	0	3	138	**1,269**
109	983	43	3	2	1	110	**1,142**
110	3,835	101	23	10	11	465	**4,445**
111	2,512	66	35	3	6	425	**3,047**
113	2,261	57	22	2	7	288	**2,637**
132	2,151	58	15	6	5	330	**2,565**
TOTALS	**49,356**	**1,362**	**435**	**79**	**186**	**7,235**	**58,653**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of October 31, 2018

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,260	61	17	0	11	350	**2,699**
114	3,788	147	52	9	29	693	**4,718**
115	2,891	79	28	4	11	638	**3,651**
116	4,222	110	44	5	13	681	**5,075**
117	2,182	49	19	5	9	365	**2,629**
118	2,848	85	34	3	16	439	**3,425**
119	2,811	117	35	5	15	481	**3,464**
120	2,104	50	15	2	4	289	**2,464**
121	3,578	77	28	7	8	504	**4,202**
122	1,849	49	21	1	8	275	**2,203**
123	2,496	186	28	16	19	447	**3,192**
124	2,729	75	23	1	7	388	**3,223**
125	4,643	106	37	3	17	778	**5,584**
126	4,042	144	53	8	15	759	**5,021**
133	1,352	45	8	2	0	186	**1,593**
134	2,275	51	27	1	5	299	**2,658**
140	1,907	57	13	2	10	279	**2,268**
TOTALS	**47,977**	**1,488**	**482**	**74**	**197**	**7,851**	**58,069**

D.C. BOARD OF ELECTIONS

MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 9/30/2018 and 10/31/2018

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	**373,466**	**30,023**	**3,785**	**1,295**	**1,523**	**81,641**	**491,733**
Board of Elections Over the Counter	87	2	1	0	1	45	**136**
Board of Elections by Mail	373	18	1	1	2	110	**505**
Board of Elections Online Registration	2,039	178	15	25	31	625	**2,913**
Department of Motor Vehicle	968	135	9	12	0	494	**1,618**
Department of Disability Services	2	0	0	0	0	0	**2**
Office of Aging	0	0	0	0	0	0	**0**
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	18	1	0	0	0	1	**20**
Dept. of Youth Rehabilitative Services	0	1	1	0	0	0	**2**
Department of Corrections	18	2	0	0	1	6	**27**
Department of Human Services	18	0	0	0	0	0	**21**
Special / Provisional	0	0	0	0	0	0	**0**
All Other Sources	173	13	0	1	0	106	**293**
+Total New Registrations	**3,696**	**350**	**27**	**39**	**35**	**1,390**	**5,536**

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	617	35	6	2	3	123	**786**
Administrative Corrections	1,407	143	7	23	4	492	**2,076**
+TOTAL ACTIVATIONS	**2,024**	**178**	**13**	**25**	**7**	**615**	**2,862**

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	0	0	0	0	0	0	**0**
Moved Out of District (Deleted)	0	0	0	0	0	0	**0**
Felon (Deleted)	1	0	0	0	0	0	**1**
Deceased (Deleted)	3	0	0	0	0	2	**5**
Administrative Corrections	380	24	3	0	1	103	**511**
-TOTAL DEACTIVATIONS	**384**	**24**	**3**	**0**	**1**	**105**	**517**

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	1,061	155	63	40	47	799	
- Changed From Party	-650	-239	-58	-25	-42	-901	
ENDING TOTALS	**379,213**	**30,443**	**3,827**	**1,374**	**1,569**	**83,439**	**499,865**

DEPARTMENT OF EMPLOYMENT SERVICES

Notice of Funding Availability for FY 19

Pathways for Young Adults Program (PYAP) Innovation Grants Program - Entrepreneurship

Release Date- Request for Applications: November 26th 2018 12:00 PM

The District of Columbia Department of Employment Services (DOES), Office of Youth Programs (OYP) is seeking qualified organizations to provide services to District youth through its Pathways for Young Adults Program (PYAP) – Innovation Grants Program Opportunity**.** The PYAP Innovation Grants Program is funded by the Workforce Innovation and Opportunity Act (WIOA), which became effective on July 1, 2015.

The purpose of this PYAP Innovation Grants Program is to support the delivery of innovative workforce services that will drastically improve the opportunities in Entrepreneurship for youth between the ages of 18-24. Youth must be a recipient of a high school diploma or GED and not currently enrolled in school. The Entrepreneurship pathway under PYAP Innovation Grants Program will provide educational fundamentals and guidance around entrepreneurship, financial literacy, business incorporation, business plan development, business foundation building and launching a business to obtain a life-sustaining income.

DOES OYP will solicit grant applications from eligible organizations to assist youth with entering this pathway while providing support structures to minimize the effects of WIOA identified barriers.

Recipients of the PYAP Innovation Grants Program will aid youth in the creation of the business that leads to at least one of the two outcomes: (1) In-Program Skills Gain and/or (2) Credential Attainment.

Applicants will develop a model based upon a theory of action that supports the PYAP Innovation Grants Program Entrepreneurship Program logic model listed below. The model should address at a minimum the following elements:

1. Three phase(s): Financial Literacy Training, Business Plan Development, and Foundations for building a business;
2. Awareness of supply and demand based upon the Labor Market Information of local and regional geography;
3. Business Plan Development to be shared with various stakeholders including potential funders
4. 85% of youth participants receiving a DOES approved in-program skills gain and 75% of youth participants obtaining a Business License Credential or a Fast-Track Nationally Recognized Credential (Not to exceed 25% of youth participants)

5. Supports for weekly and monthly interaction including financial literacy, mentorship, fundraising and start-up capital, networking and membership in appropriate organizations, and special incentives for performance.

DOES OYP will fund integrated service models that explore pathways to building a business and a successful business launch.

Please refer to the WIOA guidelines and Fact Sheet for Youth Programs when determining eligibility criteria to be met.

https://www.doleta.gov/wioa/Docs/WIOA_YouthProgram_FactSheet.pdf

Eligibility: Applicants shall be a Non-Profit or For-Profit entity that is eligible to do business with the District government. Additional eligibility requirements will be detailed in the individual Request for Applications (RFA) and in the Notice of Grant Award. Where applicable, the individual RFA will be released via the ARIBA e-Sourcing system or through the online Grants Management System.

Award Period: The grant period will be determined and established in each individual RFA or by DOES.

Available Funding: DOES has identified up to $187,500 in available funding and anticipates awarding multiple grants.

Selection Process: Department of Employment Services will select applicants through a competitive review process.

Reservations

DOES reserves the right to issue amendments subsequent to the issuance of this NOFA or individual RFA, or to rescind the NOFA or individual RFA.

If you have any questions about this NOFA, please contact:

LaShaun Basil
Grant Specialist
Office of Grants Administration and Resource Allocation
Department of Employment Services
4058 Minnesota Avenue, NE, Suite 5300
Washington, DC 20019
Email: OGAGrants@dc.gov

DEPARTMENT OF EMPLOYMENT SERVICES

Notice of Funding Availability for FY' 19

Pathways for Young Adults Program (PYAP) Innovation Grants Program – Post Secondary Education

Release Date- Request for Applications: November 26th 2018 12:00 PM

The District of Columbia Department of Employment Services (DOES), Office of Youth Programs (OYP) is seeking qualified organizations to provide services to District youth through its Pathways for Young Adults Program (PYAP) – Innovation Grants Program Opportunity**.** The PYAP Innovation Grants Program is funded by the Workforce Innovation and Opportunity Act (WIOA), which became effective on July 1, 2015.

The purpose of this PYAP Innovation Grants Program is to support the delivery of innovative workforce services that will drastically improve the opportunities in Post- Secondary Education for youth between the ages of 18-24. Youth must be a recipient of a high school diploma or GED and not currently enrolled in school. The Post-Secondary Education pathway under PYAP Innovation Grants Program will provide the educational fundamentals around pre-college preparation, re engagement with college, educational financial literacy and enrollment in a Post-Secondary Institution.

DOES OYP will solicit grant applications from eligible organizations to assist youth with entering this pathway while providing support structures to minimize the effects of WIOA identified barriers.

Recipients of the PYAP Innovation Grants Program will aid youth in at least one of the two outcomes: (1) In-Program Skills Gain or (2) Enrollment into a Post-Secondary Institution.

Applicants will develop a model based upon a theory of action that supports the PYAP Innovation Grants Program logic model listed below. The model should address at a minimum the following elements.

1. Three phases(s): College Exploration, College Financial Preparation and Enrollment into a Post-Secondary Institution
2. Assessment of youth to determine pre-college preparation plans: New students enrolling in Post-Secondary Institutions for the first time and/or re-engaging youth to return to Post-Secondary Institutions after an identified gap in educational plans
3. Awareness and guidance on college applications and scholarships
4. 85% of youth participants receiving a DOES approved in-program skills gain and 75% of youth enrolling into a Post-Secondary Institution by Fall 2019;
5. 35% of selected candidates will receive an international educational experience

.

Please refer to the WIOA guidelines and Fact Sheet for Youth Programs when determining eligibility criteria to be met.

https://www.doleta.gov/wioa/Docs/WIOA_YouthProgram_FactSheet.pdf

Eligibility: Applicants shall be a Non-Profit or For-Profit entity that is eligible to do business with the District government. Additional eligibility requirements will be detailed in the individual Request for Applications (RFA) and in the Notice of Grant Award. Where applicable, the individual RFA will be released via the ARIBA e-Sourcing system or through the online Grants Management System.

Award Period: The grant period will be determined and established in each individual RFA or by DOES.

Available Funding: DOES has identified up to $187,500 in available funding and anticipates awarding multiple grants.

Selection Process: DOES will select applicants through a competitive review process.

Reservations
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If you have any questions about this NOFA, please contact:

LaShaun Basil
Grant Specialist
Office of Grants Administration and Resource Allocation
Department of Employment Services
4058 Minnesota Avenue, NE, Suite 5300
Washington, DC 20019
Email: OGAGrants@dc.gov

DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION

NOTICE OF MEETING

Board of Medicine
November 28, 2018

On NOVEMBER 28, 2018 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

The meeting will be open to the public from 8:30 am to 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 Amendment Act of 2010, the meeting will then move to Closed Session from 10:30 am until 4:45 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website www.doh.dc.gov/bomed and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Frank B. Meyers, JD

DEPARTMENT OF HEALTH (DC Health)
NOTICE OF FUNDING AVAILABILITY (NOFA)
Community Health Administration (CHA)
RFA#: CHA_HVP11.30.18
Home Visiting Services

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants for services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	Home Visiting Services
Funding Opportunity Number:	FO-CHA-PG-00093-000
Program RFA ID#:	CHA_HVP11.30.18
Opportunity Category:	Competitive
DOH Administrative Unit:	Community Health Administration
DOH Program Bureau	Family Health Bureau
Program Contact	Belinda Logan Community Health Administration belinda.logan@dc.gov
Program Description:	This funding opportunity seeks to expand in-home parenting education using an evidence-based home visiting model or to implement a promising practice (evidence-informed) home visiting program that supports improving health outcomes for pregnant mothers and caregivers with children ages zero through three years old.
Eligible Applicants	Not-for-profit, faith-based, public and private organizations located and licensed to conduct business within the District of Columbia
Anticipated # of Awards:	2
Anticipated Amount Available:	$710,000
Floor Award Amount:	
Ceiling Award Amount:	

(1) Funding Authorization

Legislative Authorization	District of Columbia Fiscal Year 2018 Budget Support Act of 2019
Associated CFDA#	Not Applicable
Associated Federal Award ID#	Not Applicable
Cost Sharing / Match Required?	No
RFA Release Date:	Friday, November 30, 2018
Pre-Application Meeting (Date)	Friday, December 7, 2018
Pre-Application Meeting (Time)	10:30 am to 12:30 pm
Pre-Application Meeting Location Conference Call Access	899 North Capitol Street, NE Washington, DC 20002 3rd Floor Conference Room (306) Not Applicable
Letter of Intent Due date:	Not Applicable
Application Deadline Date:	January 7, 2019
Application Deadline Time:	12:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse. DOH EGMS https://dcdoh.force.com/GO__ApplicantLogin2

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF CLOSED MEETING

Homeland Security Commission

November 16, 2018

9:30 a.m. to 11:00 a.m.

441 4th Street, NW

Washington D.C. 20001

Room 1116 on Floor 11 South

On November 16, 2018 at 9:30 a.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 1116 on Floor 11, South Tower.

For additional information, please contact Sarah Case-Herron, Chief of Policy and Legislative Affairs, by phone at 202-481-3107, or by email at sarah.case-herron@dc.gov.

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

PUBLIC NOTICE FOR

DISTRICT OPPORTUNITY TO PURCHASE PROGRAM

SELECTION CRITERIA FOR PRIORITIZING BUILDING(S) FOR

PURCHASE & ASSIGNMENT OF RIGHTS

Polly Donaldson, Director, DC Department of Housing and Community Development (DHCD or the Department) announces the Selection Criteria for Prioritizing Buildings for the District's Opportunity to Purchase Amendment Act of 2008 (D.C. Official Code 2001 ed., as amended, § 42-3431.01 *et seq*.)

The District Opportunity to Purchase Act (DOPA) is a tool to preserve affordable housing in rental accommodations when tenants decline to exercise their rights under the Tenant Opportunity to Purchase Act of 1980 (TOPA) (D.C. Official Code, 2001 ed., as amended, § 42-3401.01 *et seq*.), *see* also Title 14 District of Columbia Municipal Regulations Chapter 24 (DOPA Regulations) (2004 ed., as amended). DOPA permits the Mayor, by the Department of Housing and Community Development (DHCD) as designee, to purchase a housing accommodation that has been offered for sale to tenants but whom are unable to exercise their TOPA rights.

According to DCMR 2403.2 "When determining whether to exercise the opportunity to purchase a Housing Accommodation, the Mayor shall consider whether a Housing Accommodation meets the selection criteria published in the D.C. Register by the Agency and modified as necessary annually by the Agency." The basic criteria for the Mayor to provide a statement of interest in purchasing a property under DOPA is that the Housing Accommodation:

1. Is located within the District of Columbia;
2. Consists of five (5) or more Rental Units; and
3. At least twenty-five percent (25%) of the Rental Units are Affordable Rental Units[1] at the time the Mayor received the Offer of Sale.

Given that the Mayor has the ultimate decision to exercise the opportunity to purchase, additional criteria may be used to prioritize DOPA transactions that represent the most significant opportunities to preserve affordable housing. These include but are not limited to the following:

- Location in neighborhoods with average rents above the HUD Fair Market Rent;
- Presence of elderly and/or tenants with disabilities;
- Significant number of family sized units and amenities;
- High vacancy rates;

[1] An Affordable Unit is a rental unit for which the existing Monthly Rent and Utilities paid by the tenant is equal to or less than 30 percent of the monthly income of a household with an income of 50 percent of the Median Family Income (MFI) for the Washington Metropolitan Statistical Area (MSA), as set forth by the United States Department of Housing and Urban Development.

- Significant code violations or currently out of compliance with affordable housing program physical condition requirements;
- High municipal debt;
- Received a notice of default or is in significant risk of foreclosure;
- Affordable housing covenants that will expire within the next five years;
- Smaller buildings with 5-20 units that have a purchase price under $2 million; and
- Historical or cultural significance of the property in the District of Columbia.

More information on DOPA can be found on the DHCD website located at https://dhcd.dc.gov/service/district-opportunity-purchase-act-dopa. Questions can be forwarded to DOPA.DHCD@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES
ECONOMIC SECURITY ADMINISTRATION (ESA)

NOTICE OF FUNDING AVAILABILITY (NOFA): JA-ESA-FFP-2019-001

FAMILIES FIRST TECHNICAL AND PROGRAMMATIC SUPPORT

The District of Columbia (District) Department of Human Services (DHS) Economic Security Administration (ESA), hereinafter referred to as the "DHS/ESA" seeks eligible entities to provide technical and programmatic support for the programs under the Families First Program (FFP) umbrella. This support would include program design, outreach, and coordination for specified aspects of the One Congregation One Family (OCOF) program, the Fatherhood Initiative (FHI) program, and the Grandfamilies Program. The amount available for the project is approximately $207,000.

Purpose/Description of the Project: This Notice of Funding Availability seeks to identify applicants that can support FFP in the administration of three programs: the OCOF program, which connects families with interfaith congregations; the Grandfamilies Program, which supports grandparents who are raising or caring for their grandchildren; and the Fatherhood Initiative, which provides a curriculum supporting both custodial and non-custodial fathers.

To support the OCOF program, the grantee will:

- Recruit 25 congregations from the local faith community to participate in an eight month program;
- Train program mentors and facilitate events (orientations, spotlight sessions, closing ceremony, etc.); and
- Maintain participant contact information, establish program compliance through monitoring, and ensure completion of all program requirements.

To support the FHI program, the grantee will:

- Facilitate, design program curriculum, identify a session leader, and recruit up to 20 participants for three FHI sessions per week over the course of twelve weeks, as well as two extracurricular family activates, and a closing ceremony;
- Maintain contact information and conduct monthly interviews with program participants to assess strengths and barriers and assist FFP staff in referring customers to supportive services while coordinating with other fatherhood programs;
- Track participant activities per the requirements of the TANF Employment and Education Program (TEP) and attend TEP meetings and other appropriate community events, as required by FFP staff.

To support the Grandfamilies Program, the grantee will:

- Coordinate seven sessions for up to 20 families, facilitate one of the sessions with support from DHS/ESA, and coordinate closing program activities.

Eligibility: Non-profit community organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations, faith-based organizations, such as churches, synagogues, mosques, or religiously based social service affiliates of such organizations, and private enterprises located in the District that have demonstrated experience working with individuals receiving public benefits and experience working with grandparents, fatherhood initiatives and within the faith community are encouraged to apply. Applications are also encouraged from collaborating community-based and faith-based organizations.

Length of Grant Award and Available Funding: The Grantee will be awarded funding based on the capacity to meet the requirements of the program. The award period for the grant will be from January 1, 2019 through September 30, 2019. The amount available for the project is up to $207,000 for one base period with three option years, subject to funding availability.

RFA Release: The RFA will be released on **November 16, 2018**. A copy of the RFA may be obtained by the following means:

Download from the Office of Partnerships and Grant Services website under the District Grants Clearinghouse (http://opgs.dc.gov/page/opgs-district-grants-clearinghouse).

Email a request to with "Request copy of RFA #JA-ESA-FFP-2019-001" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 64 New York Ave., 6th Fl., Washington, DC 20002. To make an appointment, call Sonya Crudup at 202-671-4534 and mention this RFA by name.

Write DHS at 64 New York Ave., 6th Fl., Washington, DC 20002, "Attn: Sonya Crudup RE: RFA #JA-ESA-FFP-2019-001" on the outside of the envelope.

Deadline for Applications: The deadline for application submissions is December 14, 2018 at 4:00 PM. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to sonya.crudup@dc.gov. Late or incomplete applications will not be forwarded to the review panel.

For additional information, write to: Sonya Crudup at sonya.crudup@dc.gov.

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

REGULAR MEETING OF THE OFFICE-TO-AFFORDABLE-HOUSING TASK FORCE

NOTICE OF PUBLIC MEETING

The regular meeting of the Office-to-Affordable-Housing Task Force (established by D.C. Law 22-103, "Office-to-Affordable Housing Task Force Establishment Act of 2018") will be held on Thursday, November 15, 2018 at 3:00 p.m. at 740 15th St NW, Washington DC on the third floor. Below is the planned agenda for the meeting. The final agenda will be posted to the Office of the Deputy Mayor for Planning and Economic Development website at dmped.dc.gov/page/office-affordable-housing-task-force.

For additional information, please contact: Yari Greaney, Program Analyst at (202) 729-2158 or yari.greaney@dc.gov

Planned Agenda

I. Call to Order and Roll Call

II. Approval of Minutes – October 12, 2018

III. Report of the Chairperson

IV. Committee Reports

a. Finance Committee
   - Progress update on estimating the costs of transitioning office space to affordable housing
   - Progress update on comparing the costs of transitioning office space to affordable housing with the costs of constructing or rehabilitating housing through the Housing Production Trust Fund
   - Progress update on estimating the amount of office space available for transition to affordable housing

b. Practical Challenges and Solutions Committee
   - Progress update on identified zoning and regulatory challenges
   - Progress update on identified structural challenges

V. Unfinished Business

VI. New Business

VII. Closing Remarks

Adjournment

Expected Meeting Closure
In accordance with Section 405(b) (10) of the Open Meetings Act of 2010, the Office-to-Affordable-Housing Task Force hereby gives notice that it may conduct an executive session, for the purpose of discussing the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	)	
Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Duane Fowler and Hiram Rosario)	)	PERB Case Nos. 18-U-16 and 18-U-25
Petitioner/Complainant	)	Opinion No. 1683
v.	)	
Metropolitan Police Department	)	
Respondent	)	

DECISION AND ORDER

These cases involve two arbitration awards that the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Union") obtained against the Metropolitan Police Department ("MPD"). For each award, the Union has filed an unfair labor practice complaint alleging noncompliance with the award. The two unfair labor practice cases are consolidated for decision herein.[1] As the uncontested facts establish the Union's entitlement to relief under the Comprehensive Merit Personnel Act, the unfair labor practice complaints are granted.

[1] The Union named the chief of police as a respondent in both unfair labor practice cases. The respondents requested that the chief of police be dismissed, claiming that a suit against an official in his official capacity should be treated as a suit against the District. The Board has removed his name from the caption consistent with controlling precedent. *See FOP/MPD Labor Comm. v. D.C. Pub. Emp. Relations Bd.*, Civ. Case No. 2011 CA 007396 P(MPA) (D.C. Super. Ct. Jan 9, 2013); *FOP/MPD Labor Comm. andMPD*, 59 D.C. Reg. 6579, Slip Op. No. 1118 at p. 5, PERB Case No. 08-U-19 (2011).

I. Statement of the Cases

A. The Fowler Case, 18-U-16

On January 22, 2018, the Union filed an unfair labor practice complaint, Case No. 18-U-16, alleging noncompliance with an arbitration award in which Officer Duane Fowler was the grievant. MPD filed an answer. The pleadings establish the following uncontested facts.

Officer Duane Fowler was discharged from his employment with MPD on July 30, 2010. Following Officer Fowler's discharge, the Union brought a grievance on his behalf. The grievance was denied. On August 24, 2010, the Union invoked arbitration on behalf of Officer Fowler. The arbitration was held in 2016. The Union and MPD both agreed upon the selection of Roger P. Kaplan to arbitrate the discharge of Officer Fowler.

On March 24, 2017, Arbitrator Kaplan issued an award in writing. The Department states that the award speaks for itself. The award stated, "The Grievant shall be reinstated forthwith. The Grievant is entitled to back pay and other lost benefits for the period he was wrongfully terminated."

MPD filed an arbitration review request. On August 17, 2017, the Board issued a Decision and Order sustaining the award in PERB Case No. 17-A-06, Slip Op. No. 1635.[2] MPD did not exercise its right to file a petition for review in D.C. Superior Court and has not reinstated Officer Fowler. In addition, MPD sent an e-mail to the Union that said "[t]he Chief will not be reinstating Officer Fowler."

B. The Rosario Case, 18-U-25

On March 1, 2018, the Union filed an unfair labor practice complaint, Case No. 18-U-25, alleging noncompliance with an arbitration award in which Officer Hiram Rosario was the grievant. The Department filed an answer. The pleadings establish the following uncontested facts.

On April 15, 2005, Officer Hiram Rosario was served with a notice of proposed adverse action for his removal from the Master Patrol Officer Program. After an adverse action hearing and an appeal to the chief of police, Officer Rosario was removed from the program. On his behalf, the Union demanded arbitration.

On or about October 17, 2016, Arbitrator Kathleen Miller issued an Opinion and Award regarding Officer Rosario. The award stated, "The Agency is directed to reinstate Grievant to his former position in the Master Officer Patrol Program and to make him whole for any loss of pay or other benefits which resulted from his removal from that Program. The MPD also is directed to note this revocation of demotion in Grievant's personnel file."

[2] *MPD v. FOP/MPD Labor Comm. (on behalf of Fowler)*, 64 D.C. Reg. 10115, Slip Op. No. 1635, PERB Case No. 17-A-06 (2017).

On April 4, 2017 the Board denied MPD's Arbitration Review Request in PERB Case No. 17-A-01, Slip Op. No. 1615.[3] On May 4, 2017, the Department filed a petition for review of the Board's denial of the MPD's arbitration review request in D.C. Superior Court. Subsequently, MPD filed a praecipe withdrawing this petition on November 2, 2017. The D.C. Superior Court dismissed the case on November 3, 2017.

MPD has not reinstated Officer Rosario to the Master Patrol Officer Program or made him whole as directed by the arbitrator.

II. Discussion

When a party fails or refuses to implement an award where no dispute over its terms exists, such conduct is a failure to bargain in good faith in violation of D.C. Official Code 1-617.04(1)(1) and (5).[4]

The elements of an unfair labor practice are present in the *Fowle*r and the *Rosario* cases. In both cases the Department appealed to the Board from the arbitrator's award. The Board affirmed the awards in Slip Opinion Nos. 1615 and 1635. It is undisputed that the Board's orders affirming the awards in question here became final and that MPD did not effectively seek review of the orders of the Board, nor comply with the Awards. No dispute over the terms of the Awards has been raised and no reason for noncompliance has been suggested. Therefore, the unfair labor practice complaints are granted.

ORDER

IT IS HEREBY ORDERED THAT:

1. PERB Case Nos. 18-U-16 and 18-U-25 are consolidated.

2. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's unfair labor practice complaints are granted.

3. The Metropolitan Police Department shall cease and desist from violating section 1-617.04(a)(1) and (5) of the D.C. Official Code by failing to implement the arbitration awards. The Metropolitan Police Department shall immediately comply with the two awards.

4. The Metropolitan Police Department shall conspicuously post, where notices to employees are normally posted, a notice that the Board will furnish to the

[3] *MPD v. FOP/MPD Labor Comm. (on behalf of Rosario)*, 64 D.C. Reg. 4893, Slip Op. No. 1615, PERB Case No. 17-A-01 (2017).
[4] *E.g., Washington Teachers' Union Local No. #6 and DCPS*, 64 D.C. Reg. 4885, Slip Op. No. 1611 at 2, PERB Case No. 16-U-32 (2017).

Department. The notice shall be posted within fourteen (14) days from the Department's receipt of the notice and shall remain posted for thirty (30) consecutive days.

5. Within fourteen (14) days from the date of the receipt of the notice, the Metropolitan Police Department shall notify the Public Employee Relations Board in writing that the notice has been posted according to this Decision and Order and on what date the notice was posted.

6. 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, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

Washington, D.C.

September 27, 2018

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in Case Nos. 18-U-16 and 18-U-25 was sent by File & ServeXpress to the following parties on this the 27th day of September 2018.

Nicole Lynch
Metropolitan Police Department
300 Indiana Ave. NW, Room 4126
Washington, DC 20001

Marc L. Wilhite
Pressler & Senftle P.C.
1432 K St. NW, 12th Floor
Washington, DC 20005

/s/ Sheryl V. Harrington
Administrative Assistant

PERB Public Employee Relations Board

GOVERNMENT OF THE DISTRICT OF COLUMBIA

1100 4th Street S.W.
Suite E630
Washington, D.C. 20024
Business: (202) 727-1822
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Email: perb@dc.gov

NOTICE

TO ALL EMPLOYEES OF THE METROPOLITAN POLICE DEPARTMENT, THIS NOTICE IS POSTED BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1683, PERB CASE NOS. 18-U-16 and 18-U-25 (Sept. 27, 2018).

WE HEREBY NOTIFY our employees that the Public Employee Relations Board has found that we violated the law and has ordered us to post this notice.

WE SHALL cease and desist from violating section 1-617.04(a) (1) and (5) of the D.C. Official Code by the actions and conduct set forth in Slip Opinion No. 1683.

WE SHALL cease and desist from refusing to bargain in good faith by failing to comply with the arbitration awards obtained by Duane Fowler and Hiram Rosario.

Metropolitan Police Department

Date: _____ By: _____
Chief of Police or Designee

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, whose address is: 1100 4th Street SW, Suite E630; Washington, D.C. 20024. Phone: (202) 727-1822.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

September 27, 2018

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Metropolitan Police Department	
Petitioner	PERB Case No. 18-A-09
v.	Opinion No. 1684
Fraternal Order of Police/ Metropolitan Police Department Labor Committee	
Respondent	

DECISION AND ORDER

I. Introduction

On March 13, 2018, the Metropolitan Police Department ("Department"), filed this Arbitration Review Request ("Request") pursuant to the Comprehensive Merit Personnel Act ("CMPA"), section 1-605.02(6) of the D.C. Official Code. The Department claims that the Arbitrator's Opinion and Award ("Award") is, on its face, contrary to law and public policy. The Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Union") filed a timely Opposition to the Request.

In accordance with the CMPA, the Board is permitted to modify, set aside, or remand an arbitration award in three narrow circumstances: (1) if the arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.[1] Having reviewed the Arbitrator's conclusions, the pleadings of the parties and applicable law, the Board concludes that the Award on its face is not contrary to law and public policy. Therefore, the Board denies the Department's Request.

[1] D.C. Official Code § 1-605.02(6).

II. Statement of the Facts

In January of 2011, the Department's Internal Affairs Division and the Federal Bureau of Investigation began an investigation into the illegal purchase of stolen property by Department personnel.[2] The Grievant purchased property from a cooperating witness on two separate occasions. On March 8, 2011, the Grievant was arrested and charged with "Attempt Receiving Stolen Property" and his police powers were revoked.[3] On December 21, 2011, the Grievant was found guilty after a bench trial in District of Columbia Superior Court.[4]

On April 12, 2012, the Department served the Grievant a Notice of Proposed Adverse Action and proposed a penalty of termination from the Department. An Adverse Action Panel found that the Grievant was guilty of the charges and specifications brought against him and recommended his termination from the Department. The Department's Director of Human Resources accepted the Panel's decision and terminated the Grievant effective November 2, 2012. The Grievant appealed the termination to the Chief of the Department. After the appeal was denied, the Union proceeded to arbitration.[5]

III. Arbitrator's Award

The Department seeks review of the Award based on the Arbitrator's decision regarding one issue – whether the Department violated the 90-day rule set forth in section 5-1031 of the D.C. Official Code ("the 90-day rule").[6] The 90-day rule requires that the proposed adverse action be issued within 90 days of the date the Department had notice of the conduct giving rise to the act allegedly constituting cause.[7] The Arbitrator found that the Department did not initiate the adverse action against the Grievant until more than a year after the date of his arrest.[8]

It was uncontested at arbitration that the Notice of Proposed Adverse Action was served on the Grievant on April 12, 2012. The Department argued that the Grievant was barred from raising the 90-day rule as a defense because he failed to raise this matter at an earlier time in the proceeding as required by Article 19, E, Section 5.2 of the collective bargaining agreement ("CBA").[9] The Department also argued that even if the 90-day rule did apply, the Department did comply because the period was tolled until the completion of the criminal trial on December 21, 2011.[10]

[2] Award at 2.
[3] Award at 2.
[4] Award at 2.
[5] Request at 7-8.
[6] Request at 8.
[7] D.C. Official Code § 5-1031(a).
[8] Award at 10.
[9] Award at 5.
[10] Award at 5.

The Arbitrator found that the Grievant did not waive his right to invoke the 90-day rule.[11] The Arbitrator relied on *Charles Sims*, FMCS Case No. 08-5712 (2012) (Simmelkjaer, Arb.) which concluded that the Union complied with the requirements of Article 19, E, Section 5.2 when it notified the Chief of Police in its appeal that it would rely on "any and all applicable laws, rules, regulations and provisions of the labor agreement." The Arbitrator further found that there is substantial authority for the proposition that the 90-day rule is jurisdictional and cannot be waived.[12]

The Arbitrator further found that the 90-day rule was only tolled until the end of a criminal investigation. According to the Arbitrator, there was no evidence in the record indicating that the Department, the United States Attorney's Office, the Office of the Attorney General, or the Office of Police Complaints was conducting any criminal investigations into the events after the date of the Grievant's arrest. Therefore, the Arbitrator concluded that the 90-day period should not be extended because the criminal investigation into the receipt of stolen property was completed by March 8, 2011.[13] The Department violated the 90-day rule because it did not serve the Notice of Proposed Adverse Action until April 12, 2012.

The Department argued that the Grievant was charged in the Notice of Proposed Adverse Action with "having been found guilty of 'Attempt Receiving Stolen Property'" and it would not have known of this misconduct until the Grievant was found guilty on December 21, 2011. The Arbitrator found that General Order 120.21 clearly states that it is the act of misconduct which is the basis for an adverse action against an employee, not whether the employee has been convicted of a crime involving that act or misconduct.[14]

The Arbitrator directed the Department to restore the Grievant to work in a position consistent with his rank and experience and provide back pay.[15]

IV. Position of the Parties

The Department argues that the Arbitrator misconstrued the 90-day rule and General Order 120.21 when he found that the Grievant's dismissal violated the 90-day rule. The Department argues that the Arbitrator incorrectly found that the 90-day clock started on March 8, 2011, and therefore expired in July of 2011.[16] General Order 120.21 provides grounds for disciplining a Department member if they have been convicted of a crime or if they have been deemed guilty by the Department without a criminal conviction.[17] The Notice of Proposed Adverse Action specified that the Grievant was being charged for the conviction, not the initial misconduct. The misconduct the Grievant was charged with, his criminal conviction, did not

[11] Award at 5.
[12] Award at 6.
[13] Award at 9.
[14] Award at 8.
[15] Award at 10.
[16] Request at 9.
[17] Request at 9.

occur until December 21, 2011.[18] The Department argues that, despite the clear language of General Order 120.21, the Arbitrator determined that the underlying misconduct could only be the criminal act itself, not the conviction.[19]

The Union argues that the Department's complaint is a mere disagreement with the Arbitrator's findings and conclusions.[20] The attempted receipt of stolen property allegation and the subsequent conviction are not two separate acts of misconduct. The underlying conduct and the conviction are both the same "act or occurrence constituting cause."[21] The Union argues that the Arbitrator correctly found that the 90-day rule required that the charges against the Grievant be dismissed.[22]

The Department further argues that the Award is contrary to the dominant public policy of requiring police officers to preserve peace, protect life, and uphold the law.[23] The Department argues that to allow a police officer who has been found guilty of breaking the law to continue working would be directly at odds with this public policy. The Department looks to a case from the Connecticut Superior Court and another by the Court of Appeals of Ohio that vacated arbitration awards based on public policy grounds.[24] The Department also looks to various Department General Orders which require police officers to "observe, uphold and enforce all laws."[25]

The Union argues that the Department is for the first time making a public policy argument.[26] Before the Arbitrator, the Department only argued with respect to how long the 90-day rule should be tolled. During arbitration, the Department did not challenge whether the Grievant's claim could be arbitrated on the basis of public policy. The Union argues that since the Department did not make a public policy argument to the Arbitrator, the Department cannot now make such arguments for the first time before the Board.[27]

V. Discussion

The Union argues that the Department improperly brings a public policy argument for the first time on appeal, without first raising it before the Arbitrator. However, the public policy argument relates to the Board's authority to review arbitration awards, not to the legitimacy of the Department's action. As stated earlier, the CMPA permits the Board to modify, set aside, or remand an arbitration award if it is contrary to law and public policy. The Department's argument is properly before the Board.

[18] Request at 10.
[19] Request at 10.
[20] Opposition at 19.
[21] Opposition at 20.
[22] Opposition at 23.
[23] Request at 10.
[24] Request at 11-12.
[25] Request at 13, citing General Order 201.26(I).
[26] Opposition at 17.
[27] Opposition at 17.

For the Board to find the Award was, on its face, contrary to law and public policy, the petitioner has the burden to show the applicable law and public policy that mandates a different result.[28] Regarding a criminal investigation, the 90-day rule states:

> If the act or occurrence allegedly constituting cause is the subject of a criminal investigation by the Metropolitan Police Department or any law enforcement agency with jurisdiction within the United States, the Office of the United States Attorney for the District of Columbia, or the Office of the Attorney General, or is the subject of an investigation by the Office of the Inspector General, the Office of the District of Columbia Auditor, or the Office of Police Complaints, the 90-day period for commencing a corrective or adverse action under subsection (a) or (a-1) of this section shall be tolled until the conclusion of the investigation.[29]

As stated earlier, the Arbitrator found that there was no evidence on the record of a criminal investigation after the date of the Grievant's arrest. The Department offers an interpretation of the 90-day rule and General Order 120.21 that differs from the Arbitrator's interpretation and results in a different timeline. By submitting a grievance to arbitration, the parties agree to be bound by the Arbitrator's interpretation of the parties' agreement, related rules and regulations, as well as the evidentiary findings on which the decision is based; which would include his interpretation of section 5-1031(b) and General Order 120.21.[30] The Board may not modify or set aside the Award because the Department offers a different interpretation of the statute or General Order 120.21.

Finally, the Department argues that the Award is contrary to the public policy requiring police officers to preserve the peace, protect life, and uphold the law. The Board's scope of review, particularly concerning the public policy exception, is extremely narrow.[31] The Board has adopted the U.S. Court of Appeals for the District of Columbia Circuit's holding that a violation of public policy "must be well defined and dominant, and is to be ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interest."[32] The D.C. Circuit went on to explain that the "exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration awards under the guise of public policy."[33]In order to establish a public policy violation, the Department has cited other jurisdictions as well as its own General Orders; neither of which are "well defined and dominant" or "ascertained by reference to the laws and legal precedents." Moreover, General Orders are not law or public policy. In reference to General Orders, the Court of Appeals has stated that agency protocols and procedures "do not have the force or effect of a statute or an

[28] *See Fraternal Order of Police v. D.C. Pub. Emp. Relations Bd.*, 2015 CA 006517 P(MPA) at p.8.
[29] D.C. Official Code § 5-1031(b).
[30] *District of Columbia Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm.*, 47 DC Reg. 7217, Slip Op. No. 633 at 3, PERB Case No. 00-A-04 (2000); *District of Columbia Metro. Police Dep't and Fraternal Order of Police/Metro. Police Dep't Labor Comm. (Grievance of Angela Fisher),* 51 DC Reg. 4173, Slip Op. No. 738, PERB Case No. 02-A-07 (2004).
[31] *American Postal Workers v. United States Postal Service*, 789 F.2d 1 (D.C. Cir. 1986).
[32] *FOP/Dep't of Corr. Labor Comm. v. D.C. Dep't of Corr.* 59 D.C. Reg. 9798, Slip Op. 1271 at p. 2, PERB Case No. 10-A-20 (2012) (*citing W.R. Grace & Co. v. Rubber Workers*, 461 U.S. 757, 766(1983)).
[33] *American Postal Workers v. United States Postal Service*, 789 F.2d 1, 8 (D.C. Cir. 1986).

administrative regulation. Rather, they provide officials with guidance on how they should perform those duties which are mandated by statute or regulation".[34] Furthermore, the Board has already rejected this type of argument as a basis for overturning an Arbitrator's Award.[35] The Department has failed to show the violation of an explicit, well-defined public policy grounded in law and or legal precedent. In the absence of a clear violation of law and public policy apparent on the face of the Award, the Board may not modify, set aside, or remand the Award as contrary to law and public policy.

VI. Conclusion

The Board rejects the Department's arguments and finds no grounds to modify, set aside, or remand the Arbitrator's Award. Accordingly, the Department's request is denied and the Award is enforceable as written.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is hereby denied.

2. Pursuant to Board Rule 559, 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.

September 27, 2018

[34] *Wanzer v. District of Columbia*, 580 A.2d 127, 133 (D.C. 1990).
[35] *MPD v. FOP/MPD Labor Committee*, 65 DC Reg. 7468, Slip Op.1667 at 4, PERB Case No. 18-A-04 (2018).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-A-09, Op. No. 1684 was sent by File and ServeXpress to the following parties on this the 28th day of September, 2018.

Marc L. Wilhite
Pressler Senftle & Wilhite, P.C.
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Andrea Commentale
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/s/ Sheryl Harrington
Public Employee Relations Board
1100 4th Street, SW
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Washington, D.C. 20024
Telephone: (202) 727-1822

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
American Federation of Government Employees, Local 1403, AFL-CIO	
Complainant	
v.	PERB Case No. 17-U-22
District of Columbia and the Department of Behavioral Health	Opinion No. 1685
Respondents	

DECISION AND ORDER

On February 22, 2017, complainant American Federation of Government Employees Local 1403 ("Union") filed an unfair labor practice complaint ("Complaint") naming as respondents the District of Columbia and the Department of Behavioral Health (collectively "the Respondents").[1] The Complaint alleges that the Respondents committed an unfair labor practice by removing two employees, Anndreeze Williams and Maureen Dimino (collectively "the Employees"), from the bargaining unit represented by the Union. The Respondents filed an answer with affirmative defenses ("Answer"). Having reviewed the record, the Board concurs with the Hearing Examiner's conclusion that the Respondents did not commit an unfair labor practice.

I. Statement of the Case

A. Pleadings

The facts established by the pleadings, having been alleged in the Complaint and admitted in the Answer, are as follows. The Union is a certified collective bargaining representative of approximately three hundred non-supervisory attorneys employed in the Office of the Attorney General and other agencies, including respondent Department of Behavioral

[1] The Complaint also named the Office of Legal Counsel as a respondent. In their answer the Respondents moved to dismiss the Office of Legal Counsel because the Complaint stated no allegations against it. At the hearing the Union acceded to the Respondents' motion. Tr. 37. Consequently, the Office of Legal Counsel has been removed from the caption.

Health ("Department"). At the time of the filing of the Complaint, the Union was a party to a collective bargaining agreement with the District and the Office of the Attorney General effective from October 1, 2013, to September 30, 2017, ("the 2013 CBA"). The 2013 CBA provided:

> The following employees are excluded from the bargaining unit covered by the Agreement: . . .
>
> 3. Employees who act in a confidential capacity with respect to an individual who formulates or effectuates management policies regarding attorney employees in the field of labor relations;
>
> 4. Employees engaged in personnel work regarding attorney employees in other than a purely clerical capacity. . . .

In a letter dated January 18, 2017, the Department's director of human resources told the Union's president that Andreeze Williams and Maureen Dimino "had been improperly coded as bargaining unit members" because the two perform significant personnel work and have access to confidential information. The letter served notice that the Department would, "consistent with District law, immediately code Anndreeze William and Maureen Dimino as outside any collective bargaining unit."[2]

The Union alleges that neither Williams nor Dimino "performs personnel work or has confidential information affecting AFGE Local 1403 bargaining unit members."[3] As a result, in the Union's view, the Department's position in its January 18, 2017 letter is contrary to the above-quoted provisions of the 2013 CBA as well as the Board's precedent.[4] The Union further alleges, "The unilateral removal of Williams and Dimino from the bargaining unit, made without notice to, or bargaining with, the Union/charging party, amounted to an unlawful refusal to bargain collectively with the Union in good faith in violation of D.C. Code §l-617.04(a)(1) and (5)."[5]

The Union requests the following remedies:

> a. Declare that Respondent violated D.C. Code § 1-617.04(a)(l) and (5) by virtue of the foregoing actions;
> b. Declare that the A[F]GE Local 1403 bargaining unit includes all non-supervisory attorneys employed by the District of Columbia in the District of Columbia Office of

[2] Complaint Ex. 1.
[3] Complaint ¶ 5.
[4] Complaint ¶¶ 26, 27.
[5] Complaint ¶ 28.

Attorney General and the District's agencies, including the DCPS [*sic*] Office of General Counsel, who perform personnel work, so long as that personnel work does not directly or indirectly affect other attorneys who are members of the AFGE Local 1403 bargaining unit;[6]

c. Order the District of Columbia, DCPS [*sic*] and their agents to desist from committing further unfair labor practices;
d. Reimburse the charging party for dues that would have been paid but for Respondent's unlawful actions;
e. Order Respondents to conspicuously post an appropriate notice; and
f. Take such other and further action as the PERB deems necessary and appropriate to remedy the above unfair labor practices.[7]

In their Answer the Respondents raise several defenses. The first is that section 1-617.09(b) of the D.C. Official Code excludes certain categories of employees and that Williams and Dimino are in some of those categories. The Answer asserts that Williams falls into the exclusion for confidential employees[8] as well as the exclusion for employees "engaged in administering the provisions of this subchapter."[9] Dimino, the Answer asserts, falls into the exclusion for employees "engaged in personnel work in other than a purely clerical capacity."[10]

The Respondents' second defense is that the certification of representative that the Complaint alleges is applicable, PERB Certificate No. 133, also excludes the Employees from the bargaining unit because it too excludes "confidential employees, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139." The predecessor certification contains the same exclusions. The Answer maintains that the parties cannot enlarge or limit exclusions found in the law and the certifications.[11] Rather, the Answer states, only the Board has jurisdiction to expand the scope of a bargaining unit, adding, "The Complainant did not have such jurisdiction or authority when it negotiated terms in Article 1, Section 5 of the CBA that are inconsistent with the PERB's

[6] The second paragraph of the Complaint's prayer for relief is, in effect, a request for a unit modification. It requests the Board to issue a bargaining unit description that modifies an existing unit by adding language to the unit description in the Certification of Representative. Joint Exhibit 3. The Complaint does not allege that any of the permissible grounds for unit modification set forth in Rule 504.1 are present and does not satisfy the requirements of Rule 504.2(b) and (d) for petitions for unit modification. Therefore, the Union's request for a unit modification is denied.
[7] Complaint at 7.
[8] D.C. Official Code § 1-617.09(b)(2).
[9] D.C. Official Code § 1-617.09(b)(4).
[10] D.C. Official Code § 1-617.09(b)(3).
[11] Answer at 9-10.

certifications (and D.C. Official Code § 1-617.09(b)).”[12] Finally, the Answer asserts that the 2013 CBA does not apply to the Employees.

The Executive Director referred the case to a Hearing Examiner.

B. Hearing

The Hearing Examiner conducted a hearing on February 12, 2018. At the hearing the parties agreed that the issue was whether “the employer committed unfair labor practice [*sic*] when it removed Williams and Dimino from the bargaining unit.”[13] At the hearing the parties presented arguments and evidence. Following the hearing, the parties submitted briefs.

On June 12, 2018, the Hearing Examiner submitted her Report and Recommendation (“Report”) to the Board. The Report states that the relevant code section is section 1-617.09(b)(1), (2), and (4) of the D.C. Official Code, which provides:

> A unit shall not be established if it includes the following: . . .
>
> (2) A confidential employee;
>
> (3) An employee engaged in personnel work in other than a purely clerical capacity;
>
> (4) An employee engaged in administering the provisions of this subchapter. . . .

The Hearing Examiner stated that the decisions of the Board and of the Federal Labor Relations Authority (“FLRA”) “do not support the Union’s position that Attorney Williams and Attorney Dimino should be included in a unit with other attorneys because they do not perform personnel work that affects other attorneys in [the Department].”[14] The Hearing Examiner found that both Williams and Dimino perform non-clerical personnel work that relates to their department.[15] She recommended that both employees should be excluded from the bargaining unit on that basis.[16] In addition, the Hearing Examiner found two other grounds for excluding Williams from the bargaining unit. First, the Hearing Examiner found that Williams was a confidential employee[17] and as such an employee, she should be excluded from the unit under section 1-617.09(b)(2).[18] Second, the Hearing Examiner found that Williams is “engaged in

[12] Answer at 11.
[13] Tr. 38:4-6.
[14] Report 15.
[15] Report 18-19.
[16] Report 23.
[17] Report 20, 23.
[18] Report 20.

administering Labor-Management relations" and "administers the Department's labor policy" under the Comprehensive Merit Personnel Act ("CMPA") and that as a result she should be excluded from the unit under section 1-617.09(b)(4).[19]

The Hearing Examiner rejected the Union's argument that the 2013 CBA takes precedence over the law, adding that "[t]he parties' prior CBA is unenforceable regarding the scope of the exclusions under D.C. Code § 1-617.09(b)(3) and (b)(4)."[20]

The Hearing Examiner recommended that the Board find that an unfair labor practice was not committed.[21] No exceptions were filed. The Report is before the Board for consideration in accordance with Rule 520.14.[22]

II. Analysis

The Union contends that the Respondents committed an unfair labor practice by refusing to bargain in good faith in violation of section 1-617.04(a)(1) and (5) of the D.C. Official Code.[23] The Union presents two grounds for this contention, asserting that the removal of Williams and Dimino from the bargaining unit (1) was done unilaterally without notice or bargaining and (2) was contrary to the terms of the 2013 CBA.

A. Unilateral Removal

The Union claims that the Respondents violated the CMPA when they "unilaterally removed Anndreeze Williams and Maureen Dimino from the bargaining unit, without notice to or bargaining with the Union."[24]

The Board has found the unilateral removal of an employee from a bargaining unit to be an unfair labor practice when the employee is not statutorily excluded from the unit, but conversely it has not found the unilateral removal of an employee who is statutorily excluded to be an unfair labor practice.[25]

The Respondents assert that three statutory exclusions found in section 1-617.09(b)(2)-(4) pertain to the Employees. That section excludes from bargaining units

[19] Report 21.
[20] Report 22.
[21] Report 23.
[22] "The Board shall reach its decision upon a review of the entire record. The Board may adopt the recommended decision to the extent that it is supported by the record."
[23] Complaint ¶ 28.
[24] Union's Br. 1; *see also* Complaint ¶ 6.
[25] *See AFGE, Local 1403 and Office of the Att'y Gen.*, 59 D.C. Reg. 3511, Slip Op. No. 873 at 6-8, PERB Case Nos. 05-U-32 and 05-UC-01 (2011); *NAGE, Local R3-06 v. D.C. Water & Sewer Auth.*, 47 D.C. Reg. 7551, Slip Op. No. 635 at 8-12, PERB Case No. 99-U-04 (2000).

> (2) A confidential employee;
>
> (3) An employee engaged in personnel work in other than a purely clerical capacity; [and]
>
> (4) An employee engaged in administering the provisions of this subchapter[.]

The Board has consistently applied the test that employees are excluded pursuant to section 1-617.09(b)(2) if they "function in . . . confidential roles sufficiently involved in labor relations and policy formulation matters to justify their exclusion from the unit"[26] and "the employee's relationship to labor relations policy and collective bargaining matters would create, between management and the Union, a conflict of interest for the incumbent of the position at issue."[27]

The Report reflects that Williams functions in a confidential role that significantly involves her in labor-management relations in ways that include "conducting collective bargaining negotiations, handling and deciding grievances, as well as preparing for and defending arbitrations, and representing the Agency in multiple bargaining and impasse sessions."[28] The Hearing Examiner found Williams's involvement in these matters sufficient to justify her exclusion from the unit.[29] The Hearing Examiner's findings are not sufficient to establish that Williams is a confidential employee. Although the Hearing Examiner discussed the parties' arguments on whether conflict of interest is an element of the exclusion of employees engaged in personnel work, she did not make a finding on whether Williams's relationship to labor policy and collective bargaining would create for Williams a conflict of interest between the Department and the Union.

The Hearing Examiner's findings on the exclusion of employees engaged in personnel work, however, are sufficient to exclude Williams as well as Dimino from the bargaining unit. Section 1-617.09(b)(3) excludes "[a]n employee engaged in personnel work in other than a purely clerical capacity." The Union's position is that this provision should be read to exclude "employees who perform personnel work in other than a purely clerical capacity for other members of the unit of which they are a member."[30]

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[26] *Local 12, AFGE and D.C. Dep't of Emp't Servs. and AFSCME*, 28 D.C. Reg. 3943, Slip Op. No. 14 at 3, PERB Case No. 0R006 (1981). *Accord NAGE and D.C. Homeland Sec. & Emergency Mgmt. Agency*, 62 D.C. Reg. 14683, Slip Op. No. 1544 at 4, PERB Case No. 15-CU-01 (2015); *NAGE, Local R3-06*, Slip Op. No. 635 at 12, PERB Case No. 99-U-04.
[27] *AFGE, Local 2725 and D.C. Dep't of Hous. & Cmty. Dev.*, 45 D.C. Reg. 2049, Slip Op. No. 532 at 3, PERB Case No. 97-UC-01 (1998). *Accord NAGE, Local R3-06*, Slip Op. No. 635 at 12, PERB Case No. 99-U-04.
[28] Report 20 citing Tr. 80, 147, 182, 185.
[29] Report 20.
[30] Tr. 10:9-12.

In support of that argument, the Union quotes part of the following sentence from the Board's decision in *AFGE, Local 1403 v. Office of the Attorney General*[31] ("*Office of the Attorney General*"): "The Hearing Examiner stated the FLRA has made clear that such personnel work must relate directly to the personnel operations of the employee's own employing agency, which would create a conflict of interest between the employee's job and union representation if included in the unit."[32] The Union mischaracterizes this sentence as a holding of the Board even though in the sentence the Board merely restated what the hearing examiner said about the FLRA decision. The FLRA decision does not support the Union's position. The FLRA said that to be excluded employees must do personnel work for their "own employing agency."[33] It is undisputed that the Employees do that.[34]

The Union acknowledges that the quoted FLRA standard is broader than the one it advocates, but it claims that in *Office of the Attorney General* the Board excluded an employee named Polly Goff on the basis of a narrower exclusion: "While stating that it was applying this broader standard, PERB accepted the Hearing Examiner's finding that Polly Goff was excluded from the unit because her personnel work did affect other attorneys in her own bargaining unit, thus actually relying on and applying the narrower standard that we urge should be applied here."[35] None of that is true. Neither the hearing examiner nor the Board took the position that Goff should be excluded because her personnel work affected others in her own bargaining unit. All the opinion says about the effect of Goff's work on her unit is that "the Hearing Examiner found because Goff's work had District-wide implications, it affects her own Agency and unit."[36] The two words "and unit" at the end of that finding of fact cannot be stretched into a cause of the exclusion in that case or into an essential element of exclusion in future cases. The effect on Goff's unit was a fact of the case, not the beginning of a doctrine, as the FLRA explained with regard to similar statements in its decisions: "The statements in those decisions that performing personnel work 'affected the bargaining unit' resulted in exclusion may be explained as statements of fact, not findings that such facts were necessary for the exclusion to apply in the first place."[37]

After inviting briefs from all federal agencies and labor unions, the FLRA held in two companion cases that an effect on the employee's bargaining unit is *not necessary* for the personnel work exclusion to apply.[38] The Union acknowledges that the FLRA's position is adverse to its position but offers that the Board is not bound by the FLRA.[39] While the Board is not bound by the FLRA, it is bound by the CMPA, and what Chairman Cabaniss said in his

[31] 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case Nos. 05-U-32 and 05-UC-01 (2011).
[32] *Id.* at 5.
[33] *Office of Personnel Mgmt. and AFGE,* 5 F.L.R.A. 238, 246 (1981).
[34] Tr. 21:7-19.
[35] Union's Br. 9.
[36] *Office of the Att'y Gen.*, Slip Op. No. 873 at 6, PERB Case Nos. 05-U-32 and 05-UC-01.
[37] *Dep't of the Army, N. Cent. Civilian Personnel Operation Ctr. and AFGE, Local 15*, 59 F.L.R.A. 296, 302 (2003).
[38] *Id.*; *Dep't of Justice Immigration & Naturalization Serv. and AFGE Local 511*, 59 F.L.R.A. 304 (2003), *overruled on other grounds by Dep't of Veterans Affairs Kan. City VA Med. Ctr. and AFGE*, 70 F.L.R.A. 465 (2018).
[39] Union's Br. 11.

concurrences to the two companion cases applies equally to the CMPA's section 1-617.09(b)(3): "I would also reach the same conclusion as the majority in this case by the additional rationale of reliance on the plain language provided by Congress at § 7112(b)(3) of our Statute. That language excludes from bargaining unit status, without exception, 'an employee engaged in personnel work in other than a purely clerical capacity[.]'"[40] The limitation on the exclusion that the Union seeks is not to be found in section 1-617.09(b)(3). Neither the Board's nor the FLRA's cases support a different conclusion.

In view of the plain language of the provision, the Hearing Examiner properly considered whether the Employees "engaged in personnel work in other than a purely clerical capacity" without imposing the extra-statutory limitation proposed by the Union. She summarized the testimony on the subject as follows:

> [T]he General Counsel who serves as attorney supervisor, Matthew Caspari testified on the record that Anndreeze Williams is the Chief Labor Counsel for DBH. (Tr. 181). He also testified that Ms. Williams represents DBH in bargaining and impasse hearings. Ms. Dimino testified that she serves as a chairperson of the Performance Review and Reconsideration Committee for non-attorney DBH employees. (Tr. 40). Ms. Dimino also testified that she has served as a hearing officer to determine whether a DBH employee met the residency requirements for the employment preference. (Tr. 65, 66). Attorney Dimino also admitted working closely with the EEO Officer, David Prince, to investigate EEOC claims. (Tr. 73). The undersigned Hearing Examiner credits the testimony of the witnesses during the hearing. *Both Ms. Williams and Ms. Dimino perform personnel work for DBH that is non-routine and not of a clerical nature.* They admitted on the record their involvement in matters requiring exercise of discretion and independent judgment in duties such as research, participating in hearings, developing agency defenses, defending against employee/union grievances, handling settlement negotiations, representing the agency in more than 50 arbitrations, administering agency policy, advising management in impact and effects bargaining, representing the agency on negotiations teams during collective bargaining, as well as employees' evaluations challenges. (Tr. 38, 40, 46, 51, 65, 66, 73, 76, 80).[41]

[40] *Dep't of the Army*, 59 F.L.R.A. at 303 (Chairman Cabaniss, concurring); *Dep't of Justice*, 59 F.L.R.A. at 306 (Chairman Cabaniss, concurring). *See also, e.g., Luck v. District of Columbia*, 617 A.2d 509, 512 (D.C. 1992) ("The proposition that plain statutory language generally trumps other considerations is hardly subject to challenge.")
[41] Report 18 (emphasis added).

On the basis of that testimony, the Hearing Examiner concluded that both Employees are statutorily excluded because both engage in personnel work in other than a purely clerical capacity.[42] That conclusion is reasonable, supported by the record, and consistent with Board precedent.

Finally, the Hearing Examiner also found that Williams should be excluded pursuant to section 1-617.09(b)(4) because she "engaged in administering Labor-Management relations" and "administers the Department's labor policy." Those findings do not answer the question posed by section 1-617.09(b)(4). Section 1-617.09(b)(4) excludes "[a]n employee engaged in administering the provisions of this subchapter," i.e., the Labor-Management Relations subchapter of the CMPA. William is involved with compliance with that subchapter, but there is no evidence in the record that, like the staff of this Board, Williams administers the Labor-Management Relations subchapter of the CMPA.

In conclusion, section 1-617.09(b)(3) requires the exclusion of the Employees from the bargaining unit. Therefore, the Respondents did not commit an unfair labor practice by excluding them from it unilaterally.

B. Alleged Contract Violation

The Union contends that the 2013 CBA expressly covers non-supervisory attorneys assigned to work for agencies including the Department.[43] Article 1, section 5 of the 2013 CBA provides:

> The following employees are excluded from the bargaining unit covered by the Agreement: . . .
>
> 3. Employees who act in a confidential capacity with respect to an individual who formulates or effectuates management policies regarding attorney employees in the field of labor relations;
>
> 4. Employees engaged in personnel work regarding attorney employees in other than a purely clerical capacity. . . .[44]

The Union alleges that the Employees "have never 'engaged in personnel work regarding attorney employees in other than a purely clerical capacity.'"[45] The Union asserts that the Respondent's position is contrary to article, 1 section 5.[46]

[42] Report 23.
[43] Complaint ¶¶ 19, 20.
[44] Union's Ex.
[45] Complaint ¶ 24 (quoting art. 1, § 5(4)).
[46] Complaint ¶ 26.

The Respondents argue that the 2013 CBA cannot supersede section 1-617.09(b) or PERB's certifications, which track the language of the statute. In addition, the Respondents argue that the 2013 CBA did not apply to the Employees after the law transferred them from the Attorney General's Office to the Department on October 1, 2014.[47] In response, the Union asserts that the Department did not change the employees' status for two years after October 1, 2014, during which time it continued to remit dues to the Union. The Union argues that agencies are obliged to honor an expired contract until a successor contract is negotiated.[48]

On October 1, 2017, a new contract between the Union and the District and the Office of the Attorney General took effect. It does not retain the language from the prior contract that the Union relies upon to limit the exclusion of employees engaged in personnel work. Instead it references section 1-617.09(b).[49]

While the Department's classification of the Employees comports with the present contract, from January 17, 2017, to October 1, 2017, the classification of the Employees was arguably inconsistent with the contract then in effect. However, an alleged breach of a collective bargaining agreement does not state a claim of an unfair labor practice prohibited by the CMPA.[50] An employer's breach of a collective bargaining agreement is not an unfair labor practice unless the employer has entirely failed or refused to implement a collective bargaining agreement where no dispute exists over its terms.[51] Such conduct is a repudiation of the collective bargaining agreement and a violation of the duty to bargain. To establish a repudiation, a complainant must offer specifics indicating a repudiation of the contract rather than merely disputes over its terms.[52]

Here the Union neither alleged repudiation of the 2013 CBA nor put specifics of a repudiation into evidence. Instead what we have in this case is a dispute over the application of article 1, section 5 of the contract. The Respondents maintain that article 1, section 5 does not apply to the Employees and does not supersede certifications or the law. Disputes concerning the meaning or application of a contract or concerning alleged contract violations are matters for resolution through negotiated grievance procedures rather than through unfair labor practice proceedings.[53]

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[47] Answer ¶ 24; Respondents' Br. 11-12.
[48] Union's Br. 12.
[49] Joint Ex. 4 at 1, 4.
[50] *FOP/MPD Labor Comm. (on behalf of Culver) v. MPD*, 60 D.C. Reg. 2268, Slip Op. No. 1353 at 8, PERB Case No. 07-U-27 (2013).
[51] *Doctors' Council of D.C. and Dep't of Youth & Rehab. Servs.*, 64 D.C. Reg. 3705, Slip Op. No. 1613 at 6, PERB Case No. 11-U-22 (2016); *Teamsters Local 639 & 730 v. DCPS*, 43 D.C. Reg. 6633; Slip Op. No. 400 at 7, PERB Case No. 93-U-29 (1994).
[52] *Doctors' Council of D.C.*, Slip Op. No. 1613 at 6, PERB Case No. 11-U-22.
[53] *Allen v. Bd. of Trs. of the Univ. of D.C.*, 60 D.C. Reg. 13713, Slip Op. No. 1416 at 3, PERB Case No. 11-U-45 (2013); *Teamsters*, Slip Op No. 400 at 7, PERB Case No. 93-U-29.

III. Conclusion

Based on the forgoing, the Board finds that neither the unilateral removals nor the alleged contract violation constitutes an unfair labor practice. Accordingly, the Union's Complaint is dismissed with prejudice.

ORDER

IT IS HEREBY ORDERED THAT:

1. AFGE Local 1403's Complaint is dismissed with prejudice.

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

By unanimous vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

September 27, 2018

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order was served upon the following parties on this the 28th day of September 2018.

Robert Debardinis, president
AFGE Local 1403
441 4th Street NW, 6th Floor South
Washington, DC 20001

by File & ServeXpress and U.S. Mail

Kathryn Naylor
D.C. Office of Labor Relations and
Collective Bargaining
441 4th St NW, Suite 820N
Washington, DC 20001

by File & ServeXpress

/s/ Sheryl V. Harrington
Administrative Assistant

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

TT00-5, IN THE MATTER OF VERIZON WASHINGTON DC, INC.'S PUBLIC OCCUPANCY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 201

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,[1] of its final action taken in the above-captioned proceeding.

2. On September 12, 2018, Verizon Washington, DC, Inc. (Verizon) filed its Rights-of-Way (ROW) Compliance Filing for 2018,[2] in accordance with D.C. Code § 10-1141.06.[3] The ROW Compliance Filing describes the process Verizon uses to recover from its customers the District of Columbia Public ROW fees it pays to the District of Columbia Government. Moreover, Verizon's ROW Compliance Filing contains the most recent calculations and updated rates for the Verizon's ROW surcharges, in accordance with the following tariff page:[4]

GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 201
Section 1A
Page 2

3. In the ROW Compliance Filing, Verizon compares the current ROW surcharge rates and the updated ROW surcharge rates for the ROW Surcharge Rider.[5] Specifically, the ROW Compliance Filing indicates that the monthly customer ROW Surcharge Rider rate will decrease by $0.19, from $8.30 to the updated rate of $8.11, for Non-Centrex lines and decrease by $0.03, from $1.04 to the updated rate of $1.01, for Centrex lines.[6] According to Verizon, the projected cost recovery is based on the line

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1 D.C. Code §§ 2-505 and 34-802 (2001).

2 *TT00-5, In the Matter of Verizon Washington, DC Inc.'s Public Occupancy Surcharge General Regulations Tariff, P.S.C.-D.C. No. 201 ("TT00-5")*, Letter to Brinda Westbrook-Sedgwick, Commission Secretary, from Philip J. Wood, Vice President for State Government Affairs – Mid-Atlantic Region, RE: Case No. TT00-5, In the Matter of Verizon Washington, DC Inc.'s Public Occupancy Surcharge General Regulations Tariff, P.S.C. – D.C. No. 201 ("ROW Compliance Filing"), filed September 12, 2018.

3 *See* D.C. Code § 10-1141.06 (2001).

4 *TT00-5*, ROW Compliance Filing at 2.

5 *TT00-5*, ROW Compliance Filing at 2.

6 *TT00-5*, ROW Compliance Filing at 2.

loss experienced in the first half of 2018 versus the first half of 2017.[7] Verizon intends to implement the new rate on January 1, 2019.[8]

4. The Commission issued a Notice of Proposed Tariff (NOPT) that was published in the *D.C. Register* on September 28, 2018, inviting comments on Verizon's ROW Compliance Filing.[9] In the NOPT, the Commission states that Verizon has a statutory right to implement its filed ROW Surcharge rate revisions, but if the Commission discovers any inaccuracies in the calculation of the proposed surcharge rates, Verizon could be subject to a reconciliation of the surcharge rates. No comments were filed in response to the NOPT and the Commission is satisfied that the ROW Surcharge Rider rates proposed by Verizon in the ROW Compliance Filing comply with D.C. Code § 10-1141.06.

5. The Commission at its regularly scheduled Open Meeting held on November 7, 2018, took final action approving Verizon's ROW Compliance Filing. Verizon's ROW Compliance Filing shall become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

7 *TT00-5*, ROW Compliance Filing at 2.

8 *TT00-5*, ROW Compliance Filing at 2.

9 65 *D.C. Reg.* 010039-010040 (September 28, 2018).

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

GT2017-02, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO ADD RATE SCHEDULE NO. 7; and

FORMAL CASE NO. 1137, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO INCREASE RATES AND CHARGES FOR GAS SERVICE

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 34-802 District of Columbia Code ("D.C. Code") and in accordance with Section 2-505 of the D.C. Code[1] of its intent to act upon the Application of Washington Gas Light Company ("WGL" or "Company") in not less than 30 days from the date of publication of this Notice of Proposed Tariff ("NOPT") in the *D.C. Register.*

2. On May 2, 2017, pursuant to Commission Order No. 18712[2], WGL filed a High Load Factor Rate Proposal for Combined Heat and Power ("CHP") and Distributed Generation ("DG") facilities, collectively ("CHP/DG") in the District of Columbia.[3] The Commission approved WGL's High Load Factor Rate Proposal, Rate Schedule No. 7, at the June 13, 2018, regularly scheduled open meeting and the tariff became effective on June 22, 2018, when it was published in the *D.C. Register*.[4] WGL recently discovered that the Company inadvertently left out language authorizing WGL to assess the District of Columbia Sustainable Energy Trust Fund ("SETF") surcharge and the District of Columbia Energy Assistance Trust Fund ("EATF") surcharge to customers receiving service under Rate Schedule No.7.[5]

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1 D.C. Code §§ 2-505 and 34-802 (2001).

2 *Formal Case No. 1137, In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service* ("*Formal Case No.1137*"), Order No. 18712, ¶¶ 445 and 463, rel. March 3, 2017.

3 *Formal Case No. 1137,* Washington Gas Light Company's High Load Factor Rate Proposal, filed May 2, 2017.

4 65 *D.C. Reg.* 6934-6935 (June 22, 2018).

5 *Formal Case No. 1137,* Washington Gas Light Company's CHP Tariff Revision, filed August 10, 2018. *See* D.C. Code §§ 8-1774.10(b)(4) and 8-1774.11(b)(4), requiring assessment for the SETF and EATF to be applied to the sale of every therm of natural gas in the District of Columbia, with the exception of therms sold to Residential Essential Service customers.

3. Washington Gas proposes to amend the following tariff page of P.S.C. of D.C. No. 3:

NATURAL GAS TARIFF, P.S.C. of D.C. No. 3
First Revised Page No. 27AB

4. Any person interested in commenting on the subject matter of this notice may submit written comments not later than 30 days after publication of this notice in the *D.C. Register* to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Copies of the notice may be obtained by visiting the Commission's website at www.dcpsc.org or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this notice should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov .

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF REVISED COMMENT PERIOD

CAPITAL GRID PROJECT

FORMAL CASE NO. 1144, IN THE MATTER OF THE POTOMAC ELECTRIC POWER COMPANY'S NOTICE TO CONSTRUCT TWO 230kV UNDERGROUND CIRCUITS FROM THE TAKOMA SUBSTATION TO THE REBUILT HARVARD SUBSTATION AND FROM THE REBUILT HARVARD SUBSTATION TO THE REBUILT CHAMPLAIN SUBSTATION (CAPITAL GRID PROJECT)

1. The Public Service Commission of the District of Columbia ("Commission") gives notice that interested persons may file supplemental initial comments on the Potomac Electric Power Company's ("Pepco" or "Company") comprehensive Capital Grid Application ("Capital Grid filing") by December 10, 2018. The Commission is also extending the deadline for all reply comments to December 28, 2018.

2. On October 30, 2018, Pepco filed a Confidential Errata to the Quanta Report, correcting cost data and the cost-benefit analysis for the Mt. Vernon substation.[1] To allow all interested persons sufficient time to review the new cost data and cost-benefit analysis, by Order No. 19738, the Commission extended the comment period in connection with Pepco's Capital Grid filing.

3. Therefore, interested persons are invited to provide supplemental comments by December 10, 2018. Reply comments may be filed by December 28, 2018, with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or at the Commission's website at https://edocket.dcpsc.org/public/publiccomments.

4. Pursuant to 15 DCMR §150, copies of Pepco's Confidential Errata filing shall be made available only to interested persons who have signed an appropriate confidentiality or proprietary agreement with the party claiming that its information is confidential or proprietary. Persons with questions concerning this Notice should contact the Commission Secretary at (202) 626-5150 or psc-commissionsecretary@dc.gov.

[1] *Formal Case No. 1144, In the Matter of the Potomac Electric Power Company's Notice to Construct Two 230 kV Underground Circuits from the Takoma Substation to the Rebuilt Harvard Substation and From the Rebuilt Harvard Substation to the Rebuilt Champlain Substation ("Capital Grid Project") ("Formal Case No. 1144"),* Potomac Electric Power Company's Errata to the Study Performed by Quanta Technology filed as Appendix F to the Notice of Construction ("Confidential Errata"), filed October 30, 2018. This document is confidential.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICE
(REVISED COMMENT PERIOD AND CLARIFICATION)

FORMAL CASE NO. 1130, IN THE MATTER OF THE INVESTIGATION INTO MODERNIZING THE ENERGY DELIVERY SYSTEM FOR INCREASED SUSTAINABILITY

1. By this Public Notice, the Public Service Commission of the District of Columbia ("Commission") extends the time to file comments and reply comments on the Potomac Electric Power Company's ("Pepco") Application for Approval of its Transportation Electrification Program in the District of Columbia ("TE Program") that was filed on September 6, 2018.[1] The deadline for comments is extended from November 5, 2018, to December 12, 2018, and the deadline for replies is extended from November 20, 2018, to January 14, 2019.

2. The initial Public Notice was posted on the Commission's website on September 27, 2018, and subsequently published in the *D.C. Register* on October 5, 2018.[2] After the Commission's issuance of the initial Public Notice, the Office of the People's Counsel ("OPC") filed a multipart Motion for Clarification, to Hold in Abeyance and to File Out of Time and Pepco responded to OPC's motions.[3] OPC subsequently filed another Motion for Enlargement of Time to Respond to Pepco's TE Program Application and Pepco responded to OPC's motion.[4]

3. To assist interested persons in preparing comments and reply comments as directed in the Commission's Public Notice, the Commission directs that comments focus on the merits of Pepco's proposed TE Program and what actions the Commission should take regarding the TE Program Application. In preparing comments, interested persons should be aware of, and address as they deem appropriate, the Apartment and Office Building Association of Metropolitan Washington's Motion to Dismiss Pepco's TE Program Application, filed on

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[1] *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability* ("*Formal Case No. 1130*"), Potomac Electric Power Company's ("Pepco") Application for Approval of its Transportation Electrification Program, filed September 6, 2018 ("Pepco's Transportation Electrification Application").

[2] *See Formal Case No. 1130*, Public Notice, rel. September 27, 2018; 65 *D.C. Reg*. 11124-11127 (October 5, 2018).

[3] *See Formal Case No. 1130*, Office of the People's Counsel for the District of Columbia's Motion for Clarification, to Hold in Abeyance, and to File Out of Time, filed October 15, 2018; *Formal Case No. 1130*, Potomac Electric Power Company's Response to the Office of the People's Counsel's Motion for Clarification, to Hold in Abeyance, and to File Out of Time, filed October 22, 2018.

[4] *Formal Case No. 1130*, Office of the People's Counsel for the District of Columbia's Motion for Enlargement of Time, filed October 30, 2018; *Formal Case No. 1130*, Potomac Electric Power Company's Response to the Office of the People's Counsel's Motion for Enlargement of Time, filed November 1, 2018.

September 24, 2018, OPC's Motion to Hold in Abeyance filed on October 15, 2018, and Pepco's response to OPC's Motion filed on October 22, 2018. Additionally, interested persons should be aware of, and address as they deem appropriate, how the "Energy Innovation and Savings Amendment Act of 2012" might impact the Commission's review of Pepco's proposed TE Program.[5]

4. Any person interested in commenting on Pepco's proposed TE Program may do so by submitting written comments and replies addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington D.C., 20005. Copies of the Application may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket" tab, click on "Search database" and input "FC 1130" as the case number and "336" as the item number. Copies of Pepco's proposed TE Program may also be purchased, at cost, by contacting the Commission Secretary at (202) 626-5150 or PSC-CommissionSecretary@dc.gov.

[5] D.C. Law 19-0252, the "Energy Innovation and Savings Amendment Act of 2012." *See* D.C. Code § 34-207 (Supp. 2018) ("The term "electric company" when used in this subtitle . . . also excludes a person or entity that does not sell or distribute electricity and that owns or operates equipment used exclusively for the charging of electric vehicles."). *See* also, D.C. Code § 34-214 (Supp. 2018) ("The term "public utility" excludes a person or entity that owns or operates electric vehicle supply equipment but does not sell or distribute electricity, an electric vehicle charging station service company, or an electric vehicle charging station service provider.").

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, December 6, 2018 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

1.	**Call to Order**	Board Chairman
2.	**Roll Call**	Board Secretary
3.	**Approval of November 1, 2018 Meeting Minutes**	Board Chairman
4.	**Committee Reports**	Committee Chairperson
5.	**General Manager's Report**	General Manager
6.	**Action Items** Joint-Use Non Joint-Use	Board Chairman
7.	**Other Business**	Board Chairman
8.	**Adjournment**	Board Chairman

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

DC Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) DC Retail Water and Sewer Rates Committee will be holding a meeting on Thursday, November 29, 2018 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or lmanley@dcwater.com.

DRAFT AGENDA

1.	Call to Order	Committee Chairperson
2.	Monthly Updates	Chief Financial Officer
3.	Committee Work plan	Chief Financial Officer
4.	Other Business	Chief Financial Officer
5.	Executive Session	Committee Chairperson
6.	Adjournment	Committee Chairperson

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19583-A of Jemal's East 451 LLC, pursuant to 11 DCMR Subtitle Y § 703, for a minor modification to the plans approved by BZA Order No. 19583 to construct a 13-story hotel in the D-4-R zone at premises 601 K Street, N.W. (Square 451, Lot 23, 24, 25, 823, 822).

The original application (No. 19583) was pursuant to 11 DCMR Subtitle X, Chapter 9, for special exception under Subtitle C § 1500.3(c) from the penthouse regulations of Subtitle C § 1500, to construct a 13-story hotel in the D-4-R zone at premises 601 K Street N.W. (Square 451, Lot 23, 24, 25, 823, 822).

HEARING DATES (Case No. 19583):	October 11, 2017 and November 29, 2017
DECISION DATE (Case No. 19583):	November 29, 2017
ORDER ISSUANCE DATE (Case No. 19583):	December 5, 2017
MODIFICATION DECISION DATE:	October 24, 2018

SUMMARY ORDER ON REQUEST FOR MINOR MODIFICATION

BACKGROUND

On November 29, 2017, in Application No. 19583, the Board of Zoning Adjustment ("Board" or "BZA"), based on a self-certification, approved the request by Jemal's East 451 LLC (the "Applicant") for special exception under Subtitle C § 1500.3(c) from the penthouse regulations of Subtitle C § 1500, to construct a 13-story hotel in the D-4-R zone at premises 601 K Street N.W. (Square 451, Lot 23, 24, 25, 823, 822).

In the original application, Application No. 19583, the Board approved special exception relief under Subtitle C § 1500.3(c) from the penthouse regulations of Subtitle C § 1500, to authorize use of the penthouse of a new hotel to be constructed on the subject property for restaurant, lounge, nightclub, or bar uses. Both the Office of Planning ("OP") and the District Department of Transportation ("DDOT") recommended approval of Application No. 19583. Also, the affected Advisory Neighborhood Commission ("ANC") for the subject property, ANC 6E, the only other party to the Application, recommended approval of the application. On November 29, 2017, the Board approved the requested special exception relief.

The Board issued Order No. 19583 (the "Order") on December 5, 2017, subject to the approved plans at Exhibits 39A1-39A3 in the record of Case No. 19583 and two conditions:

1. The Applicant shall restrict the hours of operation of the restaurant, bar, or lounge so that the hours end no later than midnight on weekdays (Sunday through Thursday for Alcoholic Beverage Regulation Administration ("ABRA") licensing purposes) and 2:00 AM on weekends (Friday and Saturday for ABRA licensing purposes).

2. The Applicant shall not allow excessive noise, per the ABRA regulations, on the rooftop at any time.

(Exhibit 4.)

MOTION FOR MINOR MODIFICATION

On September 19, 2018, the Applicant submitted a request for a minor modification to modify the plans approved by the Board in Order No. 19583. (Exhibits 1-7.) Pursuant to 11 DCMR Subtitle Y § 703, the Applicant, as a result of further design development, is requesting a minor modification to make several design refinements including redesign of the entry along K Street, redesign of the penthouse, and redesign of bay window projections. (see Exhibit 3, p. 2 items A.-E. for complete list and see revised set of drawings showing proposed refinements at Exhibits 5A and 5B.)

The Applicant served the request on ANC 6E on September 20, 2018. (Exhibit 3.)

On October 16, 2018, the Applicant filed a supplement to its original request adding a new design request to remove guest rooms from a portion of the second floor; correcting an error in the approved plans calculation of gross floor area ("GFA") which will result in a decrease instead of an increase on overall GFA; and clarifying that the Office of Planning ("OP") was provided with the additional information requested, i.e. a zoning compliance table and estimated affordable housing contribution (see Exhibit 10, pgs. 2-3. Also see revised drawings reflecting the changes at Exhibits 9A1 and 9A2.)

The Applicant served ANC 6E and OP with the further modification request on October 16, 2018. (Exhibit 8.) The Applicant asked for the matter to be decided as a minor modification.

The Office of Planning ("OP") submitted a report, dated October 17, 2018, recommending approval of the request for a minor modification to the previously approved plans. (Exhibit 12.) Specifically, OP has recommended the requested changes to the size, height and layout of the penthouse, as illustrated in the exhibits in Case No. 19583-A dated October 16, 2018 (Exhibits 9A1 and 9A2), and for which a special exception under Subtitle C § 1500.3 was approved in the Order. In its report, OP also indicated it has no objection to the other design and numerical refinements contained in the October 16, 2018 Exhibits to the building drawings and development numbers that accompanied the Order and were approved by the Board. OP noted that since the issuance of the Order the Applicant has refined the design of other parts of the building and that these refinements have resulted in changes to portions of the K Street façade, the entry vestibule, the cellar and, to comply with public space regulations, bay window projections on 6th Street. OP indicated that other than the penthouse, none of these refinements affect previously granted relief, not do they require new relief, but for the sake of clarity when filing for a building permit, the Applicant has asked the Board to also approve the non-penthouse changes to the drawings that previously accompanied the Order. (Exhibit 12.)

ANC 6E submitted a report on October 22, 2018 that indicated that it recommended approval of the modification request. The ANC's report stated that at a duly noticed public meeting on October 2, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the Applicant's request with the following two conditions:

1. The trash room be located indoors; and

2. Douglas will continue to work with the Commission to obtain DDOT approval for a lay-by on 6th St. and/or K St.

(Exhibit 13.)

The Applicant submitted a response to the ANC's report on October 23, 2018, stating that while the requested items are not directly relevant to the items raised in the Applicant's modification request, the Applicant has no objection to these requested conditions. (Exhibit 14.)

DDOT did not submit a report in this matter.

The Merits of the Request for Minor Modification

The Applicant's request complies with 11 DCMR Subtitle Y § 703.3, which defines a minor modification as "modifications that do not change the material facts upon which the Board based its original approval of the application."

In the application herein, the Applicant is requesting a minor modification to the plans approved in Order No. 19583 to make minor changes to the size, height, and layout of the penthouse approved by the Board as part of Application No. 19583, which application involved approval of the use of the penthouse of a hotel for bar/restaurant/ lounge/nightclub use. As noted by OP in its report, the penthouse for which the special exception use was permitted by Order No. 19583 was to be one-story and 18 feet tall, and setback-compliant. The Applicant proposes to alter that plan and now provide a one-story-plus-mezzanine penthouse that would be 20 feet tall, setback-compliant and 760 square feet larger than the previous penthouse. The uses would be the same as those permitted by Order No. 19583.

The Applicant's supplemental submission also included a request to: (1) clarify the minor design changes proposed for the approved project; (2) identify and correct minor calculation errors in the approved drawings; and (3) address certain issues raised in discussion with OP regarding the minor modification request. A full, corrected set of comparative drawings of the approved and proposed design of the project is included at Exhibit 9A1 and 9A2 together with a comparative estimate of penthouse habitable contribution to the Housing Production Trust Fund at Exhibit 10. The Applicant also requested that should the Board approve the minor modification request, that reference in its approval be made to this set of revised drawings.

In its analysis, OP notes that the proposed penthouse changes would result in a zoning-compliant change to the penthouse dimensions and a minor increase in the amount of space devoted to the special exception use. The Applicant calculates this would result in an increase in the required affordable housing contribution from approximately $84,767 to approximately $102, 852. No new relief is required for the penthouse. There has been no significant change in the surrounding neighborhood since Order No. 19583 became final. Therefore, the material facts upon which the Board based its original approval have not changed.

Pursuant to Subtitle Y §§ 703.6-703.9, the request for a minor modification shall be served on all other parties to the original application and those parties are allowed to submit comments within 10 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 minor modification to ANC 6E, the other party to Application No. 19583. (Exhibits 3 and 8.) ANC 6E was the only other party to the original application and notice of the initial proposed refinements was provided on September 19, 2018 and notice of the supplemental proposed refinements was provided on October 16, 2018.[1] On October 22, 2018, ANC 6E submitted a report to the record of this application recommending conditional approval[2] of the modification request. (Exhibit 13.)

The Applicant also served its request on the Office of Planning. OP submitted a report dated October 17, 2018 recommending approval of the requested modification as a minor modification. (Exhibit 12.)

As directed by 11 DCMR Subtitle Y § 703.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a minor modification. 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 minor modification to the plans approved in Case No. 19583, 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 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 § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

[1] The ANC was advised by the Office of Zoning of its right to respond to the supplemental proposed refinements by October 23rd, which allowed the ANC seven days' response time instead of the 10 days required by Y-703.9, by the Board Chair's authorization.

[2] The Board found that the conditions requested by the ANC were not related to the relief being requested and thus declined to adopt them.

It is therefore **ORDERED** that this application for a minor modification of the Board's approval in Application No. 19583 is hereby **GRANTED, SUBJECT TO THE MODIFIED PLANS AT EXHIBITS 9A1 AND 9A2.**

In all other respects, Order No. 19583 remains unchanged.

VOTE ON ORIGINAL APPLICATION ON NOVEMBER 29, 2017: 4-0-1
(Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Peter A. Shapiro to APPROVE; one Board seat vacant.)

VOTE ON MINOR MODIFICATION ON OCTOBER 24, 2018: 3-0-2
(Carlton E. Hart, Lorna L. John, and Peter G. May to APPROVE; Frederick L. Hill, Lesylleé M. White, not present or voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 2, 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. 19821 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).

HEARING DATES: October 10 and 24, 2018
DECISION DATE: October 31, 2018

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 12 (original) and 40A (revised)[1].) 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") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report in support of the application. The ANC report indicated that at a duly noticed and scheduled public meeting on October 10, 2018, at which a quorum was present, the ANC voted 7-1-0 in support of the application with conditions. (Exhibit 37.) The ANC report indicated that the Applicant had agreed to the following conditions:

1. Contribution of $5,000 to the Housing Production Trust Fund;
2. Install permeable pavers for any driveway/parking pad, walkway, or patio surface to be installed;
3. Replace lead service line to property, if applicable;
4. Compensate the adjoining neighbor with solar panels in the amount of $10,000.

The ANC also asked the Applicant to make design changes regarding the adjacent neighbor's solar panels and enter into an agreement with the neighbor. The neighbor wrote a letter of support for the application, acknowledging that the Applicant had entered into a written agreement with her regarding the impact of the project on her existing solar panels. Consequently, the Board determined that the ANC's proposed condition related to the neighbor's

[1] The Applicant revised the self-certification form in Exhibit 40A to modify the rear yard and lot occupancy calculations, but did not amend the relief.

solar panels was not necessary because the requirements of Subtitle U § 320.2(g) have been met. The Board also found that the other three proposed ANC conditions did not pertain to the zoning relief, and therefore, declined to adopt them in this order.

The Office of Planning ("OP") submitted a timely report, recommending approval of the application. (Exhibit 38.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application with conditions. (Exhibit 33.)

A letter of support from the adjacent neighbor at 1320 Randolph Street, N.W. was submitted to the record. (Exhibit 40B.)

Two letters in opposition to the application from other neighbors on the block were submitted to the record. (Exhibits 35-36.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under 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. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 320.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 44C.**

VOTE: **3-0-2** (Carlton E. Hart, Lorna L. John and Peter G. May to APPROVE; Frederick L. Hill, Lesylleé M. White, not present or voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: November 5, 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19840 of Julie Qureshi Hummel, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2, and under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to enclose a rear porch and construct a second-story rear addition to an existing principal dwelling unit in the RF-1 Zone at premises 1119 Abbey Place, N.E. (Square 773, Lot 183).

HEARING DATE: October 31, 2018
DECISION DATE: October 31, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 38 (Updated)[1] and 15 (Original).) 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") 6C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 12, 2018, at which a quorum was present, the ANC voted 5-0-0 to submit a written report to the Board raising "inconsistencies in the drawing of the rear deck/walkway and the question of whether or not the deck/walkway qualifies as a 'landing.'" (Exhibit 35.) The ANC further indicated that, if the Board finds that the lot occupancy of the project does not exceed 70%, the ANC supports the special exception application; however, the ANC noted that if the Board finds that the lot occupancy exceeds 70%, it would not support the application, as a

[1] The final self-certification form submitted by the Applicant in Exhibit 38 updated the calculations for lot occupancy, but did not amend the relief requested.

variance would be required. (Exhibit 35.) The Applicant's agent testified that the inconsistencies raised by the ANC were addressed in the drawings submitted to the record after the ANC meeting. (Exhibit 37.) In evaluating the application, the Board considered the Applicant's most recent revised plans and corresponding self-certification form, which reflect a lot occupancy of 69.74%. (Exhibits 37-38.) Based on the determination that the lot occupancy is under 70%, the Board considers the ANC's position to be in support of the application.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 41.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 40.)

Four letters of support were filed to the record. (Exhibits 4, 6, 7, and 11.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2, and under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to enclose a rear porch and construct a second-story rear addition to an existing principal dwelling unit in the RF-1 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle E § 5201, 304.1, and 306.1, and Subtitle C § 202.2, 703.2, and 701.5, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 37.**

VOTE: **5-0-0** (Frederick L. Hill, Michael G. Turnbull, 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: November 5, 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19846 of Adam Rubinson and Susan Weinstein, as amended[1] pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D §§ 306.4 and 5201 from the rear yard requirements of Subtitle D § 306.2 and the rear addition requirements of Subtitle D § 306.3, to construct a one-story rear addition to an existing principal dwelling unit in the R-3 Zone at premises 4821 43rd Street, N.W. (Square 1672, Lot 9).

HEARING DATE: October 31, 2018
DECISION DATE: October 31, 2018

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated September 26, 2018 from the Zoning Administrator, certifying the required relief. (Exhibit 6 (original); Exhibit 45 (revised).)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 3E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. The ANC submitted a resolution which indicated that at a regularly scheduled, properly noticed public meeting on October 11, 2018, at which a quorum was present, the ANC voted 5-0-0 to support the application, with one condition. (Exhibit 49.) Although the Applicant agreed to the condition, the Board did not deem the condition relevant to the zoning relief requested, and did not include it in this order of approval.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 48.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 46.) Three email letters of support were submitted into the record from owners and tenants who are adjacent to the property. (Exhibit 43.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle D §§ 306.4 and 5201 from the rear yard requirements of Subtitle D § 306.2 and the rear addition requirements of Subtitle D § 306.3, to construct a one-

[1] The Applicant amended the application by adding to the original relief a special exception from the rear yard requirements under Subtitle D § 306.2 based on the Revised Zoning Administrator's Memorandum at Exhibit 45.

story rear addition to an existing principal dwelling unit in the R-3 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle D §§ 5201, 306.4, 306.2, and 306.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 41 – REVISED ARCHITECTURAL PLANS AND ELEVATIONS, AND EXHIBIT 44 – REVISED SITE PLAN WITH STAIRS.**

VOTE: **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Michael G. Turnbull 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: November 5, 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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 18-21
(Hanover R.S. Limited Partnership – Consolidated PUD and Related Map Amendment @ Squares 3832 and 3835)
November 5, 2018

THIS CASE IS OF INTEREST TO ANC 5E and 5B

On October 30, 2018, the Office of Zoning received an application from Hanover R.S. Limited Partnership (the "Applicant") for approval of a consolidated planned unit development ("PUD") and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Lot 15 in Square 3832 and Lot 804 n Square 3835 in northeast Washington, D.C. (Ward 5), on property located at 3135 and 3201 8th Street, N.E. The property is currently zoned PDR-1. The Applicant is proposing a PUD-related map amendment to rezone the property, for the purposes of this project, to the MU-4 zone.

The Applicant proposes to construct two multifamily residential buildings separated by a landscaped entry plaza and containing a total of approximately 375 units. The buildings will function as a single residential development, but will be separated into two buildings in order to break down the scale of the project. The two buildings together will include approximately 325,050 square feet of gross floor area, with a density of 3.6 floor area ratio ("FAR") and a maximum height of 65 feet (measured to the top of the parapet). The project will include a below-grade parking garage with 186 car parking spaces and 125 bicycle parking spaces. Further, it will be designed to LEED-Gold standards under the LEEDv4 Multifamily Midrise standard, and it will provide 12% of the gross floor area as affordable units (in a range between 30% of median family income "MFI" and 80% MFI).

This case was filed electronically through the Interactive Zoning Information System ("IZIS"), which can be accessed through http://dcoz.dc.gov. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.