



***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council passes Resolution 22-653, Fiscal Year 2020 Budget Submission Requirements Resolution of 2018
- D.C. Board of Elections increases the annual expenditure limit for constituent-service programs
- Department of Energy and Environment announces funding availability for the Community Stormwater Solutions Grants
- Department of Health Care Finance releases Medicaid Fee Schedule Updates for numerous services
- D.C. Housing Authority implements revisions to the Violence Against Women Reauthorization Act of 2013
- Department of Motor Vehicles clarifies the review process for final orders of the Hearing Examiners

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

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

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ENROLLED ORIGINAL

A RESOLUTION

22-621

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To confirm the reappointment of General Errol Schwartz to the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Trustees of the University of the District of Columbia General Errol Schwartz Confirmation Resolution of 2018”.

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

General Errol Schwartz  
17320 Queen Anne Road  
Upper Marlboro, Maryland 20774

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2023.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-622

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To confirm the reappointment of Dr. Anthony Tardd to the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Trustees of the University of the District of Columbia Anthony Tardd Confirmation Resolution of 2018”.

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

Dr. Anthony Tardd  
1604 Varnum Street, N.W.  
Washington, D.C. 20011  
(Ward 4)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2023.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-623

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To confirm the appointment of Dr. Carolyn Rudd to the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Trustees of the University of the District of Columbia Carolyn Rudd Confirmation Resolution of 2018”.

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

Dr. Carolyn Rudd  
4301 Connecticut Avenue, N.W., Suite 134  
Washington, D.C. 20008  
(Ward 3)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2023.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-624

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To confirm the reappointment of Dr. Charlene Drew Jarvis to the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Trustees of the University of the District of Columbia Charlene Drew Jarvis Confirmation Resolution of 2018”.

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

Dr. Charlene Drew Jarvis  
1789 Sycamore Street, N.W.  
Washington, D.C. 20012  
(Ward 4)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2023.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

22-625

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To reappoint Ms. Alicia Wilson to the Commission on Health Equity.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Health Equity Alicia Wilson Reappointment Resolution of 2018”.

Sec. 2. Notwithstanding Council Rule 277, the Council of the District of Columbia reappoints:

Ms. Alicia Wilson  
6207 Carrollton Terrace  
Hyattsville, Maryland 20781

as a voting member of the Commission on Health Equity, pursuant to section 5043(b)(2) of the Commission on Health Equity Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 7-756.01(b)(2)), for a term to end July 7, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the chairperson of the Commission on Health Equity, and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

22-626

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To appoint Dr. Maranda C. Ward to the Commission on Health Equity.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Health Equity Maranda C. Ward Appointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia appoints:

Dr. Maranda C. Ward  
1324 Talbert Court, S.E.  
Washington, D.C. 20020  
(Ward 8)

as the nonvoting community advisory member from Ward 8 of the Commission on Health Equity, pursuant to section 5043(c)(1)(B) of the Commission on Health Equity Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 7-756.01(c)(1)(B)).

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, to the chairperson of the Commission on Health Equity, and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A RESOLUTION

22-627

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To reappoint Dr. Christopher Selhorst to the Commission on Health Equity.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Health Equity Christopher Selhorst Reappointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia reappoints:

Christopher Selhorst, M.D.  
530 8th Street, N.E.  
Washington, D.C. 20002  
(Ward 6)

as a voting member of the Commission on Health Equity, pursuant to section 5043(b)(2) of the Commission on Health Equity Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 7-756.01(b)(2)), for a term to end July 7, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the chairperson of the Commission on Health Equity, and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.



ENROLLED ORIGINAL

A RESOLUTION

22-634

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To confirm the reappointment of Dr. Elaine Crider to the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Trustees of the University of the District of Columbia Elaine Crider Confirmation Resolution of 2018”.

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

Dr. Elaine Crider  
501 Trenton Street, S.E.  
Washington, D.C. 20032  
(Ward 8)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2023.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

22-635

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To confirm the appointment of Mr. Ken Grossinger to the Board of Trustees of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Trustees of the University of the District of Columbia Ken Grossinger Confirmation Resolution of 2018”.

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

Mr. Ken Grossinger  
3025 N Street, N.W.  
Washington, D.C. 20007  
(Ward 2)

as a member of the Board of Trustees of the University of the District of Columbia, established by section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1424; D.C. Official Code § 38-1202.01), for a term to end May 15, 2023.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-636

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To confirm the reappointment of Ms. Lorna John to the Board of Zoning Adjustment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Zoning Adjustment Lorna John Confirmation Resolution of 2018”.

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

Ms. Lorna John  
927 French Street, N.W.  
Washington, D.C. 20001  
(Ward 6)

as a member of the Board of Zoning Adjustment, established by section 8 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938 (52 Stat. 799; D.C. Official Code § 6-641.07), for a term to end September 30, 2021.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-653

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To establish the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 2020, to identify information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 2020, and to require the Mayor to submit performance plans and accountability reports pursuant to Title XIV-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2020 Budget Submission Requirements Resolution of 2018”.

Sec. 2. Pursuant to section 442(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798; D.C. Official Code § 1-204.42(a)) (“Home Rule Act”), the Mayor shall submit to the Council, and make available to the public, not later than March 20, 2019, the proposed budget for the District government and related budget documents required by sections 442, 443, and 444 of the Home Rule Act (D.C. Official Code §§ 1-204.42, 1-204.43, and 1-204.44), for the fiscal year ending September 30, 2020.

Sec. 3. The proposed budget shall contain:

(1) Required budget documents as follows:

(A) For the entire District government, including all subordinate agencies, independent agencies, independent instrumentalities, and independent authorities (“agency”), the proposed budget shall contain a summary statement and a table showing the proposed budget and financial plan, to include the following:

(i) Actual revenues and expenditures for Fiscal Year 2017, actual revenues and expenditures for Fiscal Year 2018, projected revenues and expenditures for the Fiscal Year 2019 approved and revised budgets, projected revenues and expenditures for the Fiscal Year 2020 proposed budget, and projected revenues and expenditures for Fiscal Years 2021 through 2023;

ENROLLED ORIGINAL

(ii) Revenues by source (local, dedicated tax, special purpose, federal, and private); and

(iii) Expenditures by appropriation title;

(B) A detailed explanation of the revenue assumptions used for the proposed budget and financial plan to include the following for each dedicated tax and special purpose fund:

(i) Actual Fiscal Year 2017 revenue;

(ii) Fiscal Year 2017 end-of-year fund balance;

(iii) Actual Fiscal Year 2018 revenue;

(iv) Fiscal Year 2018 end-of-year fund balance; and

(v) Certified revenues for Fiscal Years 2019 through 2023;

(C) For each agency or separate Organizational Level I line item in the District’s annual budget:

(i) The following information shall be provided in table format for Fiscal Year 2017 actual, Fiscal Year 2018 actual, the Fiscal Year 2019 approved budget, and the Fiscal Year 2020 proposed budget:

(I) Total operating budget and full-time equivalents

(“FTEs”);

(II) Amount of funding and FTEs by revenue source (local, dedicated tax, special purpose, federal, private, and intra-district);

(III) Expenditures by Comptroller Source Group (“CSG”);

(IV) Expenditures and FTEs by Program (Organizational

Level II) and Activity (Organizational Level III); and

(V) Itemized changes, by revenue type, between the Fiscal Year 2019 approved budget and the Fiscal Year 2020 proposed budget;

(ii) The following information shall be provided in narrative form:

(I) A description of each Program and Activity that explains the purpose and services to be provided; and

(II) An explanation of each proposed programmatic change and its corresponding budget amount by Program, Activity, CSG, and fund type, disaggregated for any change greater than \$50,000;

(2) School-related budget documents as follows:

(A) A summary statement or table showing the number of full-time and part-time school-based personnel in the District of Columbia Public Schools, by school level (e.g., elementary, middle, junior high, pre-kindergarten through 8th grade, senior high school) and school, including school-based personnel funded by other District agencies, federal funds, or private funds;

(B) A summary statement or table showing the number of special-education students served by school level (e.g., elementary, junior high), including the number of students who are eligible for Medicaid services;

## ENROLLED ORIGINAL

(C) A summary table showing the projected enrollment and local budget of each public charter school;

(D) A summary table showing the projected enrollment and budget, by fund type, of each District of Columbia public school; and

(E) For each District of Columbia public school, a summary statement or table of the local-funds budget, including the methodology used to determine each school's local funding and a separate budget line item for at-risk funding allocated to the school, as coded in the system of record, the System of Accounting and Reporting (SOAR).

(3) Agency budgets shall be structured to ensure accessibility and transparency regarding the manner in which taxpayer dollars will be disbursed. Agency budget structures should align with current or proposed agency organizational structures and programs and clearly indicate the source and amount of funding needed for each individual program, facility, or venue identified on the agency's website. Agency Program and Activity titles shall be specific and descriptive and reflect the programs and activities within the agency. The following shall be eliminated:

(A) Program titles that reiterate the agency name;

(B) Duplicate Program and Activity titles within an agency; and

(C) Discretionary budget that is not clearly identified and explained.

(4) A Capital Improvements Plan ("CIP") for Fiscal Years 2020 through 2025 that is based on the current approved CIP and the current schedule of investment in existing capital assets that is needed to attain and maintain a state of good repair. The proposed CIP shall include all capital projects (inclusive of subprojects) as defined in section 103(8) of the Home Rule Act. The proposed CIP shall be presented separately in one volume and shall include the following information:

(A) A detailed description for each project with planned allotment in Fiscal Years 2020 through 2025. The projects shall be organized alphabetically by title, summarized by owner agency, and listed in a table of contents. Each project description shall include the following:

(i) A specific scope consistent with the project title;

(ii) The purpose;

(iii) The current status;

(iv) The location (address and ward, if applicable);

(v) A facility name or identifier, if applicable;

(vi) Appropriate maps or other graphics;

(vii) The estimated useful life;

(viii) The current estimated full-funded cost;

(ix) Proposed sources of funding;

(x) Current allotments, expenditures, and encumbrances;

(xi) Proposed allotments by fiscal year;

## ENROLLED ORIGINAL

(xii) For each pool project, a Fiscal Year 2020 spending plan that identifies the specific District assets that will be improved with the proposed budget; provided, that spending of more than \$5 million on a specific asset shall be budgeted in a separate project;

(xiii) The change in budget authority request from the prior year;

(xiv) The number of FTE positions and the amount of Personnel Services budget to be funded with the project, as a percentage of the proposed allotment;

(xv) The estimated impact that the project will have on the annual operating budget, to include the required ongoing maintenance and repair funding needed to avoid deferred maintenance costs; and

(xvi) Projected dates and actual dates where applicable for project environmental approvals, design start, design complete, construction start, construction complete, and closeout that are consistent with the budget request;

(B) A chart identifying the estimated funding gaps for capital maintenance projects and new capital projects in each fiscal year of the current approved and proposed CIPs and an explanation of the progress being made in closing those gaps. The explanation shall address projects being funded through public-private partnerships (“P3s”) and identify the impact that the proposed P3s will have on the financial plan and debt-cap analysis.

(C) The proposed Highway Trust Fund budget and the projected local Highway Trust Fund cash flow for Fiscal Years 2020 through 2025, with actual expenditures for Fiscal Year 2018 and the approved plan for Fiscal Year 2019;

(D) A capital budget pro forma setting forth the sources and uses of new allotments by fund detail and owner agency;

(E) An explanation of the debt-cap analysis used to formulate the capital budget and a table summarizing the analysis by fiscal year, which shall include total borrowing, total debt service, total expenditures, the ratio of debt service to expenditures, and the balance of debt-service capacity for each fiscal year included in the capital improvement plan; and

(F) An analysis, prepared by the Mayor, of whether the proposed CIP is consistent with the Comprehensive Plan, Transportation Improvement Program, Washington Metropolitan Area Transit Authority capital budget, and other relevant planning programs, proposals, or elements developed by the Mayor as the central planning agency for the District. The Mayor’s analysis shall highlight and explain any differences between the proposed CIP and other programs and plans on a project-by-project basis.

(5) Additional documents as follows:

(A) Copies of all documents referenced in and supportive of the budget justification for Fiscal Year 2020, including the proposed Fiscal Year 2020 Local Budget Act of 2019, proposed Fiscal Year 2020 Federal Portion Budget Request Act of 2019, and any other legislation that is necessary for implementation of the proposed budget for the District for Fiscal Year 2020; provided, that the proposed Fiscal Year 2020 Federal Portion Budget Request Act of 2019 shall reflect the actual budget requests from the named entities.

## ENROLLED ORIGINAL

(B) The proposed Housing Production Trust Fund budget and the projected cash flow to include actual Fiscal Year 2017 revenue and expenditures, Fiscal Year 2017 end-of-year fund balance, Fiscal Year 2018 revenue and expenditures, Fiscal Year 2018 end-of-year fund balance, certified revenues for Fiscal Years 2019 through Fiscal Year 2023, and planned expenditures for Fiscal Years 2019 through Fiscal Year 2023. This shall include the total amount of loan repayments due to the Housing Production Trust Fund, and the total amount paid, as of September 30, 2018, and the total amount of loans due, and paid, as of December 31, 2018.

(C) A list, by agency, of all special-purpose-revenue-fund balances, each fund-balance use, carryover of funds from prior fiscal years, a narrative description of each fund, and the revenue source for each special-purpose-revenue fund, which shall include the:

- (i) Actual amounts for Fiscal Year 2017;
- (ii) Actual amounts for Fiscal Year 2018;
- (iii) Approved amounts for Fiscal Year 2019; and
- (iv) Proposed amounts for Fiscal Year 2020;

(D) A table of all intra-district funds included in the Fiscal Year 2020 budget, including the receiving and transmitting agency, and whether there is a signed Memorandum of Understanding for each intra-district funding arrangement;

(E) A table showing all tax-supported debt issued and authorized within and above the debt cap and spending authority remaining within the cap;

(F) A summary table, which shall include a list of all intra-agency and inter-agency changes of funding, with a narrative description of each change sufficient to provide an understanding of the change in funds and its impact on services;

(G) A crosswalk, for any agency that has undergone a budget restructuring in Fiscal Year 2019 or which would undergo a proposed budget restructuring in Fiscal Year 2020, that shows the agency's allocations before the restructuring under the new or proposed structure;

(H) A table showing each agency's actual fringe rate and amount for Fiscal Years 2017 and 2018, the approved rate and amount for Fiscal Year 2019, and the proposed rate and amount for Fiscal Year 2020;

(I) A spreadsheet detailing each revenue source by line item including the actual amount received for that revenue line item in the prior 2 fiscal years and the amount projected to be received for that revenue line item in the proposed budget;

(J) Copies of all agency operating, capital, FTE, and programmatic budget enhancement requests, including the "Form B" for all agencies, and any similar documentation describing in detail agencies' budget needs or requests, consistent with D.C. Official Code § 47-318.05a;

- (K)(i) A master schedule of fees collected by all agencies that shall:
- (I) Identify each fee collected by a District agency;
  - (II) Include the amount collected from each fee;



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fund the fee is deposited;  
 online;  
 authorizing the fee; and  
 fines and other charges; and  
 of \$10 million or more.

(III) Identify the agency collecting the fee;  
 (IV) Identify into which fund or special purpose revenue  
 (V) Include information on whether the fee can be paid  
 (VI) Identify the legislation, statute, or regulation  
 (VII) Be published online in a spreadsheet format.  
 (ii) For the purposes of this subparagraph, the term “fee” includes  
 (L) Spending plans for all capital projects with proposed budget authority

Sec. 4. Pursuant to Title XIV-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective May 16, 1995 (D.C. Law 11-16; D.C. Official Code § 1-614.11 *et seq.*), the Mayor shall submit to each Councilmember and the Council Officers, and make available to the public, not later than January 31, 2019, all performance accountability reports for Fiscal Year 2018 that cover all publicly funded activities of each District government agency.

Sec. 5. Pursuant to section 446 of the Home Rule Act, the Council’s budget-review period shall begin after the date that all materials required to be submitted by sections 2 through 4, except for section 3(5)(K), have been submitted in accordance with this resolution and the Council’s rules.

Sec. 6. The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 7. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A RESOLUTION

22-656

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To approve, on an emergency basis, Contract No. GF-2019-C-0021, the multiyear agreement for exclusive pouring rights between the University of the District of Columbia and the Bottling Group, LLC.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “University of the District of Columbia Exclusive Pouring Rights Agreement with the Bottling Group LLC Emergency Approval Resolution of 2018”.

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Contract No. 2019-C-0021, the multiyear agreement for exclusive pouring rights between the University of District of Columbia and the Bottling Group, LLC.

Sec. 3. Transmittal.

The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the University of the District of Columbia Board of Trustees and to the President of the University.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

22-661

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 20, 2018

To declare the existence of an emergency with respect to the need to approve the first amendment to the employment agreement between the Board of Trustees of the University of the District of Columbia and Mr. Ronald F. Mason, Jr. for Mr. Mason to serve as President of the University of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “First Amendment to the Employment Agreement of Mr. Ronald F. Mason, Jr., as President of the University of the District of Columbia Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists an immediate need for the Council to approve the first amendment (the “Amendment”) to the employment agreement between the Board of Trustees of the University of the District of Columbia (the “Board”) and Mr. Ronald F. Mason, Jr. (“President Mason”), to serve as President of the University of the District of Columbia (the “University”).

(b) The Board and President Mason negotiated the Amendment, which extends the term of his employment from July 1, 2018 through June 30, 2023.

(c) Mr. Mason has served as President since July 6, 2015 and this 5-year extension represents continuity and demonstrates confidence by the Board in his performance.

(d) Approval of the Amendment ensures continuity and responsible governance and allows President Mason to focus on implementation of the University’s Equity Imperative strategic plan.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the First Amendment to the Employment Agreement of Mr. Ronald F. Mason, Jr., as President of the University of the District of Columbia Approval Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

- |          |   |
|----------|---|
| B22-1041 | New Communities Bond Authorization Amendment Act of 2018<br><br>Intro. 11-13-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization with comments from the Committee on Business and Economic Development and the Committee on Finance and Revenue |
| <hr/>    |   |
| B22-1045 | Warehousing and Storage Eminent Domain Authority Act of 2018<br><br>Intro. 11-16-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development  |
| <hr/>    |   |
| B22-1046 | Paid Leave to Vote Amendment Act of 2018<br><br>Intro. 11-20-18 by Councilmembers Cheh, Allen, Silverman, Bonds, Grosso, R. White, T. White, Todd, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety  |
| <hr/>    |   |
| B22-1049 | Salary of the Director of the Department of Health Act of 2018<br><br>Intro. 11-21-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health   |
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**PROPOSED RESOLUTIONS**

PR22-1131 Public Service Commission Willie Phillips Confirmation Resolution of 2018

Intro. 11-14-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

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PR22-1132 Public Service Commission Greer Gillis Confirmation Resolution of 2018

Intro. 11-14-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

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PR22-1133 District of Columbia Housing Authority Board of Commission LeJuan Strickland Confirmation Resolution of 2018

Intro. 11-14-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

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PR22-1134 Director of the Department of General Services Keith Anderson Confirmation Resolution of 2018

Intro. 11-14-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

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PR22-1135 Police Complaints Board Jeffery Hines Tignor Confirmation Resolution of 2018

Intro. 11-15-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety

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PR22-1136 District of Columbia Housing Finance Agency Board of Directors Stephen Green Confirmation Resolution of 2018

Intro. 11-15-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

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- PR22-1139      Rental Housing Commission Rupa Puttagunta Confirmation Resolution of 2018
- Intro. 11-19-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization
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- PR22-1140      Alcoholic Beverage Control Board Marcus C. Goodwin Confirmation Resolution of 2018
- Intro. 11-19-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
- 
- PR22-1141      Master Facilities Plan Approval Resolution of 2018
- Intro. 11-19-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education
- 
- PR22-1142      Local Rent Supplement Program Contract No. 2017-LRSP-04A Approval Resolution of 2018
- Intro. 11-21-18 by Chairman Mendelson at the request of the District of Columbia Housing Authority and Retained by the Council with comments from the Committee on Housing and Neighborhood Revitalization
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- PR22-1143      Local Rent Supplement Program Contract No. 2017-LRSP-05A Approval Resolution of 2018
- Intro. 11-21-18 by Chairman Mendelson at the request of the District of Columbia Housing Authority and Retained by the Council with comments from the Committee on Housing and Neighborhood Revitalization
- 
- PR22-1144      Attestation and Seal Change Approval Resolution of 2018
- Intro. 11-21-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
- 
- PR22-1146      Food Policy Council Beverley Wheeler Confirmation Resolution of 2018
- Intro. 11-26-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
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PR22-1147      Food Policy Council Val Dolcini Confirmation Resolution of 2018

Intro. 11-26-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

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PR22-1148      Water and Sewer Authority Board of Directors Krystal Brumfield Confirmation Resolution of 2018

Intro. 11-26-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

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

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

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**REVISED /ABBREVIATED**

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

**ANNOUNCES A PUBLIC HEARING ON:**

**Bill 22-915, the “Randall School Museum and Housing Development Real Property Tax Abatement Act of 2018”**

**Bill 22-1008, the “Charter School Property Tax Clarification Amendment Act of 2018”**

**Wednesday, December 12, 2018**

**11:00 a.m.**

**Room 120- John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Wednesday, December 12, 2018 at 11:00 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 22-915, the “Randall School Museum and Housing Development Real Property Tax Abatement Act of 2018” would amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide a 20- year abatement of real property taxes on real property located in Lot 801 in Square 643-S in Ward 6.

Bill 22-1008, the “Charter School Property Tax Clarification Amendment Act of 2018” would amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain properties owned or leased by Shaed School, LLC, 5601 East Capitol, LLC, Mamie D. Lee, LLC, and St. Paul on Fourth Street, Inc.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or [sloy@dccouncil.us](mailto:sloy@dccouncil.us), and provide your name, organizational affiliation (if any), and title with the organization by 11:00 a.m. on Tuesday, December 11, 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](mailto:sloy@dccouncil.us) or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004. **This notice is being revised and abbreviated to confirm the date and reflect the time change.**



**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON EDUCATION  
NOTICE OF PUBLIC HEARING**  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**COUNCILMEMBER DAVID GROSSO  
COMMITTEE ON EDUCATION  
ANNOUNCES THE NOTICE OF CANCELLATION OF A PUBLIC HEARING**

on

**B22-947, the “Office of the State Superintendent of Education Amendment Act of 2018”**

**And**

**B22-0952, the “State Education Agency Independence Amendment Act of 2018”**

on

**Monday, December 17, 2018  
11:00 a.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Councilmember David Grosso announces the CANCELLATION of the scheduling of a public hearing on B22-947, the “Office of the State Superintendent of Education Amendment Act of 2018” and B22-0952, the “State Education Agency Independence Amendment Act of 2018.” The hearing will be held at 11:00 a.m. on Monday, December 17, 2018 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of B22-947 is to make the Office of the State Superintendent of Education (OSSE) subordinate to the State Board of Education.

The stated purpose of B22-952 is to establish the Office of the State Superintendent of Education (OSSE) as an independent agency and increases the term of the State Superintendent of Education to 6 years.

This hearing is cancelled due to a scheduling error.

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

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**COUNCILMEMBER ANITA BONDS, CHAIRPERSON  
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION**

**ANNOUNCES A PUBLIC ROUNDTABLE OF THE COMMITTEE ON**

**PR22-1139, the “Rental Housing Commission Rupa Puttagunta Confirmation Resolution of 2018”**

**PR22-1133, the “District of Columbia Housing Authority Board of Commissioners LeJuan Strickland Confirmation Resolution of 2018”**

*and*

**PR22-1087, the “Housing Production Trust Fund Board Lynn French Confirmation Resolution of 2018”**

on

Thursday, December 6, 2018, at 1:00 PM  
John A. Wilson Building, Room 412  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Councilmember Anita Bonds, Chairperson of the Committee on Housing and Neighborhood Revitalization, will hold a public roundtable on PR22-1139, the “Rental Housing Commission Rupa Puttagunta Confirmation Resolution of 2018”, PR22-1133, the “District of Columbia Housing Authority Board of Commissioners LeJuan Strickland Confirmation Resolution of 2018”, and PR22-1087, the “Housing Production Trust Fund Board Lynn French Confirmation Resolution of 2018”. The public roundtable will be held on Thursday, December 6, 2018, at 1:00 PM in Room 412 of the John A. Wilson Building.

The stated purpose of PR22-1139 is to confirm the appointment of Rupa Puttagunta as a member of the Rental Housing Commission, replacing Diana Epps, to fill the remainder of an unexpired term to end July 18, 2019. The stated purpose of PR22-1133 is to confirm the appointment of LeJuan Strickland as a public commissioner of the District of Columbia Housing Authority Board of Commissioners, replacing Joshua Lopez, for a remainder of an unexpired term ending July 12, 2020. The stated purpose of PR22-1087 is to confirm the appointment of Lynn French as a representative of an organization that advocates for the production, preservation, and rehabilitation of affordable housing for lower-income households member of the Housing Production Trust Fund Board, replacing Ornamenta Newsome, for the remainder of an unexpired term to end January 14, 2019, and for a new term to end January 14, 2023.

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization, at (202) 724-8900, or email [omontiel@dccouncil.us](mailto:omontiel@dccouncil.us), and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on December 5, 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 Community Development, 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 Thursday, December 20, 2018.

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

**B22-1040**, New Communities Bond Authorization Temporary Amendment Act of 2018 and **B22-1044**, Warehousing and Storage Eminent Domain Authority Temporary Act of 2018, were adopted on first reading on November 27, 2018. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on December 18, 2018.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
Notice of Grant Budget Modifications**

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

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

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

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**GBM 22-116:** FY 2018 Grant Budget Modifications of November 5, 2018

RECEIVED: 14-day review begins November 20, 2018

**GBM 22-117:** FY 2018 Grant Budget Modifications of November 6, 2018

RECEIVED: 14-day review begins November 20, 2018

**GBM 22-118:** FY 2018 Grant Budget Modifications of October 31, 2018

RECEIVED: 14-day review begins November 28, 2018

**GBM 22-119:** FY 2018 Grant Budget Modifications of November 8, 2018

RECEIVED: 14-day review begins November 28, 2018

COUNCIL OF THE DISTRICT OF COLUMBIA  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR22-1142, the “Local Rent Supplement Program Contract No. 2017-LRSP-04A Approval Resolution of 2018”, and PR22-1143, the “Local Rent Supplement Program Contract No. 2017-LRSP-05A Approval Resolution of 2018”, to allow for the proposed resolutions to be considered at a regular legislative meeting on December 4, 2018.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Notice of Reprogramming Requests**

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

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

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

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**Reprog. 22-186:** Request to reprogram \$1,826,046 of Fiscal Year 2019 Special Purpose Revenue funds budget authority within the Office of Unified Communications (OUC) was filed in the Office of the Secretary on November 27, 2018. This reprogramming is needed to cover costs for IT maintenance and support.

RECEIVED: 14-day review begins November 28, 2018

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 30, 2018
Protest Petition Deadline: January 14, 2019
Roll Call Hearing Date: January 28, 2019

License No.: ABRA-100537
Licensee: Connexion Group, LLC
Trade Name: 1230 DC
License Class: Retailer’s Class “C” Restaurant
Address: 1230 9th Street, N.W.
Contact: Obed Attakpah, Managing Member: (571) 275-7526

WARD 2

ANC 2F

SMD 2F06

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on January 28, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Licensee requests a substantial change to change of hours of Operation, Alcoholic Beverage Sales and Consumption, and Live Entertainment inside premises.

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

Sunday through Thursday 11am – 1am
Friday and Saturday 11am – 2am

CURRENT HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6pm – 1am
Friday and Saturday 6pm – 2am

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

Sunday through Thursday 11am – 1am
Friday and Saturday 11am – 3am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6pm – 1am
Friday and Saturday 6pm – 3am



## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

**\*\*CORRECTION**

Placard Posting Date: November 2, 2018  
Protest Petition Deadline: December 17, 2018  
Roll Call Hearing Date: December 31, 2018  
Protest Hearing Date: February 27, 2019

License No.: ABRA-111960  
Licensee: Cocineros, LLC  
Trade Name: Taco City DC  
License Class: Retailer's Class "C" \*\*Restaurant  
Address: 1102 8<sup>th</sup> Street, S.E.  
Contact: Ely Hurwitz, Esq.: (202) 483-0001

WARD 6

ANC 6B

SMD 6B04

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 December 31, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 **February 27, 2019 at 1:30 p.m.**

**NATURE OF OPERATION**

A new \*\*Class C Restaurant. Seating Capacity of 45. Total Occupancy Load of 45. The license will include an Entertainment Endorsement.

**HOURS OF OPERATION AND HOURS OF LIVE ENTERTAINMENT**

Sunday 7am – 12am, Monday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION**

Sunday 10am – 12am, Monday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*RESCIND**

Placard Posting Date: November 2, 2018  
Protest Petition Deadline: December 17, 2018  
Roll Call Hearing Date: December 31, 2018  
Protest Hearing Date: February 27, 2019

License No.: ABRA-111960  
Licensee: Cocineros, LLC  
Trade Name: Taco City DC  
License Class: Retailer’s Class “C” \*\*Tavern  
Address: 1102 8<sup>th</sup> Street, S.E.  
Contact: Ely Hurwitz, Esq.: (202) 483-0001

WARD 6

ANC 6B

SMD 6B04

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 December 31, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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 **February 27, 2019 at 1:30 p.m.**

**NATURE OF OPERATION**

A new \*\*Tavern. Seating Capacity of 45. Total Occupancy Load of 45. The license will include an Entertainment Endorsement.

**HOURS OF OPERATION AND HOURS OF LIVE ENTERTAINMENT**

Sunday 7am – 12am, Monday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION**

Sunday 10am – 12am, Monday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

**HISTORIC PRESERVATION REVIEW BOARD  
NOTICE OF PUBLIC HEARINGS**

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

**Case No. 19-01: Capital Traction Company Union Station**  
**3600/3601 M Street NW**  
**Square 1203, Lot 47; Square 1202, Lot 840; and part of the 36<sup>th</sup> Street**  
**right-of-way**  
**Affected Advisory Neighborhood Commission: 2E**  
**Applicant: Prospect Street Citizens Association**

The hearing will take place at **9:00 a.m. on Thursday, January 24, 2019**, 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 4<sup>th</sup> 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 of 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.

The following application to designate the following property a historic landmark has been withdrawn by the applicant:

**Case No. 18-17: Georgetown Retaining Wall and Exorcist Steps**  
**36<sup>th</sup> Street NW**  
**Square 1202, Lot 840; and part of 36<sup>th</sup> Street right-of-way**

**Affected Advisory Neighborhood Commission: 2E**  
**Applicant: Prospect Street Citizens Association**

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

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD****NOTIFICATION OF CHARTER AMENDMENT**

This is a revised notice from the District of Columbia Public Charter School Board's (DC PCSB) previous announcement (<http://bit.ly/2FkTvpz>) about an opportunity for the public to submit comments on City Arts & Prep Public Charter School's (City Arts & Prep PCS) upcoming 15-year charter renewal.

City Arts & Prep PCS currently operates a single campus in Ward 5 where it serves students in grades prekindergarten-3 through 8. Its mission is to “prepare students for success in high school and beyond by providing an academically rigorous learning environment enriched by a diverse performing arts program.” Before the DC PCSB Board votes to approve or deny its application for renewal, City Arts & Prep PCS has requested an informal public hearing at its campus on Tuesday, November 27, 2018.

The purpose of the hearing is to discuss the school's performance and allow representatives from City Arts & Prep PCS to address DC PCSB's board directly to answer any questions the Board has about its program. The DC PCSB Board will *not* vote on the school's continuance at the informal hearing but will schedule a follow-up date after the hearing to vote on this matter. At the time of its vote, the Board may elect to do one of the following: 1) Continue the school and renew its charter for another 15-year term, 2) Conditionally continue the school's charter by imposing annual or interim targets it must meet, *or* 3) Initiate charter revocation proceedings.

Pursuant to the School Reform Act, D.C. Code 38-1802 et seq., the DC Public Charter School Board (DC PCSB) is required to review each DC charter school's performance at least once every five years, and if a school wants to continue operating beyond its original 15-year charter it must apply to DC PCSB in its fifteenth year of operation to renew its charter for another 15-year term. City Arts & Prep PCS submitted a renewal application to DC PCSB on October 4, 2018.

**DATES:**

- Comments must be submitted on or before November 27, 2018.
- Informal Public Hearing will be held at 6:00 pm on Tuesday, November 27, 2018, at City Arts & Prep PCS, 705 Edgewood Street NE, Washington, DC 20017.

**ADDRESSES:** You may submit comments, identified by “City Arts & Prep - Notice of Petition for Charter Renewal,” by any of the following methods:

1. Submit a written comment via:
  - (a) E-mail\*: [public.comment@dcpcsb.org](mailto:public.comment@dcpcsb.org)
  - (b) Postal mail\*: Attn: Public Comment, DC Public Charter School Board, 3333 14<sup>th</sup> Street NW, Suite 210, Washington, DC 20010
  - (c) Hand Delivery/Courier\*: Same as postal address above
2. Sign up to testify in-person at the informal hearing on November 27, 2018, by emailing a request to [public.comment@dcpcsb.org](mailto:public.comment@dcpcsb.org) by no later than 4 p.m. on Monday, November 26, 2018.

\*Please select only one of the actions listed above.

**FOR FURTHER INFORMATION CONTACT:** Laterica (Teri) Quinn, Senior Manager—  
School Quality and Accountability, at (202) 328-2660; email: [lquinn@dcpcsb.org](mailto:lquinn@dcpcsb.org).

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DC PCSB reserves the right but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all your submission that it may deem to be inappropriate for publication, such as obscene language.

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD****NOTIFICATION OF CHARTER AMENDMENT**

The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a request submitted by Friendship Public Charter School (Friendship PCS) on November 2, 2018 for two charter amendment requests to replicate its program and reconfigure the grades served at one of its campuses.

Friendship PCS is currently in its nineteenth year of operation serving students in grades PK3-12 at twelve campuses across the District. The school requests to reconfigure its Armstrong campus, from one campus serving grades PK3-5 to two campuses that respectively serve grades PK3-3 and 4-8. The school explained this new configuration is similar to its other elementary and middle campus configurations, and Friendship PCS believes this amendment will support its efforts to increase re-enrollment by allowing families to stay enrolled at the Armstrong campus longer. Currently, the school reports it's losing enrollment for siblings of different ages and grade levels because parents must enroll their children elsewhere to keep siblings together at a single PK3-8 school. The proposed amendment does not require an enrollment ceiling increase, and if approved, will be effective for SY 2019-2020.

A public hearing will be held on December 17, 2018 at 6:30 p.m.; a vote will be held on January 28, 2019. The public is encouraged to comment on this proposal. Comments must be submitted on or before 4 p.m. on December 21, 2018.

**How to Submit Public Comment:**

1. Submit written comment one of the following ways:
  - a. E-mail: [public.comment@dcpsb.org](mailto:public.comment@dcpsb.org)
  - b. Postal mail: Attn: Public Comment, \*DC Public Charter School Board, 3333 14<sup>th</sup> ST. NW., Suite 210, Washington, DC 20010
  - c. Hand Delivery/Courier\*: Same as postal address above
2. Sign up to testify in-person at the public hearing on December 17, 2018 by emailing a request to [public.comment@dcpsb.org](mailto:public.comment@dcpsb.org) by no later than 4 p.m. on Thursday, December 14.



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

**TIME AND PLACE:** **Monday, January 7, 2019, @ 6:30 p.m.**  
**Jerrily R. Kress Memorial Hearing Room**  
**441 4<sup>th</sup> Street, N.W., Suite 220**  
**Washington, D.C. 20001**

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

**CASE NO. 16-23 (Valor Development, LLC – Voluntary Design Review @ Square 1499, Lots 802, 803, 806 and 807)**

**THIS CASE IS OF INTEREST TO ANCs 3E and 3D**

On October 27, 2016, the Office of Zoning received an application from Valor Development, LLC (the "Applicant"), on behalf of FW DC-Spring Valley Shopping Center LLC and Apex Real Estate Company.<sup>1</sup> The Applicant is requesting review and approval of a new mixed-use (residential and retail) development project for Lots 802, 803, 806 and 807 in Square 1499 (the "Project Site"), pursuant to the design review provisions of Subtitle X, Chapter 6 of the 2016 Zoning Regulations of the District of Columbia ("ZR16") (11 DCMR Subtitle X, Chapter 6), and specifically pursuant to 11-X DCMR § 601.2, which permits property owners to voluntarily apply for design review of a proposed development. As part of this design review, the Applicant seeks flexibility from the rear yard requirements of the MU-4 zone. The Commission can grant such flexibility as part of the design review process pursuant to 11-X DCMR § 603.1, which permits it to grant flexibility from certain development standards including the standards for "setbacks."<sup>2</sup> The Applicant is also requesting special exception relief to allow a ten-foot penthouse on top of a row dwelling for purposes of providing access to a roof deck. The Commission can grant such relief as part of the design review process pursuant to 11-X DCMR § 603.3

The Project Site consists of approximately 160,788 square feet of land area and is generally bounded by Yuma Street on the north; Massachusetts Avenue on the south; 48th Street on the east; and the Spring Valley Exxon station on the west. The Project Site is currently improved with the Spring Valley Shopping Center ("SVSC") (Lots 802 and 803), the former American University Law School building ("AU Building") (Lot 806), and a vacant grocery store building, retail uses (restaurant and salon), and surface and below-grade parking (Lot 807). Collectively,

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<sup>1</sup> The Applicant's original application included Lot 807, which is currently owned by Apex Real Estate Company, and Lots 802 and 803, which are owned by FW DC-Spring Valley Shopping Center LLC. On September 8, 2017, the Applicant amended its application to also include Lot 806, which is owned by American University. The Applicant has submitted letter of authorization from each of the aforementioned property owners within the design review project area.

<sup>2</sup> When the current versions of Subtitle G and X were first proposed, the applicable minimum rear yard requirement was referred to as a "rear setback." This terminology was later replaced with the traditional reference to a "minimum rear yard" in current Subtitle G, but the reference to "setbacks" in 11-X DCMR § 603.1 was not similarly revised.

Lots 806 and 807 make up Record Lot 9. The Project Site is zoned MU-4, a district in which residential and retail uses are permitted as a matter of right.

The proposed mixed-use development retains the existing SVSC and AU Building as currently developed, and consists of a new apartment building and five attached row dwellings on Lot 807. The SVSC has a height of approximately 25-30 feet and contains approximately 16,922 square feet of gross floor area (“GFA”) of retail, service, and eating and drinking establishment use. The AU Building has a height of approximately 60 feet, not including the mechanical penthouse, and contains approximately 179,302 square feet of GFA of office use.

As for the buildings proposed on Lot 807, the apartment building (Building 1) will have a maximum height of approximately 43’-6”, plus a penthouse that will have a maximum height of 12 feet (15 feet for mechanical) above the roof level. The lower-level of Building 1 will contain a residential lobby and dwelling units, a grocery store and potential additional retail/amenity space, and access to loading and below-grade parking. The remainder of Building 1, including the penthouse, will contain residential dwelling units and amenity space. The five attached row dwellings (Townhouses 1-5) will be located to the south of Building 1. The row dwellings will have a maximum height ranging between approximately 36’-8” and 37’-0”, plus a ten foot penthouse that provides access to a roof deck.<sup>3</sup>

Collectively, the proposed mixed-use development, including the SVSC and AU Building, will contain approximately 430,853 square feet of GFA (2.68 FAR), of which approximately 214,094 square feet of GFA (1.33 FAR) will be devoted to new residential use, and approximately 216,759 square feet of GFA (1.35 FAR) will be devoted to new and existing nonresidential use. Combined, the project will contain approximately 219 dwelling units. Other significant aspects of the proposed mixed-use development include substantial streetscape improvements; paving, landscape, and other improvements to surrounding alleys; a new public plaza and pocket park (Windom Park); substantial affordable housing; below-grade parking; and LEED-Gold certified buildings.

On January 11, 2018, the Commission held a public hearing on this case, which was continued to January 25, 2018. As a preliminary matter at the January 11, 2018 public hearing, the Commission granted party status to the Citizens for Responsible Development, the Spring Valley Opponents, the Spring Valley Neighborhood Association, and Ward 3 Vision. The public hearing to be held on January 7, 2019 will be a continuation of the previous hearings held on this case; and therefore, no other applications for party status will be accepted.

This public hearing on January 7, 2019, will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11-Z DCMR Chapter 4.

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<sup>3</sup> Townhouse 5 does not include a penthouse.

**How to participate as a witness.**

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

**ANC Participation.**

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

**Testimony.**

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

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

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

Pursuant to 11-Z DCMR § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

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

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

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

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

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

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

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

**您需要有人帮助参加活动吗?**如果您需要特殊便利设施或语言协助服务(翻译或口译)·请在见面之前提前五天与 Zee Hill 联系·电话号码 (202) 727-0312, 电子邮件 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 这些是免费提供的服务。

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

**ለመተቻ ዕርዳታ ያስፈልግዎታል?** የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ተርጉም ወይም ማተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አግባብ ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

## DEPARTMENT ON DISABILITY SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the Department on Disability Services (DDS), pursuant to the authority set forth in Title I of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code §§ 7-761.01 *et seq.* (2018 Repl.)), hereby give notice of the adoption of a new Chapter 131 entitled “Contribution to Costs of DDA Residential Supports” of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These final rules establish a mechanism for the DDS Developmental Disabilities Administration (DDA) to evaluate, calculate and collect the amount a person contributes to the costs of residential supports for persons who receive waiver services funded either locally or through the District of Columbia Medicaid Home and Community-Based Services (HCBS) Waiver for Persons with Intellectual and Developmental Disabilities (IDD). These rules also establish the procedures by which DDS will collect the calculated amount of the contribution to costs of residential supports and due process protections.

This final rulemaking is consistent with the provisions of the “Contribution to Costs of Supports Fund Amendment Act of 2016,” effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code §§ 7-761.05b, 7-761.05c and 7-761.09(a-1) (2018 Supp.)), which requires the Mayor to issue rules “establishing who has the ability to pay the contribution to costs of supports, the amount to be collected, the method and time of payments to DDS for such purposes, and due process protections.” In accordance with D.C. Official Code § 7-761.09(a-1)(2), the proposed rules were submitted to the Council of the District of Columbia in PR 22-328, the “Department on Disability Services Contribution to Cost of DDA Residential Supports Rulemaking Approval Resolution of 2017,” for a 45-day period of review and were deemed approved on October 13, 2017.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 2, 2017, at 64 DCR 005240. DDS received comments to the proposed rulemaking for 29 DCMR §§ 13100.2 (relating to which assets will be considered when calculating a person’s contribution), 13101.01 (outlining the various calculations for a person’s contribution), 13102.01-05 (due process protections), and 13199 (specifically, the definitions for “residential provider” and “residential supports”). The following changes were made in response to these comments and based on further review of the proposed rule by the agency: (1) revising § 13100.2 to clarify that awards for punitive and non-physical damages that are the result of the District’s care and treatment of the person cannot be considered an asset for the purpose of calculating a person’s contribution but also clarify that a spouse’s income shall be considered; (2) the addition of a new § 13101.1(e) that states that a person will be credited as receiving the full amount of SSI, SSDI, and/or other statutory benefit even if those benefits are reduced due to a previous overpayment; (3) the addition of a new § 13101.5 indicating that a person’s contribution may not exceed the actual cost of supports provided; (4) adding the word “residential” in front of provider in §§ 13101.2, 13101.3, and 13101.4 for consistency; (5) amending § 13102.1 to include additional information that must be shared with a person at the time a contribution calculation is made; (6) amending §

13102.2 to clarify that the DDS Deputy Director for DDA will review requests for reconsideration or recalculation; (7) adding language to § 13102.3 indicating that a person’s contribution amount will not change while a request for recalculation or reconsideration is pending; (8) revising the wording of § 13102.4 for clarity; (9) adding the phrase “recalculation or” before “reconsideration request” to the first sentence of § 13102.5; (10) removing the phrase “and services” from the definition of “Contribution to Costs of Residential Supports” in § 13199; (11) adding the phrase “non-Medicaid” in front of the word “supports” in the definition of “Cost of Occupancy” in § 13199; (12) rewriting the definition of “Residential Provider” in § 13199; and (13) rewriting the definition of “Residential Supports” in § 13199. All of these changes serve only to clarify the intent, meaning and/or application of the proposed rules.

These rules were adopted as final on January 4, 2018, and shall become effective on the date of publication of this notice in the *D.C. Register*.

**A new Chapter 131, CONTRIBUTION TO COSTS OF DDA RESIDENTIAL SUPPORTS, of Title 29 DCMR, PUBLIC WELFARE, is adopted to read as follows:**

**CHAPTER 131 CONTRIBUTION TO COSTS OF  
DDA RESIDENTIAL SUPPORTS**

<b>13100</b>	<b>APPLICATION AND RELEVANT FINANCIAL DOCUMENTATION</b>
<b>13101</b>	<b>AMOUNT TO BE COLLECTED AND METHOD AND TIME OF PAYMENTS</b>
<b>13102</b>	<b>DUE PROCESS PROTECTIONS</b>
<b>13199</b>	<b>DEFINITIONS</b>

**13100 APPLICATION AND RELEVANT FINANCIAL DOCUMENTATION**

13100.1 Persons applying for or receiving residential supports, as defined in Section 13199 of this chapter, in conjunction with services through the Medicaid Home and Community-Based Services (“HCBS”) Waiver for Persons with Intellectual and Developmental Disabilities (“IDD”) or other locally-funded services, shall be required to submit to the Department on Disability Services (“DDS”) relevant financial documentation indicating that person’s income and assets. Such relevant financial documentation shall be provided during a person’s initial intake process and on a regular basis, at least annually, as part of the person’s Individual Support Plan (“ISP”) and Individual Financial Plan (“IFP”) to the person’s Service Coordinator.

13100.2 As set forth in Section 13199 of this chapter, relevant financial documentation includes evidence of income and assets that the DDS Developmental Disabilities Administration (“DDA”) will use in calculating the amount of a person’s contribution to costs of residential supports including, but not limited to, wages, checking and savings accounts, Social Security Income (“SSI”), Social Security Disability Insurance (“SSDI”), Veteran Benefits (“VB”), and other statutory benefits. DDA may also consider other income of a person, including but not

limited to pensions, earned income, and unearned income, including worker's compensation, insurance proceeds and death benefits, inheritances, dividends and interest, rental income and royalties, prizes, awards, gambling proceeds, and awards for punitive and non-physical damages to the person (unless the result of the District's care and treatment of the person). The income of a spouse or domestic partner, as defined in D.C. Official Code § 32-701(3), of a person shall be considered part of the person's income.

### **13101 AMOUNT TO BE COLLECTED AND METHOD AND TIME OF PAYMENTS**

13101.1 DDA shall use the following formula in computing a person's required monthly contribution to costs of residential supports:

- (a) A person whose only income is SSI, SSDI, and/or any other statutory benefits, shall keep \$100 of his or her benefits each month as a personal needs allowance, and shall contribute the remainder to costs of residential supports consistent with 29 DCMR § 1450, 20 CFR § 266.10, 20 CFR § 404.2040, and 20 CFR § 416.640.
- (b) A person who receives SSI, SSDI, and/or any other statutory benefits, as well as employment or other income shall, on a monthly basis:
  - (1) Keep \$100 of his or her benefits as a personal needs allowance and contribute the remainder to his or her cost of residential supports; and
  - (2) From his or her employment or other income, contribute to the cost of residential supports an amount equivalent to the amount that his or her SSI, SSDI and/or any other statutory benefits have been reduced due to employment.
- (c) A person who is employed in such a way that they are not eligible for statutory benefits shall have their monthly contribution to costs of residential supports calculated using the following formula: the current maximum monthly SSI payment amount minus \$100. As of January 2017, this would be  $\$735 - \$100 = \$635$  in contribution to costs of residential supports.
- (d) A person who resides in a Host Home, as defined in Section 1999 of Chapter 29, and receives more than the current maximum monthly SSI payment shall contribute an amount equivalent to the current maximum monthly SSI payment amount minus \$100. The person shall also keep the amount of funds greater than the current maximum monthly SSI payment.
- (e) For the purpose of calculating contribution to cost of residential supports,

DDA will credit a person for the amount of the person's SSI, SSDI, and/or other statutory benefits are reduced due to a previous over payment.

- 13101.2 For a person whose only income is SSI, SSDI, and/or any other statutory benefits, the person's Social Security representative payee, if he or she has one, is responsible for ensuring that each month the person pays to DDA his or her contribution to costs of residential supports and receives his or her personal needs allowance. If the person does not have a representative payee, then the person's residential provider is responsible for collecting his or her contribution to costs of residential supports each month. DDA's payment to the residential provider will be reduced by the amount of the person's contribution to costs of residential supports.
- 13101.3 For a person who receives SSI, SSDI, and/or any other statutory benefits and also has employment and other income, the person's Social Security representative payee, if he or she has one, is responsible for ensuring that each month the person pays to DDA the portion of his or her contribution to costs of residential supports that comes from statutory benefits income, and that the person receives his or her personal needs allowance. If the person does not have a representative payee, then the person's residential provider is responsible for collecting his or her contribution to costs of residential supports from statutory benefits. The person's residential provider is also responsible for collecting the remainder of his or her contribution to costs of residential supports each month, based on the person's employment and other income. DDA's payment to the residential provider will be reduced by the amount of the person's contribution to costs of residential supports.
- 13101.4 For a person who has employment income only, the person's residential provider is responsible for collecting the payment for the person's contribution to costs of residential supports each month. DDA's payment to the residential provider will be reduced by the amount of the person's contribution to costs of residential supports.
- 13101.5 A person's contribution to cost of residential supports may not exceed the actual cost of providing such residential supports.

## **13102 DUE PROCESS PROTECTIONS**

- 13102.1 The amount of the monthly contribution to costs of residential supports will be determined during intake or, for persons already receiving DDA services, at the next ISP meeting following the effective date of these regulations. At that time, the person will be informed of the estimated cost of residential supports, the requirement for contribution to costs of residential supports, including an explanation of how that contribution is calculated consistent with these regulations, and information about how to request a recalculation or reconsideration, including how to obtain assistance from a DDA Rights and



Advocacy Specialist or area legal services organization. This information shall be included in the person's ISP as part of their IFP. The amount will be reevaluated at least annually during each person's ISP meeting.

- 13102.2 The person, or a family member, friend, attorney, or any other representative, if so designated by the person, may make a request in writing, by telephone, or in person at DDA to his or her Service Coordinator for recalculation or reconsideration of his or her contribution to costs of residential supports at any time for referral to the DDS Deputy Director for DDA.
- 13102.3 The person's request for recalculation or reconsideration must set forth the factual and/or legal basis for the disagreement in the calculated contribution to costs of residential supports. The person's contribution to the cost of residential supports will not change while a request for recalculation or reconsideration is pending.
- 13102.4 A DDA Rights and Advocacy Specialist shall provide, upon request, assistance to a person in the appeal process requesting a recalculation or reconsideration. A person may also be assisted by a family member, friend, attorney, or any other representative designated by the person.
- 13102.5 The DDS Deputy Director for DDA will provide a final, written administrative decision to the person and his or her representative within thirty (30) calendar days of his or her receipt of the person's recalculation or reconsideration request. The final written decision shall include information about the person's right to bring an appeal in the Superior Court of the District of Columbia. The person seeking review of DDS's final written decision must file this appeal in the Superior Court not later than thirty (30) calendar days after the date he or she receives notice of the final decision.

## **13199 DEFINITIONS**

- 13199.1 When used in this section, the following terms and phrases shall have the meanings ascribed:

**Contribution to Costs of Residential Supports** – Full or partial payment by persons with intellectual disabilities or their estate for locally funded supports provided by the Developmental Disabilities Administration, including cost of occupancy.

**Cost of Occupancy** – The cost of rent, other personal expenses, including food, clothing, and medical costs, supplies, furnishings, equipment, communications, and other non-Medicaid supports.

**Department on Disability Services (DDS)** - The agency that provides services to District of Columbia residents with intellectual and other disabilities through its Developmental Disabilities Administration and Rehabilitation

Services Administration.

**Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (HCBS IDD waiver)** - The HCBS IDD waiver is a District of Columbia Medicaid program as approved by the Council of the District of Columbia and Centers for Medicare and Medicaid Services (CMS), that funds home and community-based services and supports as an alternative to receiving services in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).

**Residential Provider** - Any entity that provides Supported Living, Host Home, and/ or Residential Habilitation services through the HCBS IDD waiver or other locally funded residential services.

**Residential Supports** - Items that make up the cost of occupancy for people who receive Supported Living, Host Home, and/ or Residential Habilitation services through the HCBS IDD waiver or other locally funded residential services. Residential supports are locally funded and should be combined with housing vouchers, food stamps, cash benefits, wages and other sources of housing subsidies to maximize the capacity of DDA to support all people who need such support.

**Relevant Financial Documentation** - Includes, but is not limited to, evidence of income and assets that DDA will use in calculating the amount of contribution to costs of support including, but not limited to, wages, checking and savings accounts, Social Security Income (“SSI”), Social Security Disability Insurance (“SSDI”), Veteran Benefits (“VB”), other statutory benefits, pensions, earned income, and unearned income, including worker’s compensation, insurance proceeds and death benefits, inheritances, dividends and interest, rental income and royalties, prizes, awards, and gambling proceeds, and awards for punitive and non-physical damages to the person.

## DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in the District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of final rulemaking action to adopt amendments to Chapter 30 (Campaign Finance Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendment to Section 3014 (Constituent-Service Programs) is to increase the annual expenditure limit for constituent-service programs. This amendment would place the Board's regulations into conformity with the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; 59 DCR 1862 (March 9, 2012)) and the Constituent Services Expenditures Limit Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; 63 DCR 10775 (August 26, 2016)).

A Notice of Emergency and Proposed Rulemaking with respect to these amendments was published in the *D.C. Register* on September 14, 2018 at 65 DCR 9623. No written comments on the proposed rules were received during the public comment period, and no substantive changes have been made to the regulations as proposed.

The Board adopted these amendments as final at a regular meeting on Thursday, November 15, 2018 and these final rules will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 30, CAMPAIGN FINANCE OPERATIONS: COMMITTEES, CANDIDATES, CONSTITUENT SERVICE PROGRAMS, STATEHOOD FUNDS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Subsection 3014.21 of Section 3014, CONSTITUENT-SERVICE PROGRAMS, is amended to read as follows:**

3014.21 An elected official shall:

- (a) Spend no more than sixty thousand (\$60,000) in any one (1) calendar year for the constituent-service program;
- (b) File a Statement of Organization for a Constituent-Service Program form, prescribed by the Director, within ten (10) days of organization;
- (c) Amend the Statement of Organization within ten (10) days of any change in the information previously reported on the Statement of Organization; and

- (d) Maintain the same constituent services fund if elected to the office of Chairman of the Council while serving as an at-large member of the Council.

**THE DISTRICT OF COLUMBIA HOUSING AUTHORITY**

**NOTICE OF FINAL RULEMAKING**

**Violence Against Women Act**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of its intent to adopt the following amendments to Chapter 49 (Purpose and Scope of Housing Choice Voucher Program Administrative Plan), Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), Chapter 55 (Portability), Chapter 59 (Definitions), Chapter 60 (Low Rent Housing: General Provisions), Chapter 61 (Public Housing: Admission and Recertification), Chapter 64 (Low Rent Housing: Public Housing Transfer Policy) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to implement changes to the Violence Against Women Reauthorization Act of 2013 (Pub.L. 113-4) and HUD's implementation of this law.

DCHA is amending Section 4907 (Protections for Applicants and Participants Under the Violence Against Women Act), Section 5317 (Removing a Household Member), Section 5333 (Family Moves), Section 5501 (Denying Family Request to Move Under Portability), Section 5999 (Definitions), Section 6099 (Definitions), Section 6400 (Transfer Policy), and Section 6402 (Transfer Request by Tenant). DCHA is amending Chapter 61 (Public Housing: Admission and Recertification) to add Section 6127 (Protections for Public Housing Applicants and Tenants Under the Violence Against Women Act).

The proposed regulations were adopted by the Board on March 7, 2018 and were published in the *D.C. Register* on March 30, 2018, at 65 DCR 003403. This rulemaking was adopted as final at the Board of Commissioners regular meeting on November 14, 2018. These rules were adopted as final on November 14, 2018 and will become effective upon publication of this Notice in the *D.C. Register*.

**Chapter 49, PURPOSE AND SCOPE OF HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN, of Title 14 DCMR, HOUSING, is amended as follows:**

**Section 4907 is amended to read as follows:**

**4907            PROTECTIONS FOR APPLICANTS AND PARTICIPANTS UNDER THE VIOLENCE AGAINST WOMEN ACT**

4907.1            In certain circumstances, as further explained below, applicants or participants may be afforded additional protections from HCVP requirements and policies under the Violence Against Women Act (VAWA). DCHA shall comply with the terms of VAWA in administration of the HCVP. VAWA protections are for victims of domestic violence, dating violence, sexual assault, and stalking,

regardless of sex, gender identity, or sexual orientation. DCHA shall not discriminate against VAWA victims on the basis of any protected categories pursuant to 24 CFR § 5.105(a) including race, color, national origin, religion, sex, familial status, disability, or age.

- 4907.2 Applicants seeking admission to the Housing Choice Voucher Program (HCVP) or to a Project-Based Voucher unit shall not be denied admission on the basis of, or as a direct result of, the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission, assistance, participation, or occupancy.
- 4907.3 Family or a Family member participant shall not be terminated from the Housing Choice Voucher Program (HCVP) or a Project-Based Voucher unit on the basis of, or as a direct result of, the fact that the family member participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.
- 4907.4 If a member of the assisted Family is removed from the family composition due to that member of the assisted Family being the perpetrator in criminal acts of physical violence against one or more other Family members or other persons and the victim is part of the assisted Family, the perpetrator may not be considered a remaining Family member or an eligible Family member.
- 4907.5 In making its decision as to who retains assistance, DCHA shall consider all credible evidence, including, but not limited to, documentation submitted to DCHA pursuant to § 4907.12.
- 4907.6 Pursuant to federal regulations, the denial of continued HCVP assistance to a Family member who engages in criminal acts of violence against Family members or others shall be considered a form of termination of the individual Family member. Should DCHA choose to exercise this authority, it shall follow the same procedures as described in Chapters 58 and 89 of this title of the DCMR when terminating assistance to such an individual as it would when terminating the assistance of an entire Family.
- 4907.7 Pursuant to federal regulations, criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a participant's household or any guest or other person under the participant's control, shall not be cause for termination of tenancy, occupancy rights of, or assistance to the victim, if the participant or immediate family member of the participant is the victim.
- 4907.8 Notwithstanding § 4907.7, DCHA may terminate assistance to a participant for violating a program obligation not premised on an act of domestic violence, dating violence, sexual assault, or stalking, provided that DCHA does not subject such a participant to a more demanding standard than other participants in making the determination to terminate assistance to the participant.

- 4907.9 A victim of domestic violence, sexual violence, dating violence, or stalking who is absent for more than one hundred twenty (120) days may still be considered a Family member based on documentation that the victim is expected to return to the Family in a reasonable time if the victim provides to DCHA documentation that meets the requirements of § 4907.12.
- 4907.10 If a Family or Family member participant has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual, the participant may port to another PHA jurisdiction in violation of the lease as explained in Chapter 55 of this title of the DCMR so long as the Family has complied with all other obligations of the HCVP.
- 4907.11 If a Family or Family member participant who has been the victim of domestic violence, dating violence, stalking, sexual assault, or an intrafamily offense moves in violation of the lease, DCHA shall not terminate assistance or deny a Family's request to move under portability if the move was related to the act.
- 4907.12 A Family may document an incident or incidents of domestic violence, dating violence, sexual assault, or stalking as follows:
- (a) The HUD-approved certification form;
  - (b) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking (*i.e.*, police reports, protective orders, and restraining orders); or
  - (c) Documentation that is signed by the victim and signed by an employee, agent, or volunteer of a victim service provider, or an attorney, or mental health or medical provider from whom the victim has sought assistance in the situation who attests under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.
- 4907.13 Any information submitted to DCHA under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by DCHA.
- (a) DCHA shall not allow any individual administering assistance on behalf of the HCVP or any persons within their employ (e.g., contractors) or any employee of DCHA to have access to confidential information unless explicitly authorized by DCHA for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

- (b) DCHA shall not enter confidential information submitted to DCHA pursuant to this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:
  - (1) Requested or consented to in writing by the individual in a time-limited release;
  - (2) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
  - (3) Otherwise required by applicable law.

4907.14 If DCHA receives conflicting HUD-approved certification forms documenting domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each petitioning for VAWA protections under this section and each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. If a household member does not submit third-party documentation, or only submits third-party documentation that contains conflicting information, DCHA may deny the VAWA request. DCHA shall determine which household members shall continue to be assisted in accordance with § 5317.6. DCHA shall provide written notice to participants with the opportunity for an informal hearing in accordance with § 8902.

4907.15 If a Family or Family member participant who has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual requests an emergency transfer voucher pursuant to §§ 5333 or 5501 of this title, the family or family member participant must submit the request in writing. A family or family member participant may submit a DCHA or HUD-approved emergency transfer voucher form, or provide a written statement that includes either:

- (a) A statement expressing and certifying that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the HCVP; or
- (b) A statement certifying that the participant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the participant's request for an emergency transfer voucher.

4907.16 If a family or family member participant requests an emergency transfer voucher under the protections of VAWA, DCHA will request in writing that the family or family member participant provide at least one (1) form of documentation



specified in § 4907.12.

4907.17 Participants must provide the documentation required under § 4907.16 within fourteen (14) business days of receiving the written request for documentation. If DCHA receives documentation containing information that conflicts with existing information already available to DCHA, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, § 4907.14 shall apply.

4907.18 For families residing in Partnership Program units, also called Project-Based Voucher (“PBV”) units, the following provisions shall apply:

- (a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and § 4907.17, DCHA may transfer the family to another Project-Based subsidized unit or another unit [in the Public Housing program] subject to availability and at DCHA’s discretion. Upon written request, the family may receive priority to receive the next available opportunity for continued tenant-based rental assistance.
- (b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.

4907.19 For families residing in the Moderate Rehabilitation Program, as defined in § 4905.1, and Single Room Occupancy (SRO) housing facilities, as defined in § 1901.3, the following provisions shall apply:

- (a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and § 4907.17, DCHA may transfer the family to another Moderate Rehabilitation Program unit (for a family residing in a Moderate Rehabilitation Program unit) or SRO unit (for a family residing in a SRO unit) subject to availability. If at the time of the transfer request there is no available Moderate Rehabilitation unit or SRO unit, DCHA may transfer the family to a Project-Based subsidized unit subject to availability and at DCHA’s discretion. If there is no available Project-Based subsidized unit, then upon written request and at DCHA’s discretion, the family may

receive the opportunity for tenant-based rental assistance.

- (b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the Moderate Rehabilitation Program unit or SRO unit if the family moved to protect the health or safety of the victim.

4907.20 DCHA will provide to applicants deemed ineligible for the HCVP and participants in the HCVP the “Notice of Occupancy Rights under the Violence Against Women Act” and the HUD-approved certification form in accordance with HUD rules and regulations.

**Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, is amended as follows:**

**Section 5317, REMOVING A HOUSEHOLD MEMBER, is amended as follows:**

**Subsection 5317.6(c) is amended as follows:**

5317.6 If a Family receiving assistance breaks up into two (2) otherwise eligible families as a result of divorce, separation, or intrafamily offenses, then DCHA shall use the following procedures to determine which Family shall continue to be assisted:

- (a) DCHA shall be bound to any decision of the courts, including but not limited to in cases of divorce, legal separation, or intrafamily offenses, as to who shall continue to receive assistance;
- (b) In the case that there is no judicial decision relating to the assistance, DCHA shall consider the following:
  - (1) Any incidence of domestic violence, dating violence, sexual assault, or stalking, or an intrafamily offense, in which case, the victim of the violence or offense shall continue to receive assistance;
  - (2) The interest of minor children; or
  - (3) The interest of an ill, elderly, or disabled Family member; and;
- (c) If DCHA receives conflicting HUD-approved certification forms documenting domestic violence, dating violence, sexual assault, or stalking from two (2) or more members of a household, each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA may determine which Family member is entitled to remain in the voucher program by requiring third-party documentation to resolve the conflict in accordance with the Violence

Against Women Act (VAWA) and its implementing regulations, as explained in §§ 4907.12 and 4907.14, and other applicable laws using the following guidelines:

- (1) Prior to making any determination on who retains assistance, DCHA shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the residence or an alternative address or email address, if one is provided, and by phone, if a phone number is provided, that only one (1) part of the family shall continue to receive assistance;
  - (2) The notice shall inform both adults of how DCHA will determine who retains assistance, and what relevant information each adult can provide to assist DCHA in making its determination;
  - (3) After making its determination using the factors as enumerated in § 5317.6 and documentation provided pursuant to §§ 4907.12 and 4907.14, DCHA shall notify both adults in writing of its decision and the basis for the decision; and
  - (4) The adult family member who DCHA determines shall not continue to receive assistance shall be entitled to an informal hearing pursuant to Chapter 89 of this title of the DCMR.
- (d) If in accordance with VAWA, DCHA seeks to remove the head of household pursuant to §§ 5317.6 (a) or (b), DCHA will follow the guidelines enumerated in §§ 5317.6(c)(1)-(4).

**Section 5333, FAMILY MOVES, is amended as follow:**

**Subsection 5333.5 is amended to read as follows:**

- 5333.5 Notwithstanding § 5333.4, Families who qualify for emergency transfer vouchers shall be issued a transfer voucher if one (1) or more of the following conditions apply:
- (a) The family has requested the emergency transfer voucher in writing or on a DCHA or HUD-approved transfer request form and demonstrated a need based on the VAWA protections as explained in § 4907;
  - (b) DCHA has terminated the HAP contract with the Family's landlord;
  - (c) The Owner has initiated eviction proceedings against the Family;
  - (d) DCHA may grant an emergency transfer upon request from the OAG, DOJ, or USAO as a matter of safety; or for witness protection if the family

is within the first year of their lease. Where feasible, DCHA shall seek the written authorization of the Landlord to release the family prior to making any decision about allowing the family to move to another unit, if the family is in the first year of their lease; or

- (e) If DCHA determines that the family voucher size is too large, and the family is not within the first year of tenancy.

**Chapter 55, PORTABILITY, is amended as follows:**

**Section 5501, DENYING FAMILY REQUEST TO MOVE UNDER PORTABILITY, is amended as follows:**

**Subsection 5501.3 is amended to read as follows:**

5501.3 If a Family requests portability under the protections of VAWA, DCHA shall request that the Family provide one (1) of the following documents:

- (a) The HUD-approved certification form;
- (b) Federal, state, tribal, territorial, or local police record, a court record, or administrative agency record that documents the incident of domestic violence, dating violence, sexual assault, or stalking; or
- (c) Documentation that is signed by the victim and signed by an employee, agent, or volunteer of a victim service provider, an attorney, or mental health or medical provider from whom the victim has sought assistance in the situation who attests under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.

**Chapter 59, DEFINITIONS, is amended as follows:**

**Section 5999, DEFINITIONS, Subsection 5999.1, is amended to add the following definitions, and the definition of “stalking” is amended:**

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a **spouse or intimate partner**, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the District of Columbia, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the District of Columbia.

The term “**spouse or intimate partner of the victim**” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Imminent Threat** – a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Sexual assault** - any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(a) Fear for the person's individual safety or the safety of others; or

(2b) Suffer substantial emotional distress.

**VAWA** - the Violence Against Women Act of 1994, as amended (42 USC 13925 and 42 USC 14043e *et seq.*).

**Chapter 60, LOW RENT HOUSING: GENERAL PROVISIONS, is amended as follows:**

**Section 6099, DEFINITIONS, Subsection 6099.1, is amended by adding “For purposes of Chapters 60 - 64 of Title 14 of the District of Columbia Municipal Regulations, the following definitions shall apply:” at the beginning of the section, and by adding the following definitions:**

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

(a) A spouse, parent, brother, sister, or child of that individual, or a

person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

- (b) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (1) The length of the relationship;
  - (2) The type of relationship; and
  - (3) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term “**spouse or intimate partner of the victim**” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Safe unit** refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (a) Fear for the person's individual safety or the safety of others; or
- (b) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 USC 13925 and 42 USC 14043e *et seq.*).

**Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION, is amended by adding a new Section 6127:**

**6127 PROTECTIONS FOR PUBLIC HOUSING APPLICANTS AND TENANTS UNDER THE VIOLENCE AGAINST WOMEN ACT**

- 6127.1 In certain circumstances, as further explained below, applicants or tenants may be afforded additional protections from DCHA requirements and policies under the Violence Against Women Act (“VAWA”). DCHA shall comply with the terms of VAWA in administration of public housing. VAWA protections are for victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. DCHA shall not discriminate against VAWA victims on the basis of any protected categories pursuant to 24 CFR § 5.105(a) including race, color, national origin, religion, sex, familial status, disability, or age.
- 6127.2 DCHA will provide to applicants deemed ineligible for admission to public housing and public housing tenants the “Notice of Occupancy Rights under the Violence Against Women Act” and the HUD-approved certification form in accordance with HUD rules and regulations.
- 6127.3 Applicants seeking admission to DCHA public housing units shall not be denied admission to public housing on the basis of or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission, assistance, participation, or occupancy.
- 6127.4 Pursuant to federal regulations, DCHA shall not terminate tenancy for tenants protected under VAWA on the basis of, or as a direct result of, the fact that the tenant is or has been a victim of domestic violence, dating violence, sexual

assault, or stalking, if the tenant otherwise qualifies for admission, assistance, participation, or occupancy.

- 6127.5 Pursuant to federal regulations, DCHA shall not deny tenancy or occupancy rights on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if the criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant; and the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.
- 6127.6 Pursuant to federal regulations, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated lease violation by the victim or threatened victim of such incidents; or good cause for terminating the tenancy or occupancy rights of the victim or threatened victim of such incidents.
- 6127.7 Notwithstanding Subsections 6127.4, 6127.5, and 6127.6, DCHA may terminate tenancy for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking, provided that DCHA does not subject such a tenant to a more demanding standard than other tenants in making the determination whether to evict or terminate the tenancy.
- 6127.8 Notwithstanding Subsections 6127.4, 6127.5, and 6127.6, DCHA may terminate tenancy if DCHA demonstrates that an actual and imminent threat to other tenants, employees, or others providing service to a public housing property would be present if a tenant or lawful occupant is not evicted.
- 6127.9 Prior to terminating tenancy under Subsection 6127.8, DCHA shall consider other actions that may be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat.
- 6127.10 DCHA shall comply with a court order addressing rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking
- 6127.11 Tenants or applicants seeking VAWA protections shall provide to DCHA documentation of domestic violence, dating violence, sexual assault, or stalking.
- 6127.12 A tenant or applicant may document an incident or incidences of domestic violence, dating violence, or stalking as follows:
- (a) The HUD-approved certification form;



- (b) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking (i.e., police reports, protective orders, and restraining orders); or
- (c) Documentation that is signed by the victim and signed by an employee, agent, or volunteer of a victim service provider, or an attorney, or mental health or medical provider from whom the victim has sought assistance in the situation who attests under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.

6127.13 If DCHA receives conflicting certification documents of domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. If a household member does not submit third-party documentation, or only submits third-party documentation that contains conflicting information, DCHA may deny the VAWA request. DCHA shall provide to tenants written notice and the opportunity to grieve in accordance with § 6301.

6127.14 A tenant who has been a victim of domestic violence, dating violence, sexual assault, or stalking may request an emergency VAWA transfer pursuant to Section 6402 and Subsections 6127.14 through 6127.18 of this title, if:

- (a) the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under DCHA's program; or
- (b) the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency VAWA transfer.

6127.15 A tenant requesting an emergency VAWA transfer pursuant to § 6127.14, must submit a written request to transfer. A tenant may submit a DCHA or HUD-approved emergency VAWA transfer form, or provide a written statement that includes either:

- (a) A statement expressing and certifying that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under DCHA's program; or

(b) A statement certifying that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the ninety (90)-calendar-day period preceding the tenant's request for an emergency VAWA transfer.

6127.16 If a tenant requests an emergency VAWA transfer under the protections of VAWA, DCHA will request in writing that the tenant provide documentation in accordance with Subsection 6127.13.

6127.17 Tenants must provide the documentation required under Subsection 6127.12 within fourteen (14) business days of receiving the written request for documentation. If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, Subsection 6127.12 shall apply.

6127.18 Notwithstanding Section 6403, a tenant is not required to give advanced written notice of intent to vacate the unit if the family moved to protect the health or safety of the victim.

6127.19 DCHA may bifurcate a lease, or remove a person from a lease in order to evict, remove, or terminate occupancy rights to any lessee or household member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant. A lease bifurcation shall be carried out in accordance with federal and local law for termination of tenancy and eviction, and in accordance with HUD requirements.

6127.20 If DCHA exercises the option to bifurcate a lease, DCHA will execute a new lease with the victim in accordance with federal and local requirements. If the evicted household member was the eligible tenant, the remaining tenant(s) or lawful occupant(s) that was not already eligible shall be given a period of thirty (30) calendar days from the date of bifurcation of the lease to:

(a) Establish eligibility for the DCHA public housing program; or

(b) Find alternative housing.

If the remaining tenant or lawful occupant(s) fails to establish eligibility or find alternative housing, DCHA will pursue eviction through court process in accordance with local law.

6127.21 Any information submitted to DCHA under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or

stalking, shall be maintained in strict confidence by DCHA.

- (a) DCHA shall not allow any individual managing properties on behalf of DCHA or any persons within their employ (*e.g.*, contractors) or any employee of DCHA to have access to confidential information unless explicitly authorized by DCHA for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.
- (b) DCHA shall not enter confidential information submitted to DCHA pursuant to this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:
  - (1) Requested or consented to in writing by the individual in a time-limited release;
  - (2) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
  - (3) Otherwise required by applicable law.

**Chapter 64, LOW RENT HOUSING: PUBLIC HOUSING TRANSFER POLICY, is amended as follows:**

**Section 6400, TRANSFER POLICY, is amended as follows:**

**Subsection 6400.3 is amended to read as follows:**

6400.3 Residents will receive one offer of a transfer. Refusal of that offer without good cause will result in lease termination for mandatory transfers or the removal of the household from the transfer list for tenant requested transfers. The good cause standard applicable to new admissions shall apply to transfers. Good cause may include refusal of a unit that does not meet the VAWA “safe unit” standard based on the incident of domestic violence, dating violence, sexual assault, and stalking as defined in Section 6099.

**Section 6402, TRANSFER REQUEST BY TENANT, is amended as follows:**

**Subsections 6402.16 and 6402.18 are amended to read as follows:**

6402.16 If a tenant refuses a transfer initiated at his/her own request, to the property of his/her own choice, the tenant’s name shall be removed from the transfer list and DCHA shall send the tenant a notice of such action. If a tenant did not identify a property, he/she may be offered up to two locations. If the tenant refuses the first, his/her name may be returned to the transfer waiting list to await the availability of

another unit. If the tenant rejects the second assignment, his/her name will be removed from the transfer waiting list and DCHA shall send the tenant a notice of such action. This section shall not apply to emergency VAWA transfer units that do not meet the “safe unit” standard based on the incident of domestic violence, dating violence, sexual assault, and stalking as defined in Section 6099.

...

6402.18 The following conditions shall dictate DCHA’s priority for its transfer of tenants who request transfers to another dwelling unit. Tenants who are approved for transfers under this section will be transferred based on the hierarchy set forth below and on the date that the “Tenant Request for Transfer” was acknowledged by the DCHA:

- (a) First priority will be given to situations of a life threatening medical or public safety nature, including emergency VAWA transfers. These situations may include serious medical conditions, crimes, domestic violence, dating violence, sexual assault, stalking, hate crimes, or other situations which endanger a tenant or household member’s life from something other than the condition of the unit or the building. These life-threatening conditions must be documented and verified. Emergency VAWA transfers must be documented in accordance with § 6127.12.
- (b) Second Priority shall be given to tenants with verified disabilities who require dwelling units with accessible features or as a reasonable accommodation. These transfers would include transferring residents to accessible or adaptable dwelling units or sites where conditions are documented to be more favorable for their disabilities than the unit or site from which they are seeking to transfer.
- (c) Third Priority shall be given to tenant households that are over or under housed. These transfers would permit tenants to reside in dwelling units of the correct size for household members listed on their lease or those recognized by the DCHA as a result of its recertification process. To determine whether a dwelling unit is too small or too large, DCHA shall use the occupancy standards outlined at Chapter 61 of this title. If DCHA approves a tenant’s request for transfer, the household must transfer as one unit. The DCHA will not split families.
- (d) Fourth Priority shall be given to issues of convenience as described by tenants requesting transfers.

## DEPARTMENT OF MOTOR VEHICLES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles (“Director”), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2014 Repl.)), Sections 6 and 7 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 and 50-1401.01 (2014 Repl.)), and Section 2 of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Official Code § 50–1501.02 (2014 Repl.)) hereby gives notice of the adoption of the following amendments to Chapter 10 (Procedures for Administrative Hearings) and Chapter 30 (Adjudication and Enforcement) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (“DCMR”).

The rulemaking clarifies the appeal process.

A Notice of Proposed Rulemaking was published in the *D.C. Register* at 65 DCR 009990 (September 28, 2018 – Part 1). No comments were received. No changes were made to the text of the proposed rules. The final rules will become effective on the date of publication of this notice in the *D.C. Register*.

**Chapter 10, PROCEDURES FOR ADMINISTRATIVE HEARINGS, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:**

**A new Section 1042, REVIEW OF FINAL ORDERS OF HEARING EXAMINERS, is added as follows:**

**1042 REVIEW OF FINAL ORDERS OF HEARING EXAMINERS**

- 1042.1 A person aggrieved by a final order of a hearing examiner in a proceeding that is a contested case within the meaning of the District of Columbia Administrative Procedure Act may obtain review of the final order by filing a petition for review, which shall be filed in the District of Columbia Court of Appeals, pursuant to D.C. Court of Appeals Rule 15, within thirty (30) days after notice of the final order is given, unless an applicable statute provides a different time frame.
- 1042.2 A person aggrieved by a final order of a hearing examiner in a proceeding under the Traffic Adjudications Act, may obtain review of the final order by the Appeals Board, which shall be filed as provided in D.C. Official Code § 50-2304.02.
- 1042.3 A person aggrieved by a final order of a hearing examiner in a proceeding other than one covered by Subsections 1042.1 or 1042.2 may obtain review of the final order by filing a petition for review, which shall be filed with the Appeals Board within thirty (30) days after notice of the hearing examiner’s final order.

**Section 1043, PETITION FOR REVIEW BY APPEALS BOARD, is amended as follows:**

**Subsection 1043.1 is amended to read as follows:**

1043.1 [REPEALED].

**Section 1044, APPEALS BOARD REVIEW OF DECISIONS, is amended as follows:**

**Subsection 1044.1 is amended by striking the period and inserting the phrase “or this title.” in its place, so that the subsection reads as follows:**

1044.1 An Appeals Board shall review decisions of examiners as provided in Title IV of the Traffic Adjudication Act, or this title.

**Chapter 30, ADJUDICATION AND ENFORCEMENT, is amended as follows:**

**Section 3014, APPEALS, is amended as follows:**

**Subsection 3014.1 is amended by striking the period and inserting the phrase “or from matters as set forth in Subsection 1042.3.” in its place, so that the subsection reads as follows:**

3014.1 Appeals shall be from final determinations issued after reconsideration under Title III-A of the District of Columbia Traffic Adjudication Act of 1978; provided, that a denial by a hearing examiner of a motion to vacate a finding of liability based on a failure to appear at a scheduled hearing pursuant to D.C. Official Code § 50-2302.06(b) or a deemed admission pursuant to D.C. Official Code §§ 50-2302.05(e) or 50-2303.05(d)(2) shall be appealed directly to the appeals board or from matters as set forth in Subsection 1042.3.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF THIRD PROPOSED RULEMAKINGRM37-2017-01- NATURAL GAS QUALITY OF SERVICE STANDARDS AND  
RELIABILITY PERFORMANCE; and  
FORMAL CASE NO. 977, IN THE MATTER OF THE INVESTIGATION INTO THE  
QUALITY OF SERVICE OF WASHINGTON GAS LIGHT COMPANY, DISTRICT OF  
COLUMBIA DIVISION, IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 2-505 and 34-802 of the District of Columbia Official Code,<sup>1</sup> of its intent of adopting amendments to Chapter 37 (Natural Gas Quality of Service Standards and Reliability Performance), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), commonly referred to as the Natural Gas Quality of Service Standards (NGQSS). This chapter sets forth standards for ensuring that the natural gas utility and natural gas service providers operating in the District of Columbia meet an adequate level of quality, reliability, and safety in the provision of natural gas service to District of Columbia residents.

2. Previous notices of proposed rulemakings were published on August 11, 2017,<sup>2</sup> and March 9, 2018.<sup>3</sup> After full consideration of the matters discussed at the technical conferences and review of the filed comments, the Commission made substantive and non-substantive revisions to the: (1) Reporting Requirements for Reportable and Limited Service Outage and Gas Incidents (Section 3701); (2) Reporting and Repairing Requirements for Gas Leaks and Odor Complaints (Section 3702); (3) Reporting and Responding Requirements for Gas Emergencies (3703); (4) Customer Service Standards, Customer Surveys, Service Provisioning (3704); (5) Reliability Standards, Low Pressure Water Infiltration, Underground Damage Prevention, Lost Time Accidents OSHA 300 Log (Section 3705); (6) Billing Error Notification (3706); (7) Compliance Reporting (Section 3708); (8) Penalties (Section 3797); (9) Waiver (Section 3798); and (10) Definitions (Section 3799). The Commission gives notice of its intent to take final rulemaking action in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking (“NOPR”) in the *D.C. Register*.

**Chapter 37, NATURAL GAS QUALITY OF SERVICE STANDARDS AND RELIABILITY PERFORMANCE, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended to read as follows:**

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<sup>1</sup> D. C. Official Code §§ 2-505 (2016 Repl.) and 34-802 (2012 Repl.).

<sup>2</sup> 64 DCR 7960-7983 (August 11, 2017).

<sup>3</sup> 65 DCR 2483-2507 (March 9, 2018).

**3700 PURPOSE AND APPLICABILITY**

- 3700.1 The purpose of this chapter is to establish standards and requirements for ensuring that a Natural Gas Utility and Natural Gas Service Providers operating in the District of Columbia meet an adequate level of quality, reliability, and safety in the provision of natural gas service to District of Columbia customers.
- 3700.2 This chapter shall apply to all Natural Gas Utility and Natural Gas Service providers operating in the District of Columbia, subject to the authority of the Public Service Commission of the District of Columbia (“Commission”).
- 3700.3 All written Natural Gas Quality of Service Standards (“NGQSS”) reports, studies, surveys, or filings required shall be filed with the Commission.

**3701 REPORTING REQUIREMENTS FOR REPORTABLE AND LIMITED SERVICE OUTAGES AND GAS INCIDENTS**

- 3701.1 The Natural Gas Utility shall report to the Commission and the Office of the People’s Counsel (“OPC”) of the District of Columbia all Reportable, Limited Service Outages and gas Incidents.
- 3701.2 The Natural Gas Utility shall report Reportable Service Outages by telephone and e-mail to the Commission’s Office of Compliance and Enforcement (“OCE”) and OPC, at the earliest practicable time, but not later than one (1) hour after the Natural Gas Utility’s dispatch has been informed of a Reportable Service Outage, with as much detailed information as possible. To the extent that all information required by Subsection 3701.3 is not available at the time of the initial communication, the Natural Gas Utility shall within two (2) hours of the dispatch, supplement its initial report with the additional information. This reporting requirement applies to business and non-business hours.
- 3701.3 During the course of each Reportable Service Outage, the Natural Gas Utility shall report periodically to OCE and OPC regarding the status of the service outage and the Natural Gas Utility’s progress in restoration efforts. The frequency of such periodic updates to OCE shall be jointly determined by the Natural Gas Utility and OCE at the start of the service outage and/or as modified during the course of the service outage. The Natural Gas Utility shall update OCE and OPC if the originally estimated restoration time needs to be extended.
- 3701.4 Updated estimated restoration information, if available, shall be continuously provided to District of Columbia customers by the Natural Gas Utility’s customer service representatives and by the Natural Gas Utility’s automated voice response unit.
- 3701.5 The reporting requirements for Reportable Service Outage(s) are as follows:



- (a) The Natural Gas Utility shall report Reportable Service Outage(s) affecting more than one hundred (100) customers and lasting more than eight (8) hours on the Natural Gas Utility's side of the gas pipeline or occurring at a Master-Metered Apartment Building affecting more than 100 residential units;
- (b) No report is required if the service outage is the result of the Natural Gas Utility's planned maintenance activities, provided that the customers were informed prior to the implementation of the maintenance activities;
- (c) Each telephone, text messaging, or email report concerning Reportable Service Outages shall state clearly, at a minimum the following information:
  - (1) A description of the service outage(s);
  - (2) The dates when the service outage(s) began and ended;
  - (3) The location(s) of the service outage(s), including street addresses and intersections; the ward(s) and/or quadrant(s) where the service outage(s) occurred;
  - (4) Pipe size, material, pressure and type of gas pipeline involved;
  - (5) The estimated number of customers out of service, if known;
  - (6) A preliminary assessment as to the cause(s) of the service outage(s), if known; and
  - (7) The estimated repair and/or restoration time, if known.
- (d) The Natural Gas Utility shall file a written report concerning all Reportable Service Outages with the Commission and a copy to OPC within twenty-one (21) days following the end of a Reportable Service Outage.
- (e) Each written report concerning a Reportable Service Outage shall state clearly at a minimum, the following information:
  - (1) The date(s) and times when the Reportable Service Outage began and ended;
  - (2) The location(s) of the service outage(s), including street addresses and intersections, the ward(s) or quadrant(s) where the service outage occurred;

- (3) Pipe size, material, pressure and type of gas pipeline involved, if applicable;
- (4) The date(s) and time(s) the Natural Gas Utility received the first call regarding the outage(s) or became aware of the outage(s);
- (5) The dates and times when the restoration effort began and ended;
- (6) The date and time when the maximum number of customers experienced an outage and the total number of customers affected at that time for both the District of Columbia and system-wide;
- (7) The total number of customers that experienced an outage given in one-hour intervals throughout the outage for both the District of Columbia and system-wide;
- (8) The total number of customer interruption durations (converted into hours) during the outage for both the District of Columbia and system-wide;
- (9) Any information concerning requests made for outside assistance, including the organization(s) to which such requests were made, the date and time of the requests, and the resources requested;
- (10) Any information concerning outside assistance received through mutual aid agreements, including the organization(s) that provided personnel, the date(s) and time(s) of personnel arrivals and departures, all crew personnel with names, identification (ID) numbers and the type of work (covered tasks) performed with complete Operator Qualifications (OQ) records;
- (11) Any information on the Natural Gas Utility and its contractor's personnel and resources used in the restoration efforts with names, ID numbers and the type of work (covered tasks) performed with complete OQ records;
- (12) Any system-wide information concerning customer communications including the hourly call volumes (specifically identifying the total number of customer calls received and the total number of customer calls answered by the Natural Gas Utility during each hour of the service outage), the hourly staffing numbers (specifically identifying the total number of customer service representatives logged into the call center and supporting phone systems actively taking or waiting to take customer calls), and the telephone service factor provided on an hourly basis during the entire duration of the service outage (specifically identifying

the percentage of answered calls that were answered within a 30-second timeframe);

- (13) The total number of customers interrupted and the customer interruption durations (converted into hours) along with the causes of the outages for both the District of Columbia and system-wide;
- (14) The detailed explanation of the work (covered tasks) performed as part of the emergency restoration efforts by mutual aid agreements and the Natural Gas Utility and its contractor's personnel and the resources used with names, ID numbers and the type of work (covered tasks) performed with complete OQ records for both the District of Columbia and system-wide;
- (15) Restoration efforts affected by the unavailability of materials and a description of the emergency measures taken to resolve such issues;
- (16) The total number of customers, and percent of all affected customers, restored, given in one-hour intervals throughout the Reportable Service Outage restoration effort for both the District of Columbia and system-wide);
- (17) An analysis, based upon the availability of the data and all other surrounding circumstances, of the Natural Gas Utility's performance in its current restoration efforts as compared to its past restoration efforts, taking into account all relevant factors, such as the severity of the current outage in terms of the number of customers affected for both the District of Columbia and system-wide;
- (18) A description of the service outage and provide a root cause analysis of the of the cause of the outage(s) and the steps the Natural Gas Utility will implement to prevent such an occurrence in the future;
- (19) Whether there were any safety issues associated with the natural gas service outage, if so, provide information on what actions the natural gas company took to address the safety issues and indicate if any customers were in danger at any time during the restoration; and
- (20) A self-assessment of the Natural Gas Utility's restoration efforts in the District of Columbia.

3701.6 The Natural Gas Utility shall report Limited Service Outage(s) by telephone and e-mail to OCE and OPC at the earliest practicable time, but not more than one (1)

hour after the Natural Gas Utility's dispatch has been informed of a Service Outage, with as much detailed information as possible. To the extent that all information required by Subsection 3701.9 is not available at the time of the initial communication, the Natural Gas Utility shall within two (2) hours of the dispatch supplement its initial report with the additional information. This reporting requirement applies to business and non-business hours.

3701.7 The reporting requirements for Limited Service Outage(s) are as follows:

- (a) The Natural Gas Utility shall report Limited Service Outage(s) affecting 25 to 100 customers and lasting more than eight (8) hours on the Natural Gas Utility's Pipeline distribution system prior to the meter;
- (b) No report needs to be filed if the customer service outage was caused by an event on the customer's side of the meter; and
- (c) No report is required if the service outage is the result of the Natural Gas Utility's planned maintenance activities, provided that the customer was informed prior to the implementation of the maintenance activities.
- (d) Each telephone and e-mail report concerning Limited Service Outage(s) shall state clearly, at a minimum, the following information:
  - (1) A description of the service outage(s);
  - (2) The dates when the service outage(s) began and ended;
  - (3) The location(s) of the service outage(s), including street addresses and intersections, the ward(s) and/or quadrant(s) where the service outage(s) occurred;
  - (4) Pipe size, material, pressure and type of gas pipeline involved;
  - (5) The estimated number of customers out of service, if known;
  - (6) A preliminary assessment as to the cause(s) of the service outage(s), if known; and
  - (7) The estimated repair and/or restoration time, if known.
- (e) The Natural Gas Utility shall file a written report concerning all Limited Service Outage(s) with the Commission, and a copy to OPC, within ten (10) calendar days from the date of repair/restoration completion or within two (2) weeks of the event occurrence whichever comes first.

- (f) Each written report concerning Limited Service Outage(s) shall state clearly, at a minimum, the following information as applicable to the given outage(s):
- (1) The dates and times when the Limited Service Outage began and ended;
  - (2) The location(s) of the service outage(s), including street addresses and intersections, the ward(s) and/or quadrants where the service outage occurred;
  - (3) Pipe size, material, pressure, and type of gas pipeline involved, if applicable;
  - (4) The date(s) and time(s) the Natural Gas Utility received the first call regarding the outage(s) or became aware of the outage(s);
  - (5) The dates and times when the restoration effort began and ended;
  - (6) The total number of customer interruption durations (converted into hours) during the outage(s);
  - (7) The estimated number of customers affected by the service outage(s);
  - (8) The steps taken to minimize and/or control the service outage(s);
  - (9) Any information on the Natural Gas Utility and its contractor's personnel and resources used in the restoration efforts with names, ID numbers and the type of work (covered tasks) performed with complete OQ; and
  - (10) A description of the service outage(s) and provide a root cause analysis of the cause of the outage(s) and the steps the Natural Gas Utility will implement to prevent such an occurrence in the future, if any.

3701.8 The Natural Gas Utility shall report by telephone and e-mail all Incidents to OCE and OPC at the earliest practicable time, but not later than one (1) hour after the Natural Gas Utility's dispatch has been informed of the Incident, with as much detailed information as possible. To the extent that all information required by Subsection 3701.11 is not available at the time of the initial communication, the Natural Gas Utility shall, within two (2) hours of the dispatch, supplement its initial report with the additional information. The Natural Gas Utility shall continue providing updates to the Commission and OPC on all Incidents as

information becomes available or is requested by the pipeline safety inspector. This reporting requirement applies to business and non-business hours.

- 3701.9 The reporting requirements for gas Incidents are as follows:
- (a) Each telephone and e-mail report concerning, all Incident(s) shall state clearly, at a minimum, the following information:
    - (1) A description of the Incident(s);
    - (2) The date(s) and time(s) when the Incident began and ended;
    - (3) The location(s) of the Incident(s), including street addresses and intersections, the ward(s) and/or quadrant(s);
    - (4) Pipe size, material, pressure and type of gas pipeline involved;
    - (5) A preliminary assessment as to the cause(s) of the Incident(s), if known; and
    - (6) The estimated number of customers and/or persons affected, if known.
- 3701.10 The Natural Gas Utility shall file an initial written report concerning all Incidents with the Commission, and a copy to OPC, within five (5) days of the event occurrence.
- 3701.11 Each written report concerning all Incidents shall state clearly, at a minimum, the following information:
- (a) The date(s) and time(s) when the Incident(s) began and ended;
  - (b) The location(s) of the incident(s), including street addresses and intersections, the ward(s) and/or quadrant(s);
  - (c) Pipe size, material, pressure and type of gas pipeline involved;
  - (d) The date(s) and time(s) the Natural Gas Utility received the first call regarding the incident(s) or became aware of the incident(s);
  - (e) The date(s) and time(s) when the Incident began and ended;
  - (f) The estimated number of customers and/or persons affected, and street shutdowns;
  - (g) The steps the Natural Gas Utility took to provide assistance;

- (h) The amount of time it took for assistance to arrive;
- (i) The date(s) and time(s) of arrival of the first Natural Gas Utility responder to the scene of the incident;
- (j) The date and time the area was made safe;
- (k) The total number of injuries, hospitalizations, and fatalities;
- (l) An estimated total dollar amount of damage and loss to the Natural Gas Utility caused by the incident(s) if known; and
- (m) A description of the Incident(s) and provide a root causes analysis of the Incident(s) and steps the Natural Gas Utility will implement to prevent such an occurrence in the future.

3701.12 The Natural Gas Utility shall update the initial written report and shall file same with the Commission, and a copy to OPC, within thirty (30) days of the event occurrence.

**3702 REPORTING AND REPAIRING REQUIREMENTS FOR GAS LEAKS AND ODOR COMPLAINTS**

3702.1 The Natural Gas Utility's leak detection, classification, and repair personnel shall meet the federal training requirements for natural gas operations, maintenance, and emergencies (49 Code of Federal Regulations, Part 192). The reporting and repair requirements for gas leaks and odor complaints shall follow four steps:

- (a) Respond to all leaks and odor complaints within the timeframes established for the appropriate Code Orders and categorize any gas leak by grade;
- (b) Notify OCE and OPC by e-mail and telephone of each Grade 1, Grade 2, and Grade 3 gas leaks;
- (c) Provide periodic updates to the initial notification; and
- (d) Submit written reports on the results of the leak detection and repair, and odor complaints. The leak detection, classification, and repair personnel shall meet the federal training requirements for natural gas operations, maintenance, and emergencies (49 Code of Federal Regulations, Part 192).

3702.2 The Natural Gas Utility shall:

- (a) Respond to (be at the site of) all Code 1 Orders within thirty (30) minutes after the Natural Gas Utility's dispatch has been informed about the leak and/or odor complaint during business or non-business hours, on a monthly average basis; with no more than three (3) percent of the overall monthly response times over fifty (50) minutes and no single event response time exceeding two (2) hours;
- (b) Respond to (be at the site of) all Code 2 Orders within sixty (60) minutes after the Natural Gas Utility's dispatch has been informed about the leak and/or odor complaint during business or non-business hours, on a monthly average basis; with no more than ten (10) percent of the overall monthly response times over seventy-five (75) minutes and no single event response time exceeding four (4) hours;
- (c) Respond to all Code 3 Orders, by making a determination as to the severity of the gas leaks and/or reported odor complaints and indicate to the customer/caller when a representative will be at the site, provided that on a monthly average basis, a representative will be at the site not later than ninety (90) minutes after the Natural Gas Utility's dispatch has been informed about the leak and/or odor complaint during business and non-business hours; with no more than twenty (20) percent of the overall monthly response times over ninety (90) minutes and no single event response time exceeding six (6) hours; and
- (d) Notify OCE and OPC within on the first business day after the end of each month, for those Code 1 response times that do not meet the requirements of these rules and that exceeded the fifty (50) minutes allowable response time and the single event maximum response time, and provide to OCE, on a monthly basis, the following additional information:
  - (1) Full root cause analysis;
  - (2) Location from which the technician was dispatched;
  - (3) Time of dispatch;
  - (4) Time of arrival;
  - (5) Length of time of the response;
  - (6) Whether the Natural Gas Utility's standard processes for dispatch and response were followed and if not, a description of any deviation and the reason why;
  - (7) Reason for any response in excess of the average allowable response time and in excess of two hours;



- (8) Number of in-progress Code Orders (any Code) at the time of dispatch in the District of Columbia;
  - (9) Number of in-progress gas leaks (any Grade) at the time of dispatch in the District of Columbia;
  - (10) Number of service technicians (qualified per Pipeline Hazardous Material Safety Administration OQ requirements to respond to Code 1 Orders) on-the-clock at the time of dispatch; and
  - (11) Proposed remedy to prevent a similar circumstance, if any;
- (e) Categorize the gas leak by grade pursuant to Subsection 3702.4 if the Natural Gas Utility determines, upon responding to a Code 1, Code 2, or Code 3 Order, that a gas leak is in need of repair; and
  - (f) Provide to OCMS and OPC on a quarterly basis the compliance reporting required by Subsection 3707.2. The Natural Gas Utility shall provide explanations if these time limits are exceeded, pursuant to Subsection 3708.3.

3702.3 The Natural Gas Utility shall report to OCE and OPC by telephone and e-mail all natural gas leaks, except gas leaks found inside residential and/or commercial customers' properties, at the earliest practicable time, but not later than one (1) hour after the Natural Gas Utility's dispatch has been informed about and determined that the gas odor complaint resulted from a leak and/or the dispatch has determined that a leak has occurred on the Natural Gas Utility's gas system, with as much detailed information as possible. To the extent all information required by Subsection 3702.5 is not available at the time of the initial communication, the Natural Gas Utility shall within two (2) hours of the dispatch supplement its initial report with the additional information. Gas odor complaints reported inside customers' facilities and odor complaints where no leaks are found shall not be reported. This reporting requirement applies to gas leaks that are found during business and non-business hours.

3702.4 Each gas leak shall be categorized as Grade 1, 2, or 3 as follows:

- (a) Grade 1: A leak that presents an immediate or probable hazard to person(s) or property, and requires immediate repair or continuous action until the conditions are no longer hazardous;
- (b) Grade 2: A leak that is recognized as being non-hazardous at the time of detection, but requires scheduled repair based on probable future hazard; and

- (c) Grade 3: A leak that is non-hazardous at the time of detection and can be reasonably expected to remain non-hazardous.

3702.5 Each telephone and e-mail report to OCE and OPC of Grade 1, Grade 2, and Grade 3 leak(s) due to a gas-related odor complaint shall state clearly, at a minimum, the following information:

- (a) A description of the type of leak(s);
- (b) The dates when the leak began and ended;
- (c) The location of the leak(s), including street addresses and intersections, the ward(s) and/or quadrant(s);
- (d) Pipe size, material, pressure and type of gas pipeline involved.
- (e) The estimated number of customers and/or persons whose services were disrupted, if any;
- (f) A preliminary assessment as to the cause of the leak(s), if known.
- (g) The estimated time to repair the leak, if known; and
- (h) The Natural Gas Utility shall provide OCE and OPC with regular updates to the initial report as it receives more information.

3702.6 All Grade 1 leaks shall be promptly repaired. If not repaired immediately, upon detection, because of downgrading of the Grade 1 leak to a Grade 2 leak, the Natural Gas Utility shall recheck the location within forty-eight (48) hours to determine if a Grade 1 leak returns. The location shall be continuously observed until completion of the repair or downgrade of the Grade 1 leak to a Grade 2 leak. If the Grade 1 leak returns, the leak must be repaired under current Grade 1 standards. The Natural Gas Utility shall submit a written report after one (1) week from the initial grading of the leak to OCE and OPC regarding the status of the downgraded leak and the Natural Gas Utility's progress in completing repairs, and follow Subsections 3702.11 and 3702.12 for Grade 2 and Grade 3 leaks, respectively until completion of the leak repair. Within eight (8) hours after a Grade 1 leak is downgraded to a Grade 2 leak, the Natural Gas Utility shall report by telephone and e-mail to OCE and OPC and shall state clearly the leak downgrading information, Subsection 3702.5 information and the name, telephone number, and identification of the technician downgrading the leak.

3702.7 Each written report to OCE and OPC concerning Grade 1 leaks shall state clearly, at a minimum, the following information as applicable to the incident:

- (a) The street address, the ward(s) and/or quadrant(s) location of the leak or odor;
- (b) A description of the type of leak;
- (c) Pipe size, material, pressure, and type of the gas pipeline involved;
- (d) The time the Natural Gas Utility received the first call regarding a gas leak or leak detection;
- (e) The time the Natural Gas Utility’s technician reached the site;
- (f) The cause of the leak, if known;
- (g) The time the area was made safe; and
- (h) The actual repair time; the time and date when the job was completed with actual repair duration.

3702.8 Grade 2 leaks shall be monitored and reevaluated at least once every six months until cleared with no further signs of leak. Depending upon the location of the leak, reevaluation may be made earlier than six (6) months. If reevaluation of a Grade 2 leak indicates a probable hazard, *i.e.*, reclassified as a Grade 1 leak, it shall be repaired immediately. For Grade 2 leaks that are non-hazardous, the Natural Gas Utility shall schedule repairs within thirty (30) days. Otherwise, Grade 2 leaks shall be repaired within one calendar year, but no later than fifteen (15) months from the date the leak was first reported.

3702.9 Grade 3 leaks shall be monitored and reevaluated during the next scheduled leak survey, or within 15 months of the date reported, whichever occurs first, until the leak is repaired with no further signs of leak.

3702.10 Written reports for leaks classified as Grade 2 and Grade 3 shall be filed semi-annually with OCE and OPC. The reports shall be submitted by July 31<sup>st</sup> and January 31<sup>st</sup> of each year.

3702.11 Each semi-annual written report concerning Grades 2 and 3 leaks shall state clearly, at a minimum, the following information as applicable:

- (a) The street address, the ward(s) and/or quadrant(s) location of the leak or odor;
- (b) A description of the type and cause of leak;
- (c) Pipe size, material, pressure, and type of the gas pipeline involved; and

- (d) The schedule and the status of repair of all Grade 2 leaks consistent with the standard provided in Subsections 3702.10 or 3702.11.

3702.12 The Natural Gas Utility shall create and maintain database(s) for all gas leaks and customer reported gas-related odor complaints. The database(s) shall be referred to as the Leak Identification, Detection and Repair, and Odor Complaints (“LIDAROC”). The database(s) shall contain, at a minimum:

- (a) The origination date;
- (b) The work completion date;
- (c) The grade of the leak;
- (d) The type of leak;
- (e) The location (address or intersection including the ward and/or quadrant where the leak occurred);
- (f) The ward;
- (g) The Number of customers whose services were disrupted because of the leak, if any;
- (h) The cause of the leak;
- (i) The response time in minutes;
- (j) The actions taken;
- (k) The leak ID number;
- (l) The work request Order number;
- (m) The work request type code;
- (n) The Code Number;
- (o) The actual repair time in days; and
- (p) The actual repair time in minutes.

3702.13 The Natural Gas Utility shall incorporate all natural gas leaks and customer reported odor complaint calls into the database(s) within five (5) days of receipt of the gas-related odor complaint and/or determination that a leak has occurred on its gas system.

3702.14 The Natural Gas Utility shall update the database(s) after it has repaired and/or resolved the leak and customer reported odor complaints and shall submit an electronic and a hard copy of the database(s) to the Commission and OPC on a quarterly basis.

**3703 REPORTING AND RESPONDING REQUIREMENTS FOR GAS EMERGENCIES**

3703.1 The Natural Gas Utility shall immediately dispatch personnel to the site of the Gas Emergency and shall arrive at the site within fifty (50) minutes of receiving an emergency call during normal business and non-business hours.

3703.2 A Gas Emergency shall be reported by telephone and e-mail to OCE and OPC with as much detailed information as possible at the earliest practicable time, but not later than thirty (30) minutes after the Natural Gas Utility's dispatch has been informed that a Gas Emergency has occurred. The Natural Gas Utility shall provide updates to the initial report as it receives more information. This reporting requirement applies to business and non-business hours.

3703.3 Each telephone and e-mail report of a Gas Emergency shall state clearly, at a minimum, the following information:

- (a) A description of the Gas Emergency;
- (b) The dates when the Gas Emergency began and ended;
- (c) The location of the Gas Emergency, including street address and intersection, the ward(s) and/or quadrant(s) where the Gas Emergency occurred and the name of the person making the report and contact information;
- (d) Pipe size, material, pressure and type of gas pipeline involved;
- (e) The estimated number of customers impacted by the Gas Emergency, and street shutdowns, if known;
- (f) A preliminary assessment as to the cause of the Gas Emergency, if known;
- (g) The time between becoming aware of the Gas Emergency and responding (arriving at the emergency site) to the Gas Emergency, if known;
- (h) The estimated time to clear the Gas Emergency, if known;
- (i) The estimated time to repair Pipeline Facilities affected by the Gas Emergency, and/or restore service, if known; and

- (j) A preliminary assessment as to any injuries, deaths, or personal property damage, if known.

3703.4 During the course of a Gas Emergency on the Natural Gas Utility's system, the Natural Gas Utility shall report periodically by telephone and e-mail to OCE and OPC, regarding the status of the Gas Emergency and the utility's progress in clearing the Gas Emergency and making the site safe. The Natural Gas Utility shall provide updates or progress on the Gas Emergency every hour until the Gas Emergency is resolved.

3703.5 Written reports concerning all Gas Emergencies shall be filed with the Commission and OPC within five (5) days of the event occurrence. The Natural Gas Utility shall provide updates to its written report as it receives more information.

3703.6 Each written report concerning a Gas Emergency shall state clearly, at a minimum, the following information:

- (a) The date and time when the Gas Emergency began and ended;
- (b) The location(s) of the Gas Emergency, including street addresses and intersections, the ward(s) and/or quadrants where the service outage occurred;
- (c) Pipe size, material, pressure, and type of gas pipeline involved, if applicable;
- (d) The date and time when the emergency crew arrived at the scene;
- (e) The estimated number of customers affected by the Gas Emergency;
- (f) The steps taken to minimize and/or control the Gas Emergency;
- (g) An assessment as to any injuries, deaths, or personal property damage; and
- (h) A description of the Gas Emergency and provide a root cause analysis of the cause of the Gas Emergency and the steps the Natural Gas Utility will implement to prevent such an occurrence in the future, if any.

**3704 CUSTOMER SERVICE STANDARDS, CUSTOMER SURVEYS, SERVICE PROVISIONING**

3704.1 The Natural Gas Utility shall maintain a customer service (walk-in) office physically located in the District of Columbia.

- 3704.2 The Natural Gas Utility shall conduct annual customer surveys to assess customer satisfaction with the quality of customer service provided by the company to its District of Columbia customers. The Natural Gas Utility shall provide the results of the surveys to the Commission and OPC. The customer satisfaction surveys shall be conducted from (1) a statistically representative sample of residential customers; and (2) customers randomly selected from those customers who have contacted the company's customer service department within the year in which service is being measured. The representative sample shall be drawn from customers contacting the company's customer service department in the previous year and shall be conducted with a sample of customers who contacted the Natural Gas Utility by walk-in, telephone, or e-mail. The survey instrument and the method shall be pre-approved by OCE. The Natural Gas Utility shall include the results from all available previous years of the survey up to a maximum of ten years in the Quality of Service Standard Performance Report (QSSPR).
- 3704.3 The Natural Gas Utility shall gather data and report statistics regarding the number of service calls met on the same day requested or scheduled, excluding instances where a customer misses a mutually agreed upon time to the Commission and OPC. The Natural Gas Utility shall report the percentage of scheduled service appointments met by the Natural Gas Utility on the same day requested. Service appointment data shall be compiled and aggregated monthly. A minimum performance standard of ninety-five percent (95%) on a quarterly basis will apply. The Natural Gas Utility shall record the delay, in hours and/or days, in responding to requested or scheduled service calls. The Natural Gas Utility shall provide the results on service calls met and delayed to the Commission and OPC on an annual basis in the QSSPR.
- 3704.4 The Natural Gas Utility shall gather data on the percentage of meters that are actually read by the company on a monthly basis. Eligible meters include both residential and commercial accounts. On-cycle meter reads performance standard of 95% on a quarterly basis will apply. The Natural Gas Utility shall provide the results to the Commission and OPC on an annual basis in the QSSPR.
- 3704.5 The Natural Gas Utility shall perform the customer requested meter testing on a timely basis, but at a minimum shall test ninety-seven percent (97%) of customer requested meter tests. The Natural Gas Utility shall report the results on a quarterly basis on pre-scheduled customer requested meter testing. The Natural Gas Utility shall also submit its results to the Commission and OPC on an annual basis in the QSSPR.
- 3704.6 The Natural Gas Utility shall answer at least seventy percent (70%) of all customers' phone calls within thirty (30) seconds and shall maintain records delineating customer phone calls answered by a Natural Gas Utility representative or an automated operator system. The Natural Gas Utility shall measure and report on an annual basis to the Commission and OPC the average customer wait

time before being transferred from an automated operator system to a Natural Gas Utility representative.

- 3704.7 The Natural Gas Utility's Call Answering statistics shall exclude calls made during periods of major telecommunications failures, and periods of labor disruption.
- 3704.8 The Natural Gas Utility shall maintain a Call Abandonment Rate below ten percent (10%) on a quarterly basis and shall report the information to the Commission and OPC on an annual basis in the QSSPR.
- 3704.9 The Natural Gas Utility's Call Abandonment Rate statistics shall exclude Abandoned Calls, and calls made during periods of major telecommunications failures, and periods of labor disruption.
- 3704.10 If the Natural Gas Utility fails to meet the standards set forth in Subsections 3704.3, 3704.4, 3704.5, 3704.6 or 3704.8, for two consecutive quarters, it shall be required to develop a corrective action plan.
- 3704.11 The corrective action plan shall describe the cause(s) of the Natural Gas Utility's non-compliance with Subsections 3704.3, 3704.4, 3704.5, 3704.6 or 3704.8, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).
- 3704.12 Progress on current corrective action plans shall be included in the Natural Gas Utility's annual QSSPR, filed with OCE and OPC by April 30 of each year.
- 3704.13 On a quarterly basis, the Natural Gas Utility shall complete installation of 95% of new residential service requests within ten (10) business days of the start date for the new installation.
- 3704.14 The start date of the installation shall be designated as the first business day after all of the following events have taken place:
- (a) The customer's valid billing information is received;
  - (b) The site is ready for service (cleared, graded, staked, etc.);
  - (c) The service connection fee is paid, if applicable;
  - (d) The gas safety inspection report is received;
  - (e) The security deposit is paid, if applicable;
  - (f) All mains and regulating facilities are installed;



- (g) Any required public space excavation is completed;
- (h) Any delays due to weather emergencies do not intervene; and
- (i) All rights-of-way permits are obtained, and all One-Call requirements have been met.

3704.15 The Natural Gas Utility shall submit a written report on its performance pursuant to Subsection 3704.13 every six (6) months. The report shall be submitted to OCE and OPC, forty-five (45) days after the six-month reporting period ends.

3704.16 After the submission of four (4) consecutive reports pursuant to Subsection 3704.15, the Commission may modify the frequency of the reporting.

3704.17 The reports pursuant to Subsection 3704.15 shall clearly state the total number of new residential service installation requests received during the relevant reporting period, and for the new residential installation service requests received, the percentage of new residential service connections that were completed in accordance with Subsection 3704.13.

3704.18 If the Natural Gas Utility fails to meet the standard set in Subsection 3704.13 in any two consecutive reports, it shall develop a corrective action plan.

3704.19 The corrective action plan shall describe the cause(s) of the Natural Gas Utility's non-compliance with Subsection 3704.13, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).

3704.20 Progress on any current corrective action plans shall be included in the Natural Gas Utility's annual QSSPR.

3704.21 The Natural Gas Utility shall report the actual performance obtained during the reporting period in the annual QSSPR of the following year.

**3705 RELIABILITY STANDARDS, LOW PRESSURE WATER INFILTRATION, UNDERGROUND DAMAGE PREVENTION, LOST TIME ACCIDENTS OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION (OSHA) 300 LOG**

3705.1 The Natural Gas Utility shall establish a Gas Main risk ranking index to determine its Gas Main Segments (including associated Service Lines) most in need of improvement or replacement. Factors associated with the main ranking index for making improvement and replacement decisions include, poor leak history, poor cathodic protection or poor gas main conditions determined from visual observations, poor pressure in the area, interruption of service due to water

infiltration, and segment affected by city or state public improvement projects. At least once each calendar year, the Natural Gas Utility shall rank and identify areas of Pipeline Networks of its natural gas operating system requiring improvements to eliminate segments most susceptible to leakage, excavation damage, failure, supply interruptions or failure to meet its minimum design pressure and volume deliverability requirements. The Natural Gas Utility shall retain in its leak data base the leak data/leak history in the main segments and service lines it has replaced. The Natural Gas Utility shall establish a performance ranking by area, on a scale of one to ten with one being the poorest performing segment. The Natural Gas Utility shall file with to the Commission and a copy with the OPC on a biennial basis.

- 3705.2 Each calendar year, the Natural Gas Utility shall perform the necessary analysis for the issues identified in Subsection 3705.1, and provide plans for eliminating the ten worst performing segments due to low pressure or interruption problems. The Natural Gas Utility shall file the results with the Commission and a copy to OPC on an annual basis.
- 3705.3 The Natural Gas Utility shall respond to all underground utility locate requests and locate their facilities in accordance with the damage prevention laws established within the District of Columbia and the U.S. Department of Transportation. The Natural Gas Utility shall maintain an accurate count of all locate requests, responses to locate requests, number of gas main and service lines inaccurately marked which resulted in damages (*e.g.*, hits per 1,000 locates) or construction delays, number of locations which the Natural Gas Utility failed to mark as required by the damage prevention rules, number of calls not made for One Call ticket numbers by excavator(s), reports of incidents to underground utilities, damages caused by excavators or third party to gas underground facilities, third party responsible for the damage, and the root cause(s) of the damage. An annual report shall be filed with the Commission and a copy to OPC in the QSSPR no later than February 15 of the following year.
- 3705.4 The Natural Gas Utility shall monitor high volume condensate drips on its low-pressure distribution network to minimize service continuity disruption. In no case shall a natural gas customer outage caused by condensate accumulation affect more than five percent (5%) of the low-pressure customers during two consecutive winter periods. The Natural Gas Utility shall prepare a remediation plan within one hundred twenty (120) days of exceeding the 5% standard of service interruption, for the approval of the Commission, and provide a target date for completion of the recommended repair to the low-pressure piping network. The Natural Gas Utility shall file the results with the Commission and a copy to OPC on an annual basis in the QSSPR.
- 3705.5 The standard in Subsection 3705.4 may be changed or modified by the Commission, at a later date, based on a study of trends in service interruptions.

3705.6 The Natural Gas Utility shall measure annually its Lost Time Accident Rate as reported in the Occupational Safety and Health Administration (“OSHA”) 300 Log Summary of Occupational Injuries and Illnesses. The Natural Gas Utility shall file the results with the Commission and a copy to OPC on an annual basis in the QSSPR.

**3706 BILLING ERROR NOTIFICATION**

3706.1 The Natural Gas Utility and all Natural Gas Supplier must inform the Commission and OPC when a billing error has affected one hundred (100) or more customers or when the number of affected customers is equal to or more than two percent (2%) of the Natural Gas Utility’s or Natural Gas Supplier’s customer base in the District, whichever is fewer. The Natural Gas Utility and Natural Gas Suppliers with a customer base of fewer than 100 customers shall report errors when two (2) or more customers are affected.

3706.2 The Natural Gas Utility and all Natural Gas Suppliers shall submit an initial billing error notification within one (1) business day of discovering or being notified of the error. After submitting the initial notification, the Natural Gas Utility and Natural Gas Suppliers must submit a follow-up written report within fourteen (14) calendar days and a final written report within sixty (60) calendar days.

3706.3 The Natural Gas Utility and all Natural Gas Suppliers shall send the initial billing error notification via e-mail to OCE and OPC and then file the notice required by Subsection 3706.2 with the Commission and a copy to OPC.

3706.4 The initial billing error notification shall contain the following information:

- (a) Type(s) of billing error(s) found;
- (b) Date and time the billing error(s) was discovered;
- (c) How the Natural Gas Utility and Natural Gas Supplier discovered the error(s); and
- (d) Approximate number of customers affected.

3706.5 The Natural Gas Utility and all Natural Gas Suppliers shall file the follow-up written report with the Commission, with a copy provided to OPC within fourteen (14) days of the initial report. The follow-up report, shall contain the following information:

- (a) Type(s) of billing error(s);
- (b) Date and time of the billing error(s);

- (c) Number of customers affected;
- (d) Cause of the error and status of any and all corrective action(s) taken; and
- (e) Timeline for completing any and all other required corrective action(s) which must include the provision of refunds and/or credits, no later than sixty (60) days after the billing error(s) was discovered, as necessary to correct the billing error(s).

3706.6 If the information in the follow-up report filed pursuant to Subsection 3706.5 changes, the Natural Gas Utility and all Natural Gas Suppliers shall file a final written report with the Commission, with a copy provided to OPC. The final written report shall contain the following information:

- (a) Type(s) of billing error(s);
- (b) Date and time of billing error(s);
- (c) Number of customers affected and the dollar amount involved;
- (d) Duration of the billing error(s);
- (e) Cause of the error, corrective action(s) and preventative measure(s) taken; and
- (f) Lessons learned, if any.

3706.7 Upon receipt of the final written report, the Commission shall determine whether any further investigation is necessary.

3706.8 No later than sixty (60) days after the date the Natural Gas Utility or Natural Gas Supplier discovers or is notified of the billing error(s), it shall notify each affected customer of the following:

- (a) The nature of the error;
- (b) The amount by which the customer's previous bill(s) were inaccurate;
- (c) If appropriate, the steps the Natural Gas Utility or Natural Gas Supplier will take to ensure that the customer receives a full refund if overbilled or when customers will be required to make payment if underbilled no later than 60 days; and
- (d) The Natural Gas Utility or Natural Gas Supplier shall by letter or bill insert describe to customers the nature of the billing error and the

corrective action that the company intends to implement. If a refund or outstanding balance appears on a customer's billing statement, the Natural Gas Utility or Natural Gas Supplier shall provide a clear description and explanation of the reason(s) for the error.

### **3707 COMPLIANCE REPORTING**

3707.1 The Natural Gas Utility and all Natural Gas Suppliers shall collect and retain accurate data demonstrating compliance with the measures in this chapter. Data are to be collected on a monthly basis in a format established by the Commission.

3707.2 The Natural Gas Utility and all Natural Gas Suppliers shall file monthly compliance data, and aggregated data for the three (3) months in the quarter, with the Commission, with a copy provided to OPC, on a quarterly basis pursuant to the following schedule:

- (a) The report for the months of January, February, and March shall be filed on April 30;
- (b) The report for the months of April, May, and June, on July 30;
- (c) The report for the months of July, August, and September, on October 30; and
- (d) The report for the months of October, November, and December, on January 30 of the following year. A cumulative annual report for the current reporting year shall also be filed by January 30 of the following year.

3707.3 If the Natural Gas Utility fails to comply with any requirement stated in Subsection 3702.2, that is not already subjected to an approved action plan, for two consecutive months, the Natural Gas Utility shall provide the reason(s) for not meeting the requirement(s) (including the actual response time(s) and the dispatch location(s) for the technicians responding to the event(s), a proposed remedy to prevent a similar occurrence(s), and show cause as to why a penalty(s) shall not be imposed. The Natural Gas Utility shall file a report with the Commission, with a copy provided to OPC, within fifteen (15) days of the end of the month.

### **3708 PENALTIES**

3708.1 The regulations in this chapter are natural gas quality of service standards, some of which affect the reliability of services provided to customers. Subsections 3701.2 to 3701.14 and 3705.1 to 3705.6 contain quality of service rules which are designated as reliability performance standards adopted by the Commission within the meaning of D.C. Official Code § 34-706(e). If a utility fails to comply

with Reporting Requirements for Reportable and Limited Service Outages and Gas Incidents noted in Subsections 3701.2 to 3701.14 and the Reliability Standards, Low Pressure Water Infiltration, Underground Damage Prevention, Lost Time Accidents OSHA 300 Log noted in Subsections 3705.1 to 3705.6, it may be subject to forfeiture or civil penalty in accordance with D.C. Official Code § 34-706.

3708.2 Failure to comply with the remaining Subsections of this chapter may result in the penalties set forth in D.C. Official Code § 34-706(a) for failure to comply with Commission rules and regulations.

3708.3 Violations of the natural gas quality of service standards and of the reliability performance standards set forth in this Chapter will be handled according to the rules established in 15 DCMR, Chapter 23 Natural Gas. When determining the amount of the civil penalty for violations of this Chapter, the Commission will consider the factors established in Chapter 23.

### **3709 WAIVER**

3709.1 The Commission may, in its discretion, waive any provisions of Chapter 37 of this title.

### **3799 DEFINITIONS**

3799.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

**Abandoned Calls** – calls to the Natural Gas Utility that are terminated by the customer after the customer selects the menu option and is placed in the queue and has been in queue at least thirty seconds, but has not yet reached a customer service representative or any other automated response system.

**Abnormal Operating Condition** – A condition that may indicate failure of gas piping integrity or a deviation from normal operation or a malfunction of a component on gas piping infra-structure that may result in a hazard(s) to persons, property or the environment.

**Call Abandonment Rate** – the annual number of Abandoned Calls divided by the total number of calls the Natural Gas Utility received.

**Call Answering** – a process whereby a Natural Gas Utility representative, voice response unit, or other automated operator system is ready to render assistance or ready to accept information necessary to process a customer's call. An acknowledgement that the customer is waiting on the line does not constitute an answer.

**Code 1 Orders** – gas leak or customer reported odor complaint calls involving a strong gas leak, carbon monoxide, illness, broken service main or gaslight, fire in progress, explosion, uncontrolled appliance heat, steam or noise, gas blowing or hissing, second call, or pressure alarm.

**Code 2 Orders** – gas leak or customer reported odor complaint calls involving a “medium” gas leak, or noise.

**Code 3 Orders** – gas leak or customer reported odor complaint calls involving a “slight” gas leak.

**Commission** – Public Service Commission of the District of Columbia.

**Condensate Drips** – devices installed on low pressure natural gas distribution system at its lowest elevation to facilitate collection of condensates such as ground water or other liquids infiltrating the gas piping.

**Dispatch** – unit of the Natural Gas Utility that receives calls, disseminates information and assigns service calls to technicians and field crews, and acknowledges their feedback during responses to gas leaks, incidents and emergencies.

**Distribution Line** – gas pipelines that provide natural gas delivery service to customers.

**Gas Emergency** – any sudden and unexpected situation where leakage, blowing gas, loss of gas pressure, an overpressure condition, or loss of telemetry or control-system has caused or may cause serious injury or damage to life and/or property. Examples of emergencies include gas-fed fires, explosions involving gas, escaping gas, unplanned supply interruptions, releases of hazardous material, carbon monoxide poisonings, and odorant releases.

**Gas Main** – a distribution line that serves as a common source of supply for more than one service line.

**Gas Main Segments** – each part of a gas distribution line that serves as a common source of supply for more than one service line.

**Gas Pipeline Facility** – a pipeline, a right of way, a building, or equipment used in transporting natural gas or treating natural gas during its transportation.

**Grade 1** – A leak that presents an immediate or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous;

**Grade 2** – A leak that is recognized as being non-hazardous at the time of detection, but requires scheduled repair based on probable future hazard; and

**Grade 3** – A leak that is non-hazardous at the time of detection and can be reasonably expected to remain non-hazardous.

**High Pressure (HP) System** – a gas pipeline in which the gas pressure is higher than the pressure provided to the customer. Typically, high pressure pipelines operate over 60 pounds per square inch gauge (psig) and are not transmission pipes.

**Interruption Duration** – the period of time, truncated or rounded to the nearest minute, during which a Reportable Service Outage occurs.

**Incident** – an event involving the release of natural gas that interrupts normal operations. An incident is an event that involves the release of gas and a death or injury requiring in-patient hospitalization or property damage or costs of \$5,000 or more to the Natural Gas Utility, or an event receiving media attention or that requires closing a public street.

**Leak Survey** - a systematic inspection of a pipeline for the purpose of finding leaks on a gas piping system. Leakage surveys may be done with or without instruments, depending on the class location and type of system.

**Limited Service Outages (LSO)** – customer service outage(s) caused by failure of gas piping integrity or a deviation from normal operation or a malfunction of a component on gas piping infrastructure affecting 25 to 100 customers and lasting more than 8 hours.

**Low Pressure (LP) System** – a gas pipeline in which the pressure is substantially the same as the pressure provided to the normal residential customer. Low pressure lines normally operate at 7.8 inches water column.

**Medium Pressure (MP) System** – a gas pipeline in which the gas pressure is higher than the pressure provided to the customer. Typically, medium pressure pipelines operate higher than the LP System (at 7.8 inches water column) up to 60 pounds per square inch gauge (psig).

**Natural Gas** – is a gaseous flammable fossil fuel consisting primarily of methane.

**Natural Gas Service Provider** – a natural gas supplier, including an Aggregator, Broker, or Marketer, who generates or produces natural gas, sells natural



gas, or purchases, brokers, arranges, or markets natural gas for sale to customers.

**Natural Gas Supplier** – A licensed Person, broker, or marketer, who generates natural gas; sells natural gas; or purchases, brokers, arranges or markets natural gas for sale to customers.

**Natural Gas Utility** – the company that owns or controls the distribution facilities required for the transmission and delivery of natural gas to customers, provides sales service and delivery of distribution service of natural gas, and is regulated by the Public Service Commission of the District of Columbia.

**Normal Business Hours** – Monday through Friday, 8:00 a.m. to 9:00 p.m., and Saturday, 8:00 a.m. to 4:30 p.m. (except major holidays). The main office serves customers Monday through Friday (except holidays) from 8:30 a.m. to 4:30 p.m. The Anacostia office accepts bill payments by check or money order only, Monday through Friday (except holidays), 8:00 a.m. to 4:00 p.m. All other hours including, holidays and Sunday are designated as non-normal business hours.

**Occupational Safety and Health Administration (OSHA) 300 log (OSHA 300 Log)** – a log of all recordable occupational injuries and illnesses on forms approved by OSHA. This form is called OSHA 300 Log. It is regularly updated by OSHA. OSHA 300 Log shall be used to record each case within seven (7) calendar days after the employer received information that a recordable work-related injury or illness has occurred.

**Office of the Commission Secretary (OCMS)** – Secretary of the Public Service Commission of the District of Columbia.

**Office of Compliance and Enforcement (OCE)** – Office of Compliance and Enforcement of the Public Service Commission of the District of Columbia.

**Office of the People’s Counsel (OPC)** – Office of the People’s Counsel of the District of Columbia.

**On Cycle Meter Reads** – the service period that a customer’s bill is read during the course of each month.

**Outside Assistance** – resources not routinely used by a Natural Gas Utility for service restoration. Natural Gas Utility resources transferred among utility operating areas are not considered outside assistance.

**Pipeline** – all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

**Pipeline Facility** – new and existing pipeline, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

**Pipeline Network** – the group or system of interconnected gas transmission and distribution lines.

**PSIG** – pounds per square inch gauge.

**Regulator Station** – a facility for controlling the pressure and flow of natural gas serving a distribution system.

**Reportable Service Outages** – customer service outages caused by failure of gas piping integrity or a deviation from normal operation or a malfunction of a component on gas piping infrastructure affecting more than 100 customers and lasting more than eight (8) hours; or any outage occurring at a Master-Metered Apartment Building (as defined in 15 DCMR § 499.1) affecting more than 100 residential units.

**Service Line** – a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

**Telephone Service Factor** – the percentage of calls answered within a specified amount of time. For example, if the service level time is set at thirty (30) seconds and seventy percent (70%) of calls are answered in less than 30 seconds, then the telephone service factor is 70.

**Transmission Line** – a pipeline, other than a gathering line, that: (1) transports gas from a gathering line or storage facility to a gas distribution center, storage facility, or large volume customer that is not down-stream from a gas distribution center; (2) operates at a hoop stress of 20 percent or more of Specified Minimum Yield Strength (SMYS); or (3) transports gas within a storage field.

3. Any person interested in commenting on the subject matter of this proposed rulemaking may submit written comments not later than thirty (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.dcpsec.org/public/public\\_comments](https://edocket.dcpsec.org/public/public_comments). Copies of the proposed rules may be obtained by visiting the Commission's website at [www.dcpsec.org](http://www.dcpsec.org) or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPR should call (202) 626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

## OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-874 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub. L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the intent to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendments to subsections within Sections 330, 332 and 334 provide authority to the Office of Tax and Revenue to require solely electronic filing of the income and expense forms and attachments thereto for income-producing property. Paper filing will no longer be accepted.

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

**Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:**

**Section 330, INCOME AND EXPENSE REPORTING BY OWNERS OF INCOME-PRODUCING PROPERTY, is amended as follows:**

**Subsection 330.12 is amended to read as follows:**

330.12 Any information, form or documents required by §§ 330-334 to be received by the specified date shall be electronically submitted as instructed in the notice on or before 11:59 PM of midnight of such date.

**New Subsection 330.13 is added to read as follows:**

330.13 The Deputy Chief Financial Officer shall provide an electronic receipt of such submission to the indicated email address provided by the filer.

**Section 332, TIME LIMITS FOR FILING FORMS, is amended as follows:**

**Subsection 332.1 is amended to read as follows:**

332.1 The income and expense form, with accompanying attachments and documents, shall be electronically submitted to the Deputy Chief Financial Officer on or before 11:59 PM of April 15<sup>th</sup> of the year in which written notice of a filing requirement of such form is mailed to the affected taxpayer. Electronic

submission shall require the use of the appropriate and approved forms and document upload and submission functions available through the Deputy Chief Financial Officer’s website portal.

**Section 334, THE INCOME-EXPENSE REPORTING FORM, is amended as follows:**

**Subsections 334.1, 334.2, 334.5, 334.6, 334.7 and 334.8(a) are amended to read as follows:**

- 334.1 In addition to the collection of the information set forth in § 333.4, the Deputy Chief Financial Officer may, in his or her discretion, by written notice to the affected taxpayer, require the taxpayer to submit electronically additional records and documents that will assist in determining or substantiating the income and economic benefits of the income-producing property.
- 334.2 In the absence of any extension of time granted by the Deputy Chief Financial Officer, all records and documents shall be electronically submitted on or before 11:59 PM of April 15<sup>th</sup> midnight of the year in which written notice of a filing requirement of such form is mailed to the affected taxpayer.
- ...
- 334.5 Income producing properties (excepting hotels) shall provide complete rent rolls in the format provided by the Deputy Chief Financial Officer. The rent rolls shall be as of December 31 of the preceding calendar year. The rent rolls shall be an attachment to and integral part of the income-expense form completed and filed electronically with the income-expense form by the affected taxpayer.
- 334.6 [Repealed]
- 334.7 [Repealed].
- 334.8
- (a) Tenant names, unless residential apartment units are allowed to be substituted therefor by the Deputy Chief Financial Officer;

Comments on this proposed rulemaking should be submitted to Robert McKeon, Deputy Chief Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Robert McKeon may be contacted by: mail at D.C. Office of Tax and Revenue, 1101 4<sup>th</sup> Street, S.W., Suite 750, Washington, D.C. 20024; telephone at (202) 442-6500; or, email at [robert.mckeon@dc.gov](mailto:robert.mckeon@dc.gov). Copies of this rule and related information may be obtained by contacting Robert McKeon as stated herein.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, DECEMBER 5, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
James Short, Donald Isaac, Sr., Bobby Cato, Rema Wahabzadah,

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 18-251-00115 & 18-251-00115(a)**, Don Juan Restaurant, Inc., t/a Don Juan Restaurant & Carryout, 1660 Lamont Street NW, License #15934, Retailer CR, ANC 1D  
**Failed to Follow Security Plan**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 18-CC-00076**; Shaw Howard Deli, LLC, t/a Shaw Howard Deli, 1911 7th Street NW, License #95169, Retailer B, ANC 1B  
**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, No ABC Manager on Duty**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 18-CMP-00088**; Jaime T. Carillo, t/a Don Jaime, 3209 Mt. Pleasant Street NW, License #21925, Retailer CT, ANC 1D  
**Failed to File and Maintain Invoices and Delivery Slips, Failed to Obtain Importation Permit**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 18-CMP-00160**; Bee Hive, LLC, t/a Sticky Rice, 1222 H Street NE License #72783, Retailer CR, ANC 6A  
**Failed to Follow Security Plan, Violation of Settlement Agreement, Trade Name Change Without Board Approval**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 18-CMP-00177**; Matchbox, LLC, t/a The Matchbox, 711 H Street NW License #60581, Retailer CT, ANC 2C  
**No ABC Manager on Duty**

Board’s Calendar  
December 5, 2018

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 18-CMP-00186;** Yohannes A. Woldemichael, t/a Capitol Fine Wine and Spirits, 415 H Street NE, License #82981, Retailer A, ANC 6C  
**No ABC Manager on Duty**

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 18-CMP-00175;** El Tio DC, Inc., t/a El Tio, 3345 14th Street NW License #94140, Retailer CR, ANC 1A  
**Noise Violation, Violation of Settlement Agreement**

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 18-CMP-00140;** The Juniper Group, LLC, t/a The Blaguard, 2003 18th Street NW, License #86012, Retailer CR, ANC 1C  
**Substantial Change Without Board Approval**

**Show Cause Hearing (Status) 9:30 AM**  
**Case # 18-CMP-00151 & 18-CMP-00151(a),** Dops, Inc., t/a Dops, Inc., 2611 Evarts Street NE, License #60731, Retailer A Wholesaler, ANC 5C  
**Stored Alcoholic Beverages off Premises Without Board Approval, Failed to Frame and Post the License in a Conspicuous Place**

**Show Cause Hearing\* 10:00 AM**  
**Case # 18-CMP-00050;** Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven & Hell, 2327 18th Street NW, License #74503, Retailer CT, ANC 1C  
**Failed to Comply with Board Order No. 2017-439**

**Show Cause Hearing\* 10:00 AM**  
**Case # 18-251-00114;** Kiss, LLC, t/a Kiss Tavern, 637 T Street NW, License #104710, Retailer CT, ANC 1B  
**Violation of Settlement Agreement**

**Show Cause Hearing\* 11:00 AM**  
**Case # 18-CMP-00131;** The Juniper Group, LLC, t/a The Blaguard, 2003 18th Street NW, License #86012, Retailer CR, ANC 1C  
**Violation of Settlement Agreement**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA  
1:00 PM**

Board's Calendar  
December 5, 2018

**Fact Finding Hearing\*** 1:30 PM

**Case # 18-CMP-00221;** BRRCO Massachusetts Ave, LLC, t/a Bolt Burger  
1010 Massachusetts Ave NW, License #92541, Retailer CR, ANC 2C  
**Operating on an Expired License, Failed to have a copy of the Settlement  
Agreement Available, Ownership Issues**

**Show Cause Hearing\*** 2:30 PM

**Case # 18-251-00011;** Centeno's Restaurant, Inc., t/a Centeno's Restaurant  
827 Kennedy Street NW, License #90806, Retailer CR, ANC 4D  
**Allowed Establishment to be Used for Unlawful or Disorderly Purposes,  
Interfered with an Investigation, Substantial Change without Board  
Approval, Sale to Minor Violation**

**Fact Finding Hearing\*** 3:30 PM

**Case # 18-251-00143;** Eleana, LLC t/a Secret Lounge, 1928 9th Street NW  
License #107123, Retailer CT, ANC 1B  
**MPD Requested Hearing Regarding Incident on 8/27/2018**

**Protest Hearing\*** 4:30 PM

**Case # 18-PRO-00062;** 1327 Connecticut, LLC, t/a The Manor, 1327  
Connecticut Ave NW, License #99536, Retailer CT, ANC 2B  
**Substantial Change (Request to Add a Summer Garden with 75 seats)**

**\*The Board will hold a closed meeting for purposes of deliberating these  
hearings pursuant to DC Official Code §2-574(b)(13).**



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
CANCELLATION AGENDA

WEDNESDAY, DECEMBER 5, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below:

ABRA-078461 – **M & M Market** – Retail – B – 3544 East Capitol Street NE  
[Licensee did not pay Safekeeping fee within 30 days.]

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ABRA-104866 – **Smokin' Pig** – Retail – C – Tavern – 1123 H Street NE  
[Licensee did not pay Safekeeping fee within 30 days.]

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ABRA-090527 – **Avery's** – Retail – C – Tavern – 1370 H Street, NE  
[Licensee did not pay Safekeeping fee within 30 days.]

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ABRA-078591 – **Kearney's Grocery** – Retail – B – 90 O Street NW  
[Licensee did not pay Safekeeping fee within 30 days.]

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, DECEMBER 5, 2018 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 5E. SMD 5E07.  
No outstanding fines/citations. No outstanding violations. No pending enforcement matters.  
No Settlement Agreement. *El Camino*, 108 Rhode Island Avenue NW, Retailer CR, License  
No. 094426.

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**\*In accordance with D.C. Official Code §2-547(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**CEDAR TREE ACADEMY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

Cedar Tree Academy Public Charter School invites proposals for the following:

- **Legal Services**

Bid specifications may be obtained from our website at [www.Cedartree-dc.org](http://www.Cedartree-dc.org). Any questions regarding these bids must be submitted in writing to [Lhenderson@Cedartree-dc.org](mailto:Lhenderson@Cedartree-dc.org) before the RFP deadline. Bids must be submitted to Dr. LaTonya Henderson, Executive Director, Cedar Tree Academy PCS 701 Howard Road SE, Washington DC 20020.

Cedar Tree Academy will receive bids until Friday, December 14, 2018, no later than 4:00PM.

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

**SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS**

**December 2018**

<b>CONTACT PERSON</b>	<b>BOARDS AND COMMISSIONS</b>	<b>DATE</b>	<b>TIME/ LOCATION</b>
Grace Yeboah Ofori	Board of Accountancy	7	9:00 am-12:00pm
Stacey Williams	Board of Appraisers	12	9:00 am-4:00 pm
Avis Pearson	Board Architects and Interior Designers	14	9:00 am-1:00 pm
Andrew Jackson	Board of Barber and Cosmetology	3	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	20	7:00-pm-8:30 pm
Andrew Jackson	Board of Funeral Directors	6	1:00pm-4:00 pm
Avis Pearson	Board of Professional Engineering	RECESS	10:00 am-1:30 pm
Brittani Strozier-Daise	Real Estate Commission	11	9:00 am-1:00 pm
Jennifer Champagne	Board of Industrial Trades	18	1:00pm-3:30 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4<sup>th</sup> St., SW, Suite E-300 A-B Washington, DC 20024. For further information on this schedule, please contact the front desk at 202-442-4320.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**Board of Architecture, Interior Design and Landscape Architecture  
1100 4<sup>th</sup> Street, S.W., Room 390  
Washington, D.C. 20024  
December 14, 2018**

**AGENDA**

1. Call to Order - 9:30 a.m.
2. Attendance (Start of Public Session)
3. Comments from the Public
4. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) and (13) to discuss complaints/legal matters, applications and legal counsel report.
5. Minutes - Draft, November 9, 2018
6. Vote – Review of Applications
7. Vote - Review of Complaints/Legal Matter
8. Old Business
  - a. Status of Subcommittee/Design Forums, Gallaudet University, March 2019
  - b. Outreach Event – Howard University, November 14, 2018
9. New Business
10. Review of Correspondence
11. Adjourn

*Next Scheduled Regular Meeting, January 25, 1100 4<sup>th</sup> Street, SW, Room 300,  
Washington, DC 20024*

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**Board of Real Estate Appraisers  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**December 12, 2018  
10:00 AM**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, November 14, 2018
7. Executive Session (Closed to the Public) pursuant to the authority of D.C. Official Code Section 2-575(b)(4)(A) to seek the advice of counsel, D.C. Official Code Section 2-575(b)(9) to discuss disciplinary matters, and D.C. Official Code Section 2-775(b)(13) to deliberate upon a decision in an adjudication action or proceeding)
  - A. Legal Committee Recommendations
  - B. Review – Applications for Licensure
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – January 16, 2019 at 10:00 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**DC Board of Accountancy  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**Friday, December 7, 2018  
9:00 AM**

1. Call to Order – 9:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Accept Meeting Minutes
7. Executive Session - Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session to receive advice from counsel, review application(s) for licensure and discuss disciplinary matters.
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – January 4, 2019

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**DC Board of Barber and Cosmetology  
1100 4<sup>th</sup> Street SW, 3rd floor conference room  
Washington, DC 20024**

**Meeting Agenda  
Monday, December 3, 2018  
10:00 a.m.**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Applications for Licensure
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn

Next Scheduled Board Meeting – January 7, 2019



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**D.C. Board of Funeral Directors  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MONTHLY PUBLIC MEETING  
AGENDA**

**Thursday, December 06, 2018  
1:00 PM.**

1. Call to Order – 1:00 p.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Minutes, November 1, 2018
6. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) (13) (14) to discuss complaints/legal matters, applications and legal counsel report.
  - A. Applications
  - B. Complaints/Investigation
7. Recommendations
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting –January 3, 2019 at 1:00 p.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**Real Estate Commission  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**December 11, 2018  
10:00 AM**

1. Call to Order – 10:30 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, November 13, 2018
7. Executive Session (Closed to the Public) pursuant to the authority of D.C. Official Code Section 2-575(b)(4)(A) to seek the advice of counsel, D.C. Official Code Section 2-575(b)(9) to discuss disciplinary matters, and D.C. Official Code Section 2-775(b)(13) to deliberate upon a decision in an adjudication action or proceeding)
  - A. Legal Committee Recommendations
  - B. Review – Applications for Licensure
8. Old Business
9. New Business
10. Adjourn

Next Scheduled Board Meeting – January 8, 2019 at 10:30 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
CONSTRUCTION CODES COORDINATING BOARD**

**NOTICE OF 2019 REGULAR MEETING DATES**

Regular Meetings of the Construction Codes Coordinating Board will be held  
on the following dates from 10:30 a.m. to 12:30 p.m. at  
1100 4<sup>th</sup> Street, S.W. – 7<sup>th</sup> Floor Conference Room, Department of Fire and Emergency Medical  
Services

Thursday, January 17, 2019  
Thursday, February 21, 2019  
Thursday, March 21, 2019  
Thursday, April 18, 2019  
Thursday, May 16, 2019  
Thursday, June 20, 2019  
Thursday, July 18, 2019  
Thursday, August 15, 2019  
Thursday, September 19, 2019  
Thursday, October 17, 2019  
Thursday, November 21, 2019  
Thursday, December 19, 2019

Meeting Minutes are posted on the DCRA website at  
<https://dcra.dc.gov/node/1307866>  
and copies of meeting minutes and agendas are available on the website of the District of  
Columbia Office of Open Government at:  
<https://www.open-dc.gov/public-bodies/construction-codes-coordinating-board>

**D.C. CORRECTIONS INFORMATION COUNCIL****NOTICE OF PUBLIC MEETING**

The DC Corrections Information Council (CIC), in accordance with the DC Official Code § 2-575, hereby gives notice that it has scheduled the following meeting for **Thursday, December 6, 2018, from 6:00 pm to 7:30 pm, in Room 1114, One Judiciary Square, 441 4 St NW, Washington, DC 20001**. For additional information, please contact Sheila Walker, CIC Administrative Assistant, at (202) 478-9211 or sheila.walker@dc.gov.

The CIC is an independent monitoring body mandated by the US Congress and the DC Council to inspect, monitor, and report on the conditions of confinement at facilities where DC residents are incarcerated. This includes facilities operated by the Federal Bureau of Prisons, the DC Department of Corrections, and private contractors. Through its mandate, the CIC collects information from many different sources, including facility inspections, communication with incarcerated DC residents, and community outreach.

Below is the draft agenda for this meeting. A final agenda will be posted on the CIC website, available at <http://cic.dc.gov/>.

**DRAFT AGENDA**

- I. Call to Order
- II. Roll Call
- III. CIC Board and Staff Composition – Update
- IV. Agency Liaison Report
- V. Recent Reports
- VI. Recent and Scheduled Inspections
- VII. Other
- VIII. Schedule Next CIC Open Meeting and Set Open Meeting Schedule
- IX. Vote to Close Remainder of Meeting, pursuant to DC Code § 2-575(b)(10) to discuss the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.
- X. Closed Session of Meeting (if approved by the Board)
- XI. Adjournment

**CLOSED MEETING**

- I. Closed Session of Meeting (if approved by the Board)
- II. Adjournment

## OFFICE OF DISABILITY RIGHTS

DC COMMISSION ON PERSONS WITH DISABILITIES (DCCPD)  
COMMISSION MEETING

Thursday, November 29th, 2018 at 10:00 a.m. to 11:15 a.m.

**\*All Commission Meetings are available and open to the public to attend****Location:** 441 4<sup>th</sup> Street NW, 11<sup>th</sup> Floor Conference Center**Call-In Number:** (866) 628-2987**Passcode:** 8488992

All reasonable accommodation requests must be made at least five (5) business days prior to the scheduled meeting date. Please contact [julia.wolhandler@dc.gov](mailto:julia.wolhandler@dc.gov) or 202-727-2890

**AGENDA:**

- 10:00 a.m.** Welcome / Call to Order – Travis Painter
- 10:02 a.m.** Commissioner Roll-Call – Travis Painter
- 10:04 a.m.** Roll-Call of community members – Travis Painter
- 10:06 a.m.** Reminder that all public comments and questions will be taken at the end of the meeting – Julia
- 10:08 a.m.** Approval of September 2018 Commission Meeting Minutes (Formal Vote) – Travis Painter
- 10:10 a.m.** Updates:
- Support Letter for Open Caption Bill - Jarvis Grindstaff
  - DCFHV Accessibility Advisory Committee – Terrance Hunter
  - Developmental Disabilities Council –
  - Mayor’s Disability and Diversity Expo/Pre-Expo After Action Report – Hope Fuller and Julia
  - Facebook Page - Kamilah Martin-Proctor
  - Yearly Report - Julia
  - BIOs for ODR website – Julia
  - Anti-Bullying Campaign – Gerry Counihan
  - Other Updates by Commissioners – Open to all Commissioners
- 10:30 a.m.** Committees:
- Policy and Planning Committee
  - Events and Outreach Committee
  - Evaluation and Monitoring Committee

- 10:40 a.m.** Review tentative Calendar dates:
- Discuss time and day of ongoing Commissioner Meetings
  - Approve 2019 Commission Calendar Dates
  - Commission Holiday Party
- 10:50 a.m.** 2018 White Papers and Reports Review & Leads
- Open Discussion by Commissioners
- 11:00 a.m.** Public Comment Period
- 11:15 a.m.** Adjourn

**OFFICE OF THE DEPUTY MAYOR FOR EDUCATION**  
**NOTICE OF PUBLIC MEETING**  
**COMMISSION ON OUT OF SCHOOL TIME GRANTS AND YOUTH**  
**OUTCOMES**

Commission on Out of School Time Grants and Youth Outcomes (OST Commission) Public Meeting  
Washington, DC – The Commission on Out of School Time Grants and Youth Outcomes will hold a public meeting on Thursday, December 6, 2018 from 6:00 pm to 7:30 pm at One Judiciary Square, 441 4<sup>th</sup> Street NW, Room 1107 South. The OST Commission will announce the 2019 public meeting calendar, hear updates from the Office of Out of School Time Grants and Youth Outcomes, hear updates from the standing committees and strategic plan committees.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 481-3932 or by email at [learn24@dc.gov](mailto:learn24@dc.gov). Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Tuesday, December 4th at 5:00 pm.

Below is the draft agenda for the meeting.

- I. Call to Order
- II. Public Comment
- III. Announcement of a Quorum
- IV. Approval of the Agenda
- V. Approval of Minutes
- VI. Updates: Office of Out of School Time Grants and Youth Outcomes
- VII. 2019 Public Meeting Calendar
- VIII. Standing Committee Reports
- IX. Strategic Priorities Committee Reports
- X. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

**Date:** December 6, 2018  
**Time:** 6:00 p.m. – 7:30 p.m.  
**Location:** One Judiciary Square  
Room 1107 South  
441 4<sup>th</sup> Street, NW  
Washington, DC 20001  
**Contact:** Debra Eichenbaum  
Grants Management Specialist  
Office of Out of School Time Grants and Youth Outcomes  
Office of the Deputy Mayor for Education  
(202) 478-5913  
[Debra.eichenbaum@dc.gov](mailto:Debra.eichenbaum@dc.gov)

**DEPARTMENT OF ENERGY AND ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**Community Stormwater Solutions Grants**

The Department of Energy and Environment (the Department) seeks eligible entities to propose community-supported and -inspired solutions for how to improve the District’s waterways. DOEE seeks projects that support (1) the restoration of, access to, and environmental education at, and in the neighborhoods surrounding, Kingman and Heritage Islands and (2) watershed restoration projects and community engagement in DOEE’s [Targeted Subwatersheds](#) that benefit local streams, build climate resilience, and improve downstream water quality. This funding may serve as a means to initiate a program or to build capacity among community-based organizations and small businesses. For background on this grant program and other related programs, please visit <http://doee.dc.gov/service/community-stormwater-solutions-grants>.

A total of \$200,000 is available for this competition. This amount is subject to availability of funding and approval by the appropriate agencies. DOEE expects to make multiple awards for up to \$20,000. Applicants are welcome to submit applications for more than one project. Each project requires a complete application.

Beginning 11/30/2018, the full text of the Request for Applications (RFA) will be available on the Department’s website. A person may obtain a copy of this RFA by any of the following means:

**Download** from the Department’s website, [www.doee.dc.gov](http://www.doee.dc.gov). Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

**Email** a request to [community.stormwater2019@dc.gov](mailto:community.stormwater2019@dc.gov) with “Request copy of RFA 2019-1903-WPD ” in the subject line.

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

**Write** DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, “Attn: Emily Rice RE: 2019-1903-WPD” on the outside of the envelope.

**DOEE will host public information sessions.** Details will be added to the Notice of Funding Availability webpage found by following the instructions above on how to download the RFA.

**The deadline for application submissions is 1/25/2019, at 6:00 p.m.** Applications must be submitted online. Please see the link in the Request for Applications.



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

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

Additional eligibility requirements are described in the full RFA.

For additional information regarding this RFA, write to: [community.stormwater2019@dc.gov](mailto:community.stormwater2019@dc.gov).

**DEPARTMENT OF ENERGY AND ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**CRIAC Nonprofit Relief Program Off-site Stormwater Mitigation Construction Grant**

The Department of Energy and Environment (the Department) seeks eligible entities to assist nonprofit organizations with the off-site stormwater mitigation requirements of the CRIAC Nonprofit Relief Program. The amount available for the project is up to approximately \$270,000.00, which may be split among multiple projects.

Beginning 11/30/2018, the full text of the Request for Applications (RFA) will be available on the Department’s website. A person may obtain a copy of this RFA by any of the following means:

**Download** from the Department’s website, [www.doe.dc.gov](http://www.doe.dc.gov). Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

**Email** a request to [criac.stormwatermitigation@dc.gov](mailto:criac.stormwatermitigation@dc.gov) with “Request copy of RFA 2019-1901-RRD” in the subject line.

**Pick up a copy in person** from the Department’s reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Matt Johnson at (202) 741-0861 and mention this RFA by name.

**Write** DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, “Attn: Matt Johnson RE:2019-1901-RRD” on the outside of the envelope.

**The deadline for application submissions for Review Round 1 is 1/11/2019, at 4:30 p.m.**  
**The deadline for application submissions for Review Round 2 is 2/22/2019, at 4:30 p.m.**  
**The deadline for application submissions for Review Round 3 is 4/5/2019, at 4:30 p.m.**  
**The deadline for application submissions for Review Round 4 is 5/17/2019, at 4:30 p.m.**

Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to [criac.stormwatermitigation@dc.gov](mailto:criac.stormwatermitigation@dc.gov).

Funds for this grant will be provided by CRIAC Nonprofit Relief Program participants who elect to forgo a portion of their relief in order to fund off-site stormwater mitigation elsewhere in the District. The amount of funds DOEE shall award shall not exceed the amount of relief that CRIAC Nonprofit Relief Program participants have elected to forgo at the time of the award. As new participants enroll in the CRIAC Nonprofit Relief Program, additional funds may become available for grants.

Four rounds of review will occur. In each round, the review panel will evaluate each application received by the deadline for the round of review. The proposal(s) with the highest score(s) will

be awarded the grant based on the funding available at the time of the award. DOEE expects to make up to 5 separate grant awards of up to \$75,000 each. However, DOEE may award larger grants to outstanding applications that demonstrate the need for additional funding. Any application that is not funded during a given round of review shall be invited to revise and resubmit for consideration during the subsequent round of review. The funds awarded shall not exceed \$270,000.00 in total.

The deadline to be considered in Round 1 is 1/11/2019 at 4:30pm.

The deadline to be considered in Round 2 is 2/22/2019 at 4:30pm. DOEE shall announce by 2/8/2019 the amount of funds awarded for Round 1.

The deadline to be considered in Round 3 is 4/5/2019 at 4:30pm. DOEE shall announce by 3/22/2019 the amount of funds awarded for Round 2.

The deadline to be considered in Round 4 is 5/17/2019 at 4:30pm. DOEE shall announce by 5/3/2019 the amount of funds awarded for Round 3.

If the total amount of funding DOEE has awarded reaches \$270,000 after Round 1, 2, or 3, no applications shall be funded in the remaining rounds. If after awarding grants, DOEE has not awarded a total of \$270,000.00 and has funds available, DOEE may also amend grant awards to provide additional funding to outstanding applications that demonstrate the need for additional funding, prioritizing funds for grantees who will maximize stormwater mitigation with the additional funds.

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

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

For additional information regarding this RFA, write to: [criac.stormwatermitigation@dc.gov](mailto:criac.stormwatermitigation@dc.gov).

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

**NOTICE OF FOR-HIRE VEHICLES ADVISORY COUNCIL MEETING**

The For-Hire Vehicle Advisory Council will hold a meeting on Wednesday, December 12, 2018 at 10:00 am. The meeting will be held at the Department of For-Hire Vehicles, 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

The final agenda will be posted no later than seven (7) days before the For-Hire Vehicle Advisory Council Meeting on the DFHV website at [www.dfhv.dc.gov](http://www.dfhv.dc.gov).

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Council on any issue of concern; the Council generally does not answer questions. Statements are limited to five (5) minutes for registered speakers. Time and agenda permitting, nonregistered speakers may be allowed two (2) minutes to address the Council. To register, please call 202-645-6002 no later than 3:00 p.m. on December 11, 2018. Registered speakers will be called first, in the order of registration. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Advisory Council Recorder no later than the time they are called to the podium.**

**DRAFT AGENDA**

- I. Call to Order
- II. Advisory Council Communication
- III. Advisory Council Action Items
- IV. Department of For-Hire Vehicles staff reports
- V. Government Communications and Presentations
- VI. Public Comment Period
- VII. Adjournment

## DEPARTMENT OF HEALTH CARE FINANCE

## PUBLIC NOTICE

**MEDICAID FEE SCHEDULE FOR  
HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS  
WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES**

The Department of Health Care Finance (DHCF), in accordance with the requirements in 29 DCMR §§ 988.4 and 1901.2, announces publication of the Medicaid Fee Schedule setting forth the reimbursement rates, effective January 1, 2019, for services available to participants under the Medicaid Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).

The Department on Disability Services (DDS), Developmental Disabilities Administration (DDA), operates the ID/DD Waiver under the supervision of DHCF. The ID/DD Waiver was renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2017.

As required under 29 DCMR § 1901.2, DHCF is identifying through this Public Notice the changes in the reimbursement rates for services rendered on or after January 1, 2019, for certain ID/DD Waiver services listed in 29 DCMR § 1901.1. The new rates align with ID/DD Renewal Waiver Year 2 rate methodology, include the 2019 D.C. Living Wage of \$14.50 where required, and are expressly subject to the service and other limitations described in the ID/DD Waiver and applicable rules.

DHCF is increasing the reimbursement rates for eleven (11) ID/DD Waiver services as follows: (1) Behavioral Support Services, 29 DCMR § 1919; (2) Companion Services, 29 DCMR § 1939; (3) Day Habilitation Services, 29 DCMR § 1920; (4) Employment Readiness Services, 29 DCMR § 1922; (5) Host Home without Transportation Services, 29 DCMR § 1915; (6) Individualized Day Supports Services, 29 DCMR § 1925; (7) In-Home Supports Services, 29 DCMR § 1916; (8) Residential Habilitation Services, 29 DCMR § 1929; (9) Respite Services, 29 DCMR § 1930; (10) Supported Employment Services – Individual and Small Group Services, 29 DCMR § 1933; and (11) Supported Living Services, 29 DCMR § 1934.

For Personal Care Services, 29 DCMR § 1910, and Skilled Nursing Services, 29 DCMR § 1931, DHCF will reimburse providers at the rate set forth in the Medicaid Fee Schedule for the Medicaid State Plan, and for Dental Services, 29 DCMR § 1921, DHCF will continue to reimburse providers at the rate set forth in the Medicaid Fee Schedule for the Medicaid State Plan increased by twenty (20) percent.

These reimbursement rates for each service will be included on the Medicaid Fee Schedule for the ID/DD Waiver and will become effective thirty (30) calendar days after publication of this notice in the *D.C. Register*. The Medicaid Fee Schedule for the ID/DD Waiver is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>. For further information or questions regarding this fee schedule update, please contact Bidemi Isiaq, Associate Director, DHCF, at [Bidemi.Isiaq@dc.gov](mailto:Bidemi.Isiaq@dc.gov) or via telephone at (202) 442-9202.

## DEPARTMENT OF HEALTH CARE FINANCE

## PUBLIC NOTICE

**MEDICAID FEE SCHEDULE UPDATES FOR PERSONAL CARE AIDE (PCA)  
SERVICES**

The Department of Health Care Finance (DHCF), in accordance with the requirements in 29 DCMR §§ 988.4 and 5015.3, announces changes to the Medicaid reimbursement rates for PCA services provided by Home Health Agencies. The changes to the rates will become effective on January 1, 2019.

The PCA services reimbursement rates are adjusted to reflect the annual rate changes to the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.01 *et seq.* (2012 Repl.)).

The table below provides a listing of both the billing codes and new rates for PCA services.

<u>Code</u>	<u>Service Description</u>	<u>Reimbursement Rate</u>
T1019-NP	State Plan	\$ 21.00 Per Hour, \$5.25 per 15 minutes
T1019-UT	Personal Care Aide Services	\$ 21.00 Per Hour, \$5.25 per 15 minutes
T1019-52	Personal Care Service Per 15 Min	\$ 21.00 Per Hour, \$5.25 per 15 minutes
T1019-U3	EPD Waiver Services Per 15 Min	\$ 21.00 Per Hour, \$5.25 per 15 minutes
T1019-NP-U3	EPD Waiver Services Per 15 Min	\$ 21.00 Per Hour, \$5.25 per 15 minutes
T1019-UT-U3	ASSESSED AND SERVICES BEING TERMINATED	\$ 21.00 Per Hour, \$5.25 per 15 minutes
T1019-52-U3	ASSESSED AND SERVICES BEING REDUCED	\$ 21.00 Per Hour, \$5.25 per 15 minutes

The PCA rates will be included on the Medicaid Fee Schedule and will become effective thirty (30) calendar days after publication of this notice in the *D.C. Register*. The Medicaid Fee Schedule for the PCA services is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>.

If you have any questions, please contact Andrea Clark, Reimbursement Analyst, Office of Rates Reimbursement and Financial Analysis, Department of Health Care Finance, at 441 4<sup>th</sup> Street, Suite 900S, Washington, DC 20001, or email at [andrea.clark@dc.gov](mailto:andrea.clark@dc.gov) or (202) 724-4096.

## DEPARTMENT OF HEALTH CARE FINANCE

## PUBLIC NOTICE

**MEDICAID FEE SCHEDULE UPDATES FOR THE HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES (EPD)**

The Department of Health Care Finance (DHCF), in accordance with the requirements set forth in 29 DCMR §§ 988.4 and 4209.7, announces changes to the Medicaid reimbursement rates for EPD waiver services. The changes to the rates will become effective on January 1, 2019.

The EPD reimbursement rates are adjusted to reflect the annual rate changes to the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code 2-220.01 *et seq.* (2012 Repl.)).

DHCF is increasing the reimbursement rates for nine (9) EPD Waiver services as follows: (1) Case Management Services, 29 DCMR § 4210; (2) Personal Care Aide (PCA) Services, 29 DCMR § 4211; (3) Respite Services, 29 DCMR § 4213; (4) Homemaker Services, 29 DCMR § 4214; (5) Chore Aide Services, 29 DCMR § 4215; (6) Assisted Living Services, 29 DCMR § 4216; (7) Adult Day Health Services, 29 DCMR § 4218; (8) Physical Therapy Services, 29 DCMR § 4219; and (9) Occupational Therapy Services, 29 DCMR § 4220. For Personal Emergency Response Service (PERS), 29 DCMR § 4212; Environmental Accessibility Adaptations Services, 29 DCMR § 4217 and Community Transition Services, 29 DCMR § 4221, DHCF has not changed the reimbursement rates.

These reimbursement rates for each service will be included on the Medicaid Fee Schedule for the EPD Waiver and will become effective thirty (30) calendar days after publication of this notice in the *D.C. Register*. The Medicaid Fee Schedule for the EPD Waiver is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>.

If you have any questions, please contact Andrea Clark, Reimbursement Analyst, Office of Rates Reimbursement and Financial Analysis, Department of Health Care Finance, at 441 4<sup>th</sup> Street, Suite 900S, Washington, DC 20001, or email at [andrea.clark@dc.gov](mailto:andrea.clark@dc.gov) or (202) 724-4096.

## DEPARTMENT OF HEALTH CARE FINANCE

## PUBLIC NOTICE

**MEDICAID FEE SCHEDULE UPDATES FOR THE INTERMEDIATE CARE  
FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES  
(ICF/IID)**

The Department of Health Care Finance (DHCF), in accordance with the requirements set forth in 29 DCMR §§ 988.4, 4102.7(i), and 4105.2, announces changes to the Medicaid reimbursement rates for ICF/IID services. The changes to the rates will become effective on January 1, 2019.

The ICF/IID reimbursement rates are adjusted to reflect the annual rate changes to the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code 2-220.01 *et seq.* (2012 Repl.)).

The new rates for ICF/IID services will be included in the Medicaid Fee Schedule located on the DHCF website at

<https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>.

If you have any questions, please contact Samuel Woldeghiorgis, Reimbursement Analyst, Office of Rates Reimbursement and Financial Analysis, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, or email at [samuel.woldeghiorgis@dc.gov](mailto:samuel.woldeghiorgis@dc.gov) or via telephone at (202) 442-9240.



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

**Limited Equity Cooperative Task Force Meeting Agenda**

November 28<sup>th</sup>, 2018

6:00 pm to 8:00 pm

DC Housing Finance Agency

815 Florida Ave NW

Washington, DC 20001

Members: Sandra Butler-Truesdale, Jade Hall, Paul Hazen, Louise Howells, Amanda Huron, Janene Jackson, Vernon Oakes, Lolita Ratchford, Ana Van Balen, Risha Williams, Elin Zurbrigg

1. Call To Order
2. Approval of Agenda
3. Discussion of Survey Responses
4. Understanding the Need — Guest Speakers Invited
  - a. Katherine Howell — Assistant Professor, Center for Urban and Regional Analysis, Virginia Commonwealth University
  - b. Michael Milliner — Partner, Building Partnerships LLC
5. General Discussion
6. CNHED August 2019 Report: Limited Equity Housing Cooperatives in DC
7. Other Business
8. Adjourn

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Notes:

**KINGSMAN ACADEMY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Multiple Services**

Kingsman Academy Public Charter School is seeking competitive proposals for the following services: human resources services and employee benefits, IT services, related services for students, security equipment, security monitoring, security personnel, and student transportation. Proposals are due no later than 5:00 PM on Friday, December 14, 2018. For the full request, visit [www.kingsmanacademy.org/rfps](http://www.kingsmanacademy.org/rfps) or email [rfp@kingsmanacademy.org](mailto:rfp@kingsmanacademy.org). **No phone calls please.**

**KIPP DC PUBLIC CHARTER SCHOOLS****REQUEST FOR PROPOSALS****Full-Service Catering**

KIPP DC is soliciting proposals from qualified vendors for Full-Service Catering. The RFP can be found on KIPP DC's website at [www.kippdc.org/procurement](http://www.kippdc.org/procurement). Proposals should be uploaded to the website no later than 5:00 PM EST, on January 14, 2019. Questions can be addressed to [events@kippdc.org](mailto:events@kippdc.org).

**Full-Service Production**

KIPP DC is soliciting proposals from qualified vendors for Full-Service Production. The RFP can be found on KIPP DC's website at [www.kippdc.org/procurement](http://www.kippdc.org/procurement). Proposals should be uploaded to the website no later than 5:00 PM EST, on January 14, 2019. Questions can be addressed to [events@kippdc.org](mailto:events@kippdc.org).

**OFFICE OF THE DEPUTY MAYOR FOR  
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC DISPOSITION MEETING  
PURSUANT TO D.C. OFFICIAL CODE §10-801  
FOR ST. ELIZABETHS EAST – PARCEL 15**

The Office of the Deputy Mayor for Planning and Economic Development will conduct a public meeting to obtain community comment and suggestions on the proposed use of the District of Columbia owned property identified below

**Property:** St. Elizabeths East – Parcel 15  
Washington, D.C. 20032  
Square 5868, Lot 0802

The public meeting will include presentations by the qualified respondents to the Request for Solicitation, which was published by the Office of the Deputy Mayor for Planning and Economic Development on June 22, 2018.

The date, time and location of the Public Meeting shall be as follows:

**Date:** Monday, December 17, 2018

**Time:** 6:30pm – 8:30pm

**Location:** R.I.S.E. Demonstration Center  
2730 Martin Luther King Jr. Ave., SE  
Washington, D.C. 20032

**Contact:** James Parks, Project Manager  
James.Parks2@dc.gov  
(202) 726-0913

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19099-A of RP 3701 NW LLC**, pursuant to 11 DCMR Subtitle Y, § 705.1, for a two-year time extension, with respect to the time periods in Subtitle Y § 702.1, of BZA Order No. 19099 approving variances from the lot occupancy requirements of § 772.1 and the off-street parking requirements of § 2101.1, to allow the construction of a new mixed-use building with 21 residential units and ground floor retail in the GA/C-3-A Zone District at premises 3701 New Hampshire Avenue, N.W. (Square 3030, Lot 805).

**Hearing Date** (19099): November 17, 2015  
**Decision Date** (19099): December 8, 2015  
**Final Date of Order** (19099): September 30, 2016  
**Time Extension Decision:** November 7, 2018

**SUMMARY ORDER ON MOTION TO EXTEND  
THE VALIDITY OF BZA ORDER NO. 19099**

The Underlying BZA Order

On December 8, 2015, the Board of Zoning Adjustment (the "Board") approved the Applicant's request for variances under the Zoning Regulations of 1958<sup>1</sup> from the lot occupancy requirements of § 772.1 and the off-street parking requirements of § 2101.1, to allow the construction of a new mixed-use building with 21 residential units and ground floor retail in the GA/C-3-A Zone District at premises 3701 New Hampshire Avenue, N.W. (Square 3030, Lot 805) (the "Subject Property" or "Site").

The Board issued Order No. 19099 (the "Order") on September 30, 2016. Pursuant to 11 DCMR § 3125.9 in the 1958 Zoning Regulations (now Subtitle Y § 604.11 of the 2016 Regulations), the Order became final on September 30, 2016 and took effect ten days later. Under the Order and pursuant to § 3130.1 of the 1958 Regulations (now Subtitle Y § 702.1 of the 2016 Regulations), the Order was valid for two years from the time it was issued.

Motion to Extend

On September 28, 2018, the Applicant submitted an application for a time extension requesting that the Board grant a two-year extension of BZA Order No. 19099. This request for extension is pursuant to Subtitle Y § 705 of the 2016 Zoning Regulations, which permits the Board to extend

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<sup>1</sup> The 1958 Zoning Regulations were in effect when BZA Case No. 19099 was heard and decided by the Board. The 1958 Zoning Regulations were repealed and replaced in their entirety by the 2016 Zoning Regulations on September 6, 2016. Pursuant to Subtitle A § 106 of the 2016 Zoning Regulations, the construction authorized by BZA Order No. 19099 is vested and is subject only to the provisions of the 1958 Zoning Regulations.

the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) an inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

The Board finds that the motion has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order. To meet the requirements of Subtitle Y § 705.1(a), the record reflects that the Applicant served the Advisory Neighborhood Commission ("ANC") 4C and ANC 1A, the only other parties to the underlying case, as well as the Office of Planning ("OP") and the District Department of Transportation ("DDOT") on September 28, 2018. (Exhibit 3.) All parties were allowed at least 30 days to respond. Both ANC 4C and ANC 1A are affected ANCs, therefore both are parties to this case. Neither ANC submitted a written report regarding the time extension request. The Office of Planning ("OP") submitted a timely report recommending approval of the request for the time extension. (Exhibit 4.) DDOT did not submit a written report for the record.

As required by Subtitle Y § 705(b), the Applicant demonstrated that there is no substantial change in any of the material facts upon which the Board based its original approval in Order No. 19099. There have also been no substantive changes to the Zone District classification applicable to the Site or to the Comprehensive Plan affecting the Site since the issuance of the Board's order that would affect the approval.

The Board finds that the Applicant has demonstrated good cause under Subtitle Y § 705.1(c)(1) by showing an inability to obtain sufficient project financing due to economic and market conditions beyond the Applicant's reasonable control. As attested to by the Applicant's affidavit in the record at Exhibit 3C, the finalization and construction of the Project as approved by the Order has been delayed due to construction costs and difficulties, the effects of the WMATA "Zone of Influence," and the exploration of joint ventures and other complications. Since the issuance of Order No. 19099, the Applicant notes that the construction cost estimates for the project have increased by more than 30% beyond the original forecast and that coordination with WMATA has required that the Applicant re-study and revise various aspects of the project. (Exhibits 3 and 3C.) Despite the delays encountered, the Board finds that the Applicant

demonstrated that it has acted diligently, prudently, and in good faith to proceed towards the implementation of the Order.

Having given the written report of OP great weight, the Board concludes that extension of the approved relief is appropriate under the current circumstances and that the Applicant has met the burden of proof for a time extension under Subtitle Y § 705.1.

Pursuant to 11 DCMR Subtitle Y § 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.

Pursuant to 11 DCMR Subtitle Y § 702, the Board of Zoning Adjustment hereby **ORDERS APPROVAL** of a two-year time extension of Order No. 19099, which Order shall be valid until **September 30, 2020**, within which time the Applicant must file plans for the proposed project with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit.

**VOTE: 4-0-1** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, and Carlton E. Hart, to APPROVE; Peter A. Shapiro not participating.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** November 20, 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. 19548 of Tara Guelig and Yuri Horwitz**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 for relief from the rear yard requirements of Subtitle D § 1206.3, to construct a rear addition to a one-family dwelling in the R-20 Zone at premises 2716 O Street, N.W. (Square 1239, Lot 143).

**HEARING DATE:** September 6, 2017  
**DECISION DATES:** September 27, October 18, and 25, 2017

**DECISION AND ORDER**

The owners of 2716 O Street, N.W. (the “Property”), Tara Guelig and Yuri Horwitz (the “Applicant”), submitted a self-certified application for a special exception from the rear yard requirement of Subtitle D § 1206.4 for the Property (the “Application”) to allow the construction of a two-story addition extending 20 feet past the rear wall of the existing two-story single-household dwelling (the “Building”). The Applicant subsequently revised the Application to change the relief requested to a special exception from the rear yard requirement of Subtitle D § 1206.3, as authorized by Subtitle D § 5201. (Exhibit 46.) After the hearing, the Applicant revised the Application to reduce the proposed addition to extend 14 feet, four inches past the existing rear wall on the Property. Based on the evidence of record, including extensive prehearing submissions and testimony received at the public hearing, and for the reasons set forth below, the Board of Zoning Adjustment (the “Board” or “BZA”) voted to grant the Application.

The Board made no finding that the requested relief, which was self-certified pursuant to Subtitle Y § 300.6(b), 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.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. In accordance with 11 DCMR Subtitle Y § 402.1, the Office of Zoning published the notice of the public hearing on the application in the *D.C. Register* on July 21, 2017 (64 DCR 29) and provided notice, by a memorandum dated June 22,

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<sup>1</sup> The Application initially requested relief from Subtitle D § 1206.4 (Exhibit 5), but subsequently was amended to request relief from Subtitle D § 1206.3, as authorized by Subtitle D § 5201 (Exhibit 46, Tab B). The caption has been revised accordingly.



2017, of the application and of the September 6, 2017 Hearing date to the Applicant; Advisory Neighborhood Commission (“ANC”) 2E, in which district the Property is located; ANC 2E-06, the Single Member Commissioner in whose district the Property is located; the owners of all property within 200 feet of the Property; the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Commission of Fine Arts, acting through the Old Georgetown Board; the Chairman and four At-Large Councilmembers of the District of Columbia; and the Councilmember for Ward Two in which the Property is located.

Party Status. The Applicant and ANC 2E were automatically parties in this proceeding pursuant to Subtitle Y § 403.5. The Board granted all three requests for party status in opposition: (i) by Caroline Lambert and David Ferreira, the owners of the lot to the southeast (Lot 151) that shares a portion of a rear lot line; (ii) by Gernot Brodnig, the owner of the lot to the south (Lot 164) that shares a rear lot line; and (iii) by Alison Schafer, the owner of the adjacent lot to the east (Lot 166) that shares a side lot line. (Exhibits 48, 50, and 53.)

Applicant’s Case. The Applicant provided evidence and testimony about the planned addition and asserted that the Application satisfied all requirements for approval of the requested zoning relief. The Applicant asserted that the proposed addition met the standards for special exception relief because it (i) would not “unduly reduce” the light and air available to neighboring properties; (ii) would not “unduly compromise” the privacy of neighboring properties; and (iii) would not “substantially visually intrude upon the character, scale and pattern of houses along the ... street frontage”. The Applicant asserted that the proposed addition was designed to reduce adverse impacts on neighbors by retaining the street façade without change and expanding in back instead of adding a third floor; by maintaining a rear yard more than twice as large as is required; by only filling in the side yard on the first floor to maintain access to light and air by the adjacent property to the east; by not building any new windows facing the adjacent property to the east; and by sloping the roof of the addition towards the east to reduce the shading effect of the proposed addition on the adjacent property to the east. After the hearing the Applicant subsequently proposed several revisions to reduce the proposed addition.

OP Report. By a memorandum dated August 25, 2017 (Exhibit 51), the Office of Planning recommended approval of a special exception under Subtitle D § 1206.3 pursuant to Subtitle D § 5201 to allow the initial proposed addition extending 31 feet, eight inches beyond the farthest adjoining rear wall of the adjacent eastern property, subject to OP’s proposed condition that the Applicant have flexibility to install a vegetative screen or brick patterning on the eastern wall subject to acceptance in writing by the owner of the adjacent eastern property. OP did not review or comment on the revised plans that reduced the size of the proposed addition.

DDOT Report. By a memorandum dated August 11, 2017 (Exhibit 44), the District Department of Transportation stated that it had no objection to the approval of the application for the special exception.

ANC Report. By a letter to the Board dated July 7, 2017, ANC 2E stated that at a regularly

scheduled meeting, which was noticed and attended by seven Commissioners, the Commission adopted a resolution by a vote of 7-0 to take no position for or against the application for the special exception. (Exhibit 31.) The ANC 2E Chair testified that the ANC chose to remain neutral due to the lengthy history of the project, including review by the Old Georgetown Board, multiple presentations to the ANC, and the change of the Zoning Regulations by the adoption of Subtitle D §§ 1206.3 and 1206.4 that required the Applicant to seek relief for the proposed addition's extension into the rear yard.

Persons in support. The Board received letters from persons in support of the application indicating that those persons had seen the plans for the Applicant's proposed addition requiring the special exception and had no objection. (Exhibits 37-41, 43, 45, 52, 54, 60, 61, and 64.)

Persons in opposition. The Board received letters and heard testimony from persons in opposition to the application. (Exhibits 35, 48, 50, 53, 55, 57-58, 65, 72-4, 70-80, 83, 85-6, 88, 91, and 93.) The adjacent neighbor to the east of the Property, Ms. Schafer (the "East Neighbor"), asserted that the proposed addition would unduly block the light and air available to her back yard by extending the existing side wall of the Building by 20 feet further along her back yard. The other two parties in opposition, whose back yard bordered the rear lot line of the Property, (the "South Neighbors") stated concerns that the proposed addition would negatively affect the historic character of the neighborhood and cause negative environmental impacts and the loss of light, air, and privacy to the adjacent neighbors.

## FINDINGS OF FACT

1. The Property is located on the southern side of O Street, N.W. approximately mid-block between 27<sup>th</sup> and 28<sup>th</sup> Streets, N.W. (Square 1239, Lot 143). The Property is in the R-20 Zone.
2. The Property is rectangular, approximately 15 feet wide and 120 feet deep, with a lot area of 1,800 square feet.
3. The Property is improved with a two-story building with a cellar/crawl space that extends from each side property line to the other except for a small side yard on the east for the rear third of the Building. The Building is a principal single-household dwelling.
4. The adjacent lots on either side of the Property are each twice as wide as the Property (each 30 feet).
5. The adjacent lot to the west of the Property is a vacant lot (Lot 165) (the "West Neighbor").
6. The lot to the west of the vacant West Neighbor (Lot 812) is improved with a building (the "West Building") that is three stories tall and that extends approximately 17 feet

- further into the rear yard than the rear wall of the Building. (Exhibits 7, p. 19, and 12, p. 8.)
7. The adjacent lot to the east of the Property, the East Neighbor, (Lot 166) is improved with a two-story building with a rear wall that is shallower than the Building.
  8. The existing rear wall of the Building extends 11 feet, 6¾ inches beyond the farthest adjoining rear wall of the East Neighbor. (Exhibits 7, p. 21, and 12, p. 8.)
  9. The existing rear wall of the Building is set back 70 feet, seven inches from the rear property line shared with the South Neighbors. (Exhibit 3.) The distance between the existing rear walls of the Building and of the principal buildings of the South Neighbors is approximately 150 to 170 feet, with substantial trees in between these principal buildings and the Building, per the Office of Planning’s testimony. (Transcript of the September 6, 2017 hearing (“Tr.”), p. 206.)
  10. The Applicant initially proposed to construct a two-story addition to the rear of the Building, filling in the existing side yard on the first floor and extending 20 feet into the rear yard from the existing rear wall of the Building, with a three foot, eight inch setback from the rear yard for the second story.
  11. The Applicant’s original proposed addition located the rear wall approximately 31 feet, eight inches beyond the farthest adjoining rear wall of the adjacent East Neighbor and approximately 50 feet, seven inches from the rear property line (Exhibits 7 and 12), more than twice the rear yard required for the Property. This would reduce the distance to the existing rear walls of the principal buildings of the South Neighbors to approximately 130 to 150 feet.
  12. The Applicant’s original proposed addition would not exceed the existing height of approximately 19 feet at the rear of the Building and would retain the same matter-of-right use as the Building as a single-household dwelling. (Exhibits 7 and 12.)
  13. The Applicant’s original proposed addition included no new windows facing the East Neighbor, while the windows facing the west property line would be at-risk windows subject to closure if a building was constructed on the adjacent lot to the west.
  14. The Applicant chose to construct the addition to the rear of the property, instead of adding an extra story, in order to avoid impacting the existing historic street frontage.
  15. The Applicant presented the project for design review to the Old Georgetown Board, which issued two approvals, on December 23, 2016 and May 19, 2017. (Exhibit 46, p. 12-13.)

16. The Applicant presented the project to ANC 2E at public meetings on August 29, November 1, and November 28, 2016. (Exhibit 7, p. 8.) The ANC officially informed the Board that it took no decision on the application. (Exhibit 31.)
17. The Applicant submitted sun shadow studies depicting the impact of the proposed addition on the adjacent property to the east. (Exhibits 7 and 12.) These sun studies showed that the proposed addition would decrease the sunlight to the adjacent East Neighbor in the afternoon but only somewhat more than the existing shadow caused by the three story building two lots to the west (Lot 812).
18. The East Neighbor testified at the hearing that she had no interest in the vegetative screening or brick patterning proposed as a condition of approval by OP's report, instead she is opposing the proposed 20 foot length of the addition as unduly reducing the light available to her back yard. (Tr., September 6, 2017 Hearing, p. 171, referring to OP's report at Exhibit 51.)
19. The Applicant subsequently revised the proposed addition to mitigate the impact on the neighbors, particularly on the East Neighbor who would be most directly impacted. The Applicant's final proposal reduced the length of the addition by five feet, eight inches to extend 14 feet, four inches from the existing rear wall of the Building (Exhibits 84 and 90), more than three feet less than the West Building currently extends its rear yard. This proposed addition would extend approximately 26 feet beyond the farthest adjoining rear wall of the adjacent East Neighbor, and the second story of the addition would be set back by one foot from the East Neighbor. The proposed rear wall would be set back approximately 56 feet, three inches from the rear property line and approximately 135 to 155 feet away from the principal buildings of the South Neighbors.
20. The Applicant's final proposed addition kept the original proposed addition's no new windows facing the East Neighbor, the height as not exceeding the existing height of the building, and the continuance of the current single-household dwelling use.
21. The purpose of the R-20 Zone is to protect the historic character, buildings, and open space of the Georgetown National Historic Landmark District, to limit permitted ground coverage of new and expanded buildings to encourage compatibility with the existing neighborhood, and to retain the quiet residential character of the zone.

## CONCLUSIONS OF LAW

The Applicant seeks a special exception under Subtitle D § 5201 for relief from the rear yard requirements of Subtitle D, § 1206.3 to construct a two-story rear addition to a two-story single-household dwelling in the R-20 Zone at premises 2716 O Street, N.W. (Square 1239, Lot 143). Section 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.) authorizes the Board to grant special exceptions, as provided in the Zoning Regulations, where, in the

judgement of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to special conditions specified in the Zoning Regulations. (*See* Subtitle X, § 901.2.)

Pursuant to Subtitle D § 5201, the Board may grant a special exception from the rear yard requirement of Subtitle D § 1206.3 prohibiting additions that extend further than 10 feet beyond the farthest rear wall of any adjoining principal residential building on an adjoining property, provided the applicant demonstrates, with sufficient graphical representations for the Board to render a decision, that the proposed addition would not have a substantially adverse effect on the abutting and adjacent dwellings and properties, in particular that:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
- (c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage.

Such a special exception may not include the introduction or expansion of a nonconforming use, height, or number of stories. (Subtitle D §§ 1206.5 and 1206.6.) The Board may impose specific conditions to protect adjacent and nearby properties. (Subtitle D § 1206.4.)

Based on the findings of fact, the Board concludes that the Applicant has met its burden to demonstrate that the application, as defined in the final plans, satisfies the requirements for special exception relief from the rear yard requirement of Subtitle D § 1206.3 pursuant to Subtitle D § 5201 and Subtitle X, Chapter 9. The application does not propose the introduction or expansion of a nonconforming use, height, or number of stories and so complies with Subtitle D §§ 1206.5 and 1206.6.

The Board determines that the final version of the proposed addition, as depicted in Exhibit 90, does not have a substantially adverse effect on the use or enjoyment of any abutting and adjacent dwelling or property. A third floor, with an increase in height of up to approximately 13 feet, may be permitted as a matter of right. The Board notes that the proposed addition extends into the rear yard instead of expanding by adding additional height, which would have a greater adverse impact on the neighbors' light, air, and privacy and on the character, scale, and pattern of the adjacent houses as viewed from the public ways. The Board determines that although the proposed addition will have some impact on the neighboring properties, particularly the adjacent East Neighbor, the final version of the proposed addition will not unduly affect the light and air available to the neighboring properties, nor unduly compromise the privacy of use and enjoyment of the neighboring properties.

The Board recognizes that the South Neighbors, who are parties in opposition, will be impacted by the addition, but agrees with the Office of Planning's report and testimony that that addition

will not unduly reduce the light and air available to the South Neighbors, nor unduly compromise their privacy. As the addition will be to the north of the South Neighbors, it will not impact the sun available to those properties. The addition will extend three feet less into the rear yard than the West Building and will maintain a rear yard of approximately 56 feet, three 3 inches - more than two-and-a-half times the required 20 foot rear yard. The Building's distance with the addition to the principal buildings of the South Neighbors will remain at least 135 feet. This extensive rear yard will provide substantial light and air to the surrounding properties, as well as protect their privacy. Substantial trees along the rear property line shared by the Property and South Neighbors provide further privacy screening for the South Neighbors.

The Board determines that the addition does not unduly reduce the availability of light and air, nor unduly compromise the privacy of the most affected neighboring property, the East Neighbor, who is also a party in opposition. Although the Board recognizes that the addition will impact the East Neighbor by extending the wall along the East Neighbor's side property line, the Board agrees with the Office of Planning's report and testimony that the addition, as revised, will not have a substantially adverse impact on the East Neighbor. The addition is set back from the eastern property line on the second floor by one foot, retains the second-floor portion of the current side yard, and has a sloped roof on the addition to provide for light and air to the adjacent eastern property. The sun shadow studies submitted by the Applicant demonstrate that the proposed addition would not have significant impacts on the shadow created on the adjacent eastern property, particularly as the addition's shadows will be mostly be subsumed by the larger shadow cast by the West Building that is a story taller and that extends three feet further into its rear yard than the final version of the addition. The lack of windows on the east wall of the addition protects the privacy of the abutting East Neighbor.

The Board also determines that the Application does not substantially intrude upon the character, scale, and pattern of the houses along the Building's O Street frontage as the proposed addition will not change the existing street façade of the Building. The Board notes that the Applicant has worked with the historic preservation review of the Old Georgetown Board to ensure that the design does not adversely alter the existing building fabric of the neighborhood and obtained its approval. Many of the letters in support of the Application specifically noted the retention of the existing street façade with no change in height.

In accordance with Subtitle X § 901.2, the Board concludes that approval of the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. As discussed above, the Board does not find that the new rear addition will create any adverse impacts on the use of neighboring property. Approval of the requested special exception will be in harmony with the purpose of the RF-1 Zone, and consistent with the intention of provisions applicable in the R-20 Zone to protect the historic character, buildings, and open space of the Georgetown National Historic Landmark District, to limit permitted ground coverage of new and expanded buildings

to encourage compatibility with the existing neighborhood, and to retain the quiet residential character of the zone.

The Board is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.)) For the reasons discussed above, the Board concurs with OP’s recommendation that the application should be approved in this case, although with the reduced size of the final proposed addition. The Board did not adopt OP’s proposed condition for a vegetative screening or brick patterning on the wall of the proposed addition facing the East Neighbor because that neighbor testified that she had no interest in such a condition.

The Board is required to give “great weight” to the issues and concerns raised by the affected ANC, ANC 2E in this case. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)) ANC 2E’s report did not take a position on the Application or raise any issues or concerns for the Board to consider. (Exhibit 31.)

## DECISION

Based on these findings of facts and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for special exception relief from the rear yard requirement of Subtitle D § 1206.3 pursuant to Subtitle D § 5201 and Subtitle X, Chapter 9 to allow the construction at premises 2716 O Street, N.W. (Square 1239, Lot 143) in the R-20 zone of a two-story rear addition to a two-story principal dwelling to extend farther than 10 feet beyond the farthest rear wall of any adjoining principal residential building on an adjoining property. Accordingly, it is **ORDERED** that the application is **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 7 AND 12 – STATEMENT OF THE APPLICANT and ARCHITECTURAL DRAWINGS & SUN STUDY (respectively), AS REVISED BY EXHIBIT 90 - APPLICANT’S FINAL REVISED PLANS.**

**VOTE:**     **3-1-1**     (Carlton E. Hart, Lesylleé M. White, and Michael G. Turnbull (by absentee ballot) to APPROVE; Frederick L. Hill opposed; one Board seat vacant).

## BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** November 15, 2018

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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. 19822 of Blue Sky Development, Inc.**, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the front setback requirements of Subtitle B § 315.1(b) to construct a new detached principal dwelling unit in the R-1-B Zone at premises 3724 30th Place N.E. (Square 4304, Lot 34).

**HEARING DATE:** October 31, 2018  
**DECISION DATE:** November 7, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 13.) 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") 5C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 19, 2018, at which a quorum was present, the ANC voted 6-0 to support the application. (Exhibit 48.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 49.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 47.)

One letter was filed in support of the application from the resident of 3714 30<sup>th</sup> Place, N.E. (Exhibit 40.) Four letters in opposition were filed by area residents. One letter was from the resident of 3016 Otis Street, N.E. (Exhibit 23); one was from the resident of 3704 30<sup>th</sup> Place, N.E. (Exhibit 50), and two letters were from the adjacent neighbor at 3726 30<sup>th</sup> Place, N.E. (Exhibits 22 and 51.) The adjacent neighbor also testified at the hearing and raised a number of concerns, including the proposed project's visual impact on the privacy and enjoyment of her property. To address the adjacent neighbor's concerns about visual impacts, the Board required the Applicant to work with the neighbor and submit an agreed-upon plan to provide landscape buffering between the subject property and the adjacent neighbor's property. The Applicant filed the requested plans which the Board made a condition of its approval. (See Exhibits 54 and 54A.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the front setback requirements of Subtitle B § 315.1(b) to construct a new detached principal dwelling unit in the R-1-B Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR Subtitle B § 315.1(b), the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 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 3 – ARCHITECTURAL PLANS - AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall provide evidence, as part of any building permit application submitted in reliance on this Order, that the Applicant has installed the trees and guard rail in compliance with the landscape plan in Exhibit 54A (“Plant Screening Plan”) prior to the submission of the building permit application.

**VOTE: 5-0-0** (Carlton E. Hart, Frederick L. Hill, Lesylleé M. White, Lorna L. John, and Michael G. Turnbull (by absentee ballot) 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 15, 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

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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.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITION IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITION IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19850 of Charles Paret**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D §§ 1006.3 and 5201 from the rear yard requirements of Subtitle D § 1006.2, to construct a rear addition to an existing, attached principal dwelling unit in the R-17 Zone at premises 2507 I Street N.W. (Square 16, Lot 57).

**HEARING DATE:** November 14, 2018  
**DECISION DATE:** November 14, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 35 (Updated); Exhibit 9 (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") 2A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2A, which is automatically a party to this application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 17, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the application. (Exhibit 32.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application, subject to the proposal complying with the height development standard and approval from the Historic Preservation Review Board. (Exhibit 39.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 33.)

Three letters in opposition to the application were submitted by residents of the neighborhood. (Exhibit 38, 40, and 41.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X §

901.2, for a special exception under Subtitle D §§ 1006.3 and 5201 from the rear yard requirements of Subtitle D § 1006.2, to construct a rear addition to an existing, attached principal dwelling unit in the R-17 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, and Subtitle D §§ 1006.2, 1006.3 and 5201, 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: 4-0-1** (Frederick L. Hill, Lorna L. John, Lesylleé M. White, and Robert E. Miller to APPROVE; Carlton E. Hart not present, not voting.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** November 19, 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.

**BZA APPLICATION NO. 19850**

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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. 19854 of 824 13th Street LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, and pursuant to Subtitle X, Chapter 10, for variances from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and from the side yard requirements of Subtitle E § 307.1 to construct a new flat in the RF-1 Zone at premises 824 13th Street N.E. (Square 1003, Lot 145).

**HEARING DATE:** November 7, 2018

**DECISION DATE:** November 7, 2018

**SUMMARY ORDER**

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 19.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to Advisory Neighborhood Commission ("ANC") 6A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 11, 2018, at which a quorum was present, the ANC voted 6-0 to support the application. (Exhibit 44.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 43.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 42.)

Three neighbors, including the adjacent property owners, submitted letters in support of the application. (Exhibits 36, 38 and 39.) A petition in support signed by eleven neighbors was also submitted. (Exhibit 37.) The Capitol Hill Restoration Society submitted a letter in opposition to the application but did not testify at the public hearing. (Exhibit 41.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X §

1002.1 for area variances from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and from the side yard requirements of Subtitle E § 307.1 to construct a new flat in the RF-1 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle E §§ 304.1, 306.1 and 307.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

#### Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5. 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, and Subtitle C §§ 701.5 and 703.2, 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 40A:**

**VOTE:**           **5-0-0** (Carlton E. Hart, Lesylleé M. White, Frederick L. Hill, Lorna L. John, and Peter A. Shapiro 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 19, 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.

BZA APPLICATION NO. 19854

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19855 of Metropolitan Community Church**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.2, to convert an existing flat to a three-unit apartment house in the RF-1 Zone at premises 472 Ridge Street N.W. (Square 513, Lot 167).

**HEARING DATE:** November 7, 2018

**DECISION DATE:** November 7, 2018

**SUMMARY ORDER**

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to Advisory Neighborhood Commission ("ANC") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 4, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the application. (Exhibit 29.)

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. (Exhibit 33.)

Two neighbors submitted letters in support. (Exhibits 35 and 36.)

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the residential conversion requirements of Subtitle U § 320.2, to convert an existing flat 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 OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle 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 7:**

**VOTE: 5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter A. Shapiro 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 19, 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

BZA APPLICATION NO. 19855

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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. 19856 of Michael and Sara Kirby**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a three-story rear addition on the same footprint as the existing two-story rear addition of a principal dwelling unit in the RF-1 Zone at premises 210 9th Street S.E. (Square 944, Lot 73).

**HEARING DATE:** November 7, 2018  
**DECISION DATE:** November 7, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 9, 2018, at which a quorum was present, the ANC voted 10-0-0 to support the application. (Exhibit 35.)

The Office of Planning ("OP") submitted a timely report, dated October 26, 2018, in support of the application. (Exhibit 34.) The District Department of Transportation ("DDOT") submitted a report, dated October 19, 2018, of no objection to the approval of the application. (Exhibit 33.)

Three letters of support from neighbors, including two adjacent property owners, were submitted to the record. (Exhibit 27.) The Capitol Hill Restoration Society submitted a letter to the record in support of the application. (Exhibit 28.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E §§ 205.5 and 5201 from the rear addition

requirements of Subtitle E § 205.4, to construct a three-story rear addition on the same footprint as the existing two-story rear addition of a 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, and Subtitle E §§ 205.5, 5201 and 205.4, 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 29A1-29A2.**

**VOTE:**           **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter A. Shapiro 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 20, 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.

**BZA APPLICATION NO. 19856**

**PAGE NO. 2**

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. 19863 of KSAR LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle H § 1109.1(b), and subject to the conditions of Subtitle H § 1107.1, to permit a fast-food restaurant use in an existing mixed-use building in the NC-8 Zone at premises 850 Quincy Street, N.W. (Square 2900, Lot 824).

**HEARING DATE:** November 14, 2018

**DECISION DATE:** November 14, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 10.) 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 recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 10, 2018, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibit 31.)

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. (Exhibit 35.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle H § 1109.1(b), and subject to the conditions of Subtitle H § 1107.1, to permit a fast-food restaurant use in an existing mixed-use building in the NC-8 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 H §§ 1109.1(b), and 1107.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 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 9 – ARCHITECTURAL PLANS & ELEVATIONS.**

**VOTE: 4-0-1** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, and Robert E. Miller to APPROVE; Carlton E. Hart present, not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** November 19, 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.

BZA APPLICATION NO. 19863

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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. 19864 of MDP 526 8th Street LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, and pursuant to Subtitle X, Chapter 10, for a variance from the loading berth requirements of Subtitle C § 901, to construct a new three-story commercial building in the MU-25 Zone at premises 526-528 8th Street S.E. (Square 926, Lots 809 and 810).

**HEARING DATE:** November 14, 2018

**DECISION DATE:** November 14, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 9, 2018, at which a quorum was present, the ANC voted 10-0-0 to support the application. (Exhibit 45.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 43.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application, with three conditions. (Exhibit 41.) The Board adopted the conditions recommended by DDOT, as revised at the hearing based on the Applicant's updated plans in Exhibit 54 showing the location of bicycle parking spaces.

Thirteen letters in support were filed to the record from neighbors. (Exhibits 34-36, 38, 40, 42, 44, and 46-51.) Capitol Hill Restoration Society filed a letter in support. (Exhibit 32.) One letter in opposition to the application was submitted by Ramon Buruca of Ramon LLC. (Exhibit 52.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the loading berth requirements of Subtitle C § 901, to construct a new three-story commercial building in the MU-25 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle C § 901, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to construct a new three-story commercial building in the MU-25 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, and Subtitle C § 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 10, AS UPDATED IN EXHIBIT 54, AND WITH THE FOLLOWING CONDITIONS:**

**BZA APPLICATION NO. 19864  
PAGE NO. 2**

1. The Applicant shall provide the short- and long-term bicycle parking spaces, as shown in Sheets A-03 and A-07 of Exhibit 54, subject to the approval of the Public Space Committee.
2. The Applicant shall implement the following Loading Management Plan (“LMP”), as proposed by the Applicant in the October 12, 2018 Transportation Assessment in Exhibit 31 of the record:
  - a. All tenants shall be notified to use the commercial loading zone on the east side of 8<sup>th</sup> Street for all deliveries. Tenants also shall be notified that the hours of operation for the loading zone are 7:00 AM to 6:30 PM;
  - b. Tenants shall be advised that trucks are not permitted to block vehicular, bike, or pedestrian traffic on 8<sup>th</sup> Street;
  - c. Trucks shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation but not limited to DCMR 20-Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route Map ([goDCgo.com/freight](http://goDCgo.com/freight)); and
  - d. Tenants shall be provided suggested truck routing maps (including any restricted routes) for drivers that frequently deliver to the building. Tenants also shall be given DDOT’s Freight Management and Commercial Vehicle Operations document to provide drivers, as needed, to encourage compliance with idling laws.
3. The Applicant shall implement the following Transportation Demand Management (“TDM”) Plan, as proposed by the Applicant in the October 12, 2018 Transportation Assessment in Exhibit 31 of the record:

*Employees*

- a. Information on and/or links to current transportation programs and services shall be provided to employees either electronically (via a website) or in hard-copy format. Examples of information that may be provided include: WMATA, [goDCgo.com](http://goDCgo.com), Capital Bikeshare, Car-sharing services, Uber, Ridescout, Commuter Connections Rideshare Program, Commuter Connections Guaranteed Ride Home, and Commuter Connections Pools Program.
- b. Convenient and covered secure bike parking facilities shall be provided for a minimum of three bicycles in lieu of the one required long-term space.
- c. New employees, at the time of hire, shall be offered a one-time, one-year Capital Bikeshare membership or a one-time, \$85 SmarTrip card for the first 10 years that

the building is leased. Memberships shall be limited to one membership or SmarTrip card per employee.

*Visitors*

- a. Short-term bicycle parking shall be provided in public space in front of the proposed building for visitor use.
- b. The tenants' websites shall be encouraged to include a "How to Get Here" link, which will provide information regarding alternate modes of transportation that can be used to get to the site. Information shall include specific Metrobus routes serving the site, including location of the bus stops near the site, the location of the nearby Metrorail station, and the location of the nearest Capital Bikeshare stations.

**VOTE: 4-0-1** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, and Robert E. Miller to APPROVE; Carlton E. Hart not present, not voting.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** November 19, 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,

**BZA APPLICATION NO. 19864**

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RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 01-07A  
Z.C. Case No. 01-07A  
1700 K Street Associates, LLC  
(Minor Modification to the Consolidated PUD @ Square 126, Lot 62)  
September 17, 2018**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public meeting on September 17, 2018 to consider an application by 1700 K Street Associates, LLC (“Applicant”)<sup>1</sup> for a minor modification to a consolidated planned unit development (“PUD”) approved by Z.C. Order No. 961 in Z.C. Case No. 01-07C for the property at 1700 K Street, N.W., and more particularly identified as Square 126, Lot 62 (“Property”). The minor modification request was made pursuant to Subtitle Z, Chapter 7, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). For the reasons stated below, the Commission approves the application.

**FINDINGS OF FACT**

1. Pursuant to Z.C. Order No. 961 in Z.C. Case No. 01-07C, dated January 14, 2002, and effective on June 28, 2002 (“Order”), the Commission approved an application for consolidated review of a PUD. The PUD authorized construction of a commercial office development consisting of approximately 370,981 square feet of gross floor area on private property and 2,244 square feet of gross floor area in the public airspace, for a total of 373,135 square feet of gross floor area. The overall height of the building is 130 feet, with a density of 11.08 floor area ratio (“FAR”). As part of the PUD, the Commission also approved the rental of public airspace over a small portion of the alley. The project was completed in 2005. In 2017, the portion of the alley rented as public airspace was closed and the airspace lease between the Applicant and the District was terminated.
2. At the time the PUD was approved, penthouses were not permitted to include habitable space and were limited to a total height of 18 feet, six inches. Since that time, the 1910 Height of Buildings Act was amended, and the Zoning Regulations were changed to permit an overall penthouse height of 20 feet and two stories in the D-6 zone in which the property located, and to allow habitable space. The Applicant now wishes to enhance the building under these provisions.
3. On July 17, 2018, the Applicant filed an application with the Commission seeking a minor modification to Z.C. Order No. 961 to add penthouse habitable space, including a roof terrace.
4. The Applicant would extend the existing penthouse approximately 30 feet to the east. The expanded penthouse area would provide approximately 1800 square feet of gross floor area of habitable space devoted to amenity space, an outdoor terrace, and green roof

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<sup>1</sup> The original PUD applicant was Commerce Building Associates and Riddell Building Joint Venture. The current Applicant and owner of the property is 1700 K Street Associates, LLC.



space. Although the new penthouse regulations permit a height of 20 feet, the Applicant would maintain a uniform height of 18.5 feet for the existing mechanical penthouse. The new portion of the penthouse would have a second height of 13 feet, as permitted under 11-C DCMR § 1500.9. The new portion of the penthouse amenity space, located on the east side of the building, would have a 2.2-foot parapet and a retractable awning.

5. The expanded penthouse would continue to meet or exceed the 1:1 setback requirement at the north, west and east exterior walls. Along K Street to the north, the penthouse would continue to be set back 24.5 feet. Along 17<sup>th</sup> Street, the penthouse would be set back 20 feet, 1.5 inches. For the majority of the south exterior wall, the penthouse would be setback 29.5 feet, except for a small portion of the existing penthouse adjacent to the alley cul-de-sac where the Commission granted relief for a setback of 9.33 feet. The setback at that location would remain at 9.33 feet, as approved by the Commission. In all other respects, the penthouse complies with the setback requirement.
6. Pursuant to 11-C DCMR § 1505, the Applicant would contribute to the Affordable Housing Trust Fund to assist in the production of affordable housing to low-income households. Consistent with the formula set forth in that section, the Applicant estimates that it would contribute approximately \$225,000, based on the current assessed value of the land. The final amount of the contribution will be determined no earlier than 30 days prior to the date of the building permit application to construct the penthouse habitable space. One-half of that payment will be made prior to issuance of the building permit for that space with the balance paid prior to issuance of the certificate of occupancy for the space.
7. At its public meeting on September 17, 2018, the Commission determined that this application was properly a minor modification within the meaning of 11-Z DCMR § 703.2, and that no public hearing was necessary pursuant to 11-Z DCMR § 703.1.
8. In satisfaction of 11-Z DCMR § 703.13, the Applicant provided a Certificate of Service, which noted that Advisory Neighborhood Commission (“ANC”) 2B was served with the application. ANC 2B did not submit any recommendation to the file.
9. On September 14, 2018, the Applicant requested the Commission waive the notice requirement to a party to the original proceeding. Under 11-Z DCMR § 703.13, the Applicant was required to formally serve a copy of the application on all parties to the original proceeding at the same time that it filed the application with the Office of Zoning. In 2002, when the original PUD was approved, the only parties in the proceeding were the ANC and KV Sun Holdings, LP, which at the time was owner of the adjacent Barr Building at 910 17<sup>th</sup> Street, N.W. KV Sun Holdings, LP no longer owns the adjacent building nor can be located as a continuing entity. The Land Records of the District of Columbia reveal that on December 2, 2003, KV Sun Holdings, LP, sold the property to the Barr Building LLC, by deed recorded as Document No. 2003170185. A DCRA online records search for KV Sun Holdings, LP, reveals that the LP withdrew its foreign corporation registration in 1998 and no further information could be located on

that entity. On September 17, 2018, at its regular monthly meeting, the Commission granted the request for waiver of the notice requirement.

10. The Office of Planning (“OP”) submitted a report on September 7, 2018. The OP report recommended approval, as a minor modification, of the application to add penthouse habitable space, including a roof terrace.

### CONCLUSIONS OF LAW

Pursuant to 11-Z DCMR § 703.1, the Commission is authorized to approve minor modifications to approved final orders and plans through a consent calendar procedure without a public hearing. Pursuant to 11-Z DCMR § 703.2, a minor modification “is one that does not change the material facts upon which the Commission based its original approval of the application or petition.” In addition, 11-C DCMR § 1504.3 provides that a request to add penthouse habitable space to a building approved by the Commission as a PUD may be filed as a minor modification for placement on the Commission’s consent calendar, provided that (a) the item shall not be placed on a consent calendar for a period of 30 days’ minimum following the filing of the application; and (b) OP shall submit a report with recommendations a minimum of seven days in advance of the meeting.

The Commission concludes that the modifications described herein do not change the material facts upon which the Commission based its original approval, and that the proposed modifications are to add penthouse habitable space to a building previously approved as a PUD. Accordingly, the Commission finds that the request falls within the scope of a minor modification made pursuant to 11-Z DCMR § 703 and 11-C DCMR § 1504.3.

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.) to give “great weight” to the issues and concerns contained in the written report of an affected ANC. ANC 2B meets the definition of “affected ANC” as set forth in 11-B DCMR § 100.1. Since ANC 2B did not address this minor modification, there is no recommendation to consider. The Commission is also required to give great weight to the recommendations of OP (*See* D.C. Official Code § 6-623.04 (2012 Repl.)). The Commission concurs with OP’s recommendation to approve this minor modification application.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for a minor modification to permit the addition of penthouse habitable space and a rooftop terrace to the building located at 1700 K Street, N.W., consistent with the architectural plans and elevations included in the record at Exhibit 4.

At its public meeting of September 17, 2018, upon the motion of Commissioner Turnbull, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter Shapiro not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 23, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
CORRECTED NOTICE OF FILING  
Z.C. Case No. 07-08C  
(District of Columbia Housing Authority – Text Amendment to Subtitle C)  
November 20, 2018**

**THIS CASE IS OF INTEREST TO ANCs 6D and 6B**

On November 15, 2018, the Office of Zoning received an **AMENDED** petition from the District of Columbia Housing Authority (the “Petitioner”) for approval of a text amendment to Subtitle C §§ 718.3 & 718.7(a) to extend the expiration date for certificates of occupancy for temporary surface parking lots in Square 767, Lots 44-47, Square 768, Lots 19-22, and Square 882, Lot 77 for a period of five years, to April 1, 2023.

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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 15-16(1)**  
**Z.C. Case No. 15-16**  
**B&R Associates and MRP 600 RI, LLC**  
**(Extinguishment of PUD @ Square 3629, Lots 7, 813, and 814)**  
**October 22, 2018**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public meeting on October 25, 2018, to consider a request of B&R Associates and MRP 600 RI, LLC, property owners (collectively, the “Applicant”) to extinguish an approved planned unit development (“PUD”) for property located in Lots 7, 813, and 814 of Square 3629 (“Property”). The Commission considered the request pursuant to Subtitle X § 310.2(b) of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The Commission granted the request.

**FINDINGS OF FACT**

1. The Property consists of Lots 7, 813, and 814 in Square 3629 and is located at 524-528 and 600-602 Rhode Island Avenue, N.E. (Exhibit [“Ex.”] 106, p. 1.)
2. The Commission took final action to approve a consolidated and first-stage PUD for the Property at its public meeting on October 17, 2016. More specifically, the Commission approved a consolidated PUD for Phase I (Buildings 1A, 1B, and 5B) and a first-stage PUD for the remaining phases (Buildings 2A, 2B, 3, 4, 5A, and 6). (Ex. 106, p. 1.)
3. Z.C. Order No. 15-16 (“Order”), approving the PUD, was published in the *D.C. Register* on December 9, 2016. (Ex. 106, p. 1.)
4. The Order was subsequently appealed to the District of Columbia Court of Appeals by the Ward 5 Alliance for Equity on January 4, 2017. This appeal is still pending before the Court of Appeals. (Ex. 106, p. 1.)
5. No PUD Covenant has been recorded against the Property. But for the appeal, the Order would otherwise expire on December 9, 2018. (Ex. 106, pp. 2-3.)
6. In light of the uncertainty of being able to proceed with development of the Project due to the appeal, the Applicant filed a large tract review application on April 11, 2017, with the Office of Planning (“OP”) for review of a matter-of-right project. The project reviewed by OP through the large tract review process proposed a similar site plan and mix of uses; however, it no longer benefited from the additional height and flexibility afforded by the PUD process. Nevertheless, the project continued to provide many of the same benefits and amenities proffered during the PUD process. (Ex. 106, pp. 1-2.)
7. During the large tract review process, OP referred the application to Department of Housing and Community Development, Department of Energy and the Environment, Department of Transportation, Fire and Emergency Medical Services Department, and DC Public Schools for review and comment. OP also referred the application to ANC 5E

during the large tract review process for review comment. OP extended the deadline for review at the request of the ANC and Ward 5 Alliance for Equity. (Ex. 106, p. 2.)

8. OP issued its final report on the large tract review project on July 31, 2017, concluding that the application satisfied the goals of the large tract review process.
9. The property owners have since filed an application for building permits for the first phase of development, which still includes Buildings 1A, 1B, and 5B, similar to what was approved in the PUD. Building permits cannot be issued for the work until the PUD is extinguished. (Ex. 106, p. 2.)
10. On September 13, 2018, the Applicant filed a motion to extinguish the PUD pursuant to Subtitle X § 310.2 in order to allow for matter-of-right development on the Property.
11. The Commission considered the modification request at its public meeting on October 25, 2018.
12. The PUD did not include a PUD-related map amendment; accordingly, the Property is located in the MU-7 zone.

#### CONCLUSIONS OF LAW

1. The PUD process is designed to encourage high quality developments that provide public benefits. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project offers a commendable number or quality of public benefits and that it projects and advances the public health, safety, welfare and convenience.
2. The Commission concludes that once a consolidated PUD is approved, any future on the PUD site must be in accordance with the approved plans for so long as the PUD remains in effect. If a property owner wishes to proceed with matter-of-right development on the site, it must request the complete extinguishment of the PUD. The Commission is authorized to grant such a request upon motion by the Applicant and further deliberation regarding such request is not required.
3. The Commission notes that a PUD approval is an entitlement not an obligation. The Commission cannot compel the Applicant to build the Project. The Applicant could achieve the same ends of pursuing a matter-of-right project by allowing the approval to lapse pursuant to Subtitle X § 310.2(a); however, the Commission does not believe that allowing the Property to sit underutilized for an extended period of time until the PUD lapses serves the community or the District.
4. For each of the reasons stated in Z.C. Order No. 15-16, the Commission finds that the Comprehensive Plan, including the Upper Northeast Area Element, the Future Land Use Map, and the Diamond in the District Small Area Plan encourage development, including residential uses.

5. The Commission notes that the project to be constructed has been reviewed by District agencies and the community so while it is considered a “matter-of-right” development, the District and the community have had more opportunity to influence the development during the large tract review process than a true “matter-of-right” development, which does not solicit input from District agencies or the community.
6. The Commission finds it to be in accordance with the Regulations to allow the property owner to proceed with the development on the Property in a manner consistent with requirements and restrictions of the Zoning Regulations. As such, the request to extinguish the PUD does not warrant a hearing.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the request of the Applicant in Case No. 15-16 for the extinguishment and rescission of the PUD approved pursuant to Z.C. Case No. 15-16.

For the reasons stated above, the Commission concludes that the PUD shall be extinguished; it is hereby **ORDERED** that the Applicant’s request to extinguish the PUD be **GRANTED**.

On October 22, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 23, 2018.

### **BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 15-32A**

**Z.C. Case No. 15-32A**

**1126 9<sup>th</sup> ST NW, LLC**

**(Modification of Consequence of Consolidated PUD and Related Map Amendment**

**@ 1126 9<sup>th</sup> Street, NW (Square 369, Lot 880))**

**September 17, 2018**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on September 17, 2018. At that meeting, the Commission approved the application of 1126 9<sup>th</sup> ST NW, LLC (“Applicant”) for a modification of consequence of the consolidated PUD and related map amendment approved by Z.C. Order No. 15-32 (“Original Project”). The property (Lot 880 in Square 369) that is the subject of this application is bounded by 9<sup>th</sup> Street, N.W. to the east and M Street, N.W. to the north (“Property”). The modification request was made pursuant to Subtitle Z § 703 of the Commission’s Rules of Practice and Procedures, which are codified in Title 11 of the District of Columbia Municipal Regulations (“Zoning Regulations”).

**FINDINGS OF FACT**

**BACKGROUND INFORMATION**

1. The Commission approved the Original Project in 2016 under the procedural and substantive requirements of the 1958 Zoning Regulations. Prior to the instant modification, no other modifications or extensions had been requested or approved for the Original Project.
2. The Commission, at its July 30, 2018 public meeting, determined that the application qualified as a modification of consequence within the meaning of Subtitle Z § 703 of the Zoning Regulations, and that no public hearing was necessary pursuant to Subtitle Z § 703.1. The Commission, at its September 17, 2018 public meeting, deliberated on the modification of consequence application and determined that the application satisfied the standards of review and the modifications to the Original Project were favorable. This application proceeded under the procedural requirements of the 2016 Zoning Regulations.
3. The Original Project authorized a 33-unit, approximately 40,300-square foot, mixed-use, multiple dwelling residential building with ground floor commercial uses located at the corner of 9<sup>th</sup> Street, N.W. and M Street, N.W. immediately across from the Washington Convention Center. An existing two-story building (“Existing Building”) that is historically contributing to the Shaw Historic District occupies a portion of the Property along 9<sup>th</sup> Street, N.W.



**MODIFICATION APPLICATION**

4. The scope of this modification entails reducing the height and density of the Original Project and eliminating one area of zoning flexibility granted in the Original Project, all as shown in the architectural plans at Exhibit (“Ex.”) 1C1-1C2 in the record (“Revised Project”). The revisions to the Original Project contemplated as part of this modification application include: an overall reduction in height; an overall reduction in GFA; an enlargement of the light wells (i.e., closed courts; reconfiguration of rooftop mechanicals and rooftop green areas; the reconfiguration of internal demising walls of individual units; the partial reallocation of density from the Original Project’s 100-foot tower to the rear four-story portion of the building, by adding residential uses in that location and converting the rear four-story portion of the Original Project to five stories; conforming changes to the exterior architecture to account for the reduction in height and reallocation of density; and the removal of penthouse setback relief previously requested. (Ex. 1, p. 3.)
5. The proposed changes are largely in response to changing economic conditions, which necessitate removal of the Original Project’s tower element. The Revised Project is overall shorter and smaller due in large part to the recent and significant run up in construction costs. The Revised Project’s slight reallocation of density to the rear of the building improves interior efficiencies. Other changes, such as to the size of the light wells, rooftop green areas, and exterior architecture, are either in response to the reconfiguration of the building’s massing or are to improve the livability of the building. (*Id.*)
6. The changes proposed as a part of the Revised Project fall within the scope of a modification of consequence as set forth in Subtitle Z §§ 703.3 and 703.4 of the Zoning Regulations. That is, the Revised Project includes a change to conditions in the Original Project. Conditions A.1, A.2, and A.4 of the Original Project require the Applicant to build in accordance with certain approved plans. (Z.C. Order No. 15-32, p. 14.) The Applicant seeks to amend those plans in accordance with the foregoing revisions and thereby amend such Conditions. The Revised Project also includes a redesign or relocation of architectural elements from the final design of the Original Project. (Ex. 1, pp. 3-4.)
7. The modifications to the Original Project resulting in the Revised Project are within the Zoning Regulations’ definition of a modification of consequence and do not reach the standard of a modification of significance. The Zoning Regulations provide in relevant part that “[e]xamples of a modification of significance include, but are not limited to, a change in use, change to proffered public benefits and amenities, change in required covenants, or additional relief or flexibility from the zoning regulations not previously approved.” (11-Z § 703.6.) The Revised Project does not change the proffered public benefits and amenities (notably holding constant the number and level of affordability of the two affordable units even though the project itself grows smaller). The location of the two affordable units remains unchanged. The Applicant does seek the flexibility, previously granted in Condition B.1.c of the Original Project, to vary the location of the

- affordable units in the building as long as the locations are proportional to the locations of the market-rate units. The Applicant no longer seeks the previously-granted flexibility to vary the bedroom count or unit size of the affordable units. (Ex. 1, pp. 3-4.)
8. The Revised Project does not propose a change of use or change in required covenants. The Revised Project still includes ground-floor commercial uses and multiple dwelling residential uses above, all of which are permitted as a matter of right in the underlying zones. Overall, the Revised Project seeks less flexibility from the Zoning Regulations by removing the previously approved penthouse setback relief. Moreover, other areas of zoning relief are reduced in magnitude. Accordingly, the overall scale of zoning relief has significantly decreased. (Ex. 1, pp. 3-4.)
  9. With respect to the Revised Project's height along M Street, NW, the Revised Project does, by a de minimis amount, exceed the relief from § 1706.15 of the 1958 Zoning Regulations previously granted. The Original Project rises above the 60-foot height limit along M Street, N.W. by an amount of 1.33 feet, and the Revised Project rises above said 60-foot height limit by an amount of 1.58 feet (i.e., by an additional approximately three inches). However, this concept is not a new item of relief and the variation is truly minor in nature and not distinguishable by an observer from the public realm. (Ex. 1, p. 4.)
  10. The Revised Project's overall effect is to reduce the impacts of the building constructed on the Property. The Revised Project is shorter and less dense than the Original Project, and the zoning flexibility is lesser in magnitude. One concern that the Commission raised with the Original Project—that its south facing façade was not sufficiently articulated—is no longer an issue because such façade has been significantly reduced in height. The Revised Project's rooftop, light well, and architectural changes that are all either consistent with or improvements to the design intent of the Original Project. Significantly, there is no proposed change in the number of affordable units provided. (Ex. 1, pp. 4-5.)
  11. The Commission finds that the Revised Project is a significant reduction of the Original Project, fits into the context of the neighborhood, and proposes a design that is well done. The Commission also finds that it is important that the Revised Project retains the two affordable units as proposed in the Original Project and required in the Original Project.
  12. In satisfaction of Subtitle Z § 703.13, the Applicant provided a Certificate of Service which noted that ANC 2F was served with the application. (Ex. 1, p. 6.)
  13. OP submitted a report on July 20, 2018, recommending that the Commission approve the application as a modification of consequence. (Ex. 2.) OP concurred with the Applicant's submission that the proposed project modifications constitute a modification of consequence and recommended approval. (*Id.*, p. 1.) OP noted that the Revised Project would reduce the size of the project, require less relief and design flexibility than the Original Project, have less of an impact on the surrounding area and be more in conformance with the zoning regulations. In OP's view, the slight increase in height along M Street, NW would be too minimal to have a significant impact on the surrounding area. (*Id.*, p. 3.)

14. On September 12, 2018, ANC 2F submitted a report into the record noting that, at a duly called and properly noticed meeting of such ANC on September 5, 2018, with a quorum present, ANC 2F voted 6-0 to support the application and expressed no issues or concerns. (Ex. 3.)

### CONCLUSIONS OF LAW

Pursuant to Subtitle Z § 703.1, the Commission, in the interest of efficiency, is authorized to make “modifications of consequence” to final orders and plans without a public hearing. A modification of consequence is “a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance.” (11-Z DCMR § 703.3.) Examples of modifications of consequence “include, but are not limited to, a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission.” (*Id.* § 703.4.)

The Commission concludes that the modifications requested in the subject application and depicted in the plans submitted as Exhibits 1C1-1C2 are modifications of consequence and, therefore, can be granted without a public hearing.

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.), to give “great weight” to the issues and concerns contained in the written report of an affected ANC. In this case, the ANC 2F report expressed no issues or concerns such that there is nothing to give great weight to. The Commission is also required to give great weight to OP’s recommendations under D.C. Official Code § 6-623.04 (2012 Repl.). The Commission concurs with OP’s recommendation to approve this modification of consequence application. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a modification of consequence to the consolidated PUD and related Map Amendment approved in Z.C. Order No. 15-32. The conditions in the Original Project remain unchanged, except Condition Nos. A.1, A.2, A.4, and B.1 of Z.C. Order No. 15-32 are hereby amended and restated as follows with the changes made to the affordable housing requirements shown in **bold** and underlined text:

#### **A. PROJECT DEVELOPMENT**

1. The Revised Project shall be developed in accordance with the architectural plans and drawings submitted on June 26, 2018, and as modified by the guidelines, conditions, and standards herein (collectively, the “Revised Plans”). (Ex. 1C1-1C2.)
2. The Revised Project shall include a mixed-use building with upper-floor multiple dwelling residential units and ground-floor commercial uses, in the aggregate containing up to approximately 33,697 gross square feet (“GSF”), with an

equivalent density of up to approximately 4.4 floor area ratio. Such GSF will be composed of up to approximately 3,773 GSF of commercial, retail and/or service uses and approximately 15 multiple dwelling residential units (subject to the flexibility contained in the Revised Plans). The Revised Project will have approximately two nonconforming surface parking spaces for commercial and/or residential parking and/or car-sharing services (one such space might be utilized for two car-sharing vehicles). The Revised Project may be constructed to a maximum height of approximately 76.33 feet. Along the 9<sup>th</sup> Street, N.W. façade, the Revised Project will step back from the street before rising to the full 76.33 feet, allowing the existing structure to be solely expressed within such setback area. Along the M Street, N.W. façade, the Revised Project will have a height rising to approximately 61.58 feet, as more particularly shown on the Revised Plans.

4. The Applicant shall have flexibility from the Zoning Regulations with respect to the Revised Project's parking requirements, closed court requirements, and M Street, N.W. height setback (pursuant to 11 DCMR § 1706.15) requirements, all as more particularly shown on the Revised Plans.

## B. PUBLIC BENEFITS

1. **Prior to the issuance of the first Certificate of Occupancy for the residential component of the Revised Project, and for the life of the Revised Project**, the Applicant shall demonstrate the following:
  - a. The Revised Project shall provide a total of up to approximately 29,924 square feet of residential gross floor area ("GFA"). No more than approximately 29,924 square feet of GFA of this total will be market rate housing, and no less than approximately **1,348** square feet of GFA will be affordable housing;
  - b. The Applicant shall set aside a minimum of two of the residential units as affordable housing for the life of the project. Of the affordable units, one unit shall be reserved for households with incomes not exceeding 50% of the Area Median Income for the Washington, D.C. metropolitan statistical area ("AMI") and one unit shall be reserved for households with incomes not exceeding 80% of the AMI; and
  - c. The distribution of the affordable housing units shall be in substantial accordance with the plans marked as pages 19-26 of Exhibit 1C of the record,<sup>1</sup> and substantially in accordance with the following chart:

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<sup>1</sup> The Applicant has the flexibility to vary the locations and the unit mix of the affordable units, provided the locations of affordable units are proportional to the locations of market-rate units. The net square footages of the

Residential Unit Type	GFA/Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
<b>Total</b>	Up to 29,924 sf of GFA (100%)	15	N/A	N/A	N/A
<b>Market Rate</b>	No more than <b>28,576</b> sf of GFA (96%)	13	Market Rate	N/A	N/A
<b>50% AMI</b>	No less than <b>639</b> sf of GFA (no less than 2%)	1	50% AMI	For the life of the project	N/A
<b>80% AMI</b>	No less than <b>709</b> sf of GFA <sup>2</sup> (no less than 2%)	1	80% AMI	For the life of the project	N/A

On September 17, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve, Peter A. Shapiro, not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 23, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

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affordable housing shown on pages 19-26 of Exhibit 1C satisfy the gross square footages shown on the chart below due to the efficiency factor of the building.

<sup>2</sup> Pages 21 and 21a of Exhibit 1C erroneously listed the AMI level for this unit at 75% instead of the 80% level approved by the Original Project.

**District of Columbia REGISTER – November 30, 2018 – Vol. 65 - No. 49 013158 – 013337**