VOL. 66 – NO. 1 JANUARY 4, 2019

District of Columbia REGISTER

HIGHLIGHTS

- Department of Energy and Environment announces funding availability for the 2019 Green Zone Environmental Program – Watershed Protection Projects
- Department of For-Hire Vehicles schedules two public hearings on the proposed amendments to add a new Title 31 (Vehicles for-Hire) to the District of Columbia Municipal Regulations
- Department of Health Care Finance announces funding availability for improving the hospital discharge and care transfer experience of Medicaid beneficiaries
- Department of Motor Vehicles and the District Department of Transportation update regulations aimed at achieving the goal of zero fatalities and serious injuries in the District's transportation system by the year 2024
- Office of Tax and Revenue updates guidance on the District's franchise tax exemption requirements for qualified high technology companies

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 et *seq*. (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative· Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-50l et *seq.* (2012 Repl.).

All documents published in the *District of Columbia Register (Register)* must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *Register* include (1) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the D.C. government (6) Notices, Opinions, and Orders of D.C. Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

Deadlines for Submission of Documents for Publication

The Office of Documents and Administrative Issuances accepts electronic documents for publication using a Web-based portal. To submit documents for publication, agency heads, or their representatives, may obtain a username and password by email at dcdocuments@dc.gov. For guidelines on how to format and submit documents for publication, email dcdocuments@dc.gov.

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

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Legal Effect of Publication - Certification

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

DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ENROLLED ORIGINAL

A RESOLUTION

22-683

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Advisory Neighborhood Commissions Omnibus Amendment Act of 2016, An Act To provide for the drainage of lots in the District of Columbia, the Washington Convention Center Authority Act of 1994, and Chapter 18 of Title 47 of the District of Columbia Official Code to clarify provisions supporting the Fiscal Year 2019 budget.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2019 Budget Support Clarification Congressional Review Emergency Declaration Resolution of 2018".

Sec. 2. (a) On June 26, 2018, the Council passed the Fiscal Year 2019 Budget Support Act of 2018, effective October 30, 2018 (D.C. Law 22-168; 65 DCR 9388) ("Act"). Following the passage of the Act, staff at the Council and the Office of the Chief Financial Officer identified certain provisions in the Act that needed to be clarified or amended to effectuate their intent.

(b) On October 2, 2018, the Council passed the Fiscal Year 2019 Budget Support Clarification Emergency Amendment Act of 2018, effective October 22, 2018 (D.C. Act 22-488; 65 DCR 12046) ("Emergency Act"), which included the minor, technical, and clarifying amendments that were necessary to clarify the law and implement the Fiscal Year 2019 Budget and Financial Plan.

(c) The Emergency Act will expire on December 30, 2019.

(d) On October 16, 2018, the Council passed the Fiscal Year 2019 Budget Support Clarification Temporary Amendment Act of 2018, enacted on November 13, 2018 (D.C. Act 22-519; 65 DCR 12977) ("Temporary Act"). On November 13, 2018, the Mayor signed the Temporary Act into law. Due to the gaps in the congressional calendar, the Temporary Act has not yet been transmitted to Congress.

(e) The congressional review period for the Temporary Act will create a gap in authority between the expiration of the Emergency Act and the effective date of the Temporary Act. This congressional review emergency act is necessary to prevent that gap in legal authority.

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 Fiscal Year 2019 Budget Support Clarification Congressional Review Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-684

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To approve proposed rules to make technical amendments to Title 23 of the District of Columbia Municipal Regulations to conform to changes contained in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2016, and other administrative changes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Technical Amendment Approval Resolution of 2018".

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), the Mayor transmitted to the Council, on October 1, 2018, proposed rules of the Alcoholic Beverage Control Board that would make technical amendments to Title 23 of the District of Columbia Municipal Regulations that conform to changes contained in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-260; D.C. Official Code § 25-101 *et seq.*), and other administrative changes. The Council approves the proposed rules, published at 65 DCR 6845, to amend Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-685

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To approve proposed rules to amend section 718 of Title 23 of the District of Columbia Municipal Regulations to modify reimbursement levels to the Metropolitan Police Department under the Reimbursable Detail Subsidy Program.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Reimbursable Detail Subsidy Program Resolution of 2018".

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), the Mayor transmitted to the Council, on November 7, 2018, proposed rules to modify reimbursement levels by the Alcoholic Beverage Regulation Administration to the Metropolitan Police Department under the Reimbursable Detail Subsidy Program from 60% to 65%. The Council approves the proposed rules, published at 65 DCR 12833, to amend section 718 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal of resolution.

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-686

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the reappointment of Mr. Willie Phillips as a member and appointment as chairman of the Public Service Commission of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public Service Commission Willie Phillips Confirmation Resolution of 2018".

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

Mr. Willie Phillips
1053 5th Street S.E.
Washington, D.C. 20003
(Ward 6)

as a member and appointment as Chairman of the Public Service Commission, established by section 8(97) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 995; D.C. Official Code § 34-801), for a term to end June 30, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-687

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mr. Edward Pearson to the District of Columbia Homeland Security Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Homeland Security Commission Edward Pearson Confirmation Resolution of 2018".

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

Mr. Edward Pearson
5767 East Capitol Street, S.E.
Washington, D.C. 20019
(Ward 7)

as a member of the District of Columbia Homeland Security Commission, established by section 202 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 7-2271.02), in accordance with section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), for a term to end February 22, 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

22-688

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Ms. Joanna Turner to the District of Columbia Homeland Security Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Homeland Security Commission Joanna Turner Confirmation Resolution of 2018".

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

Ms. Joanna Turner
754 13th Street, S.E.
Washington, D.C. 20003
(Ward 6)

as a member of the District of Columbia Homeland Security Commission, established by section 202 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 7-2271.02), in accordance with section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), for a term to end February 22, 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

22-689

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mr. Brian Baker to the District of Columbia Homeland Security Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Homeland Security Commission Brian Baker Confirmation Resolution of 2018".

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

Mr. Brian Baker
909 New Jersey Avenue, S.E.
Washington, D.C. 20003
(Ward 6)

as a member of the District of Columbia Homeland Security Commission, established by section 202 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 7-2271.02), in accordance with section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), for a term to end February 22, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-690

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mr. Charlie Whitaker to the Corrections Information Council Governing Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Corrections Information Council Governing Board Charlie Whitaker Confirmation Resolution of 2018".

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

Mr. Charlie Whitaker
518 60th Street, N.E.
Washington, D.C. 20019
(Ward 7)

as a member of the Corrections Information Council Governing Board, established by section 11201a(b) of the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01(b)), for a term to end June 7, 2020.

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

22-691

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the reappointment of Mr. Paul Ashton to the Police Complaints Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Police Complaints Board Paul Ashton Confirmation Resolution of 2018".

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

Mr. Paul Ashton
1510 Columbia Road, N.W.
Washington, D.C. 20009
(Ward 1)

as a member of the Police Complaints Board, established by section 5 of the Office of Citizen Complaint Review Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1104), for a term to end January 12, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-692

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the reappointment of Ms. Eleanor Collinson to the Commission on Human Rights.

RESOLVED, BY COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on Human Rights Eleanor Collinson Confirmation Resolution of 2018".

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

Ms. Eleanor Collinson
3604 Morrison Street, N.W.
Washington, D.C. 20015
(Ward 3)

as a member of the Commission on Human Rights, established by section 401 of the Human Rights Act of 1977, effective December 7, 2004 (D.C. Law 15-216; D.C. Official Code § 2-1404.01), in accordance with section 2(e)(8) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)(8)), for a term to end December 31, 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

22-693

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the reappointment of Mr. Gunther Sanabria to the Commission on Human Rights.

RESOLVED, BY COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on Human Rights Gunther Sanabria Confirmation Resolution of 2018".

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

Mr. Gunther Sanabria
616 5th Street, N.E.
Washington, D.C. 20002
(Ward 6)

as a member of the Commission on Human Rights, established by section 401 of the Human Rights Act of 1977, effective December 7, 2004 (D.C. Law 15-216; D.C. Official Code § 2-1404.01), in accordance with section 2(e)(8) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)(8)), for a term to end December 31, 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

22-694

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mr. Jeffrey Hines Tignor to the Police Complaints Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Police Complaints Board Jeffrey Hines Tignor Confirmation Resolution of 2018".

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

Mr. Jeffrey Hines Tignor
25 Longfellow Street, N.W.
Washington, D.C. 20011
(Ward 4)

as a member of the Police Complaints Board, established by section 5 of the Office of Citizen Complaint Review Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1104), for a term to end January 12, 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

22-695

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the reappointment of Ms. Rachna Butani Bhatt to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Water and Sewer Authority Board of Directors Rachna Butani Bhatt Confirmation Resolution of 2018".

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

Ms. Rachna Butani Bhatt
700 New Hampshire Avenue, N.W.
Unit 615
Washington, D.C. 20037
(Ward 2)

as a member of the Board of Directors of the District of Columbia Water and Sewer Authority, in accordance with section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.04), for a term to end September 12, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-696

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the reappointment of Reverend Dr. Kendrick E. Curry to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Water and Sewer Authority Board of Directors Reverend Dr. Kendrick E. Curry Confirmation Resolution of 2018".

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

Reverend Dr. Kendrick E. Curry
3045 Q Street, S.E.
Unit 615
Washington, D.C. 20020
(Ward 7)

as an alternate member of the Board of Directors of the District of Columbia Water and Sewer Authority, in accordance with section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.04), for a term to end September 12, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-697

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Ms. Krystal Brumfield to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Water and Sewer Authority Board of Directors Krystal Brumfield Confirmation Resolution of 2018".

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

Ms. Krystal Brumfield
2517 Sayles Place, S.E., Unit 2
Washington, D.C. 20020
(Ward 8)

as a member of the Board of Directors of the District of Columbia Water and Sewer Authority, in accordance with section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.04), replacing Matthew Brown, for a term to end September 12, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-698

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mr. Keith Anderson as Director of the Department of General Services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Director of the Department of General Services Keith Anderson Confirmation Resolution of 2018".

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

Mr. Keith Anderson
614 Randolph Street, N.W.
Washington, D.C. 20011
(Ward 4)

as Director of the Department of General Services, established by section 1022 of the Department of General Services Establishment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Code § 10-551.01), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to serve at the pleasure of the Mayor.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-699

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the reappointment of Mr. Stephen Green as a member of the District of Columbia Housing Finance Agency Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Housing Finance Agency Board of Directors Stephen Green Confirmation Resolution of 2018".

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

Mr. Stephen Green
215 I Street, N.E., Unit #411
Washington, D.C. 20002
(Ward 6)

as a member, with experience in mortgage lending or finance, of the District of Columbia Housing Finance Agency Board of Directors, established by section 202 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Official Code § 42-2702.02), for a term to end June 28, 2020.

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

22-700

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mrs. Rupa Puttagunta to the Rental Housing Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Rental Housing Commission Rupa Puttagunta Confirmation Resolution of 2018".

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

Mrs. Rupa Puttagunta
1923 12th Street, N.W.
Washington, D.C. 20009
(Ward 1)

as a member of the Rental Housing Commission, established by section 201 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code§ 42-3502.01), in accordance with section 2(e)(19) of the Confirmation Act of 1978, effective March 3, 1979, (D.C. Law 2-142; D.C. Official Code § 1-523.0l(e)(19)), replacing Diana Epps, for the remainder of an unexpired term to end July 18, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-701

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mr. LeJuan Strickland to the District of Columbia Housing Authority Board of Commissioners.

RESOLVED, BY COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Housing Authority Board of Commissioners LeJuan Strickland Confirmation Resolution of 2018".

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

Mr. LeJuan Strickland
222 Q Street, N.W., Unit #103
Washington, D.C. 20001
(Ward 5)

as a public member of the District of Columbia Housing Authority Board of Commissioners, established by section 12 of the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-211), replacing Joshua Lopez, for the remainder of an unexpired term to end July 12, 2020.

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

22-702

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Ms. Lynn C. French to the Housing Production Trust Fund Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Housing Production Trust Fund Board Lynn C. French Confirmation Resolution of 2018".

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

Ms. Lynn C. French
1124 Columbia Road, N.W.
Washington, D.C. 20009
(Ward 1)

as a member, representing an organization that advocates for the production, preservation, and rehabilitation of affordable housing for lower-income households, of the Housing Production Trust Fund Board, established by section 3a of the Housing Production Trust Fund Act of 1988, effective June 8, 1990 (D.C. Law 8-133; D.C. Official Code § 42-2802.01), replacing Oramenta Newsome, for the remainder of an unexpired term to end January 14, 2019, and for a new term to end January 14, 2023.

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

22-703

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to approve Modification No. 4 to Contract No. NFPHC-8-1 between the Not-for-Profit Hospital Corporation and Morrison Management Specialist, Inc., to provide nutritional services, and to authorize payment in the amount of $2,570,508 for the services received and to be received under the modification.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification No. 4 to Contract No. NFPHC-8-1 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve Modification No. 4 to Contract No. NFPHC-8-1 ("Contract") between the Not-for-Profit Hospital Corporation and Morrison Management Specialist, Inc., to provide nutritional services, and to authorize payment in the amount of $2,570,508 for the services received and to be received under the modification.

(b) The base year of the Contract was approved by Council in the amount of $2,295,192.

(c) Modification No. 1 exercised option year one of the Contract in the amount of $2,314,305 and was approved by Council on July 12, 2015.

(d) Modification No. 2 exercised option year 2 of the Contract in the amount of $2,634,513

(e) Modification No. 3 exercised option year 3 of the Contract in the amount of $3,054,294

(f) Modification No. 4 would exercise option year 4 of the Contract in the amount of $2,570,508

(g) Now operating under the auspices of a new consultant, the Not-for-Profit Hospital Corporation continues to undergo an operational and fiscal review to enhance performance and efficiency. Frequently, this process results in contract amendments seeking to achieve cost savings.

(h) Additionally, the Hospital has undergone a series of transitions in personnel that, unfortunately, may have caused delays with respect to the negotiation, preparation, and transmittal of the Council contract package.

(i) Council approval is necessary because the modification increases the total contract amount by more than $1 million during a 12-month period.

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(j) Approval is necessary to allow the continuation of these vital services. Without this approval, Morrison cannot be paid goods and services provided in excess of $1 million.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modification No. 4 to Contract No. NFPHC-8-1 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-704

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to approve Contract No. CW59871 with Public Performance Management, LLC, to provide information technology equipment and software, including Modification No. 3 to that contract, and to authorize payment in the total not-to-exceed amount of $10,000,000.00 for the goods and services received and to be received under the contract as modified by Modification No. 3.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CW59871 Approval and Payment Authorization Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists a need to approve Contract No. CW59871 with Public Performance Management, LLC, to provide information technology equipment and software, including Modification No. 3 to that contract, and to authorize payment for the goods and services received and to be received under the contract as modified by Modification No. 3.

(b) On April 26, 2018, the Office of Contracting and Procurement ("OCP") awarded Contract No. CW59871 to Public Performance Management, LLC, for the period from April 26, 2018 to April 25, 2019 in the not-to-exceed amount of $950,000.00.

(c) Through Modification No. 3, OCP desires to increase the total not-to-exceed amount of Contract No. CW59871 for the period from April 26, 2018 to April 25, 2019 to $10,000,000.00.

(d) Council approval of Contract No. CW59871, as modified by Modification No. 3, is required pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), because it involves the expenditure of more than $1,000,000.00 during a 12-month period.

(e) Approval of Contract No. CW59871, as modified by Modification No. 3, is necessary to allow the continuation of these vital services. Without this approval, Public Performance Management, LLC, cannot be paid for goods and services provided in excess of $1,000,000.00 for the period from April 26, 2018 to April 25, 2019.

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

ENROLLED ORIGINAL

Contract No. CW59871 Approval and Payment Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-705

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To confirm the appointment of Mrs. Greer Gillis as a member of the Public Service Commission of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public Service Commission Greer Gillis Confirmation Resolution of 2018".

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

Mrs. Greer Gillis
61 Pierce Street N.E.
Apartment 1136
Washington, D.C. 20002
(Ward 6)

as a member of the Public Service Commission, established by section 8(97) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 995; D.C. Official Code § 34-801), replacing Betty Ann Kane, for a term to end June 30, 2022.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-706

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to amend section 7 of the Legalization of Marijuana for Medical Treatment Initiative of 1998 to authorize a dispensary, cultivation center, or testing laboratory to relocate to any election ward subject to the approval of the Mayor; provided, that no more than 2 dispensaries and 6 cultivation centers may operate within an election ward.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Medical Marijuana Relocation Emergency Declaration Resolution of 2018".

Sec. 2. (a) The Legalization of Marijuana for Medical Treatment Initiative of 1998 effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq*.) ("Initiative"), established a medical marijuana program in the District. In accordance with the Initiative, the Department of Health may permit the registration of a maximum of 8 dispensaries to ensure that qualifying patients have adequate access to medical marijuana.

(b) At around 12:00 a.m. on August 19, 2018, , Fire and Emergency Medical Services Department personnel were called to a fire in the 1300 block of North Capitol Street, N.W. The fire destroyed the roof decks of 2 4-story dwellings. One of the dwellings housed the Capital City Care medical marijuana dispensary and the fire resulted in significant water damage to the facility. As a result of the fire and the associated water damage, the dispensary has been unable to reopen.

(c) The Council recognizes the potential for registered patients to suffer adverse health impacts due to the closure of this dispensary, or any dispensary shuttered due to unforeseen circumstances. There are approximately 6,017 registered patients in the District and demand for medical marijuana services tends to be far greater than the available supply for these patients' needs, which means the city cannot afford to allow Capital City Care or any facility to remain closed unnecessarily.

(d) To facilitate the swift reopening of dispensaries and cultivation centers that close due to unforeseen circumstances, the Initiative must be amended to permit the relocation of a dispensary or cultivation center with the permission of the Mayor to any ward in the District, as long as the relocation does not exceed the current per ward cap on the number of dispensaries and cultivation centers, which currently is set at 2 dispensaries and 6 cultivation centers.

ENROLLED ORIGINAL

(e) Authorizing the Mayor to approve the relocation of a dispensary or cultivation center to an underserved ward can increase the ability of patients to access medical marijuana services.

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 Medical Marijuana Relocation Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-707

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to amend the Firearms Control Regulations Act of 1975 to create a judicial process through which individuals who have been disqualified from receiving a firearms registration certificate due to having been voluntarily admitted or involuntarily committed to a mental health facility, determined to be an incapacitated individual, adjudicated as a mental defective, or committed to a mental institution, can petition the Superior Court of the District of Columbia for relief from that disqualification, to provide that a person convicted of possessing a large capacity ammunition feeding device shall be incarcerated for no more than 3 years, fined,, or both, to allow persons to petition the Superior Court of the District of Columbia for an extreme risk protection order, which would prohibit the respondent from having possession or control of, purchasing, or receiving any firearm, ammunition, registration certificate, license to carry a concealed pistol, or dealer's license, if the court finds that the subject poses a significant danger of causing bodily injury to self or others, to establish a process for the personal service, renewal, and termination of extreme risk protection orders, to establish procedures for the surrender, storage, assessment of fees for storage, and return of firearms and ammunition that are recovered pursuant to an extreme risk protection order, and to establish a penalty for a violation of an extreme risk protection order; and to amend An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes to prohibit the possession of bump stocks.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Firearms Safety Omnibus Emergency Declaration Resolution of 2018".

Sec. 2. (a) As of December 12, 2018, there have been 155 homicides in the District of Columbia – more than 100 of which involved the use of a firearm.

(b) Of the 139 homicide investigations conducted by the Office of the Chief Medical Examiner ("OCME") in 2016, the cause of death was a firearm in 96 cases, comprising 69% of homicides.

(c) Firearms were used in 6 of the 44 suicides investigated by the OCME in 2016. Firearms were involved in 20% of the 44 suicides in 2012, 15% of the 52 suicides in 2013, 32% of the 69 suicides in 2014, and 29% of the 52 suicides in 2015.

(d) The Metropolitan Police Department recovered 1,870 illegal firearms in 2016, an increase of 164 over 2015.

(e) This emergency legislation is identical to permanent legislation, the Firearms Safety Omnibus Amendment Act of 2018, passed on second reading on December 18, 2018 (Enrolled version of Bill 22-588), which the Council passed on final reading on December 18, 2018.

(f) This emergency legislation is necessary to immediately protect District residents.

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 Firearms Safety Omnibus Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-708

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to amend the Prevention of Child Abuse and Neglect Act of 1977 to broaden the definitions of an abused child and a neglected child to include a victim of sex trafficking or severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Child Neglect and Sex Trafficking Emergency Declaration Resolution of 2018".

Sec. 2. (a) The Child Abuse and Prevention Treatment Act, approved January 31, 1974 (88 Stat. 5; 42 U.S.C. § 5101 *et seq*.) ("CAPTA"), provides federal funds to states and the District for child protective service programs.

(b) Section 802 of the Justice for Victims of Trafficking Act of 2015, approved May 29, 2015 (129 Stat. 263, codified in scattered cites in the U.S. Code), amended CAPTA by requiring that child welfare agencies consider a child who is a victim of sex trafficking or a victim of a severe form of trafficking in persons as a victim of "child neglect" and "sexual abuse" as a condition of receiving CAPTA funds.

(c) To maintain the District's eligibility for CAPTA funds, the Council previously enacted the Child Neglect and Sex Trafficking Emergency Amendment Act of 2018, effective February 26, 2018 (D.C. Act 22-269; 65 DCR 2131), and the Child Neglect and Sex Trafficking Temporary Amendment Act of 2018, effective June 5, 2018 (D.C. Law 22-100; 65 DCR 3769). Those pieces of legislation amended the definitions of a "neglected child" and an "abused" child in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2–22; D.C. Official Code § 4-1301.02), to include severe forms of trafficking in persons and sex trafficking as defined in section 103(9)(A) and (10) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(9)(A) and (10)).

(d) Because the Child Neglect and Sex Trafficking Temporary Amendment Act of 2018 expires on January 16, 2019, emergency legislation is necessary to ensure that the District maintains its compliance with the federal requirements and preserves its eligibility for CAPTA funding.

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 Child

ENROLLED ORIGINAL

Neglect and Sex Trafficking Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-709

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to approve the lease agreement between BDC Van Ness, LLC and the University of the District of Columbia to lease the property located at 4250 Connecticut Avenue, N.W.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "University of the District of Columbia Lease Agreement with BDC Van Ness, LLC Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve the lease agreement between BDC Van Ness, LLC and the University of the District of Columbia ("UDC") to lease the property located at 4250 Connecticut Avenue, N.W. The lease has a term of 3 years with options to extend the lease agreement for 2 renewal terms of 3 years each.

(b) The University operates its programs in 11 buildings on its Van Ness campus. This campus, except for the 3-year old student center, is comprised of 30- to 50-year-old facilities in need of over $200 million in renovations and upgrades. Leasing 4250 Connecticut Avenue, N.W., is an efficient and cost-effective way to accelerate the renovation and upgrade of the University's infrastructure. The lease, together with all improvements for the building, includes approximately 202,200 square feet, which encompasses office space, commercial space, and parking. The space will be used to house the occupants of Building 41 and allows the University to embark on its long-term MEP and HVAC replacement plan for Building 41, one of its most inefficiently operating buildings.

(c) Because UDC controls a number of the buildings along the Van Ness retail corridor, it agreed on December 4, 2018, to a non-binding letter of intent with Van Ness Main Street to make a good-faith effort to activate retail space at UDC's Connecticut Avenue properties. Utilization of 4250 Connecticut Avenue, N.W., facilitates this promise.

(d) Council approval of the lease agreement is required pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803: D.C. Official Code § 1-204.51). Immediate approval is necessary to enable immediate relocation of faculty, students and staff from current campus buildings that pose health and safety issues.

ENROLLED ORIGINAL

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 University of the District of Columbia Lease Agreement with BDC Van Ness, LLC Emergency Approval Resolution of 2018 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-710

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To approve, on an emergency basis, the lease agreement between BDC Van Ness, LLC and the University of the District of Columbia to lease the property located at 4250 Connecticut Avenue, N.W.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "University of the District of Columbia Lease Agreement with BDC Van Ness, LLC Emergency Approval Resolution of 2018".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), 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 the lease agreement between BDC Van Ness, LLC and the University of the District of Columbia to lease the property located at 4250 Connecticut Avenue, N.W., for a term of 3 years with options to extend the lease agreement for 2 renewal terms of 3 years each.

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, effective 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

22-711

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to authorize the transfer of jurisdiction over U.S. Reservation 724 (Lot 896, less and except the northern portion previously retained by the District, and Lot 897 within Square 620) in the District of Columbia, from the United States of America, acting by and through the Department of the Interior, National Park Service, to the District of Columbia, and to consent to the extinguishment of covenants affecting real property in Square 620.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Revised Transfer of Jurisdiction over U.S. Reservation 724 (Lots 896 and 897 within Square 620) and Extinguishment of Covenants Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to approve emergency legislation to authorize the transfer of jurisdiction over a portion of U.S. Reservation 724 from the National Park Service ("NPS") to the District and to consent to the extinguishment of two obsolete covenants.

(b) On November 7, 2017, the Council adopted the Transfer of Jurisdiction over U.S. Reservation 724 (Lots 896 and 897 within Square 620) Emergency Approval Resolution, effective November 7, 2017 (Res. 22-298; 64 DCR 12563) ("Resolution"), to authorize the transfer of two lots from NPS to the District to facilitate the improvement of a park space as part of the Sursum Corda Cooperative redevelopment, which would provide for pedestrian circulation along First Street, N.W.

(c) The applicant and the Surveyor found an error in the plat incorporated by the Resolution, so the plat never was recorded.

(d) The applicant also found two 1968 covenants related to the original Sursum Corda development that are no longer necessary and require release by the District. Those covenants affect the ability of the development to move forward expeditiously.

(e) Permanent legislation authorizing the transfer of jurisdiction and consenting to the extinguishment of the covenants, the Revised Transfer of Jurisdiction over U.S. Reservation 724 (Lots 896 and 897 within Square 620) and Extinguishment of Covenants Act of 2018, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-979) ("Permanent Act"), has been transmitted to the Mayor.

ENROLLED ORIGINAL

(f) Adoption of emergency legislation authorizing the transfer of jurisdiction and consenting to the extinguishment of the covenants will authorize the Surveyor to record the correct plat to allow the Sursum Corda redevelopment project to move forward before congressional review of the Permanent Act is completed.

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 Revised Transfer of Jurisdiction over U.S. Reservation 724 (Lots 896 and 897 within Square 620) and Extinguishment of Covenants Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-712

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to symbolically designate the 300 block of E Street, S.W., in Ward 6, as Hidden Figures Way.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Hidden Figures Way Designation Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to symbolically designate the 300 block of E Street, S.W., in Ward 6, as "Hidden Figures Way."

(b) On August 23, 2018, S. 3370, the Hidden Figures Way Designation Act, was introduced in the United States Senate by Senators Ted Cruz (R-TX), Bill Nelson (D-FL), John Thune (R-SD), and Ed Markey (D-MA). That legislation sought to designate the 300 block of E Street, S.W. as "Hidden Figures Way."

(c) The Council has the authority to adopt legislation symbolically designating street names in the District of Columbia without congressional action.

(d) Permanent legislation, the Hidden Figures Way Designation Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-965), will not become law for several months due to congressional review.

(e) The lead cosponsor of the Senate bill, Bill Nelson (D-FL) will not return to serve in the 116th Congress. However, NASA and the space program are important to the state of Florida.

(f) Adoption of emergency legislation will allow the symbolic designation first contemplated in the Senate bill to become effective while Senator Nelson is still in office.

Sec. 3. The Council of the District of Columbia finds that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Hidden Figures Way Designation Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-713

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to authorize, on an emergency basis, the relocation of the non-exclusive perpetual surface easement in Square 696, bounded by I Street, S.E., First Street, S.E., K Street, S.E., and Half Street, S.E., in Ward 6.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Relocation of a Passageway Easement in Square 696 Authorization Emergency Declaration Resolution of 2018".

Sec. 2 (a) There exists an immediate need to approve emergency legislation to authorize the relocation of the non-exclusive perpetual surface easement in Square 696.

(b) In 2008, the Council passed the Closing of a Public Alley in Square 696, S.O. 07-8302, Act of 2008, effective March 20, 2008 (D.C. Law 17-120; 55 DCR 1475), to close an alleyway in Square 696, bounded by I Street, S.E., First Street, S.E., K Street, S.E., and Half Street, S.E., conditioned on recordation of a plat establishing an easement for a new passageway easement on the property.

(c) The applicant subsequently has made revisions to the original development concept, proposing to maintain the easement but move it approximately 90 to 100 feet to the west of its recorded location.

(d) Because the recording of the previous plat showing the easement finalized the alley closing process, it is necessary for the Council to authorize the Surveyor to modify the location of the passageway easement by depicting it on a new plat.

(e) Permanent legislation authorizing the relocation of the easement, the Relocation of a Passageway Easement in Square 696 Act of 2018, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-963) ("Permanent Act"), has been transmitted to the Mayor.

(f) Adoption of emergency legislation authorizing the relocation of the easement will authorize the Surveyor to record the new plat to allow the private development project to move forward before congressional review of the Permanent Act is completed.

ENROLLED ORIGINAL

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 Relocation of a Passageway Easement in Square 696 Authorization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-717

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to amend the Anti-Intimidation and Defacing of Private Property Criminal Penalty Act of 1982 to make it unlawful to deface or burn a religious or secular symbol on any property of another without permission or to place or display on such property a physical impression that a reasonable person would perceive as a threat to physically damage the property of another.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Community Harassment Prevention Emergency Declaration Resolution of 2018".

Sec. 2 (a) Reports of crimes motivated by bias and hate have increased in the District and around the country in the past 2 years. Crimes motivated by bias or hate can make a targeted community feel more vulnerable and fearful.

(b) Hate crimes in other jurisdictions are sometimes followed by an increase in local hate incidents and crimes, triggering fear in communities in the District. On October 27, 2018, the Metropolitan Police Department, the Office of Human Rights, and Mayor Bowser's Office of Religious Affairs held a conference call with more than 60 leaders of the District's faith communities who were alarmed by the October 24th shooting in Kentucky of 2 African Americans after the shooter had attempted but failed to enter a historic African American church and by the mass shooting at the Pittsburgh Tree of Life synagogue on October 27th.

(c) Even non-violent hate crimes can lead to violence by promoting and justifying discrimination, hatred, and violence against a person or group.

(d) Intolerance, bigotry, and crimes motivated by bias or hate have no place in our vibrant city. The District of Columbia is committed to protecting its diverse communities, and discouraging anyone from harassing a community, causing reasonable people to fear for their personal safety or the safety of others.

(e) Several recent incidents have highlighted areas in which the District of Columbia's comprehensive laws should be strengthened in order to better protect our communities.

(f) More than a dozen nooses were displayed throughout the city in 2017, including at construction sites, a university, and federal museums and monuments. These nooses evoked memories of this country's reprehensible history with lynching, causing alarm and fear in black communities. However, regardless of any intent to threaten or cause fear, some of the incidents might not qualify as a crime under the District's statute prohibiting the display of nooses because of the type of property on which they were displayed.

(g) This gap should be addressed without delay to prevent an escalation of fear or violence in our communities.

Sec. 3. The Council of the District of Columbia determined that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Community Harassment Prevention Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-718

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to amend the Electric Company Infrastructure Improvement Financing Act of 2014 to clarify the requirements related to the utilization of certified business enterprises and procurements for certain architectural and engineering services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Power Line Undergrounding Program Certified Business Enterprise Utilization Emergency Declaration Resolution of 2018".

Sec. 2. (a) The Council previously approved legislation to authorize certain actions related to the undergrounding of certain power lines within the District.

(b) The authorizing legislation established a goal that 100% of the construction contracts for the undergrounding project be awarded to "District businesses".

(c) The reference to "District businesses", rather than "certified business enterprises" (CBEs) has created confusion about the intent of the goal.

(d) In addition, existing law limits the ability to provide CBE set-asides or preference points for certain contracts related to the undergrounding project.

(e) The District Department of Transportation ("DDOT") and the Office of Contracting and Procurement ("OCP") are preparing significant solicitations related to the undergrounding project.

(f) The inability to provide certain CBE preferences is limiting the ability of DDOT and OCP to maximize the utilization of CBEs on the undergrounding project.

(g) An immediate amendment to existing law is therefore needed to maximize CBE utilization on the undergrounding project and to clarify the intent of the existing "District business" goal.

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 Power Line Undergrounding Program Certified Business Enterprise Utilization Emergency Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-719

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to amend the Procurement Practices Reform Act of 2010 and the Public-Private Partnership Act of 2014 to allow the Office of Public-Private Partnerships to delegate its contracting authority for public-private partnership agreements to the Office of Contracting and Procurement as of January 1, 2017, and to require any employee of the Office of Contracting and Procurement exercising such delegated authority to comply with provisions of the Public-Private Partnership Act of 2014 and any regulations promulgated to effectuate it; and to repeal the Office of Public-Private Partnerships Delegation of Authority Congressional Review Emergency Amendment Act of 2018 and the Office of Public-Private Partnerships Delegation of Authority Temporary Amendment Act of 2018.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Office of Public-Private Partnerships Delegation of Authority Clarification Emergency Declaration Resolution of 2018".

Sec. 2. (a) The Office of Public-Private Partnerships ("OP3"), located within the Office of the City Administrator, was established to facilitate public-private partnership projects in the District independent of the authority of the Chief Procurement Officer ("CPO") and the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq*.) ("PPRA").

(b) OP3 has worked with the CPO to leverage the Office of Contracting and Procurement's ("OCP") considerable expertise in all aspects of contracting and procurement, including development of requests for proposals through a Memorandum of Understanding.

(c) The PPRA gives the CPO authority to conduct procurements and award contracts on behalf of an independent agency, such as OP3, so long as the CPO follows the requirements of the PPRA. However, the OP3 enabling statute specifically exempts OP3 procurements from the PPRA.

(d) OCP has been working in partnership with OP3 to carry out certain contracting functions and has been carrying out those functions under OP3's enabling statute.

(e) The Council recently passed the Office of Public-Private Partnerships Delegation of Authority Temporary Amendment Act of 2018, effective November 27, 2018 (D.C. Law 22-

187; 65 DCR 11410), to ensure that the existing partnership between OCP and OP3 can continue. However, this temporary legislation does not specify the date as of which OCP may exercise authority on behalf of OP3.

(f) In order to ensure that this authority extends back to when OCP and OP3 first began their contracting administration partnership, and to avoid any legal questions regarding that authority, it is important to amend existing law to make clear that the grant of authority is effective as of January 1, 2017.

(g) In addition, to ensure statutory consistency, it is important to repeal the Office of Public-Private Partnerships Delegation of Authority Congressional Review Emergency Amendment Act of 2018, effective October 25, 2018 (D.C. Act 22-490; 65 DCR 12062), and the Office of Public-Private Partnerships Delegation of Authority Temporary Amendment Act of 2018, effective November 27, 2018 (D.C. Law 22-187; 65 DCR 11410).

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 Office of Public-Private Partnerships Delegation of Authority Clarification Emergency Amendment 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.

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

PROPOSED RESOLUTION

PR22-1177 Compensation and Working Conditions Collective Bargaining Agreement between the Office of the State Superintendent of Education, Division of Student Transportation and the American Federation of State, County, and Municipal Employees District Council 20, Local 1959, Approval Resolution of 2018

Intro. 12-20-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	January 4, 2019
Protest Petition Deadline:	February 19, 2019
Roll Call Hearing Date:	March 4, 2019
Protest Hearing Date:	May 1, 2019
License No.:	ABRA-112429
Licensee:	Shebelle Ethiopian Bar & Restaurant LLC
Trade Name:	Shebelle Ethiopian Restaurant
License Class:	Retailer's Class "C" Restaurant
Address:	1924 9th Street, N.W.
Contact:	Costa Pappas: (202) 536-7961

WARD 1 ANC 1B SMD 1B02

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 March 4, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **May 1, 2019 at 1:30 p.m.**

NATURE OF OPERATION

New Restaurant serving Ethiopian food. Total Occupancy Load is 49 with seating for 46.

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

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

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

NOTICE OF PUBLIC HEARING

Notice of Consideration of Proposed Amendments to
Title 31 (Taxicabs and Public Vehicles for Hire)
of the District of Columbia Municipal Regulations

Tuesday, January 15, 2019
6:30 PM

Wednesday, January 16, 2019
10:00 AM

The Department of For-Hire Vehicles announces two public hearings seeking stakeholder input on the Notice of Proposed Rulemaking to amend the District of Columbia Municipal Regulations (DCMR) by adding a new Title 31 (Vehicles for-Hire), which was published in the *D.C. Register* on November 16, 2018 at 65 DCR 012649. The rules, which are available on our website, revise the entire Title 31. The Department of For-Hire Vehicles ("DFHV") has scheduled two Public Hearings at 6:30pm on Tuesday, January 15, 2019; and 10:00am on Wednesday, January 16, 2019, at 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032.

Those interested in speaking at the hearing should register by calling 202-645-6002 not later than Monday, January 14 at 5:00 pm. Testimony will be limited to the specific subject matter of this public hearing. Each participant will be allotted up to five (5) minutes to present. Participants must submit ten (10) copies of their written testimony to the Secretary of the Department of For-Hire Vehicles, 2235 Shannon Place SE, Suite 3001, Washington, D.C. 20020, in advance of the hearing. All speakers should be prepared to answer questions that may be posed by the Department during the hearing.

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

TUESDAY, JANUARY 15, 2019 AT 6:30 PM

WEDNESDAY, JANUARY 16, 2019 AT 10:00 AM

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

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, MARCH 6, 2019
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001

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

TIME: 9:30 A.M.

WARD SEVEN

19908
ANC 7E

Application of New District Development LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for a use variance from the use restrictions of Subtitle U § 201.1, to construct a new eight-unit apartment house in the R-2 Zone at premises 4442 B Street S.E. (Square 5350, Lots 11 and 12).

WARD FOUR

19924
ANC 4C

Application of William Eubanks, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the nonconforming structure requirements of Subtitle C § 202.1, and from the rear yard requirements of Subtitle E § 306.1, and under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, and pursuant to Subtitle X, Chapter 10, for a variance from the lot occupancy requirements of Subtitle E § 304.1, to construct a rear addition to an existing semi-detached principal dwelling unit in the RF-1 Zone at premises 4210 Arkansas Avenue N.W. (Square 2697, Lot 74).

WARD SIX

19928
ANC 6C

Application of David Glaudemans, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 206.2 and 5203.3 from the upper floor addition requirements of Subtitle E § 206.1(a), to construct a third story addition to an existing, two-story, attached principal dwelling unit in the RF-1 Zone at premises 918 7th Street N.E. (Square 857, Lot 848).

WARD FIVE

19931
ANC 5B

Application of Marcy Mey, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 306.1, to construct a two-story rear addition to an existing, detached principal dwelling unit in the R-1-B Zone at premises 1440 Otis Street N.E. (Square 4003, Lot 18).

WARD SIX

19932
ANC 6E

Application of Jefferson Parke, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a third story and rear addition to an existing, attached principal dwelling unit and convert it to a flat in the RF-1 Zone at premises 127 4th Street N.W. (Square 523, Lot 842).

WARD SIX

19933
ANC 6B

Application of Sarah Beth and Josh Kuyers, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 506.1, and pursuant to Subtitle X, Chapter 10, for an area variance from the lot occupancy requirements of Subtitle E § 504.1, to construct a one-story rear addition to an existing, attached principal dwelling unit in the RF-3 Zone at premises 156 Duddington Place S.E. (Square 736, Lot 68).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.
Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly,

distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form**.* This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

Do you need assistance to participate?

Amharic
ለመካተፍ ዕርዳታ ያስፈልግዎታል?
የ ተለየ እርዳታ ካስፈለገ ዎት ወይም የ ቋንቋ እርዳታ አገ ልግሎቶች (ትርጉም ወይም ማሽተርጎ ም) ካስፈለገ ዎት እባክዎን ከስብሰባውአምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገ ናኙ። እነ ኝህ አገ ልግሎቶች የ ሚሰጡ በነ ጻ ነ ው።

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

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

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

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

Vietnamese

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

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

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

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2018 Supp.)) and Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2013 Repl.)), hereby gives notice of the adoption of an amendment to Chapter 41 (Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

In this final rulemaking, DHCF makes amendments to Section 4105 (Rebasing) that revises the effective date of the rebasing schedule for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) reimbursement rates and clarifies the effective date and schedule for updates to the ICF/IID rates based on the rebasing. This rulemaking also adds language to Section 4102 (Reimbursement Methodology), referencing Section 4105. The final rule revises the effective date of the ICF/IID reimbursement rate rebasing schedule, from October 2017 to October 2018; and clarifies that the rate rebasing will always be based on the cost reports from the most recently audited year. The final rule also clarifies that, effective October 1, 2019 and every three years thereafter, the ICF/IID reimbursement rates will be updated based on the rebasing done in the previous fiscal year.

This rulemaking is needed to clarify DHCF's schedule for rebasing and updated ICF/IID reimbursement rates. No changes are being made to the methods or standards for setting ICF/IID reimbursement rates. DHCF does not anticipate any fiscal impact resulting from the implementation of these final rules.

These rules correspond to a related State Plan Amendment (SPA), which was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) on October 4, 2018 with an effective date of October 1, 2018. The corresponding SPA has been added to the District's Medicaid State Plan, which can be found on DHCF's website at https://dhcf.dc.gov/page/medicaid-state-plan.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 28, 2018 – Part 1 at 65 DCR 009997. DHCF received no comments and made no changes to these rules.

These final rules were adopted on December 21, 2018 and shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 41, MEDICAID REIMBURSEMENT FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsection 4102.6 of Section 4102, REIMBURSEMENT METHODOLOGY, is amended to read as follows:

4102.6 For dates of service on or after October 1, 2016 through September 30, 2017, final reimbursement rates for the residential component will be based on providers' FY 2014 cost reports subject to audit and adjustment by DHCF. Reimbursement rates shall be rebased in accordance with § 4105.

Section 4105, REBASING, is amended to read as follows:

4105 REBASING

4105.1 Effective October 1, 2018, and every three (3) years thereafter, reimbursement rates shall be rebased based on the cost reports from the most recently audited year, as determined by DHCF. Effective October 1, 2019, and every three (3) years thereafter, reimbursement rates shall be updated based on the rebasing done in the previous fiscal year.

4105.2 The rate schedule set forth in § 4102.16 shall be updated any time that the reimbursement rates are updated based on a rebasing, as described in § 4105.1. The rates for ICF/IID services, effective January 1, 2018, are included in the Medicaid Fee Schedule located on the DHCF website at: https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload.

OFFICE OF TAX AND REVENUE

NOTICE OF FINAL 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 § 47-1802.02 (2005 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. & 2018 Supp.)), 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 adoption of amendments to Chapter 11 (Qualified High Technology Company), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The newly amended regulations provide updated guidance related to the application for Qualified High Technology Company benefits. The guidance in this regulation is necessary to provide clarity to taxpayers attempting to comply with District franchise tax exemption requirements.

A version of these rules was originally published in the *D.C. Register* as a proposed rulemaking on November 2, 2018 at 65 DCR 12168. No public comments were received.

This rule was adopted as final on December 18, 2018 and will take effect immediately upon publication of this notice in the *D.C. Register*.

Chapter 11, QUALIFIED HIGH TECHNOLOGY COMPANY, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 1101, CERTIFICATION BY A QUALIFIED HIGH TECHNOLOGY COMPANY (QHTC), is amended to read as follows:

1101 BENEFIT APPLICATIONS FOR QUALIFIED HIGH TECHNOLOGY COMPANIES

1101.1 To claim a credit or other benefit, a Qualified High Technology Company shall be required each year to self-certify to obtain from the Deputy Chief Financial Officer a certificate of benefits. No tax exemptions or benefits shall be allowed without a valid certificate of benefits obtained prior to or concurrently with the filing of a return on which such benefits are claimed.

1101.2 A certificate of benefits shall be deemed to be attached to any tax return due and filed during the period for which the certificate of benefits is valid and unexpired.

1101.3 The issuance of a certificate of benefits does not prohibit the Office of Tax and Revenue from conducting an audit to insure compliance with the relevant Qualified High Technology Company statutes and definitions.

1101.4 Beginning with certificates of benefits issued on or after January 1, 2019, certificates of benefits issued to a Qualified High Technology Company

through an annual certification process shall be valid until the expiration date stated on the certificate.

1101.5 In order to receive a certificate of benefits, a Qualified High Technology Company shall follow the Office of Tax and Revenue's electronic self-certification process.

1101.6 All benefit applications filed by Qualified High Technology companies shall include, but are not limited to, the following information:

(a) Taxpayer ID Number;
(b) Name;
(c) Address;
(d) Sales Tax Account Number;
(e) NAICS Code;
(f) Information demonstrating QHTC eligibility;
(g) First year certified as QHTC;
(h) Explanation of principal business activity;
(i) Amount of QHTC Exempt Sales/Purchases from the prior year (broken down by period);
(j) Number of QHTC employees hired;
(k) Number of QHTC employees hired who are District residents;
(l) Schedules detailing QHTC employee credits
(m) Number of QHTC jobs created in the past year;
(n) Gross revenue; and
(o) Gross revenue earned from QHTC activities in the District.

DEPARTMENT OF MOTOR VEHICLES
DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Directors of the Department of Motor Vehicles and the District Department of Transportation, 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 5, 6, and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04, 50-921.05, and 50-921.06 (2014 Repl.)); Sections 6, 7, and 13 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03, 50-1401.01 and 50-1403.01 (2014 Repl. & 2018 Supp.)); Sections 105 and 107 of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law. 2-104; D.C. Official Code §§ 50-2301.05 and 50-2301.07 (2014 Repl.)); Mayor's Order 77-127, dated August 3, 1977; and Mayor's Order 79-32, dated February 15, 1979; hereby gives notice of the adoption of amendments to Chapter 3 (Cancellation, Suspension, or Revocation of Licenses), Chapter 7 (Motor Vehicle Equipment), Chapter 22 (Moving Violations), Chapter 26 (Civil Fines for Moving and Non-Moving Infractions), and Chapter 99 (Definitions) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

To help achieve the goal by the year 2024 of zero fatalities and serious injuries to travelers of the District's transportation system, and to create a safer transportation infrastructure in the District of Columbia through more effective use of data, education, enforcement, and engineering, these final rules amend Title 18 of the District of Columbia Municipal Regulations to establish side underride guard safety requirements for certain motor vehicles, to require motor vehicle operators to clear damaged but operational vehicles from the travel lanes, to require motor vehicle operators to move a lane over or slow down when approaching a first responder at the side of the road, to require motor vehicle operators to yield to buses merging into traffic, and to designate roadways adjacent to certain facilities as safe zones with a maximum speed limit of fifteen (15) miles per hour.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 11, 2015 at 62 DCR 15865. The original thirty (30)-day public comment period was extended from January 9, 2016 to February 1, 2016. A Notice of Second Proposed Rulemaking was published in the *D.C. Register* on January 20, 2017 at 64 DCR 550. The original 45-day public comment period was extended from March 6, 2017 to May 1, 2017. In addition, the Council of the District of Columbia held a public oversight roundtable on the first proposed rulemaking, on January 8, 2016, and a public oversight roundtable on the second proposed rulemaking on March 13, 2017.

The Department of Motor Vehicles (DMV) and the District Department of Transportation (DDOT) received public comments from 94 total commenters. Twenty-one of the comments were generally supportive of the proposed rules and 34 were generally in opposition. Comments that recommended a specific change to the second proposed rulemaking were thoroughly reviewed. General support for the second proposed rulemaking cited the opinion that the

proposed penalties for dangerous moving violations for all modes of transportation align within the context of the District's existing schedule of fines, while providing a fair yet strong deterrent for exceptionally dangerous behaviors. Likewise, supporters approved of the adjustment to the effective hours of safe zones, which were reduced to strike a balance of enhanced safety for vulnerable users and the efficient operation of the transportation network. Many supportive comments also noted approval of the reduction of proposed fine amounts.

DDOT and DMV also received significant comments that objected to the proposed rules. Many objecting comments claimed the entire rulemaking is unnecessary and would not achieve its desired outcomes. DDOT and DMV have determined that the importance of public safety and the proven deterrents to dangerous behaviors that underpin the second proposed rulemaking refute that objection. Some objecting comments did not approve of the addition and modification of violations and penalties for pedestrians and cyclists. After a comprehensive review of existing regulations in the District and in peer jurisdictions, DDOT and DMV evaluated behaviors and violations against some key factors. The first factor is the "riskiness" of the behavior, which pertains to the potential for the behavior to result in serious injury or worse for both self and others. The second factor is the "enforceability" and "intentionality" of the behavior, which refer to the ability to fairly enforce the violation and the common knowledge that a violation is illegal. After this review, DDOT and DMV concluded that the pedestrian and cyclist violations added or adjusted in the second proposed rulemaking are justified.

The final significant theme in objecting comments was a desire for proposed fine amounts to reflect what commenters believed would more accurately align with the potential harm of unlawful behaviors, as well as provide for greater consistency among fine amounts given a particular unlawful behavior's level of potential harm. As such, several comments suggested that proposed fines for motor vehicle operators exceeding the speed limit were too high. DDOT and DMV have reviewed local data and national research that confirms the dangers of speeding. Locally, speeding accounts for the highest percentage (42%) of all contributing factors involved in traffic fatalities from 2016 and 2017. The second proposed rulemakings identified this dangerous behavior accordingly, and calculated fine amounts that are consistent with national benchmarks and are proportional to the District's general schedule of fines for moving violations.

Based on the aforementioned review of public comment, DDOT and DMV have not made any alterations to the proposed rule. The final rulemaking addresses concerns raised throughout the public input process, regarding the appropriateness of violations and fine amounts, a balance among transportation modes, and income inequality. Therefore, the final rulemaking reflects no substantive changes from the text of the second proposed rulemaking. However, one non-substantive correction was made to the final rulemaking. The final rulemaking does not include the fine for colliding with a person operating a bicycle to $500, as was mentioned in the first notice of proposed rulemaking, because the Bicycle Safety Amendment Act of 2013, effective December 13, 2013 (D.C. Law 20-49; 60 DCR 15148 (November 1, 2013)) had already set this fine at $500.

Pursuant to Section 105 of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law. 2-104; D.C. Official Code § 50-2301.05 (2014 Repl.)), these

rules were submitted to Council for review and approval. Council approved these rules on December 7, 2018. The Directors adopted these rules as final on December 17, 2018, and they shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 3, CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 303, ESTABLISHMENT OF A POINT SYSTEM, is amended as follows:

Subsection 303.2 is amended by adding new paragraphs (ff), (gg) and (hh), to read as follows:

(ff) Failing to move over or proceed with due caution when an authorized emergency vehicle is stopped on the side of the road. 6 points

(gg) Failure to proceed with due caution when approaching an incident in the roadway. 3 points

(hh) Overtaking another vehicle stopped at a crosswalk or intersection for a pedestrian. 3 points

Chapter 7, MOTOR VEHICLE EQUIPMENT, is amended by adding a new Section 758, SIDE GUARDS, to read as follows:

758 SIDE GUARDS

758.1 Commercial motor vehicles registered in the District with a manufacturer's gross vehicle weight rating exceeding ten thousand pounds (10,000 lbs.) shall be equipped with a side guard. The requirement imposed by this subsection shall apply twenty-four (24) months after the effective date of this subsection.

758.2 Pursuant to US Department of Transportation Volpe Side Guard Standard (US DOT Standard DOT-VNTSC-OSTR-16-05: (https://rosap.ntl.bts.gov/view/dot/12371), side guards shall allow for a maximum thirteen-point-eight inch (13.8") ground clearance, maximum thirteen-point-eight inch (13.8") top clearance; be up to four feet (4') in height; and have a minimum impact strength of four hundred and forty pounds (440 lbs.); achieve a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall. Side guards may include rail style guards, provided that such rails shall be no less than four inches (4") tall and no more than eleven-point-eight inches (11.8") apart; and may incorporate other vehicle features such as tool boxes and ladders.

Chapter 22, MOVING VIOLATIONS, is amended as follows:

Section 2200, SPEED RESTRICTIONS, is amended as follows:

Subsection 2200.8 is amended to read as follows:

2200.8 On all roadways adjacent to school facilities and grounds serving youth, the maximum lawful speed shall be fifteen miles per hour (15 mph) at the times indicated on official signs. When no times are indicated on official signs, the maximum lawful speed shall be fifteen miles per hour (15 mph) from 7:00 AM to 11:00 PM.

Subsection 2200.9 is amended to read as follows:

2200.9 On roadways adjacent to a playground, recreational facility, pool, athletic field, or senior center designated by official signs, the maximum lawful speed shall be fifteen miles per hour (15 mph) at the times indicated on official signs. When no times are indicated on official signs, the maximum lawful speed shall be fifteen miles per hour (15 mph) from 7:00 AM to 11:00 PM.

Subsection 2200.12 is amended to read as follows:

2200.12 Any individual who shall drive a vehicle on a roadway or highway at a speed greater than thirty miles per hour (30 mph) in excess of the legal speed limit for such roadway or highway shall, upon conviction, be fined not more than the amount set forth in the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned not more than ninety (90) days, or both, provided that if the vehicle is detected through the use of an automated traffic enforcement system of traveling at a speed greater than thirty miles per hour (30 mph) in excess of the legal speed limit, the owner shall be liable for the fine established in Section 2600 of this title.

Section 2207, RIGHT-OF-WAY: BETWEEN INTERSECTIONS, is amended by adding a new Subsection 2207.5 to read as follows:

2207.5 Motor vehicle operators approaching from the rear or approaching from the lane adjacent to a transit bus shall yield the right-of-way to the transit bus when the transit bus signals its intention to re-enter traffic. This section does not relieve an operator of a transit bus from the duty to drive with due regard for the safety of all persons using the roadway.

Section 2210, EMERGENCY VEHICLES AND APPARATUS, is amended as follows:

The section heading is amended to read as follows:

2210 EMERGENCY VEHICLES AND APPARATUS; TRAFFIC INCIDENTS

New Subsections 2210.6 through 2210.8 are added to read as follows:

2210.6 Upon approaching a collision or mechanical breakdown, every operator shall proceed with due caution, reduce speed as appropriate for road conditions, and, as soon as it is safe to do so, vacate any lane wholly or partially blocked.

2210.7 Upon approaching a stationary authorized emergency vehicle making use of audible or visual signals, an operator who drives an approaching vehicle proceeding in the same direction as the authorized emergency vehicle shall (unless directed otherwise by an authorized official directing traffic):

(a) If on a roadway having at least two (2) lanes of travel in the direction of the approaching vehicle, make a lane change into a lane not adjacent to that of the authorized emergency vehicle, if the operator can do so safely and if traffic conditions permit, and in all events proceed with due caution, until safely past the authorized emergency vehicle; or

(b) If on a roadway with one (1) lane of travel in the direction of the approaching vehicle, proceed with due caution, maintaining a safe speed for road conditions, until safely past the authorized emergency vehicle.

2210.8 Notwithstanding Subsections 2210.6 and 2210.7, when at or approaching a collision, mechanical breakdown, or a stationary authorized emergency vehicle making use of audible or visual signals, every operator shall obey the directions of any authorized official directing traffic.

A new Section 2225, AVOIDANCE OF LANE BLOCKAGE – EXPEDITIOUS REMOVAL OF VEHICLES, is added to read as follows:

2225 AVOIDANCE OF LANE BLOCKAGE – EXPEDITIOUS REMOVAL OF VEHICLES

2225.1 No person shall stop or park a vehicle in such manner as to impede or render dangerous the use of a roadway by others, except to avoid a collision, at the direction of an authorized official, or in the case of an incident or mechanical breakdown.

2225.2 In the event of a collision or mechanical breakdown of a motor vehicle, the operator of the vehicle shall activate the emergency flashing lights and shall move the vehicle from the roadway as soon as it is safe to do so and only as far as is necessary to prevent obstructing the regular flow of traffic.

2225.3 Removal of a vehicle from the roadway in accordance with Subsection 2225.2 shall in no way affect responsibility for the collision or mechanical breakdown.

2225.4 An operator who moves a vehicle from a roadway in accordance with Subsection 2225.2 shall not be considered to have interfered with or prevented a police investigation of the collision or mechanical breakdown.

Chapter 26, CIVIL FINES FOR MOVING AND NON-MOVING INFRACTIONS, is amended as follows:

Section 2600, CIVIL FINES FOR MOTOR VEHICLE MOVING INFRACTIONS, is amended as follows:

Subsection 2600.1 is amended as follows:

(1) The following infraction and fine are added after the category "School Bus, Passing stopped bus or multi-purpose school vehicle when light flashing or stop signal arm activated" and its associated infractions and fines:

Side guard, Failure to have or maintain [§ 758.1]	$100.00

(2) Under the header "Speeding":

(a) Strike the row:

Over 25 mph in excess of limit [§ 2200]	$300.00

and insert the following rows in its place:

Over 25 mph in excess of limit on controlled access roadways [§ 2200]	$400.00
Over 25 mph in excess of limit on non-controlled access roadways [§ 2200]	$500.00

(b) The following infractions and fines are added after the row listing the infraction "Unreasonable":

School Zones [§ 2200.8]	$100.00
Playground, recreational facility, pool, athletic field, or senior center [§ 2200.9]	$100.00

(3) Strike the row:

Stop sign, Passing [§ 2208.3]	$50.00

and insert the following row in its place:

Stop sign, Passing [§ 2208.3]	$100.00

(4) Under the header "Right-of-way", the following infraction is added after the row listing the infraction "Failure to yield right-of-way to a person operating a bicycle":

Failure to yield right-of-way to transit bus [§ 2207.5]	$100.00

(5) Under the header "Lane or Course", the following infractions are added after the row listing the infraction "Improper use of Restricted":

Failure to yield right-of-way to transit bus [§ 2207.5]	$100.00
Failure to yield right of way and proceed with due caution around a stationary authorized emergency vehicle [§ 2210.6]	$100.00
Failure to proceed with caution and reduced speed when approaching an incident [§ 2210.7]	$100.00
Failure to proceed with caution through an incident [§ 2210.8]	$100.00

(6) Under the header "Right Turn on Red", strike the rows:

Failure to come to a complete stop before turning [§ 2103.7]	$50.00
Failure to yield right-of-way to vehicle or pedestrian [§ 2103.7]	$50.00
Violation of "No Turn on Red" sign [§ 4013]	$50.00

and insert the following rows in their place:

Failure to come to a complete stop before turning [§ 2103.7]	$100.00
Failure to yield right-of-way to vehicle or pedestrian [§ 2103.7]	$100.00
Violation of "No Turn on Red" sign [§ 4013]	$100.00

(7) Under the header "Right-of-way":

(a) Strike the row:

Failure to stop and give right-of-way to pedestrian in roadway [§ 2208]	$75.00

and insert the following row in its place:

Failure to stop and give right-of-way to pedestrian in roadway [§ 2208]	$150.00

(b) Strike the row labeled:

Overtaking another vehicle stopped at a crosswalk or intersection for a pedestrian [§ 2221.5]	$250.00

and insert the following row in its place:

Overtaking another vehicle stopped at a crosswalk or intersection for a pedestrian [§ 2221.5]	$500.00

(c) Strike the row labeled:

Stopping, standing, or parking a vehicle in a bicycle lane [§ 2405.1]	$65.00

and insert the following row in its place:

Stopping, standing, or parking a vehicle in a bicycle lane [§ 2405.1]	$150.00

(8) Strike the row labeled:

Median strip, channelizing island or safety zone (raised with curb), driving on or over [§ 2201.8]	$100.00

and insert the following row in its place:

Median strip, channelizing island or safety zone (raised with curb), driving on or over [§ 2201.8]	$200.00

(9) Strike the row:

Sidewalk, Driving on or over [§ 2221.3]	$50.00

and insert the following row in its place:

Sidewalk, Driving on or over [§ 2221.3]	$150.00

(10) Strike the row labeled:

Opening door or permitting door to open on traffic side [§ 2214.4]	$25.00

and insert the following row in its place:

Opening door or permitting door to open on either side that poses danger to a pedestrian, bicyclist, or motor vehicle [§ 2214.4]	$50.00

Section 2602, BICYCLE INFRACTIONS, is amended as follows:

Subsection 2602.1 is amended as follows:

(1) Strike the following row:

Carrying objects which prevent operator from keeping one hand on handle bars (§ 1201.6)	$ 25.00

and insert the following row in its place:

Carrying objects, including handheld communication devices, which prevent operator from keeping one hand on handle bars (§ 1201.6)	$ 50.00

(2) After the row listing the infraction "Carrying objects, including handheld communication devices, which prevent operator from keeping one hand on handle bars", insert the following new rows:

Colliding with a pedestrian crossing the roadway with the right-of-way § 1201.9)	$150
Colliding with a pedestrian while riding a bicycle on a sidewalk (§ 1201.9)	$ 100.00

(3) Strike the following row:

Hitching on vehicle (§ 1201.16)	$ 25.00

and insert the following row in its place:

Hitching on vehicle (§ 1201.16)	$ 50.00

(4) After the row listing the infraction "Riding abreast, obstructing traffic", insert the following new row:

Riding with a headset, headphones, or earplugs covering both ears (§ 1201.9)	$ 50.00

(5) Strike the following row:

Right-of-way, failure to yield (§ 1201.10ff)	$ 25.00

and insert the following row in its place:

Right-of-way, failure to yield (§ 1201.10ff)	$ 50.00

(6) Strike the following row:

Speed, excessive (§ 1201.8)	$ 25.00

and insert the following row in its place:

Speed, excessive (§ 1201.8)	$ 50.00

Section 2603, PEDESTRIAN INFRACTIONS, is amended as follows:

Subsection 2603.1 is amended as follows:

(1) Strike the following row:

Path of a vehicle, Walk suddenly into [§ 2303.2]	$ 10.00

and insert the following row in its place:

Path of a vehicle, without the right-of-way, walk suddenly into and collide with [§ 2303.2]	$ 100.00

(2) Under the header "Right-of-way", strike the following row:

Fail to yield to an emergency vehicle [§ 2305.6]	$ 10.00

and insert the following row in its place:

Fail to yield to an emergency vehicle engaged in emergency response or patient transport using audible and/or visual emergency signals [§ 2305.5]	$ 100.00

Chapter 99, DEFINITIONS is amended as follows:

Section 9901, DEFINITIONS, Subsection 9901.1, is amended by inserting the following new definitions in alphabetical order:

Incident- a roadway emergency or collision, a natural disaster, a special event, or where authorized officials impose a temporary traffic control zone.

Side guard- a device fit to the side of a large vehicle designed to prevent pedestrians and bicyclists from falling into the exposed space between the front axle and the rear axle of such vehicle.

Transit bus- a Washington Metropolitan Area Transit Authority bus or D.C. Circulator bus.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING[1]
Z.C. Case No. 17-03
Office of Planning
(Text Amendments to Subtitles A, Sections 301.5(a) & 301.7
(re: processing of building permit applications filed prior
to a Zoning Commission vote to setdown a map amendment or that
are authorized by a Zoning Commission or Board of Zoning Adjustment
contested case order))
December 3, 2018

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

Subtitle A § 301.5 governs how building permit applications are processed when a map amendment to rezone the site is pending before the Commission. The crucial date is the date upon which the Commission votes to set down the case for a hearing (Setdown Date).

Paragraph 301.5(a) provides that building permit applications filed on or before the Setdown Date that are sufficiently complete to permit processing without substantial change or deviation are processed in accordance with Subtitle A § 301.4. Subsection 301.4 is the general vesting rule and provides that construction rights are vested as of the day a building permit is issued. Thus, a building permit application that is filed before the Setdown Date is processed in accordance with its existing zone designation unless the proposed map amendment is adopted while the application is still in process, in which case the new designation applies. Since this is always the case, § 301.5(a) is not a vesting rule.

Paragraph 301.5(b), which is not being amended, is an exception to the general vesting rule because it requires that building permit applications filed after the Setdown Date and being processed while the map amendment case is still pending, must be processed in accordance with whichever is the most restrictive, either the zone classification being considered for the site or, the site's current zone classification. If the map amendment takes effect before a permit is issued, the application becomes subject to the adopted designation. Paragraph 301.5(b) is known as the "Setdown Rule".

Subtitle A § 301.7 is also an exception to the general vesting rule because it vests construction rights for building permits authorized by the Board of Zoning Adjustment (BZA) as of the date of the BZA vote approving the application. The adopted amendments would extend this vesting to building permits authorized by Commission contested case orders. The amendments also

[1] For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 17-03.

clarify that the vesting is limited to the extent the proposed building or structure is depicted on the plans approved by the Commission or BZA.

The Commission is aware that building permit applicants have sometimes attempted to convince the Zoning Administrator that the BZA or the Commission has approved zoning relief not expressly stated in an order, because the approved plans show other areas where such relief is needed. To remedy this, the adopted rules provide that no BZA or Commission order is deemed to include relief from any zoning regulation unless such relief was expressly requested by the applicant and expressly granted in the order. A similar provision already exists for planned unit developments, 11-X DCMR § 310.1.

On October 22, 2018, upon the motion of Chairman Hood, as seconded by Commissioner Shapiro, the Zoning Commission took Proposed Action to authorize a notice of proposed rulemaking 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).

A Notice of Proposed Rulemaking for this case was published in the *D.C. Register* on November 2, 2018, at 65 DCR 012170. In response, the Commission received comments from Advisory Neighborhood Commission ("ANC") 6C and from the law firm of Holland & Knight.

As to the ANC, its comment indicated that on November 14, 2018, at a duly noticed and regularly scheduled monthly meeting, with a quorum of five out of six commissioners and the public present, the commissioners voted 5-0 to adopt the positions set out in its letter. As such, the Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2016 Repl.)) to give great weight to the issues and concerns raised the ANC's written comments.

The ANC expressed two concerns with respect to the proposed amendments to § 301.5(a). First, the ANC objected to adding the phrase "and under review." after the phrase "is officially accepted as being complete." The ANC noted that the Commission has occasionally adopted provisions shielding building applications from the rules that became effective while the application was still pending. (*See* 11-A DCMR §§ 301.9 through 301.15.) Each of these provisions establishes a date by which such applications must have been "filed by and accepted as complete." Those dates are July 17, 2014, February 1, 2015, June 26, 2015, November 19, 2015, March 27, 2017, and August 17, 2018. Since none of these provisions includes the phrase "and under review" the ANC is concerned that any building permits still pending will be vested before review begins.

Second, the ANC addresses the proposed amendment in § 301.5(a)(2), which identifies the circumstances when a protected building permit application would lose its protection and become subject to the Setdown Rule. One such circumstance is if an application is amended to deviate from the submitted plans. The rule allows for exceptions, including an exception for deviations that "increase the extent to which the proposed structure complies with matter of right standards under the existing zone designation." The ANC is concerned that this will encourage applicants to file applications containing careless or even intentional zoning violations because they could be cured with no penalty.

The comments from Holland and Knight reiterate points made in its hearing testimony and propose an amendment to the general vesting provision stated at 11-A DCMR§ 301.4 to move the construction rights vesting date from the date of permit issuance to the date that the building permit application is officially accepted as being complete and under review. The comments suggest it is illogical to vest non-matter of right projects on the date of a BZA vote, while delaying the vesting of matter of right projects until permit issuance. The comments indicate that considerable time and money is spent preparing plans filed as part of a building permit application and that such expenditures should not be put at risk by delaying vesting until that date of permit issuance.

On December 3, 2018, upon the motion of Chairman Hood, as seconded by Commissioner Shapiro, the Zoning Commission took Final Action to adopt the amendments as proposed at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve; and Robert E. Miller to approve by absentee ballot).

Prior to taking final action the Commission discussed the comments received from ANC 6C and Holland and Knight.

As to the ANC concern over the inclusion of the "under review" phrase, the Commission gave that phrase considerable attention during the hearing and was convinced by DCRA and Office of Planning representatives that adding that phrase would allow the Zoning Administrator to better pinpoint the precise date of vesting. Whether that phrase should be added to provisions with vesting dates ranging from July 2014 to August of this year goes beyond the scope of this proceeding, and therefore would require a new advertisement and hearing. The Commission wishes to proceed with the amendments before it.

The ANC also asserts that the deviation permitted by § 301.5(a)(2)(B) would encourage the filing of applications containing careless or even intentional zoning violations because they could be cured with no penalty. The Commission disagrees and finds that the proposed language clearly encompasses only deviations to already compliant plans because such deviations must "increase the extent to which the proposed structure complies." For this reason, the Commission finds the ANC's advice to be unpersuasive.

As to the Holland and Knight comments, the submission concedes its proposed amendment to 11-A DCMR § 301.4 exceeds the scope of this case and, as just stated, the Commission does not wish to delay adoption of the amendments that were advertised and heard.

The following amendments to the text of Title 11 DCMR (Zoning Regulations of 2016) are adopted:

Section 301, BUILDING PERMITS, of Chapter 3, ADMINISTRATION AND ENFORCEMENT, of Subtitle A, AUTHORITY AND APPLICABILITY, is amended as follows:

Subparagraph (a) of Subsection 301.5 is amended and new subparagraphs (a)(1) and (a)(2) are added as follows:

301.5 If an application for a type of building permit enumerated in Subtitle A § 301.6 is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone classification of the site of the proposed construction, the processing of the application and the completion of work pursuant to the permit shall be governed as follows:

(a) If one (1) of the building permit applications listed in Subtitle A § 301.6 is officially accepted as being complete and under review by the Department of Consumer and Regulatory Affairs on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by the property's existing zoning classification pursuant to Subtitle A § 301.4. However, if no building permit has been issued prior to the date that the zoning map amendment becomes effective, the building permit application shall be processed in accordance with the adopted zoning map amendment. The building permit application shall:

(1) Be accompanied by any fee that is required, and by the plans and other information required by Subtitle A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation, and by any other plans and information that are required to permit complete review of the entire application under any applicable District of Columbia regulations; and

(2) Be sufficiently complete to permit processing without changing the proposed use or increasing the intensity of the use, and without deviations from submitted plans, except for plan deviations that:

(A) Address the requirements of the Construction Codes (12 DCMR); or

(B) Increase the extent to which the proposed structure complies with matter of right standards under the existing zone designation, such as by:

(i) Reducing lot occupancy, gross floor area, building height, penthouse height, the number of stories or number of units; or

(ii) Increasing the size of yards or other setbacks from property lines.

. . .[2]

Subsection 301.7 is amended as follows:

301.7 All applications for building permits authorized by orders of the Board of Zoning Adjustment, or authorized by orders of the Zoning Commission in a contested case, may be processed in accordance with the Zoning Regulations and Zoning Map in effect on the date the vote was taken to approve the Board or Commission application, to the extent the proposed building or structure is depicted on any plans approved by the Board or Commission. No Board of Zoning Adjustment or Zoning Commission order shall be deemed to include relief from any zoning regulation unless such relief was expressly requested by the applicant and expressly granted in the order

The amendments shall become effective upon publication of this notice in the *D.C. Register*; that is, on January 4, 2019.

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING[1]
Z.C. Case No. 17-18
Office of Planning
(Text Amendment to Subtitle B Regarding the Measurement of Floor Area Ratio)
November 19, 2018

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of the adoption of an amendment to Subtitle B (Definitions, Rules of Measurement, and Use Categories), of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR) to add a new § 304.6.

Through a notice of final rulemaking published in the *D.C. Register* on August 17, 2018, at 65 DCR 008555, the Commission adopted rules which, among other things, amended Subtitle B §§ 304.4 and 304.5 to identify when the "perimeter wall" method or the "grade plane" method is used to measure the gross floor area of a partially below-grade building. In response to comments received at the public hearing held on February 22, 2018, the Office of Planning proposed adding a new subsection to § 304 to provide that when the finished floor of a building's ground floor is removed or altered in elevation in association with a renovation, the higher of previously existing or new finished floor of the ground floor is to be used for calculating the gross floor area pursuant to §§ 304.4 and 304.5. Although the Commission agreed to include the proposed provision when it voted to take proposed action on this case, the provision was inadvertently omitted from the Notices of Proposed Rulemaking and Final Rulemaking.

A second Notice of Proposed Rulemaking including the proposed provision was published in the *D.C. Register* on September 28, 2018 – Part 1, at 65 DCR 009992. In response, the Commission received no comments.

On November 19, 2018, upon the motion of Commissioner May, as seconded by Chairman Hood, the Zoning Commission took Final Action to adopt the amendments as proposed at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Michael G. Turnbull, and Peter G. May to approve).

The following amendment to Title 11 DCMR is adopted:

Chapter 3, GENERAL RULES OF MEASUREMENT, of Title 11-B DCMR, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

Section 304, RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA), is amended to add a new § 304.6 to read as follows:

[1] For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 17-18(1).

304.6 For a building where the finished floor of the ground floor is removed or altered in elevation in association with a renovation where a raze of the building has not occurred, the higher of previously existing or new finished floor of the ground floor shall be used for calculating the gross floor area pursuant to 11-B DCMR §§ 304.4 and 304.5.

The amendments shall become effective upon publication of this notice in the *D.C. Register*; that is on January 4, 2019.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING[1]
Z.C. Case No. 18-05
(WMATA – Map Amendment and Text Amendment @ Square 487, Lot 17)
November 19, 2018

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2016 Rep1.)), hereby gives notice of the adoption of amendments to amend the Zoning Map to rezone lot 17 in Square 487 ("Property") from the D-2 to the D-5-R zone, and to amend the text of Subtitle I (Downtown (D) Zones) of Title 11 DCMR (Zoning Regulations of 2016) to make any future residential density on the Property subject to the Inclusionary Zoning Regulations set forth in Chapter 10 of Subtitle C, which do not apply to D-5-R properties.

On October 1, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took Proposed Action to authorize a notice of proposed rulemaking, which was published in the *D.C. Register* on October 19, 2018, at 65 DCR 11771, 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). No comments were received.

On November 19, 2018, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took Final Action to adopt the amendments as proposed at its public meeting 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).

The following rulemaking action is taken:

The Zoning Map is amended to rezone the Lot 17 in Square 487 from the D-2 to the D-5-R zone.

The following amendments to the text of Title 11 DCMR (Zoning Regulations of 2016) are adopted:

Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of 11-I DCMR, DOWNTOWN (D) ZONES, is amended as follows:

Subsection 547.3, of § 547, DENSITY - FLOOR AREA RATIO (FAR) (D-5-R), is amended as follows:

547.3 Except for Square 487, residential density in the D-5-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

The amendments shall become effective upon publication of this notice in the *D.C. Register*; that is on January 4, 2019.

[1] For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 18-05.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING[1]
Z.C. Case No. 18-09
Office of Planning
(Text Amendment to 11 DCMR Subtitle B, § 307.6 (Measuring Height in Non-Residential Zones for Buildings 90'+) and Subtitle U, § 502.1 (Adding Art Gallery & Museum to Matter-of-Right Use Group A))
November 19, 2018

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2016 Rep1.)), hereby gives notice of the adoption of amendments to amend Subtitles B (Definitions, Rules of Measurement, and Use Categories) and U (Use Permissions) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

Specifically, the Zoning Commission amends 11-B DCMR § 307.6 to change the building height measurement point (BHMP) for those nonresidential zones in which the height of building is permitted to be ninety feet (90 ft.) or greater. At present the BHMP for those zones is the finished grade at the middle of the front of the building. As noted by the Office of Planning in its report that initiated this case, the intent of the section, in both the 1958 and the 2016 regulations, has been to exclude the four-foot parapet walls from the measurement. However, the inadvertent introduction of "finished grade" as a measuring point for buildings ninety feet (90 ft.) and taller, in the Zoning Regulations of 2016 created a new and unprecedented means of measuring height for the taller buildings that was not specifically discussed or referenced in the three (3) years of public hearings that led to the adoption of the new regulations. Therefore, the Commission changes the BHMP to the level of the curb, opposite the middle of the front of the building.

The Commission also amends 11-U DCMR § 502.1 to add "Art gallery and museum" to the list of uses permitted as a matter of right in MU Use Group A. In its report, the Office of Planning noted that in the 1958 regulations, museum use was first permitted in the R-4 zones (11 DCMR § 330.5(h)). The use consequently was carried through to the R-5 zones (11 DCMR § 350.4), to the SP zones (11 DCMR § 501.1), and the Commercial zones (11 DCMR § 701.2). As part of the process that led to the adoption of the Zoning Regulations of 2016, museum use was determined to be more of a public entertainment use and not compatible with the primarily residential nature of the RF (Residential Flat) zones. However, the use was permitted as a special exception use in the RA (Residential Apartment) zones. The use therefore did not transfer forward as a matter-of-right use to Use Group A (the previous SP zones) and the Commission cures this unintended omission by making art galleries and museums matter-of-right uses in MU Use Group A.

[1] For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 18-09.

On September 6, 2018, upon the motion of Commissioner Shapiro, as seconded by Commissioner Turnbull, the Zoning Commission took Proposed Action to authorize a notice of proposed rulemaking by a vote of 4-0-1 (Anthony J. Hood, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve; Robert E. Miller, not present, not voting).

A Notice of Proposed Rulemaking for this case was published in the *D.C. Register* on September 28, 2018 – Part 1, at 65 DCR 9994. No comments were received.

On November 19, 2018, upon the motion of Commissioner Shapiro, as seconded by Chairman Hood, the Zoning Commission took Final Action to adopt the amendments as proposed at its public meeting 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).

The following rulemaking action is taken.

The following amendments to the text of Title 11 DCMR (Zoning Regulations of 2016) are adopted:

Chapter 3, GENERAL RULES OF MEASUREMENT, of Title 11-B DCMR, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

Subsection 307.6 of § 307, RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES, is amended as follows:

307.6 In those zones in which the height of a building is permitted to be ninety feet (90 ft.) or greater, the BHMP shall be established at the level of the curb, opposite the middle of the front of the building and the building height shall be measured from the BHMP to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.

Chapter 5, USE PERMISSIONS MIXED-USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended as follows:

Subsection 502.1 of § 502, MATTER-OF-RIGHT USES (MU-USE GROUP A), is amended by amending paragraphs (k) and (l), and adding a new paragraph (m) to read as follows:

502.1 In addition to the uses permitted by Subtitle U § 501, the following uses shall be permitted in MU-Use Group A as a matter of right subject to any applicable conditions:

…[2]

[2] This ellipse signifies that other paragraphs exist in § 502.1 and that the omission of those paragraphs does not signify the intent to repeal.

(k) Trade or any other school;

(l) Utilities limited to only telephone exchange, electric substation using non-rotating equipment, and natural gas regulator station; and

(m) Art gallery and museum.

The amendments shall become effective upon publication of this notice in the *D.C. Register*; that is on January 4, 2019.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF PROPOSED 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 proposed rulemaking action to adopt amendments to Chapter 42 (The Fair Elections Program) and Chapter 43 (The Verification Process), of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

These amendments will place the Board's regulations into conformity with the Campaign Finance Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; 59 DCR 1862 (May 18, 2012)); as amended by the Fair Elections Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-94; 65 DCR 2847 (March 23, 2018)). This rulemaking is necessary because the provisions of the aforementioned Act are in effect and require supporting regulations.

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

Chapter 42, THE FAIR ELECTIONS PROGRAM, of Title 3 DCMR, ELECTIONS AND ETHICS, is added in its entirety to read as follows:

CHAPTER 42 THE FAIR ELECTIONS PROGRAM

4200 THE FAIR ELECTIONS PROGRAM

4200.1 The provisions of this chapter shall govern the procedures of the Office of Campaign Finance for the public financing of political campaigns provided by the Fair Elections Amendment Act of 2018 (the Fair Elections Act), as amended, and known as the Fair Elections Program.

4200.2 The Fair Elections Program established in the Office of Campaign Finance is voluntary.

4200.3 The Fair Elections Program applies to candidates for the covered offices of Mayor, Attorney General, Chairman of the Council, member of the Council, and member of the State Board of Education.

4200.4 Candidates seeking to participate in the Fair Elections Program must meet the threshold requirements under § 4205 of this chapter.

4201 REGISTRATION OF CANDIDATE

4201.1 An individual shall be considered a candidate when he or she:

(a) Receives a campaign contribution;

(b) Makes a campaign expenditure;

(c) Obtains nominating petitions;

(d) Authorizes any person to perform any of the above acts; or

(e) Fails to disavow in writing to the Director any of the above acts by any other person within ten (10) days after written notification by the Director.

4201.2 Each candidate shall, within five (5) days after becoming a candidate under § 4201.1, file a Statement of Candidacy form that indicates:

(a) Whether a principal campaign committee will be designated; and

(b) Whether the candidate intends to seek certification as a participating candidate of the Fair Elections Program.

4201.3 Each candidate who indicates on the Statement of Candidacy that a principal campaign committee will be designated on his or her behalf shall provide the following information on the Statement of Candidacy form:

(a) The name of the principal campaign committee;

(b) The names of any other authorized committees in § 3000.7; and

(c) The names of the national bank(s) located in the District of Columbia that have been designated as the candidate's campaign depository.

4201.4 The candidate shall commence filing personal Reports of Receipts and Expenditures (R&E Report) in accordance with § 4212, unless reporting is otherwise exempted or waived pursuant to § 4201.5, and certify by oath or affirmation, subject to penalties of perjury, the following statements:

(a) The candidate has used all reasonable diligence in the preparation of the report and the report is true and complete to the best of the candidate's knowledge; and

(b) The candidate has used all reasonable due diligence to ensure that the candidate and the candidate's principal campaign committee are in compliance with the Fair Elections Program's requirements, and the authorized committees under § 3000.7 have advised their contributors of the obligations imposed on those contributors by the Fair Elections Act.

4201.5 A candidate who has designated a principal campaign committee may apply, on a Request for Candidate Waiver form, for a waiver from filing reports separate from the candidate's committee.

4201.6 The Director may grant a waiver of the filing and reporting requirements upon certification by a candidate that, within five (5) days after personally receiving any contribution, the candidate shall surrender possession of the contribution to the principal campaign committee without expending any of the proceeds from the contribution.

4201.7 A candidate who is granted a waiver shall not make any non-reimbursed expenditures for the campaign except in accordance with § 4201.8.

4201.8 A candidate may use personal funds to make an expenditure to the candidate's designated principal campaign committee. The principal campaign committee shall report the expenditure as a contribution received from the candidate and, if accompanied by a written instrument attesting thereto, as a loan pursuant to § 4209.3.

4201.9 The waiver from filing and reporting shall continue in effect as long as the candidate complies with the conditions under which it was granted.

4201.10 Each individual who ceases to become a candidate seeking certification or a participating candidate shall immediately file a Statement of Candidate Withdrawal form upon termination of the candidacy.

4202 MANDATORY TRAINING

4202.1 The candidate and the treasurer of the candidate's principal campaign committee shall appear in person at the Office of Campaign Finance to attend a training program conducted by the Director.

4202.2 At the discretion of the Director, the Office of Campaign Finance may provide online training materials to supplement the in-person training program.

4202.3 Each candidate shall attend the Office of Campaign Finance training program within fifteen (15) calendar days of submitting the Statement of Candidacy form in accordance with § 4201.

4202.4 The treasurer of the candidate's principal campaign committee shall attend the Office of Campaign Finance training program within fifteen (15) calendar days of submitting the Statement of Acceptance of Treasurer form in accordance with § 4203.9.

4202.5 Each candidate and treasurer participating in the Office of Campaign Finance training program shall affirm by signature and oath to follow the District's campaign finance laws at the conclusion of the training program.

4202.6 The Director shall publish the names of all training program participants on the Office of Campaign Finance website for public viewing.

4203 PRINCIPAL CAMPAIGN COMMITTEE

4203.1 Candidates seeking certification and participating candidates of the Fair Elections Program shall designate one (1) principal campaign committee, per covered office, per election cycle.

4203.2 Only a candidate's designated principal campaign committee and its authorized committees shall accept contributions or make expenditures on behalf of that candidate.

4203.3 A candidate's designation of a committee on the candidate's Statement of Candidacy form filed under § 3002.2 constitutes agreement to form a political committee.

4203.4 Any political committee designated by a candidate on the Statement of Candidacy form filed under § 4201.2 to receive contributions or make expenditures on behalf of the candidate, shall include the name of the candidate for elective office in the District of Columbia in its name.

4203.5 Each Principal Campaign committee shall file a Statement of Organization form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), within ten (10) days of organization.

4203.6 A Principal Campaign committee shall amend its Statement of Organization within ten (10) days of any change in the information previously reported on its Statement of Organization.

4203.7 If a Principal Campaign committee that has filed at least one (1) Statement of Organization disbands or determines that it will no longer receive contributions or make expenditures during a calendar year, it must so notify the Director immediately and file a final Report of Receipts & Expenditures (R&E Report).

4203.8 A Principal Campaign committee shall have a chairperson and a treasurer, and may elect to list a designated agent, in the Statement of Organization filed pursuant to § 4203.5.

4203.9 No person may simultaneously serve as the chairperson and treasurer of a Principal Campaign committee, except a candidate.

4203.10 A chairperson shall be required to file a Statement of Acceptance of Position of Chairperson form with the Director within five (5) days of assuming the office.

4203.11 A chairperson shall be required to file a Statement of Withdrawal of Position of Chairperson form with the Director within five (5) days of vacating the office.

4203.12 A treasurer shall be required to file a Statement of Acceptance of Position of Treasurer form with the Director within forty-eight (48) hours of assuming the office.

4203.13 A treasurer shall be required to appear in person at the Office of Campaign Finance to attend a training program pursuant to § 3001 of Chapter 30, and § 4202 of this chapter within fifteen (15) calendar days of submitting the Statement of Acceptance of Treasurer form in accordance with § 4203.12, or as otherwise scheduled by OCF.

4203.14 A treasurer shall be required to file a Statement of Withdrawal of Position of Treasurer form with the Director within forty-eight (48) hours of vacating the office.

4203.15 When either the office of chairperson or treasurer is vacant, the Principal Campaign committee shall:

(a) Designate a successor chairperson or treasurer within five (5) days of the vacancy; and

(b) Amend its Statement of Organization within ten (10) days of the designation of the successor; provided that the successor officer agrees to accept the position.

4203.16 The treasurer of a Principal Campaign committee shall obtain and preserve receipted bills and records in accordance with § 3400.2 of Chapter 34 of this title.

4203.17 A Principal Campaign committee shall neither accept a contribution nor make an expenditure while the office of treasurer is vacant, and no other person has been designated and agreed to perform the functions of treasurer.

4203.18 Each expenditure made for, or on behalf of, a Principal Campaign committee shall be authorized by either:

(a) The chairperson;

(b) The treasurer; or

(c) Their designated agent, as listed on the Statement of Organization filed under § 4203.5

4203.19 No expenditures may be made by a Principal Campaign committee except by check drawn payable to the person to whom the expenditure is being made on the account at a bank designated by the Principal Campaign committee as its depository in its Statement of Organization.

4203.20 A detailed account of each contribution or expenditure received or made on behalf of a Principal Campaign committee shall be submitted to the treasurer of such committee within five (5) days of the receipt of the contribution or the making of the expenditure upon the treasurer's demand.

4203.21 The detailed account submitted pursuant to § 4203.20 shall include:

(a) The amount of the contribution or expenditure;

(b) The name and address (including the occupation and principal place of business, if any) of the contributor or the person (including a business entity) to whom the expenditure was made;

(c) The date of the contribution; and

(d) In the case of an expenditure, the office sought by the candidate on whose behalf the expenditure was made, if applicable.

4203.22 All funds of a Principal Campaign committee shall be segregated from, and may not be commingled with, the candidate's, or anyone's personal funds.

4203.23 Each Principal Campaign committee accepting contributions or making expenditures shall:

(a) Designate one or more national banks located in the District of Columbia as the committee's depository or depositories;

(b) Maintain a checking account or accounts at such depository or depositories; and

(c) Deposit any contribution received by the committee into that account or accounts.

4203.24 The principal campaign committee shall process contributions in the following manner:

(a) Contributions received by check, money order, or other written instrument shall be cosigned directly to the principal campaign committee;

(b) All monetary contributions must be accepted and deposited, or rejected and returned to a contributor, within twenty (20) business days after receipt except contributions made in the form of cash must be accepted and deposited, or rejected and returned to a contributor, within ten (10) business days after receipt;

(c) All contributions that are accepted and deposited are subject to the contribution limit and prohibitions and must be reported to the Office of Campaign Finance. If a candidate returns a contribution after it is deposited, the return must be reported to the Office of Campaign Finance;

(d) The proceeds of any monetary instruments listed in subsection (a) that have been cashed or redeemed by the candidate pursuant to § 4201.5 shall be disallowed by the principal campaign committee and returned by the candidate to the donor.

4203.25 No contributions shall be commingled with the candidate's personal funds or accounts

4203.26 Except as provided in § 4203.1, an existing committee shall not be designated as the principal campaign committee of a candidate for public office, including the designation of any previously designated principal campaign committee of a candidate, or a slate of candidates for election as officials of a political party, in any future election.

4204 MANDATORY ELECTRONIC FILING

4204.1 All Reports of Receipts and Expenditures filed with the Director of the Office of Campaign Finance shall be filed electronically at the OCF website, www.ocf.dc.gov, except as provided in § 3006.2. A paper filing of an R&E Report shall not be accepted and will be considered a failure to file.

4204.2 The Director may grant an exception to the electronic filing requirement in either of the following circumstances:

(a) The filer submits a statement of actual hardship to the OCF at the time of registration demonstrating that the hardship will continue through the duration of the election cycle;

(b) The filer submits a statement of actual hardship to the OCF no less than fifteen (15) days before the applicable filing deadline; or

(c) The filer submits a statement to the OCF describing an emergency that occurred on or before the filing deadline preventing the electronic filing. The request for an exception based on emergency does not delay any reporting deadlines. If a penalty is imposed for failure to file or timely file, the penalty may be set aside or reduced in accordance with § 3711.2(f).

4204.3 The Director shall review and respond in writing to an application for an exception within three (3) business days after its receipt.

4204.4 The Office of Campaign Finance shall provide log-in information, including a Personal Identification Number (PIN), for access to the OCF Electronic Filing and Disclosure System to the following registrants:

(a) Each candidate who files the Statement of Registration form unless a waiver from the filing and reporting requirements is granted pursuant to §§ 3004 and 4200;

(b) The treasurer of each candidate's principal campaign committee which files the Statement of Organization form pursuant to §§ 3000.1 and 4203.5.

4204.5 The filer of the Report of Receipts and Expenditures shall electronically verify each R&E Report through the use of the confidential PIN Number assigned by the Office of Campaign Finance.

4204.6 Each treasurer of a candidate's principal campaign committee who files the R&E Report shall electronically verify that the filer used all reasonable due diligence in

the preparation of the report and to the best of their knowledge, the report is true and complete.

4204.7 Each candidate who files the R&E Report shall electronically verify on each R&E Report the statements contained in §§ 3002.5 and 4201.4.

4205 LIMITATIONS ON CONTRIBUTIONS

4205.1 A candidate seeking certification as a participating candidate or a participating candidate in the Fair Elections Program may only accept a qualified small-dollar contribution from a District resident or a contribution from a non-District resident individual, that, when aggregated with all other contributions received from that small-dollar District resident contributor or contributions received from that non-District resident individual, does not exceed, per election cycle:

(a) In the case of a qualified small-dollar contribution or contribution from a non-District resident individual in support of a candidate for Mayor, $200;

(b) In the case of a qualified small-dollar contribution or contribution from a non-District resident individual in support of a candidate for Council Chairman or Attorney General, $200;

(c) In the case of a qualified small-dollar contribution or contribution from a non-District resident individual in support of a candidate for member of the Council elected at-large, $100;

(d) In the case of a qualified small-dollar contribution or contribution from a non-District resident individual in support of a candidate for member of the Council elected from a ward or for member of the State Board of Education elected at-large, $50; and

(e) In the case of a qualified small-dollar contribution or contribution from a non-District resident individual in support of a candidate for member of the Council elected from a ward or for member of the State Board of Education elected from a ward, $20.

4205.2 Each qualified small-dollar contribution from a District resident and contribution from a non-District resident individual shall be acknowledged by a physical or digital receipt to the contributor, with a copy to be retained by the candidate. The receipt shall include:

(a) The contributor's digital or physical signature, printed name, home address, telephone number, occupation and principal place of business, if any, and the name of the candidate to whom the contribution is made; and

(b) A written and signed oath or affirmation declaring that the contributor:

Is making the contribution in the contributor's own name and from the contributor's own funds;

(1) Is making the contribution voluntarily and has not received anything of value in return for the contribution;

(2) In the case of a small-dollar contributor, is a District resident;

(3) In the case of a contribution form a non-District resident individual, is a non-District resident individual; and

(4) Understands that a false statement is a violation of law.

4205.3 A candidate seeking certification and a participating candidate may accept qualified small-dollar contributions from District residents and contributions from non-District resident individuals made by means of personal check, credit card, electronic payment account, or cash, provided, that contributions in the form of cash cannot, in the aggregate, exceed $100 per small-dollar contributor or non-District resident individual per seat per covered office per election cycle.

4205.4 A candidate seeking certification and a participating candidate may accept contributions from Fair Elections Committees that do not exceed $1,500 per Fair Elections Committee, per election cycle.

4205.5 Contributions from Fair Elections Committees established, financed, maintained, or controlled by substantially the same group of individuals shall share a single contribution limitation.

4205.6 A candidate seeking certification and a participating candidate may accept qualified small-dollar contributions from minor children (individuals under eighteen (18) years of age), provided, that:

(a) The decision to contribute is made knowingly and voluntarily by the minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, or a bank account opened and maintained exclusively in the child's name; and

(c) The contribution was not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed.

4205.7 Any contribution received from a minor child, except under § 4205.6 shall be attributed to the parents or legal guardians, subject to the contribution limits under § 4205.1.

4205.8 A candidate seeking certification and a participating candidate may accept a loan or advance from the candidate or member of the immediate family of a candidate. "Immediate family" means the spouse or domestic partner of a candidate and any parent, grandparent, brother, sister, or child of the candidate, and the spouse or domestic partner of any such parent, grandparent, brother, sister, or child.

4205.9 Each loan or advance from a candidate or member of the immediate family of a candidate shall be evidenced by a written instruction that fully discloses:

(a) The terms of the loan or advance;

(b) The conditions of the loan or advance;

(c) The parties to the loan or advance; and

(d) Documentation regarding the source of the funds when the loan or advance is from the candidate.

4205.10 The amount of each loan or advance from a member of the candidate's immediate family shall be included in computing and applying the limitations on contributions under § 4209.1(f), upon receipt by the principal campaign committee of the loan or advance from an immediate family member; provided, that the standards for repayment are consistent with the repayment policies of lending institutions in the District of Columbia.

4205.11 Loans made in the regular course of the lender's business shall be deemed, to the extent not repaid to the lender by the date of the next election, a contribution by the obligor on the loan and by any other person endorsing, cosigning, guaranteeing, collaterizing, or otherwise providing security for the loan and subject to the limitations on contributions under §§ 4205.1 and 4209.1(f).

4205.12 A loan not made in the regular course of the lender's business shall be deemed, to the extent not repaid to the lender by the date of the next election, a contribution by the lender subject to the limitations on contributions under §§ 4205.1 and 4209.11 (f).

4205.13 Any portion of a loan that is forgiven is a monetary contribution and any debt owed by a candidate that is forgiven or settled for less than the amount owed is a contribution, unless the debt was forgiven or settled by a creditor who has treated the outstanding debt in a commercially reasonable manner.

4205.14 Candidates seeking certification and participating candidates may not accept any contributions in excess of the applicable contributions limits or from sources prohibited under Chapter 42 of this title.

4205.15 When a candidate knows or has reason to know that he or she has accepted a contribution, contributions, or aggregate contributions from a single source in excess of the applicable contribution limit, or from a source prohibited under Chapter 42 of this title, the candidate shall promptly return the excess portion or prohibited contribution, by bank check or certified check made out to the contributor.

4205.16 Where the return of the contribution to the contributor under Subsection § 4205.15 is impracticable, the candidate may pay to the Fund an amount equal to the amount of the prohibited contribution or the excess portion.

4206 CERTIFICATION AS A PARTICIPATING CANDIDATE

4206.1 To be certified by the Director of Campaign Finance as a participating candidate for a seat for a covered office in an election cycle, a candidate shall, during the qualifying period:

(a) Obtain the following:

(1) For a candidate for Mayor, qualified small-dollar contributions from at least 1,000 small-dollar contributors, which in the aggregate, total $40,000 or more;

(2) For a candidate for Attorney General, qualified small-dollar contributions from at least 500 small-dollar contributors, which, in the aggregate, total $20,000 or more;

(3) For a candidate for Council Chairman, qualified small-dollar contributions from at least 300 small-dollar contributors, which, in the aggregate, total $15,000 or more;

(4) For a candidate for an At-Large Council seat, qualified small-dollar contributions from at least 250 small-dollar contributors, which, in the aggregate, total $12,000 or more;

(5) For a candidate for a Ward Council seat and the At-Large State Board of Education seat, qualified small-dollar contributions from at least 150 small-dollar contributors, which, in the aggregate, total $5,000 or more; or

(6) For a candidate for a Ward State Board of Education seat, qualified small-dollar contributions from at least 50 small-dollar contributors, which, in the aggregate, total $1,000 or more; and

(b) The candidate shall file an affidavit with the Director of Campaign Finance, signed by the candidate and the treasurer of the candidate's principal campaign committee declaring that the candidate:

(1) Has compiled with and, if certified, will continue to comply with the Fair Elections Program requirements;

(2) If certified, will only run in that election cycle as a participating candidate;

(3) If certified will only run during that election cycle for the seat for the covered office for which the candidate is seeking certification, including in both the primary and general elections, as applicable;

(4) Has otherwise qualified, or will take steps to qualify, for ballot access in accordance with the procedures required by the Elections Board pursuant to Section 8 of the Election Code, such as by filing a declaration of candidacy under 3 DCMR § 3002 and a nominating petition containing the required number of valid signatures under 3 DCMR § 1605;

(5) Is current with respect to any fines or penalties owed for a violation of this Act; and

(6) Has responded and will respond to all inquiries of the Elections Board and the Director of Campaign Finance in a timely manner.

4206.2 No later than five (5) days after a candidate attains compliance under § 4206.1 the Director of Campaign Finance shall determine whether the candidate meets the requirements for certification as a participating candidate, and:

(a) If the requirements are met, certify the candidate as a participating candidate; or

(b) If the requirements are not met, provide an opportunity to cure any deficiencies in the filing, and to request or appeal to the BOE of the determination in writing to the Director within five (5) business days.

4206.3 The Director shall revoke a certification under § 4206.2 if a participating candidate:

(a) Fails to qualify for ballot access pursuant to the nominating petition process;

(b) Does not continue to run as a participating candidate in that election cycle;

(c) Does not run for the seat for the covered office for which the candidate was certified during that election cycle, including both the primary and the general elections, as applicable;

(d) Terminates his or her candidacy; or

(e) Fails to comply with the Fair Elections Program's requirements.

4206.4 If a certification is revoked under § 4206.3, the Director shall provide the candidate with the opportunity to request or appeal to the BOE of the revocation in writing to the Director within five (5) business days.

4206.5 The participating candidate whose certification has been revoked shall remit to the Fair Elections Fund the remaining funds in the participating candidate's campaign accounts pursuant to § 4211.

4206.6 The Director shall revoke the certification of a participating candidate who has been finally disqualified following the reconsideration of a revocation pursuant to § 4206.4,or whose designation or nomination petitions have been finally declared invalid by the Board of Elections or a court of competent jurisdiction, and the candidate is thereafter prohibited from spending program funds for any purpose other than the payment of previous liabilities incurred in qualified campaign expenditures.

4206.7 All program funds in excess of such liabilities previously incurred shall be promptly repaid to the Program; the amount to be repaid shall be determined by the Office of Campaign Finance. A repayment made shall not preclude a determination that an additional repayment is required pursuant to that or any other provision of the Act.

4206.8 If a participating candidate is disqualified by a court of competent jurisdiction on the grounds that he or she committed fraudulent acts in order to obtain a place on the ballot, and such decision is not reversed: (1) the Director shall revoke the candidate's certification; (2) The candidate shall pay to the Program an amount equal to the total program funds paid to the candidate; and (3) the payments required under this section shall be made upon the final determination.

4206.9 For the purpose of this section, the term "qualifying period" means: (1) the period beginning on the day after the most recent general election for the covered office that the candidate is seeking and ending on the last day to file nominating petitions for the primary election, or for the general election for the covered office sought; or (2) the period beginning on the day the special election is called and ending on the last day to file nominating petitions for the covered office sought.

4206.10 A candidate who does not file a certification under § 4206 or who rescinds his or her certification prior to the rescission deadline by filing a certification rescission form, shall be deemed to be a non-participant.

4206.11 A non-participant shall not be eligible to receive program funds and shall not be subject to the expenditure limitations under § 4209.

4206.12 A non-participant may accept contributions from sources other than those prescribed under § 4209.1.

4207 BASE AMOUNT PAYMENTS

4207.1 Within five (5) business days after the participating candidate is certified, the participating candidate shall receive half of the base amount described in § 4207.3.

4207.2 Within five (5) business days after the participating candidate qualifies for the ballot, the participating candidate shall receive the other half of the base amount described in § 4207.3.

4207.3 The base amount shall be payable only in contested elections in the following amounts:

(a) $160,000 for the office of Mayor;

(b) $40,000 for the office of Attorney General;

(c) $40,000 for the office of Council Chairman;

(d) $40,000 for the office of Councilmember elected At-Large and from a Ward; and

(e) $10,000 for the office of State Board of Education elected at-large and from a ward.

4207.4 In an uncontested election, the participating candidate shall:

(a) Not receive the base amount described in § 4207.1 except as provided in § 4207.6; and

(b) Be eligible to receive matching payments for qualified small-dollar contributions in accordance with § 4208.

4207.5 If an uncontested election becomes a contested election after a participating candidate is certified, the participating candidate shall receive, no later than five (5) days after the uncontested election becomes a contested election:

(a) The first half of the base amount, if the participating candidate has not qualified for the ballot; or

(b) Both halves of the base amount, if the participating candidate has qualified for the ballot.

4207.6 If a contested election becomes an uncontested election after the participating candidate has received the first, but not the second half of the base amount, the participating candidate may retain any unspent base amount funds to repay:

(a) Any authorized expenditures or the proper debts that were incurred in connection with the participating candidate's campaign; and

(b) Personal funds of the participating candidate or funds the candidate's immediate family contributed in accordance with § 4209.1(f).

4207.7 If a contested election becomes an uncontested election, a participating candidate who has not yet qualified for the ballot shall not receive the second half of the base amount upon ballot qualification.

4207.8 Funds shall be distributed to the participating candidate through the use of an electronic funds transfer or debit card.

4207.9 After a participating candidate has received base amount payments and matching payments from the Fair Elections Fund for an election, the candidate may not return a contribution, unless instructed by the Director to do so, until any required repayments to the Program have been made, except if the contribution:

(a) Exceeds the contribution limit;

(b) Is otherwise illegal;

(c) Is returned because the contribution was received from a prohibited source or intermediary; or

(d) Was commingled in an account not belonging to the campaign committee.

4207.10 The Director shall notify a participating candidate in writing if funds paid to the candidate were in excess of the aggregate amount for which the candidate qualified, and such candidate shall repay to the Fund an amount equal to the amount of the excess payments.

4208 MATCHING PAYMENTS FOR QUALIFIED SMALL-DOLLAR CONTRIBUTIONS

4208.1 Qualified small-dollar contributions received in an election cycle before a candidate is certified as a participating candidate under § 4206.2 shall not be matched until the candidate is certified.

4208.2 After the candidate is certified as a participating candidate, the candidate shall receive matching payments from the Fair Elections Fund for the qualified small-dollar contributions that the candidate received in that election cycle before certification and those qualified small-dollar contributions received after certification, in an amount equal to 500% of the amount of the qualified small-dollar contributions, subject to § 4208.4 of this chapter.

4208.3 Contributions from a non-District resident individual shall not be matched.

4208.4 The maximum amount participating candidates may receive, shall be:

(a) For candidates for Mayor and Council Chairman, 110% of the average expenditures of the winning candidates for that covered office, respectively, in the prior four (4) election cycles (not including special elections);

(b) For candidates for Attorney General, 110% of the average expenditures of the winning candidates for that covered office in all prior election cycles, until such time as four (4) election cycles have been held, after which time, 110% of the average expenditures of the winning candidates for that covered office, in the prior four (4) election cycles (not including special elections); and

(c) For candidates for At-Large or Ward Councilmember and candidates for At-Large or Ward member of the State Board of Education, 110% of the average expenditures of all winning candidates for that covered office, respectively, in the prior two (2) election cycles (not including special elections).

4208.5 Contributions received after the participating candidate has reached the aggregate qualified small-dollar contribution limit for a seat for a covered office under § 4205.1 shall not be matched.

4208.6 The Director of Campaign Finance shall determine the maximum amount participating candidates may receive in matching payments for qualified small-dollar contributions after commencement of the qualifying period in an election cycle.

4208.7 Payments shall be made no later than five (5) business days after receipt of the participating candidate's R&E Report filed with the OCF in accordance with §§ 4212 and 4213 and shall be distributed to participating candidates through the use of an electronic funds transfer or debit card.

4208.8 The Director shall notify a participating candidate in writing if public funds paid to the candidate were in excess of the aggregate amount for which the candidate qualified, and such candidate shall repay to the Director an amount equal to the amount of the excess payments

4208.9 The Director of Campaign Finance shall provide a written explanation with respect to any denial of any payment and shall provide an opportunity to request or appeal to the BOE of a denial in writing to the Director within five (5) business days.

4208.10 A participating candidate may petition the Board in writing for reconsideration of the denial of any payment.

4208.11 The petition must state the grounds for reconsideration.

4208.12 The Board shall review the determination that is the subject of the petition for review within five (5) business days of the filing of such petition.

4208.13 In the event the Board is unable to convene within five (5) business days, the Board may delegate to the chair of the Board or his or her designee authority to make a determination regarding the petition.

4208.14 If the petition is denied, the Board's notice shall inform the participant of the right to appeal the Board's determination.

4208.15 The participating candidate and his or her principal committee shall not include in any such petition any documentation or factual information not submitted to the Board prior to the determination under review unless the participating candidate can demonstrate good cause for the previous failure to submit such documentation or information and for any failure to communicate on a timely basis with the Board.

4208.16 The participating candidate may submit a petition for review of a payment or non-payment determination after the issuance of the participant's final audit report within thirty (30) days of issuance of the final audit report and only upon submission of information and/or documentation that was unavailable to the Board previously and is material to such determination, and a showing that the participant had good cause for the previous failure to provide such information and/or documentation.

4209 LIMITATIONS ON THE USE OF FAIR ELECTION PROGRAM FUNDS AND EXPENDITURES

4209.1 Except as provided in § 4209.5(b), a candidate seeking certification and a participating candidate shall not receive or expend any contribution in that election cycle other than:

(a) Qualified small-dollar contributions;

(b) Contributions from non-District resident individuals that comply with the limitations in § 4205.1;

(c) Contributions from Fair Elections Committees that do not exceed $1,500 per Fair Election Committee, per election cycle;

(d) Base amount payments distributed by the Fair Elections Program;

(e) Matching payments distributed by the Fair Elections Program; and

(f) Personal funds of a candidate or the candidate's immediate family in the form of a contribution or loan that does not exceed, in the aggregate:

(1) For a candidate for Mayor, $5,000; or

(2) For a candidate for Attorney General, Council Chairman, member of the Council, or member of the State Board of Education, $2,500.

4209.2 The amounts described in § 4209.1(f) shall be adjusted by the Director of Campaign Finance each election cycle by the percentage increase in the Consumer Price Index for the Washington-Baltimore Metropolitan Area for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, or any successor index for the prior calendar year.

4209.3 A candidate seeking certification who accepts a contribution from sources other than those described in § 4209.1 before the date the candidate is certified may not participate in the Fair Elections Program, unless within ten (10) days after certification, the participating candidate:

(a) Returns the unexpended contribution to the contributor;

(b) Remits the unexpended contribution to the Fair Election Fund; or

(c) If the contribution has been expended, and:

(1) The election is a contested election, the Office of Campaign Finance shall subtract the total amount of the expended

contributions from the base amount to which the candidate would be eligible under § 4207; or

(2) The election is an uncontested election, the Office of Campaign Finance shall subtract the total amount of the expended contributions from the matching payments to which the candidate would be eligible under § 4208.

4209.4 A candidate seeking certification who expends contributions from sources other than those described in § 4209.1 in excess of the base amount to which a candidate for the seat for that covered office would be eligible under § 4207.3 may not participate in the Fair Elections Program.

4209.5 A participating candidate shall not make expenditures for the following:

(a) Legal expenses not directly related to acts taken under this act or the Elections Code;

(b) Payment of any penalty or fine imposed pursuant to Federal or District law;

(c) Compensation to the participating candidate or a member of the participating candidate's immediate family, except for reimbursement of out-of-pocket expenses incurred for campaign purposes;

(d) Clothing and other items or services related to the participating candidate's personal appearance;

(e) Contributions, loans, or transfers to another candidate's political committee or a political action committee;

(f) Gifts, which, for the purposes of this paragraph, shall not include printed campaign materials such as signs, brochures, buttons, or clothing; and

(g) Any other purpose that does not support the nomination of election to office of the participating candidate.

4209.6 Fair Elections Program funds may not be used for:

(a) An expenditure for any purpose other than the furtherance of the participating candidate's nomination or election;

(b) An expenditure not incurred during the calendar year of the election; and

(c) An expenditure in violation of any law.

4209.7 An expenditure for the purpose of promoting or facilitating the nomination or election of a candidate, which is determined not to be an independent expenditure, is a contribution to, and an expenditure by, the candidate.

4209.8 In determining whether an expenditure is independent, the Director may consider, but not limited to, the following factors:

(a) Whether the person or entity making the expenditure is also an agent of a candidate;

(b) Whether any person authorized to accept receipts or make expenditures for the person or entity making the expenditure is also an agent of a candidate;

(c) Whether a candidate has authorized, requested, suggested, fostered, or otherwise cooperated in any way in the formation or operation of the person or entity making the expenditure;

(d) Whether the person or entity making the expenditure has been established, financed, maintained, or controlled a political committee authorized by the candidate;

(e) Whether the candidate shares or rents space for a campaign-related purpose with or from the person or entity making the expenditure;

(f) Whether the candidate has solicited or collected funds on behalf of the person or entity making the expenditure, during the same election cycle in which the expenditure is made;

(g) Whether the candidate, or any public or private office held or entity controlled by the candidate, including any governmental agency, division, or office, has retained the professional services of the person making the expenditure, or a principal member or managerial employee of the entity making the expenditure, during the same election cycle in which the expenditure is made; and

(h) Whether the candidate and the person or entity making the expenditure have each consulted or otherwise been in communication with the same third party or parties, if the candidate knew or should have known that the candidate's communication or relationship to the third party or parties would inform or result in expenditures to benefit the candidate.

4210 DEBATE REQUIREMENT

4210.1 The Director of Campaign Finance shall conduct at least one debate for each contested primary, special, and general election in an election cycle for the covered offices of Mayor, Attorney General, Council Chairman, member of the

Council elected at-large, and member of the State Board of Education elected at-large.

4210.2 For a contested primary election for a covered office prescribed in § 4210.1, all partisan participating candidates in that primary election shall participate in the debate.

4210.3 For a contested special election or general election for a covered office prescribed in § 4210.1, all participating candidates shall participate in the debate.

4210.4 If there is no other participating candidate, or other candidate who is not a participating candidate, willing to participate in a debate for a covered office, then the requirements of § 4210.1 shall be waived for that covered office.

4211 REMITTING FUNDS AND TURNING OVER CAMPAIGN EQUIPMENT

4211.1 No later than sixty (60) days after a primary election in an election cycle for which a losing participating candidate was on the ballot, the losing participating candidate shall remit to the Director of Campaign Finance, for deposit in the Fair Elections Fund, the remaining funds in the participating candidate's campaign accounts. The losing participating candidate shall also turn over any equipment purchased by the campaign to the Office of Campaign Finance.

4211.2 No later than 60 days after a special election or general election in an election cycle for which a participating candidate was on the ballot, the participating candidate shall remit to the Director of Campaign Finance, for deposit in the Fair Elections Fund, the remaining funds in the participating candidate's campaign accounts. The losing participating candidate shall also turn over any equipment purchased by the campaign to the Office of Campaign Finance.

4211.3 No later than 60 days after a participating candidate's certification is revoked under § 4206.3, the participating candidate shall remit to the Director of Campaign Finance, for deposit in the Fair Elections Fund, the remaining funds in the participating candidate's campaign accounts. The participating candidate whose certification has been revoked pursuant to § 4206.3 shall also turn over any equipment purchased by the campaign to the Office of Campaign Finance.

4211.4 If a participating candidate's certification is revoked under §§ 4206.3(b), (c) or, due to fraudulent activities, § 4206.3(e) the participating candidate shall be personally liable for any expended base amount or matching payments.

4211.5 Notwithstanding §§§ 4211.1, 4211.2 and 4211.3, a participating candidate may withhold funds from the amount required to be remitted for an additional 180 days after the 60-day periods if the participating candidate requests an extension in writing and submits documentation of the funds to the Director of Campaign

Finance no later than the last day of the 60-day period. The withheld funds shall only be used for the following purposes:

(a) To repay any authorized expenditures or retire the proper debts that were incurred in connection with the participating candidate's campaign; and

(b) To repay personal funds of the participating candidate or the participating candidate's immediate family contributed under § 4209.1(f).

4211.6 The Office of Campaign Finance shall notify a participant in writing if it finds that the participant owes unspent campaign funds to the Program. The participant shall promptly pay to the Fund unspent campaign funds from an election; provided, however, that all unspent campaign funds for a participant shall be immediately due and payable to the Fair Elections Program Fund upon a determination by the Director that the participant has delayed the post-election audit process.

4211.7 The Office of Campaign Finance shall accept any equipment given to it by participating candidates.

4211.8 For the purpose of this section, the term "equipment" means any furniture or electronic or battery-powered equipment purchased by a participating candidate's campaign that cost at least $50. Include rules to address § 1-1163.321(a)(2) the storage, use or disposition of property remitted to OCF.

4212 FILINGS AND DEADLINES

4212.1 The Director of Campaign shall establish a schedule for candidates seeking certification and participating candidates to submit reports of qualified small-dollar contributions from District residents and contributions from non-District resident individuals that include the information required under § 3008.

4212.2 Reports of Receipts and Expenditures (R&E Report) shall be filed with the Office of Campaign Finance on the following dates:

(a) March 10, June 10, August 10, October 10, and December 10 in the seven (7) months preceding the date on which an election is held for which the candidate seeks office and the committee supports a candidate for office;

(b) January 31, March 10, June 10, August 10, October 10, December 10, and the eighth (8^{th}) day next preceding the date of any general or special election, in any year in which there is held an election for which the candidate seeks office and the committee supports a candidate for office;

4212.3 Participating candidates shall also file R&E Report in accordance with the following schedule:

(a) On the tenth (10th) day of the second (2nd) month preceding the date of any election for a seat for a covered office;

(b) On the tenth (10th) day of the first (1st) month preceding the date of any election for a seat for a covered office; and

(c) Fourteen (14) days immediately preceding the date of any special or general election for a seat for a covered office.

4212.4 All R&E Reports shall contain all financial transactions through and including the fifth (5th) day preceding the filing deadline for each R&E Reports; provided, that the reporting period for the next R&E Reports shall commence on the day following the closing date of the prior R&E Report.

4212.5 All R&E Reports filed with the Director of the Office of Campaign Finance shall be filed electronically at the OCF website www.ocf.dc.gov, except as provided in § 3006.2. A paper filing of an R&E Report shall not be accepted and will be considered a failure to file.

4213 REPORTING AND DISCLOSURE REQUIREMENTS

4213.1 Disclosure statements serve several different purposes:

(a) They provide comprehensive disclosure of a candidate's campaign finances for prompt examination by the voting public and permit integration into the Office of Campaign Finance Online Filing System for purposes of additional disclosure, monitoring of campaign finances, and analysis mandated by the Act;

(b) They enable the Office of Campaign Finance to monitor candidate compliance with the Fair Elections Program requirements; and

(c) They enable candidates to make claims for public funds.

4213.2 The financial records of each committee of a candidate are subject to review by the Office of Campaign Finance for purposes of monitoring the candidate's compliance with the requirements of the Program.

4213.3 Each disclosure statement shall include the following information about the committee involved in the election:

(a) The cash balance at the beginning and end of the reporting period;

(b) Total itemized and unitemized contributions, loans, and other receipts accepted during the reporting period; and

(c) Total itemized and unitemized expenditures made during the reporting period.

4213.4 A separate disclosure statement shall be submitted for each committee involved in the election.

4213.5 All data reported in disclosure statements, amendments, and resubmissions shall be accurate as of the last day of the reporting period.

4213.6 The candidate shall report in each disclosure statement:

(a) The name and address of each person, including the candidate, who has made purchases on behalf of the committee during the reporting period with the expectation of being reimbursed by the committee;

(b) The date and amount of each such purchase;

(c) The name and address of the person or entity form whom the purchase has been made;

(d) The form of the purchase;

(e) The purpose of the purchase;

(f) The name of each person, including the candidate, whom the committee reimbursed for purchases made on behalf of the committee during the reporting period, each purchase being reimbursed, and the amount and form of each reimbursement; and

(g) Such other information as the Director may require.

4213.7 Matchable contribution claims on contributions shall be invalid unless the participant has reported the contributor's occupation, employer, and business address.

4213.8 If the candidate makes an expenditure to a consultant or other person or entity who or which subcontracts for finished goods or services on behalf of the candidate, the disclosure statement shall include:

(a) Expenditures made by the candidate to the consultant or other person or entity during the reporting period; and

(b) For subcontracted goods and services, the name and address of the person or entity providing the services or goods, the amount(s) expended to that person or entity for subcontracted goods or services, and the purpose(s) of

those goods and services; provided that, this disclosure shall be made in the manner provided by the Director.

4213.9 The candidate or treasurer shall verify that the disclosure statement is true and complete to the best of his or her knowledge, information and belief. The disclosure statement shall contain such signatures as may be required by the Director; provided that, to the extent a candidate is permitted to submit a disclosure statement in a non-electronic format, such disclosure statement will only be accepted by the Director if it contains an original signature from the candidate or the treasurer.

4213.10 The Director may, include in the public disclosure file any document submitted with a disclosure statement, or requested by the Director, including, but not limited to copies of report filings, and submissions made by candidates after an election cycle.

4214 PENALTIES

4214.1 Penalties for any violations of this chapter shall be imposed pursuant to § 3711 of Chapter 37 of this title.

Chapter 43, THE VERIFICATION PROCESS, of Title 3 DCMR, ELECTIONS AND ETHICS, is added in its entirety to read as follows:

CHAPTER 43 THE VERIFICATION PROCESS

4300 THE VERIFICATION PROCESS

4300.1 The provisions of this chapter shall govern the verification process of contributions received by committees electing to participate in the public financing program.

4300.2 The Fair Election Division is tasked with reviewing disclosure statements filed by campaigns. The unit has created a verification process that is used during the review of disclosure statements.

4300.3 The verification process is used to uncover instances of noncompliance with the Fair Elections Amendment Act of 2018. The process detects possible fraud and prevents improper payment of public funds.

4301 DISCLOSURE STATEMENTS

4301.1 Disclosure statements shall include (1) a report of the campaign's transactions during the reporting period; and (2) documentation of the activity.

4301.2 Statement reviews shall be conducted to uncover non-compliance. The scope of statement reviews shall include the review of all contributions.

4301.3 Payment reviews shall be conducted with the objective of validating claims for matching funds. The scope of payment reviews shall include the examination of all contributions claimed for matching funds and the review of reports and documentation submitted by committees.

4301.4 Criteria for Valid Matching Claims

(a) Reported correctly, completely and timely

(b) Must be a permissible source

(c) Properly and completely documented

(d) Compliant with applicable limits

(e) No other issues have been detected.

If a contribution claimed for matching is invalid for any of the reasons listed above, an invalid code is applied. A campaign will only be paid on valid claims.

4302 SUPPORTING DOCUMENTATION

4302.1 The payment review process includes the review of reports and documentation submitted by committees. The documentation supports claims for public matching funds; documentation includes copies of checks, contribution cards, credit card processing documents, etc.

4302.2 Initial review of reports and accompanying documentation to validate payment requests. A second level review is completed and initial reviewer comments are addressed.

4302.3 Required documentation by instrument type:

(a) Check – copy of check

(b) Cash – copy of contribution card

(c) Money Order – copy of money order and contribution card

(d) Credit Card processed online – copy of processing documentation

(e) Credit Card processed by the Campaign – copy of credit card contribution card and card processing documentation

4302.4 If the check is a starter check, and the signature does not appear to be the reported contributor name, the committee will be required to submit a contribution card. A contribution card is also required for contributions made via e-check. Bank/cashier's/certified checks are to be treated as regular checks.

4303 CONTRIBUTION CARDS

4303.1 Required Elements of a contribution card:

(a) Committee Name

(b) Instrument Code

(c) Dedicated place for contributor name and address

(d) Dedicated place for contributor employer and occupation information

(e) The affirmation statement

(f) Dedicated place for signature and date

(g) Doing Business information

4304 CREDIT CARDS

4304.1 Required Elements for Credit Card documentation:

(a) Contribution card, if necessary

(b) Correct credit card affirmation statement (either online webpage affirmation or signed contribution card)

(c) "Approved" or "Settled Successfully"

(d) Street and Zip Code match

(e) Last 4 digits of the credit card number

(f) The merchant account name is the name of the committee OR the campaign has provided documentation to link the two together.

4304.2 Credit card contributions that are processed manually must provide a contribution card.

4304.3 Credit card contributions made online do not require a contribution card.

4305 INVALID CLAIMS

4305.1 Claims for matching funds will not be approved if:

(a) Impermissible Source

(b) Lack of Documentation

(c) Improper Reporting

(d) Contribution Exceeds Limits

(e) Contribution is not from an individual

(f) Individual contributor is not a resident of the District of Columbia

4306 AFFIRMATION REQUIREMENTS

4306.1 Contributor must sign an affirmation statement as required by the Fair Elections Program.

4306.2 Claims for matching funds will not be matched if the affirmation statement is not included in the contribution card.

4306.3 Claims for matching funds will not be matched if the affirmation statement is not included in the campaign's website where credit card contributions are processed online.

4306.4 Claims for matching funds will not be matched when the affirmation statement deviates from the exact prescribed language.

4306.5 Contributions made via check, cash, money order or credit cards processed by a campaign committee require the contributor's signature.

4307 DISPOSITION OF PUBLIC FINANCING EQUIPMENT

4307.1 All equipment purchased with matching funds must be returned to the Office of Campaign Finance within sixty (60) days after a General or Special Election in an election cycle for which a participating candidate was on the ballot. Equipment is

defined as any furniture or electronic or battery powered equipment purchased by a participating candidate's campaign that costs at least $50.

All persons desiring to comment on the subject matter of this proposed rulemaking should file written comments by no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, Board of Elections, 1015 Half Street S.E., Washington D.C. 20003. Please direct any questions or concerns to the Office of the General Counsel at 202-727-2194 or ogc@dcboe.org. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF THIRD EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2016 Repl. & 2018 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2013 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 8 (Free Standing Mental Health Clinics) and the addition of a new chapter, Chapter 69 (Medicaid Reimbursement for Health Home Services), to Title 29 (Public Welfare), of the District of Columbia Municipal Regulations (DCMR).

The purpose of Chapter 69 is to establish requirements for Medicaid reimbursement for Health Home services. A Health Home service is a service delivery model that focuses on providing comprehensive care coordination centered on improving the management of chronic behavioral and physical health conditions. Health Homes develop and organize person-centered care plans that facilitate access to physical health services, behavioral health care, community-based services and supports for persons determined eligible for Health Home services by the Department of Behavioral Health (DBH). Care coordination is provided through a team-based approach and involves all relevant and necessary health care practitioners, family members, and other social support networks identified by the beneficiary. The Health Home is required to provide all Health Home services needed by its beneficiaries. The goal of the Health Home service delivery model is to reduce avoidable health care costs, specifically preventable hospital admissions, readmissions, and avoidable emergency room visits for the enrolled Health Home population.

Health Home services are Medicaid reimbursable at a per member per month rate. These rules establish the reimbursement rate and requirements for reimbursement for the provision of Health Home services. As a result of the proposed changes, Medicaid expenditures for Health Home services are expected to decrease by $4,866,408 in fiscal year (FY) 2019 and decrease by $ 5,928,942 in FY 2020. Medicaid expenditures on Mental Health Rehabilitation Services (MHRS) are expected to increase by $6,240,236 in FY 2019 and increase by $6,903,345 in FY 2020.

Emergency action is necessary for the immediate preservation of health, safety, and welfare of beneficiaries who are in need of comprehensive care coordination through the Medicaid Health Home State Plan benefit. The reimbursement rates included in these rules are needed at this time to ensure that Health Home providers receive payment for Health Home services delivered, and to ensure that Health Home providers can continue to deliver the level of services that beneficiaries require. To preserve beneficiaries' health, safety, and welfare, and to avoid any lapse in access to Health Home services, it is necessary that these rules be published on an emergency basis.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 8, 2016 at 63 DCR 000456. No comments were received. A Notice of Second Emergency and Proposed Rulemaking was published on April 29, 2016 at 63 DCR 006684. No comments were received but DHCF and DBH are proposing to make substantive changes to the Health Home program based on feedback from providers and best practices learned over the past two (2) years of implementation.

In this rulemaking, DHCF is proposing a single per member per month rate for all Health Home enrollees. The prior per member per month rate established a higher reimbursement rate for high acuity enrollees, anticipating that Health Home care teams would need more time to address the needs of the high acuity beneficiaries. However, DBH found that the Health Home care teams spent similar amounts of time serving both low acuity and high acuity enrollees. Therefore, DHCF is amending Subsections 6901.3, 6901.4, and 6902.5 to establish a single, cost-based per member per month rate and to eliminate acuity tiers. Under the proposed methodology, Health Home care teams will be incented to address the care needs of all Health Home enrollees, regardless of acuity.

DHCF is also proposing to amendments to Subsection 6902.10 to permit providers enrolled as Health Homes to bill Medicaid separately for the provision of MHRS Community Support services. The current rate methodology incorporates the expected costs of MHRS Community Support services into the per member per month rate and limits a Health Home provider's ability to bill Medicaid separately for these services. While the intention was to reduce redundant payment for services, Health Home providers reported that the bundled payment rate resulted in inadequate payment for Community Support services. To redress this challenge, DHCF is proposing to separate the per member per month payment that will allow providers to bill separately for MHRS Community Support services. DHCF shall no longer factor the expected costs of MHRS Community Support services into the per member per month rate, resulting in a lower rate. However, DHCF anticipates that overall reimbursement to providers will increase since providers will be able to bill for MHRS Community Support services to the extent they are medically indicated going forward.

In addition, DHCF is proposing the addition of Subsection 6902.11 to require that each Health Home ensures that enrolled beneficiaries do not receive services that duplicate Health Home services, as described in this chapter. To protect against redundant billing, DBH is also proposing minor changes to Health Home service definitions in Chapter 25 (Health Home Certification Standards) of Subtitle A (Mental Health) of Title 22 (Health) of the DCMR.

Further, DHCF is amending Chapter 69 (Medicaid Reimbursement for Health Home Services) and making conforming edits to Chapter 8 (Free Standing Mental Health Clinics), to permit the certification of Free Standing Mental Health Clinics (FSMHCs) as Health Homes. FSMHCs will be eligible to be certified as Health Homes by DBH and be reimbursed by DHCF for the provision of Health Home services to District Medicaid beneficiaries in accordance with the requirements set forth in Chapter 69. Currently, FSMHCs provide behavioral health services for District Medicaid beneficiaries. Under the proposed change, FSMHCs will be able to provide Health Home services (*i.e.*, care coordination and care management services) to beneficiaries eligible for the Health Home program.

DHCF is proposing amendments to Section 800 and Subsection 802.3 of Chapter 8 to clarify that FSMHCs are eligible to be certified as Health Home providers and Health Home services shall be provided in accordance with the requirements set forth in Chapter 69. DHCF is also proposing amendments to clarify that the requirements set forth in Section 808 will only govern Medicaid reimbursement of FSMHC services; reimbursement requirements for Health Home services are set forth in Chapter 69.

When DHCF last proposed rules, the rulemaking did not clarify the extent to which beneficiaries enrolled in the Health Home program were eligible to participate in other Medicaid programs, including the District's Home and Community-Based (HCBS) Waiver programs and DHCF's second Health Home initiative, *My Health GPS.* This rulemaking adds language in Sections 6901 and 6902 to clarify that beneficiaries enrolled in the HCBS Waiver for the Elderly and Individuals with Physical Disabilities, Medicaid beneficiaries enrolled in the HCBS Waiver for Persons with Intellectual and Developmental Disabilities, and beneficiaries enrolled in the *My Health GPS* program are not eligible for participation in the Health Home program. A beneficiary who is eligible for both this Health Home program and the *My Health GPS* program may choose to enroll in either program but cannot concurrently enroll in both.

Additionally, DHCF is proposing technical amendments to Subsections 6902.2 and 6903.1 to broadly reference the approved DBH electronic record system instead of specifically referencing the Integrated Care Applications Management System, referred to as iCAMS, in order to ensure applicability of program requirements to any successor electronic record system. Further, DHCF is proposing amendments to Sections 6900.3 and 6999 to change the reference from "serious mental illness" to "serious and persistent mental illness" in order to align with the proposed language in the State Plan. Also, DHCF is proposing amendments to Subsection 6904.1 to remove references to delegation of authority to DBH.

Finally, DHCF is proposing a technical amendment to Section 6905 to reserve the section, while moving defined terms to Section 6999.

These rules correspond to a related State Plan amendment (SPA), which requires approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Implementation of the proposed rules is contingent upon approval of the corresponding SPA by CMS with an effective date of February 1, 2018 or the effective date established by CMS in its approval of the corresponding SPA, whichever is later.

The emergency and proposed rulemaking was adopted on December 20, 2018, and shall be effective on the date of adoption. The emergency rules shall remain in effect for one hundred and twenty (120) days or until April 19, 2019, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

Chapter 8, FREE STANDING MENTAL HEALTH CLINICS, of Title 29, DCMR PUBLIC WELFARE, is amended as follows:

Subsections 800.4, 800.5, and 800.6 of Section 800, GENERAL PROVISIONS, are amended as follows:

800.4 To obtain certification as a FSMHC, a FSMHC shall meet the requirements set forth in §§801 through 808 of this chapter.

800.5 Entities certified as a FSMHC in accordance with the requirements set forth in this chapter are eligible to apply for certification as a Health Home in accordance with the requirements set forth in 22-A DCMR §§ 2500, *et seq*.

800.6 A FSMHC that is certified as a Health Homes is eligible to receive reimbursement for the provision of Health Home services in accordance with the requirements set forth in 29 DCMR §§ 6900, *et seq*.

Subsection 802.3 of Section 802, CERTIFICATION REQUIREMENTS: GENERAL, is amended as follows:

802.3 The FSMHC shall agree that FSMHC services, as set forth in § 808.9, shall be provided under the direction of a physician, as required by § 440.90 of Title 42 of the Code of Federal Regulations. Health Home services provided by a FSMHC shall be provided in accordance with requirements set forth in 29 DCMR §§ 6900, *et seq.* and 22-A DCMR §§ 2500, *et seq.*

Subsections 808.5, 808.6, and 808.8 of Section 808, REIMBURSEMENT, are amended as follows:

808.5 The Department shall establish fees and reimburse for only those FSMHC services, as set forth in § 808.9, provided face-to-face by or under the direct supervision of a physician. Health Home services provided by a FSMHC shall be provided in accordance with the requirements set forth in 29 DCMR §§ 6900, *et seq.* and 22-A DCMR §§ 2500, *et seq.*

808.6 Treatment-related services, such as information and referral services, charting, staffing of patients, co-therapy phone crisis intervention, case management, person and agency conferences, and similar services are not reimbursable under the FSMHC benefit. FSMHCs certified as a Health Home shall be reimbursed for the provision of Health Home services in accordance with the requirements set forth in 29 DCMR §§ 6900, *et seq.* and 22-A DCMR §§ 2500, *et seq.*

808.8 Excluding Health Home services provided in accordance with requirements set forth in 29 DCMR §§ 6900, *et seq.* and 22-A DCMR §§ 2500, *et seq.*, Medicaid shall reimburse a participating FSMHC for only one (1) type of service for a Medicaid patient on a given day; provided, that if a full prescription visit, or

medication assessment visit is indicated in addition to a therapy visit, and is accomplished on the same day, both services may be billed as long as no more than one (1) billing of this type occurs in a single month. Any additional billings of this type, shall be authorized by the Department prior to the FSMHC submitting a claim for payment.

A new Chapter 69, MEDICAID REIMBURSEMENT FOR HEALTH HOME SERVICES, is added to read as follows:

CHAPTER 69 MEDICAID REIMBURSEMENT FOR HEALTH HOME SERVICES

6900 GENERAL PROVISIONS

6900.1 The purpose of this chapter is to establish standards governing Medicaid reimbursement for Health Home services provided by Core Services Agencies (CSA) and Free Standing Mental Health Clinics (FSMHCs) certified as Health Homes by the Department of Behavioral Health (DBH).

6900.2 Effective February 1, 2019, FSMHCs shall be eligible to be certified as Health Homes by DBH and be reimbursed by DHCF for the provision of Health Home services to District Medicaid beneficiaries.

6900.3 A Health Home serves as the service coordinating entity for services offered to a beneficiary with a serious and persistent mental illness.

6900.4 Each Health Home shall comply with the certification standards set forth in 22-A DCMR § 2501.

6900.5 Each Health Home shall comply with all applicable provisions of District and federal law and rules pertaining to Title XIX of the Social Security Act, and all District and federal law and rules applicable to the service or activity provided pursuant to these rules.

6900.6 In accordance with § 1902(a)(23) of the Social Security Act, DBH shall ensure that each beneficiary has free choice of qualified providers.

6901 PROGRAM SERVICES

6901.1 Beneficiaries eligible to receive Health Home services shall be Medicaid beneficiaries who meet the requirements set forth in 22-A DCMR § 2504.

6901.2 Health Home services include the following services, as set forth in 22-A DCMR § 2505, and further defined in 22-A DCMR §§ 2506 – 2511:

(a) Comprehensive Care Management;

(b) Care Coordination;

(c) Comprehensive Transitional Care;

(d) Health Promotion;

(e) Individual and Family Support Services; and

(f) Referral to Community and Social Support Services.

6901.3 Effective February 1, 2019, each Health Home provider shall provide at least one (1) Health Home service of any kind, as described in 22-A DCMR §§ 2506 - 2511 to the Health Home beneficiary, each month, in order to claim the per member per month payment set forth in § 6902.6.

6901.4 All services provided as described in § 6901 of this chapter, and in 22-A DCMR §§ 2500, *et seq*., shall meet quality standards or guidelines that adhere to applicable National Committee for Quality Assurance (NCQA) standards, as well as Centers for Medicare and Medicaid Services (CMS) and Department of Health Care Finance (DHCF) guidance related to quality improvement activities.

6902 REIMBURSEMENT

6902.1 Medicaid reimbursement for Health Home services is on a per member per month (PMPM) reimbursement schedule. The month time period shall begin on the first (1^{st}) of the month and end on the last day of the month.

6902.2 Health Homes are required to provide services in accordance with § 6901.4, and document the delivery of these services in DBH's approved electronic record system, in order to receive the PMPM reimbursement rate.

6902.3 In order to qualify for the monthly rate, Health Homes shall document Health Home services provided as set forth in 22-A DCMR § 2515.3 and §§ 2516.3 – 4.

6902.4 Health Homes shall not bill the beneficiary or any member of the beneficiary's family for Health Home services. Health Homes shall bill all known third-party

payors prior to billing the Medicaid Program.

6902.5 Medicaid reimbursement for Health Home services for dates of service prior to February 1, 2019 shall be determined as follows:

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE EFFECTIVE JAN. 1, 2016
Health Home Services: High-Acuity	S0281U1	Month	$481.00
Health Home Services: Low-Acuity	S0281U2	Month	$349.00

6902.6 Effective February 1, 2019, Medicaid reimbursement for Health Home services shall be determined as follows:

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE EFFECTIVE FEBRUARY 1, 2019
Health Home Services	S0281U4	Month	$125.75

6902.7 DBH shall be responsible for payment of the District's share or the local match for Health Home services. DHCF shall claim the federal share of financial participation for Health Home services.

6902.8 Medicaid reimbursement for Health Home services is not available for:

(a) Room and board costs;

(b) Inpatient services (including hospital, nursing facility services, Intermediate Care Facilities for Individuals with Intellectual Disabilities, and Institutions for Mental Diseases services);

(c) Transportation services;

(d) Vocational services;

(e) School and educational services;

(f) Socialization services;

(g) Services which are not provided and documented in accordance with DBH-established Health Home service-specific standards;

(h) A person who is receiving Assertive Community Treatment (ACT) services;

(i) Medicaid beneficiaries enrolled in the Home and Community-Based Services (HCBS) Waiver for the Elderly and Individuals with Physical Disabilities, as described in Chapter 42 of Title 29 of the DCMR;

(j) Medicaid beneficiaries enrolled in the HCBS Waiver for Persons with Intellectual and Developmental Disabilities, as described in Chapter 19 of Title 29 of the DCMR; and

(k) Medicaid beneficiaries enrolled in the *My Health GPS* program, as described in Chapter 102 of Title 29 of the DCMR.

6902.9 Only one Health Home will receive payment for delivering Health Home services to a beneficiary in a particular month.

6902.10 Effective February 1, 2018, an entity enrolled as Health Home may bill Medicaid separately for the provision of MHRS Community Support services provided to a beneficiary enrolled in a Health Home.

6902.11 DHCF shall not reimburse other Medicaid claims submitted by Health Homes that duplicate Health Home services, as described in 22-A DCMR §§ 2506 - 2511.

6903 HEALTH HOME RECORD RETENTION, PROTECTION AND ACCESS

6903.1 Health Home records shall contain sufficient information which readily identifies and supports Medicaid billing. As set forth in 22-A DCMR § 2516.3, Health Homes shall document each Health Home service and activity in the beneficiary's record in DBH's approved electronic record system. Any claim for Health Home services shall be supported by written documentation which clearly identifies the following:

(a) The specific service type rendered;

(b) The date, duration, and actual time, a.m. or p.m., including the beginning and ending time, during which the services were rendered;

(c) The name, title, and credentials of the person who provided the services;

(d) The setting in which the services were rendered;

(e) A confirmation that the services delivered are contained in the beneficiary's comprehensive care plan;

(f) Identification of any further actions required for the beneficiary's well-being raised as a result of the service provided;

(g) A description of each encounter or service by the Health Home team member which is sufficient to document that the service was provided in accordance with this chapter; and

(h) Dated and authenticated entries, with their authors identified, which are legible and concise, including the printed name and the signature of the person rendering the service, diagnosis and clinical impression recorded in the terminology of the International Statistical Classification of Diseases and Related Health Problems, 10th Revision (ICD-10 CM) or its subsequent revision, and the service provided.

6903.2 Each Health Home shall establish procedures for safeguarding beneficiary information pursuant to 42 CFR § 431.305, and shall ensure, that except as otherwise provided by federal or District law or rules, the use or disclosure of beneficiary information shall be restricted to purposes related to the administration of the Medicaid Program, as set forth in 42 CFR § 431.302.

6903.3 Each Health Home shall allow appropriate DHCF personnel and other authorized agents of the District of Columbia government and the federal government full access to Health Home records.

6903.4 Each Health Home shall maintain all records, including, but not limited to, financial records, medical and treatment records, and other documentation pertaining to costs, billings, payments received and made, and services provided, for ten (10) years or until all audits are completed, whichever is longer.

6903.5 In addition to the Health Home service documentation standards listed in § 6903.1, a Health Home that is a public entity shall also maintain all documentation pertaining to costs necessary to perform cost reconciliation in accordance with Office of Management and Budget Circular A-87.

6904 AUDITS AND REVIEWS

6904.1 This section sets forth the requirements for audits and reviews of Health Home services. DHCF shall perform regular audits of Health Home providers to ensure that Medicaid payments are consistent with efficiency, economy and quality of care, and made in accordance with federal and District conditions of payment. The audits shall be conducted at least annually and when necessary to investigate and maintain program integrity.

6904.2 DHCF shall perform routine audits of claims, by statistically valid scientific sampling, to determine the appropriateness of Health Home services rendered and billed to Medicaid to ensure that Medicaid payments can be substantiated by documentation that meets the requirements set forth in this rule, and made in accordance with federal and District rules governing Medicaid.

6904.3 If DHCF determines that claims were improperly reimbursed, DHCF shall recoup those monies erroneously paid to a Health Home for denied claims, following the period of Administrative Review as set forth in this rule.

6904.4 DHCF shall issue a Proposed Notice of Medicaid Overpayment Recovery (PNR) to the Health Home, which sets forth the reasons for the recoupment, the amount to be recouped, and the procedures and timeframes for requesting an Administrative Review of the PNR.

6904.5 The Health Home will have thirty (30) calendar days from the date of the PNR to request an Administrative Review. The provider shall submit documentary evidence and/or written argument against the proposed action to DHCF in the request for an Administrative Review. If the provider fails to respond within thirty (30) calendar days, DHCF shall issue a Final Notice of Medicaid Overpayment Recovery (FNR), which shall include the procedures and timeframes for requesting an appeal.

6904.6 DHCF shall review the documentary evidence and/or written argument submitted by the Health Home against the proposed action described in the PNR. After this review, DHCF may cancel its proposed action, amend the reasons for the proposed recoupment and/or adjust the amount to be recouped. DHCF shall issue a FNR, which shall include the procedures and timeframes for requesting an appeal.

6904.7 Within fifteen (15) calendar days from date of the FNR, the Health Home may appeal the FNR by filing a written notice of appeal from the determination of recoupment with the Office of Administrative Hearings. The written notice requesting an appeal shall include a copy of the FNR, description of the item to be reviewed, the reason for review of the item, the relief requested, and any documentation in support of the relief requested.

6904.8 In lieu of the off-set of future Medicaid payments, the Health Home may choose to send a certified check made payable to the District of Columbia Treasurer in the amount of the funds to be recouped.

6904.9 Filing an appeal shall not stay any action to recover any overpayment.

6904.10 Each Health Home shall allow access during an onsite audit or review to DHCF, its designee, DBH, other authorized District of Columbia government officials,

CMS, and representatives of the United States Department of Health and Human Services, to relevant records and program documentation.

6904.11 Each Health Home shall facilitate audits and reviews by maintaining the required records and by cooperating with the authorized personnel assigned to perform audits and reviews.

6905 [RESERVED]

6999 DEFINITIONS

6999.1 When used in this chapter, the following words shall have the meanings ascribed:

Behavioral Health Care – care that promotes the well-being of individuals by intervening and preventing incidents of mental illness, substance abuse, or other health concerns.

Comprehensive Care Plan – an individualized plan to provide health home services to address a beneficiary's behavioral and physical chronic conditions, based on assessment of health risks and the beneficiary's input and goals for improvement.

Beneficiary – a Medicaid recipient who has been determined to be eligible for the Health Home benefit, and/or who is enrolled in a Health Home.

Core Services Agency – a community-based provider that has entered into a Human Care Agreement with the Department of Behavioral Health to provide specific Mental Health Rehabilitation Services in accordance with the requirements of Chapter 34 of Title 22-A DCMR.

Department of Behavioral Health – the District of Columbia agency that regulates the District's mental health and substance abuse treatment system for adults, children, and youth.

Free Standing Mental Health Clinic – an entity certified in accordance with Chapter 8 of Title 29 DCMR.

Health Home – an entity that is certified by the District of Columbia Department of Behavioral Health as having systems in place to deliver person-centered services that coordinate a beneficiary's behavioral, primary, acute or other specialty medical health care services.

Mental Health Rehabilitation Services – behavioral health services provided by a Department of Behavioral Health-certified community mental health provider to beneficiaries in accordance with the District of Columbia Medicaid State Plan, the Department of Health Care Finance (DHCF)/

Department of Behavioral Health Interagency Agreement, and Chapter 34 of Title 22-A DCMR.

Serious and Persistent Mental Illness – a diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-5 or its ICD-10-CM equivalent (and subsequent revisions) with the exception of DSM-5 "Z" codes, substance abuse disorders, intellectual disabilities and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness.

Comments on this proposed rulemaking shall be submitted in writing to Melisa Byrd, Medicaid Director, Department of Health Care Finance, 441 4th Street, N.W., 9th Floor, Washington, D.C. 20001, via email to DHCFPubliccomments@dc.gov, online at www.dcregs.dc.gov, or by telephone to (202) 442-8742, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of these rules may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-104
December 31, 2018

SUBJECT: Delegation of Authority – Impervious Area Charge Assistance Programs

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) of the District of Columbia Home Rule Act, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) (2016 Repl.), and pursuant to section 216b of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 ("**Water and Sewer Authority Establishment Act**"), effective October 30, 2018, D.C. Law 22-168, D.C. Official Code § 34-2202.16b, it is hereby **ORDERED** that:

1. The Director of the Department of Energy and Environment ("**DOEE Director**") is delegated the authority vested in the Mayor by section 216b of the Water and Sewer Authority Establishment Act (D.C. Official Code § 34-2202.16b), including the authority to establish and implement financial assistance programs to assist nonprofit organizations and residential customers located in the District with payments of impervious area charges and the authority to issue rules to implement section 216b.

2. The DOEE Director may further delegate any of his or her authority under this Order to subordinates under his or her jurisdiction.

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

MURIEL BOWSER
MAYOR

ATTEST: _____
KIMBERLY BASSETT
INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

DC MAYOR'S OFFICE ON AFRICAN AFFAIRS

COMMISSION ON AFRICAN AFFAIRS

Notice of Commissioners Meeting

The Commission of African Affairs will be holding a meeting on Wednesday, January 9th, 2019 from 6pm to 8pm.

The meeting will be held at Franklin D. Reeves Center of Municipal Affairs, 2000 14th Street, NW, 6th floor, Washington, DC 20001.

The Location is closest to the U Street / African –American Civil war Memorial / Cardozo Metro station on the green and yellow line of the Metro.

All Commission meetings are open to the public.

Below is a draft agenda for this meeting. A final agenda will be posted on The Office of African Affairs website at oaa.dc.gov.

If you have any questions about the commission or its meetings, please contact oaa@dc.gov. Phone: (202) 727-5634

DRAFT AGENDA

I. Opening – Call to Order

II. MOAA Updates and Announcements

III. Chair Announcements

IV. Public Comments

V. Adjournment (8:00pm).

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JANUARY 9, 2019
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

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

Protest Hearing (Status) **9:30 AM**
Case # 18-PRO-00078; 701 Second Street, LLC, t/a Café Fili, 701 Second Street NE, License #110971, Retailer CR, ANC 6C
Application for a New License

Protest Hearing (Status) **9:30 AM**
Case # 18-PRO-00079; P Street Hospitality, LLC, t/a To Be Determined, 2100 P Street NW, License #111709, Retailer CR, ANC 2B
Application for a New License

Show Cause Hearing (Status) **9:30 AM**
Case # 18-CMP-00178; Vap H Street, LLC, t/a Vapiano, 623 H Street NW License #76727, Retailer CR, ANC 2C
No ABC Manager on Duty

Show Cause Hearing (Status) **9:30 AM**
Case # 18-CC-00094; Wagshal's 3201, LLC, t/a Wagshal's, 3201 New Mexico Ave NW, License #92730, Retailer B, ANC 3D
Sale to Minor Violation, Failed to Post License Conspicuously in the Establishment

Show Cause Hearing (Status) **9:30 AM**
Case # 18-CMP-00163; Big Chair, LLC, t/a Cheers @ The Big Chair, 2122 Martin Luther King, Jr Ave SE, License #85903, Retailer CR, ANC 8A
No ABC Manager on Duty

Show Cause Hearing (Status) **9:30 AM**
Case # 18-CMP-00203; Connexion Group, LLC, t/a 1230 DC, 1230 9th Street NW, License #100537, Retailer CR, ANC 2F
Summer Garden Endorsement, Operating After Board Approved Hours

Board's Calendar
January 9, 2019

Show Cause Hearing (Status) **9:30 AM**
Case # 18-CMP-00200; Bee Hive, LLC, t/a Sing Sing Karoake Palace (Formerly-Sticky Rice), 1224 H Street NE, License #72783, Retailer CR, ANC 6A
No ABC Manager on Duty

Show Cause Hearing* **10:00 AM**
Case # 18-CMP-00041; The 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

Fact Finding Hearing* **11:00 AM**
456, LLC, t/a To Be Determined; 1723 Columbia Road NW, License #98732 Retailer CT, ANC 1C
Request to Extend Safekeeping

Show Cause Hearing (Status) **11:30 AM**
Case # 18-CC-00108; Trump Old Post Office, LLC, t/a Trump International Hotel Washington, D.C., 1100 Pennsylvania Ave NW, License #100648 Retailer CH, ANC 2C
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA
1:00 PM

Show Cause Hearing* **1:30 PM**
Case # 18-251-00114; Kiss, LLC, t/a Kiss Tavern, 637 T Street NW, License #104710, Retailer CT, ANC 1B
Violation of Settlement Agreement

Contested Fact Finding Hearing* **3:30 PM**
Hopeful, Inc., t/a To Be Determined (formerly Bobby Lew's Saloon) (No Location), License #91955, Retailer CR
Request to Extend Safekeeping

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA

WEDNESDAY, JANUARY 9, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

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

ABRA-000654 – **Seven Seas Restaurant -** Retail – C – Restaurant – 5915 Georgia Avenue NW
[Licensee did not pay the Safekeeping fee within 30 days.]

ABRA-077268 – **Grapes n' Hopes Market** – Retail – B – 512 Rhode Island Avenue NW
[Licensee is out of business.]

ABRA-083415 – **Ming's** – Retail – C – Restaurant – 617 H Street NW
[Licensee is out of business.]

ABRA-097558 – **Toscana Café** – Retail – C – Restaurant – 601 2nd Street NE
[Licensee is out of business.]

ABRA-086500 – **Graffiato** – Retail – C – Restaurant – 707 6th Street NW
[Licensee is out of business.]

ABRA-098041 – **Jenny's** – Retail – C – Restaurant – 668 Water Street SW
[Licensee is out of business.]

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, JANUARY 9, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On Wednesday, January 9, 2019 at 4:00 pm., the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed "to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations."

1. Case# 18-CC-00126, Takoma Park Liquors, 6200 Eastern Avenue N.E., Retailer A, License # ABRA-019598

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2. Case# 18-251-00218, Bravo Bravo, 1001 Connecticut Avenue N.W., Retailer CN, License # ABRA-071564

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3. Case# 18-251-00203, Secret Lounge, 1928 9th Street N.W., Retailer CT, License # ABRA-107123

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4. Case# 18-251-00201, The Green Island Café/Heaven & Hell, 2327 18th Street N.W., Retailer CT, License # ABRA-074503

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5. Case# 18-CMP-00247, Queen of Sheba, 1503 9th Street N.W., Retailer CR, License # ABRA-073644

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6. 18-CC-00130, Towne Wine & Liquor, 1326 Wisconsin Avenue N.W., Retailer A, License # ABRA-093813

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7. Case# 18-251-00198, The Green Island Café/Heaven & Hell, 2327 18th Street N.W., Retailer CT, License # ABRA-074503

8. Case# 18-AUD-00097, Ankara, 1920 19th Street N.W., Retailer CR, License # ABRA-097698

9. Case# 18-CC-00131, Church, 3222 M Street N.W., Retailer CR, License # ABRA-106963

10. Case# 18-CMP-00249, Provisions No. 14, 2100 14th Street N.W., Retailer CR, License # ABRA-096425

11. Case# 18-AUD-00098, Centrolina, 974 Palmer Alley N.W., Retailer CR, License # ABRA-098364

12. Case# 18-251-00200, The Green Island Café/Heaven & Hell, 2327 18th Street N.W., Retailer CT, License # ABRA-074503

13. Case# 18-AUD-00099, DC Kyoto Sushi, 201 Massachusetts Avenue N.W., Retailer CR, License # ABRA-102890

14. Case# 18-251-00208, The Green Island Café/Heaven & Hell, 2327 18th Street N.W., Retailer CT, License # ABRA-074503

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JANUARY 9, 2019 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request to remove license from Safekeeping to operate under new ownership. ANC 1B. SMD 1B05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Creme***, 2436 14th Street NW, Retailer CR, License No. 093542.

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2. Review Application for Safekeeping of License – Original Request. ANC 1C. SMD 1C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Ventnor Sports Cafe***, 2411 18th Street NW, Retailer CR, License No. 072529.

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3. Review Application for Safekeeping of License – Original Request. ANC 1A. SMD 1A04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***La Gran Villa***, 3475 14th Street NW, Retailer DR, License No. 099181.

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4. Review Application for Safekeeping of License – Original Request. ANC 6E. SMD 6E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Capitol City Wine & Spirits***, 500 K Street NW, Retailer A Liquor Store, License No. 060423.

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5. Review Application for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales:*** Sunday 10am to 6pm, Monday-Saturday 7:30am to 9pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales:*** Sunday 10am to 9pm, Monday-Saturday 7:30am to 9pm. ANC 3E. SMD 3E04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Pauls Discount Wine & Liquor***, 5205 Wisconsin Avenue NW, Retailer A Liquor Store, License No. 000010.

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6. Review Application for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales:*** Sunday 9am to 8pm, Monday-Saturday 10am to 10pm. ***Proposed Hours of Operation:*** Sunday-Saturday 7am to 11pm. ***Proposed Hours of Alcoholic Beverage Sales:*** Sunday-Saturday 9am to 11pm. ANC 6B. SMD 6B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Capital Supreme Market***, 501 4th Street SE, Retailer B Grocery, License No. 111567.

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7. Review Application for Sidewalk Café with seating for 12 patrons. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Cafe:*** Sunday-Thursday 11am to 11pm, Friday-Saturday 11am to 12am. ANC 2F. SMD 2F07. The Establishment has an outstanding citation. No conflict with Settlement Agreement. ***El Sol Restaurant & Tequileria,*** 1227 11th Street NW, Retailer C Restaurant, License No. 099065.

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8. Review Application for Summer Garden with seating for 30 patrons. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday-Thursday 11am to 11pm, Friday-Saturday 11am to 12am. ANC 2F. SMD 2F07. The Establishment has an outstanding citation. No conflict with Settlement Agreement. ***El Sol Restaurant & Tequileria,*** 1227 11th Street NW, Retailer C Restaurant, License No. 099065.

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9. Review Application for Entertainment Endorsement to provide Live Entertainment with Dancing. ANC 1C. SMD 1C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Zenebech Restaurant***, 2420-2422 18th Street NW, Retailer CR, License No. 106670.

***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.**

EAGLE ACADEMY PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS (RFP)

Strategic Communications Services

Eagle Academy Public Charter School, in accordance with Section 2204©(XV)(A) of the District of Columbia School Reform Act of 1995, hereby seeks proposals to provide Public Relations Services for a Public Charter School with multiple campuses in Washington, DC.

Submittal is Due: Tuesday, January 8, 2019 by 5:00 pm

Submittal Requirements – Please submit your proposal by the time and date specified in electronic form. No late submittals will be accepted.

Questions and proposals should be directed to the attention of kalston@eagleacademypcs.org

Eagle Academy PCS reserves the right to reject any and all bids at its sole discretion.
All bidders will be deemed to have agreed to Eagle's Standard Terms and Conditions which may be viewed at www.eagleacademypcs.org/terms.

DISTRICT OF COLUMBIA STATE BOARD OF EDUCATION

2019 Regular Public Meeting and Working Session Schedule

This notice outlines the schedule of the regular meetings of the DC State Board of Education (SBOE). The meetings are held in open session and the public is invited to attend. The meetings are held at 441 4th Street, NW, Washington, DC. An agenda for each meeting will be posted on the State Board's website at sboe.dc.gov. This schedule is subject to change.

For further information, please contact the front desk at 202-741-0888.

Type of Meeting	Date	Time	Location in 441 4th Street
Student Advisory Committee	1/7/19	4:30 PM	Citywide Conference Center (11th Floor)
Task Force Meeting	1/8/19	6:00 PM	Citywide Conference Center (11th Floor)
Working Session	1/9/19	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	1/16/19	5:30 PM	Old Council Chambers (Ground Floor)
Student Advisory Committee	2/4/19	4:30 PM	Citywide Conference Center (11th Floor)
Working Session	2/6/19	5:00 PM	Citywide Conference Center (11th Floor)
Task Force Meeting	2/12/19	6:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	2/27/19	5:30 PM	Old Council Chambers (Ground Floor)
Student Advisory Committee	3/4/19	4:30 PM	Citywide Conference Center (11th Floor)
Working Session	3/5/19	5:00 PM	Citywide Conference Center (11th Floor)
Task Force Meeting	3/12/19	6:00 PM	Citywide Conference Center (11th Floor)

Public Meeting	3/20/19	5:30 PM	Old Council Chambers (Ground Floor)
Student Advisory Committee	4/1/19	4:30 PM	Citywide Conference Center (11th Floor)
Working Session	4/2/19	5:00 PM	Citywide Conference Center (11th Floor)
Task Force Meeting	4/9/19	6:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	4/24/19	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	5/1/19	5:00 PM	Citywide Conference Center (11th Floor)
Student Advisory Committee	5/6/19	4:30 PM	Citywide Conference Center (11th Floor)
Task Force Meeting	5/14/19	6:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	5/15/19	5:30 PM	Old Council Chambers (Ground Floor)
Student Advisory Committee	6/3/19	4:30 PM	Citywide Conference Center (11th Floor)
Working Session	6/5/19	5:00 PM	Citywide Conference Center (11th Floor)
Task Force Meeting	6/11/19	6:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	6/19/19	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	7/2/19	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	7/17/19	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	8/7/19	5:00 PM	Citywide Conference Center (11th Floor)
Working Session	9/4/19	5:00 PM	Citywide Conference Center (11th Floor)

Student Advisory Committee	9/9/19	4:30 PM	Citywide Conference Center (11th Floor)
Public Meeting	9/18/19	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	10/2/19	5:00 PM	Citywide Conference Center (11th Floor)
Student Advisory Committee	10/7/19	4:30 PM	Citywide Conference Center (11th Floor)
Public Meeting	10/16/19	5:30 PM	Old Council Chambers (Ground Floor)
Student Advisory Committee	11/4/19	4:30 PM	Citywide Conference Center (11th Floor)
Working Session	11/6/19	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	11/20/19	5:30 PM	Old Council Chambers (Ground Floor)
Student Advisory Committee	12/2/19	4:30 PM	Citywide Conference Center (11th Floor)
Working Session	12/4/19	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	12/18/19	5:30 PM	Old Council Chambers (Ground Floor)

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there are vacancies in six (6) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 3D10, 3F07, 4B06, 6E04, 7E07, and 7F07

Petition Circulation Period: **Monday, January 7, 2019 thru Monday, January 28, 2019**
Petition Challenge Period: **Thursday, January 31, 2019 thru Wednesday, February 6, 2019**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

D.C. Board of Elections
1015 - Half Street, SE, Room 750
Washington, DC 20003

For more information, the public may call **727-2525**.

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS

UPDATED FISCAL YEAR 2019 MONTHLY MEETING SCHEDULE

This notice outlines the schedule of the regular meetings of the Board for the Office of Employee Appeals. Portions of the meetings are held in open session, and the public is invited to attend. The meetings are held at 955 L'Enfant Plaza, Suite 2500, SW, Washington, D.C. A copy of the draft agenda for each meeting will be posted on the agency's website and the lobby of the Office of Employee Appeals. For further information, please contact the front desk at 202.727.0004. This schedule is subject to change.

DATE	TIME	ROOM NUMBER
Tuesday, February 26, 2019	11:00 AM	Conference Room
Tuesday, April 9, 2019	11:00 AM	Conference Room
Tuesday, May 28, 2019	11:00 AM	Conference Room
Tuesday, July 16, 2019	11:00 AM	Conference Room
Tuesday, September 10, 2019	11:00 AM	Conference Room

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue an air quality permit (No. 7037) to ASF LLC dba GAB Auto Repair, to operate one (1) side down draft Col-Met automotive paint spray booth at the facility located at 1824 Fenwick Street NE, Washington DC 20002. The contact person for the facility is Assefa Feleke, Manager, at (301) 335-0868.

Emissions Estimate:

AQD estimates that the potential to emit volatile organic compounds (VOC) from the automotive paint spray booth will not exceed 3.12 tons per year.

The proposed emission limits are as follows:

a. No chemical strippers containing methylene chloride (MeCl) shall be used for paint stripping at the facility. [20 DCMR 201.1]

b. The Permittee shall not use or apply to a motor vehicle, mobile equipment, or associated parts and components, an automotive coating with a VOC regulatory content calculated in accordance with the methods specified in this permit that exceeds the VOC content requirements of Table I below. [20 DCMR 718.3]

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

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

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Underbody coating	3.6	430
Uniform finish coating	4.5	540

*VOC regulatory limit as applied = weight of VOC per volume of coating (prepared to manufacturer's recommended maximum VOC content, minus water and non-VOC solvents)

c. Each cleaning solvent present at the facility shall not exceed a VOC content of twenty-five (25) grams per liter (twenty-one one-hundredths (0.21) pound per gallon), calculated in accordance with the methods specified in this permit, except for [20 DCMR 718.4]:

1. Cleaning solvent used as bug and tar remover if the VOC content of the cleaning solvent does not exceed three hundred fifty (350) grams per liter (two and nine-tenths (2.9) pounds per gallon), where usage of cleaning solvent used as bug and tar remover is limited as follows:

A. Twenty (20) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with four hundred (400) gallons or more of coating usage during the preceding twelve (12) calendar months;

B. Fifteen (15) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with one hundred fifty (150) gallons or more of coating usage during the preceding twelve (12) calendar months; or

C. Ten (10) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with less than one hundred fifty (150) gallons of coating usage during the preceding twelve (12) calendar months;

2. Cleaning solvents used to clean plastic parts just prior to coating or VOC-containing materials for the removal of wax and grease provided that non-aerosol, hand-held spray bottles are used with a maximum cleaning solvent VOC content of seven hundred eighty (780) grams per liter and the total volume of the cleaning solvent does not exceed twenty (20) gallons per consecutive twelve-month (12) period per automotive refinishing facility;

3. Aerosol cleaning solvents if one hundred sixty (160) ounces or less are used per day per automotive refinishing facility; or

4. Cleaning solvent with a VOC content no greater than three hundred fifty (350) grams per liter may be used at a volume equal to two-and-one-half percent (2.5%) of the preceding calendar year's annual coating usage up to a maximum of fifteen (15) gallons per calendar year of cleaning solvent.

d. The Permittee may not possess either of the following [20 DCMR 718.9]:

1. An automotive coating that is not in compliance with Condition (b) (relating to coating VOC content limits); and

2. A cleaning solvent that does not meet the requirements of Condition (c) (relating to cleaning solvent VOC content limits).

e. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]

f. Visible emissions shall not be emitted into the outdoor atmosphere from the paint booth. [20 DCMR 201.1, 20 DCMR 606, and 20 DCMR 903.1]

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

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

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

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

No comments or hearing requests submitted after February 4, 2019 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue an air quality permit (No. 7157) to Ghuman Inc. dba Gold Star Cab Co., to operate a down draft Endothermic Talleres Baleato paint spray booth at the facility located at 39 Q Street SW, Washington DC 20024. The contact person for the facility is Parbhpreet S. Ghuman Jr. at (202) 484-5555.

Emissions Estimate:

AQD estimates that the potential to emit volatile organic compounds (VOC) from the automotive paint spray booth will not exceed 3.12 tons per year.

The proposed emission limits are as follows:

a. No chemical strippers containing methylene chloride (MeCl) shall be used for paint stripping at the facility. [20 DCMR 201.1]

b. The Permittee shall not use or apply to a motor vehicle, mobile equipment, or associated parts and components, an automotive coating with a VOC regulatory content calculated in accordance with the methods specified in this permit that exceeds the VOC content requirements of Table I below. [20 DCMR 718.3]

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

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
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Clear coating	2.1	250
Color coating, including metallic/iridescent color coating	3.5	420
Multicolor coating	5.7	680
Other automotive coating type	2.1	250
Single-stage coating, including single-stage metallic/iridescent coating	2.8	340
Temporary protective coating	0.50	60
Truck bed liner coating	1.7	200

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Underbody coating	3.6	430
Uniform finish coating	4.5	540

*VOC regulatory limit as applied = weight of VOC per volume of coating (prepared to manufacturer's recommended maximum VOC content, minus water and non-VOC solvents)

c. Each cleaning solvent present at the facility shall not exceed a VOC content of twenty-five (25) grams per liter (twenty-one one-hundredths (0.21) pound per gallon), calculated in accordance with the methods specified in this permit, except for [20 DCMR 718.4]:

1. Cleaning solvent used as bug and tar remover if the VOC content of the cleaning solvent does not exceed three hundred fifty (350) grams per liter (two and nine-tenths (2.9) pounds per gallon), where usage of cleaning solvent used as bug and tar remover is limited as follows:

A. Twenty (20) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with four hundred (400) gallons or more of coating usage during the preceding twelve (12) calendar months;

B. Fifteen (15) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with one hundred fifty (150) gallons or more of coating usage during the preceding twelve (12) calendar months; or

C. Ten (10) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with less than one hundred fifty (150) gallons of coating usage during the preceding twelve (12) calendar months;

2. Cleaning solvents used to clean plastic parts just prior to coating or VOC-containing materials for the removal of wax and grease provided that non-aerosol, hand-held spray bottles are used with a maximum cleaning solvent VOC content of seven hundred eighty (780) grams per liter and the total volume of the cleaning solvent does not exceed twenty (20) gallons per consecutive twelve-month (12) period per automotive refinishing facility;

3. Aerosol cleaning solvents if one hundred sixty (160) ounces or less are used per day per automotive refinishing facility; or

4. Cleaning solvent with a VOC content no greater than three hundred fifty (350) grams per liter may be used at a volume equal to two-and-one-half percent (2.5%) of the preceding calendar year's annual coating usage up to a maximum of fifteen (15) gallons per calendar year of cleaning solvent.

d. The Permittee may not possess either of the following [20 DCMR 718.9]:

1. An automotive coating that is not in compliance with Condition (b) (relating to coating VOC content limits); and

2. A cleaning solvent that does not meet the requirements of Condition (c) (relating to cleaning solvent VOC content limits).

e. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]

f. Visible emissions shall not be emitted into the outdoor atmosphere from the paint booth. [20 DCMR 201.1, 20 DCMR 606, and 20 DCMR 903.1]

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

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

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

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

No comments or hearing requests submitted after February 4, 2019 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY

2019 Green Zone Environmental Program – Watershed Protection Projects

The Department of Energy and Environment (the Department) seeks eligible entities to provide education, training, and hands-on activities to participants in the Green Zone Environmental Program (GZEP). Projects should focus on improving water quality and, in particular, reducing the impacts of stormwater runoff on District water bodies. Additionally, these projects should provide GZEP participants with entry-level skills in the green economy. The amount available for this grant announcement is approximately $80,000. An applicant can request up to $20,000. DOEE plans to make multiple awards.

Beginning 1/4/2019, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

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

Email a request to GZEP2019.watershedprojects@dc.gov with "Request copy of RFA 2019-1910-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: 2019-1910-WPD" on the outside of the envelope.

The deadline for application submissions is 2/15/2019, at 4:30 p.m. Five hard copies must be submitted to the above address **OR** a complete electronic copy must be e-mailed to GZEP2019.watershedprojects@dc.gov for receipt by that time.

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: GZEP2019.watershedprojects@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FUNDING AVAILABIITY

The Department of Health Care Finance (DHCF) announces a Notice of Funding Availability (NOFA) for grant funds. The Director of DHCF has authority to issue grants under the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code 7-771.05(4) (2012 Repl.) to help develop a comprehensive, efficient, and cost-effective health care system for the District's uninsured, underinsured, and low-income residents.

A Request for Applications (RFA) for the below opportunity will be released under a separate announcement with guidelines for submitting the application, review criteria, and DHCF terms and conditions for applying for and receiving funding. The anticipated performance period for this grant is from Award Date to September 30, 2019.

Descriptions of Opportunities:

Hospital Discharge Innovations to Improve Care Transitions: One (1) grant of $382,000 will be awarded to improve the discharge and transfer experience of Medicaid beneficiaries. This grant will support the implementation of innovative approaches to effective hospital discharge planning and care transition procedures that reduce preventable utilization of services, improve patient experience, and quality of care, including efforts designed to:

- Improve the quality and timeliness of discharge summaries and structured data;
- Utilize new technology effectively, including health information exchange (HIE) tools; and
- Advance team-based care models.

Eligibility Requirements:

Applicants must have a demonstrated record of implementing new interventions in the hospital setting and a demonstrated expertise in evidenced-based and innovative approaches to effective discharge planning and care transition interventions. Applicants should have a deep understanding of DHCF priorities and the proposal should reflect ongoing initiatives such as pay-for-performance initiatives, health homes, and health IT and HIE tools.

All applicants must also be registered organization in good standing with the DC Department of Consumer and Regulatory Affairs (DCRA), Corporation Division, the Office of Tax and Revenue (OTR), the Department of Employment Services (DOES), and the Internal Revenue Service (IRS), and demonstrate Clean Hands certification at the time of application.

A RFA will be released on or around January 18, 2019. The RFA package will be available online at http://opgs.dc.gov/page/opgs-district-grants-clearinghouse and the https://dhcf.dc.gov/. Hard copies of the RFA package may be obtained at DHCF, 441 4th St.

N.W., Ste 900S, Washington, D.C. 20001, 9th floor reception desk daily from 9:00 am until 4:00 pm. All eligible applications are reviewed through a competitive process.

DHCF will hold a pre-proposal conference on January 22, 2019 at 10:30AM at 441 4th Street NW, 10th floor, Main Street Room 1028, Washington, DC 20001. Prospective applicants must provide an email address to DHCF to receive notification of amendments or clarifications to the RFA.

Completed applications must be received on or before 4:00PM on February 18, 2019. Applications must be submitted in hard copy and in-person at DHCF, 441 4th St. N.W., Ste 900S, Washington, D.C. 20001, 9th floor reception desk. No applications will be accepted after the submission deadline.

For additional information regarding this NOFA, please contact Joe Weissfeld, Senior Project Manager, DHCF, Health Care Reform and Innovation Administration at joe.weissfeld@dc.gov or at 202-442-5839.

DEPARTMENT OF HEALTH (DC HEALTH)

PUBLIC NOTICE

The District of Columbia Board of Dentistry ("Board") hereby gives notice, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.), of the following meeting dates and public hearings:

Wednesday, January 23, 2019, the Board will hold an open session (public) meeting, which will begin at 9:30 a.m. and end at 10:30 a.m., or when there is no further open session business for the Board to consider. Following the open (public) session, the Board will meet in executive (closed/non-public) session to seek the advice of counsel to the board, pursuant to D.C. Official Code § 2-575(b)(4); to discuss disciplinary matters pursuant to D.C. Official Code § 2-575(b)(9); and to discuss ongoing or planned investigations pursuant to D.C. Official Code § 2-575(b)(14).

Monday, February 4, 2019, the Board will conduct a disciplinary hearing in the matter of Allena Willis, DDS, at 9:30 a.m. In accordance with 17 DCMR § 4109.1, the hearing is open to the public. Following the open (public) session, the Board will meet in executive (closed/non-public) session to deliberate upon the case.

Wednesday, February 20, 2019, the Board will hold an open session (public) meeting, which will begin at 9:30 a.m. and end at 10:30 a.m., or when there is no further open session business for the Board to consider. Following the open (public) session, the Board will meet in executive (closed/non-public) session to seek the advice of counsel to the board, pursuant to D.C. Official Code § 2-575(b)(4); to discuss disciplinary matters pursuant to D.C. Official Code § 2-575(b)(9); and to discuss ongoing or planned investigations pursuant to D.C. Official Code § 2-575(b)(14).

Wednesday, March 20, 2019, the Board will hold an open session (public) meeting, which will begin at 9:30 a.m. and end at 10:30 a.m., or when there is no further open session business for the Board to consider. Following the open (public) session, the Board will meet in executive (closed/non-public) session to seek the advice of counsel to the board, pursuant to D.C. Official Code § 2-575(b)(4); to discuss disciplinary matters pursuant to D.C. Official Code § 2-575(b)(9); and to discuss ongoing or planned investigations pursuant to D.C. Official Code § 2-575(b)(14).

Unless otherwise scheduled, the District of Columbia Board of Dentistry meets on the third Wednesday of each month at 899 North Capitol Street, NE, 2nd Floor, Washington, D.C. 20002. The agendas for all open (public) session meetings will be posted at least one business day before the meeting on the Board of Ethics and Government Accountability website at http://www.bega-dc.gov/board-commission/meetings and on the DOH website at www.doh.dc.gov.

KIPP DC PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

Human Capital Consulting Services

KIPP DC is soliciting proposals from qualified vendors for Human Capital Consulting Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on January 15, 2019. Questions can be addressed to kevin.mehm@kippdc.org.

DISTRICT OF COLUMBIA PUBLIC LIBRARY
BOARD OF LIBRARY TRUSTEES
Meeting Schedule
2019

Month	Meeting	Date	Time	Location
January 2019	Board of Library Trustees Meeting	Wednesday, January 23	6:00 p.m.	Administrative Office @ 1990 K Street, NW
March 2019	Board of Library Trustees Meeting	Wednesday, March 27	6:00 p.m.	Administrative Office @ 1990 K Street, NW
May 2019	Board of Library Trustees Meeting	Wednesday, May 22	6:00 p.m.	Administrative Office @ 1990 K Street, NW
July 2019	Board of Library Trustees Meeting	Wednesday, July 24	6:00 p.m.	Administrative Office @ 1990 K Street, NW
September 2019	Board of Library Trustees Meeting	Wednesday, September 25	6:00 p.m.	Administrative Office @ 1990 K Street, NW
November 2019	Board of Library Trustees Meeting	Wednesday, November 20	6:00 p.m.	Administrative Office @ 1990 K Street, NW

Note: According to the Bylaws, the Board of Trustees shall hold six (6) regular meetings each year. The schedule of the regular Board meetings shall be proposed by the President of the Board and approved by the Board. Notices of regular meetings (including the Annual Meeting) shall be sent to each member of the Board at least five (5) calendar days before the meeting.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

BOARD OF TRUSTEES

NOTICE OF PUBLIC MEETINGS

Regular Meetings of the Board of Trustees - 2019
Tuesday, February 26, 2019 – 6:00 p.m.
Tuesday, April 30, 2019 – 6:00 p.m.
Tuesday, June 4, 2019 – 6:00 p.m.
Tuesday, September 10, 2019 – 6:00 p.m.
Tuesday, November 19, 2019 – 6:00 p.m.

All meetings will be held in the Board Room, Third Floor, Building 39 at the University of the District of Columbia, Van Ness Campus, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Information regarding the meetings, including the final agenda, will be posted to the University of the District of Columbia's website at www.udc.edu.

For additional information, please contact: Beverly Franklin, Executive Secretary, at (202) 274-6258 or bfranklin@udc.edu.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Order No. 19200-B of Jemal's Pappas Tomato's LLC, pursuant to 11 DCMR Subtitle Y § 704, for a modification of significance to the plans and relief approved by BZA Orders No. 19200 and 19200A to include special exceptions under Subtitle U § 802.1(d) from the use provisions of Subtitle U § 802, under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, under the penthouse use provisions of Subtitle C § 1500.3(c), and under Subtitle J § 210.1 from the rear yard requirements of Subtitle J § 205.2; and a variance from the location of entertainment use requirement of Subtitle U § 802.1(d)(3), to expand an existing mixed use building in the PDR-1 Zone at premises 1401 Okie Street N.E. (Square 4093, Lot 22).

HEARING DATE (Case No. 19200):	March 1, 2016
DECISION DATE (Case No. 19200):	March 1, 2016
FINAL ORDER ISSUANCE DATE (Case No. 19200):	March 3, 2016
MODIFICATION OF CONSEQUENCE ORDER (Case No. 19200-A)	November 1, 2016
MODIFICATION HEARING DATE:	December 19, 2018
MODIFICATON DECISION DATE:	December 19, 2018

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF SIGNIFICANCE

BACKGROUND

On March 1, 2016, in Application No. 19200, the Board of Zoning Adjustment ("Board" or "BZA") approved the self-certified request by Jemal's Pappas Tomato's, LLC (the "Applicant") for an area variance from the off-street parking requirements under § 2101.1 of the Zoning Regulations of 1958, to allow the adaptive reuse of an existing warehouse building for retail uses in the C-M-1 Zone (now PDR-1 Zone) at premises 1401 Okie Street N.E. (Square 4093, Lot 832) (the "Subject Property"). The Board granted the variance to permit the Applicant to provide zero parking spaces on-site, based in part on the Applicant's proposed construction of a seven-story above-ground parking garage across Okie Street immediately to the north of the Subject Property. The Board issued Order No. 19200 on March 3, 2016. The Board's approval was subject to one condition:

1. Pending the approval of the Public Space Committee, the Applicant shall install curb ramps on the east-side of Fenwick Street at the intersection of Gallaudet Street as part of streetscape improvements, which will be coordinated through public space permits.

On October 18, 2016, in BZA Application No. 19200-A, the Board approved a modification of consequence to redesign the architectural elements from the approved plans of Order No. 19200. Specifically, the modification of consequence permitted the addition of a new third-story addition to a portion of the west side of the building and the reconfiguration of the uses within

the building to incorporate office use. Those changes resulted in relocated core elements, shifted penthouses at the roof levels, reconfigured partitions within the retail space to accommodate the office use, and reconfigured loading facilities. The modified plans reduced the number of required on-site parking spaces from 223 to 43; however, the project continued to provide no on-site parking spaces based on the relief granted in Application No. 19200. The Board issued Order No. 19200-A granting the modification of consequence on November 1, 2016.

MOTION FOR MODIFICATION OF SIGNIFICANCE

On October 4, 2018, the Applicant submitted a request for a Modification of Significance to the plans and relief previously approved in Orders No. 19200 and 19200-A. (Exhibits 1 and 12.)

In the current request, the Applicant proposes to further modify the plans in order to construct a partial second story on the northeast corner of the building, increase the amount of floor area on the second and third stories, and extend the building's ground floor into the rear yard for the first 36.5 feet of vertical height of the building. The Applicant proposes to add Entertainment, Assembly, and Performing Arts uses and Eating and Drinking Establishment uses to the project. The Applicant also proposes to add outdoor roof deck terraces in several locations on the building, some of which will be occupied with nightclub, bar, cocktail lounge, or restaurant uses. Revised plans were filed to the record. (Exhibits 31A and 31B.)

Based on the proposed modifications to the approved plans, the Applicant requests special exceptions under Subtitle U § 802.1(d) from the use provisions of Subtitle U § 802, under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, under the penthouse use provisions of Subtitle C § 1500.3(c), and under Subtitle J § 210.1 from the rear yard requirements of Subtitle J § 205.2; and an area variance from the location of entertainment use requirement of Subtitle U § 802.1(d)(3)[1]. 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 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.

Regarding the request for special exception relief to establish Entertainment uses, and the related area variance from the location requirement of Subtitle U § 802.1(d)(3), the Board granted the Applicant flexibility to increase or decrease the total square footage of Entertainment uses provided in the building. In the Applicant's current proposal, the Entertainment use will occupy approximately 21,718 square feet of gross floor area; however, the Applicant's request for parking relief in this modification was calculated based on a scenario in which the entire gross floor area of the building would be devoted to Entertainment uses, as that would result in the

[1] Though Application No. 19200 was vested under the Zoning Regulations of 1958, an application for a modification of significance to a vested project shall conform with the 2016 Regulations as the 2016 Regulations apply to the requested modification. (11-A DCMR § 102.4.) Therefore, the relief requested in the current modification is from the Zoning Regulations of 2016.

most required off-street parking spaces, given the uses in the building. The Board granted relief from the requirement to provide 85 parking spaces, with the understanding that it represents the maximum possible parking requirement for the project. Accordingly, if the Applicant were to increase the gross floor area devoted to Entertainment use from what is currently depicted on the approved plans, no additional parking relief would be needed.

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a minor modification or modification of consequence[2] requires a public hearing and is a modification of significance. The Applicant's request complies with 11 DCMR Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications of significance.

Pursuant to Subtitle Y § 704.6, a public hearing on a request for a modification of significance shall be focused on the relevant evidentiary issues requested for modification and any condition impacted by the requested modification. Pursuant to Subtitle Y § 704.7, the scope of a hearing conducted pursuant to Subtitle Y § 704.1 is limited to the impact of the modification on the subject of the original application, and does not permit the Board to revisit its original decision. Pursuant to Subtitle Y § 704.8, a decision on a request for modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. Finally, pursuant to Subtitle Y § 704.9, the filing of any modification request under this section does not act to toll the expiration of the underlying order and the grant of any such modification does not extend the validity of any such order.

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") 5D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. ANC 5D submitted a report indicating that at a regularly scheduled, properly noticed public meeting on November 13, 2018, at which a quorum was present, the ANC voted 4-1 to support the plan modifications and the relief requested. (Exhibit 32.)

OP submitted a timely report recommending approval of the requested modification of significance. (Exhibit 34.) DDOT originally submitted a report indicating that it could not make a recommendation. (Exhibit 33.) Before the public hearing, DDOT submitted a supplemental report stating that it had no objection to the granting of the request, with two conditions. (Exhibit 37.) Those conditions were adopted by the Board, along with the condition regarding flexibility requested by the Applicant and the previously-adopted condition of Order No. 19200, which remains in effect.

As directed by 11 DCMR Subtitle X § 901.2, Subtitle X § 1002.2, and Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exceptions, area variance, and modification of significance. The

[2] See, Subtitle Y §§ 703.3 and 703.4.

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 special exceptions under Subtitle U § 802.1(d) from the use provisions of Subtitle U § 802, under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, under the penthouse use provisions of Subtitle C § 1500.3(c), and under Subtitle J § 210.1 from the rear yard requirements of Subtitle J § 205.2, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 901.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board also concludes that in seeking an area variance from the location of entertainment use requirement of Subtitle U § 802.1(d)(3), 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.

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. The Board also concludes that in seeking a modification of significance to Orders No. 19200 and 19200-A, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 704.

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 for modification of significance is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBITS 31A AND 31B, AND THE FOLLOWING MODIFIED CONDITIONS:**

1. Pending the approval of the Public Space Committee, the Applicant shall install curb ramps on the east-side of Fenwick Street at the intersection of Gallaudet Street as part of streetscape improvements, which will be coordinated through public space permits.

2. The Applicant shall implement the Loading Management Plan as proposed by the Applicant in the November 5, 2018 CTR for the life of the project, unless otherwise noted. The Applicant will also be required to secure public space permit approval for all work in public space.

3. The Applicant shall design and construct pedestrian improvements at the New York Avenue and Fenwick Street intersection to DDOT standards including installing ADA-compliant curb ramps at all pedestrian crossings, upgrading crosswalks with high

visibility striping, and modifying any stormwater inlets or other infrastructure that conflicts with these improvements.

4. The Applicant shall have flexibility to increase or decrease the amount of floor area in the building devoted to Entertainment use.

In all other respects, Orders No. 19200 and 19200-A remain unchanged.

VOTE ON ORIGINAL APPLICATION ON MARCH 1, 2016: 3-0-2
(Marnique Y. Heath, Frederick L. Hill, Michael G. Turnbull, to APPROVE; Jeffrey L. Hinkle, not participating or voting; one Board seat vacant.)

VOTE ON MODIFICATION OF CONSEQUENCE ON OCTOBER 18, 2016: 3-0-2
(Anita Butani D'Souza, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE; Frederick L. Hill, not participating or voting; one Board seat vacant.)

VOTE ON MODIFICATION OF SIGNIFICANCE ON DECEMBER 19, 2018: 5-0-0
(Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter G. May 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: December 26, 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. 19309 of Valor P Street, LLC, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, and the rear yard requirements under § 774.1, to renovate an existing structure to create a mixed-use building containing eight dwelling units with a ground-floor restaurant in the DC/C-2-C District at premises 2147-2149 P Street, N.W. (Square 67, Lot 835).

HEARING DATES: July 12, 2016, October 18, 2016, and November 16, 2016
DECISION DATE: December 21, 2016

DECISION AND ORDER

On April 28, 2016, Valor P Street, LLC (the "Applicant"), the owner of the subject premises, submitted a self-certified application (the "Application") as subsequently amended to reduce the relief requested, requesting variance relief from the rear yard and residential lot occupancy requirements, to renovate an existing structure with a two-story addition to the building to create a mixed-use building containing nine dwelling units with a ground-floor retail in the DC/C-2-C Zone District at 2147-2149 P Street, N.W. (Square 67, Lot 835) (the "Property").[1] For the reasons explained below, and following public hearings, the Board of Zoning Adjustment (the "Board") voted to approve the Application.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. By memoranda dated May 10, 2016, the Office of Zoning sent notice of the application to the Office of Planning ("OP"); Advisory Neighborhood Commission 2B ("ANC"), the ANC for the area within which the subject property is located; the ANC Single-Member District 2B02; the Office of Advisory Neighborhood Commissions; the District Department of Transportation ("DDOT"); each of the four At-Large Councilmembers; and the Councilmember for Ward Two. (Ex. 12-20.) A public hearing was initially scheduled for July 12, 2016. Pursuant to 11 DCMR § 3112.14, the Office of Zoning mailed notice of the public hearing to the Applicant, the ANC, and the owners of property within 200 feet of the subject property on May 20, 2016. (Ex. 21-23.) Notice of the public hearings was also published in the *DC Register* on May 23, 2016, August 19, 2016, September 30, 2016, and November 4, 2016.

[1] The Application was modified after the initial filing to reduce the amount of lot occupancy and rear yard relief requested. The Applicant reduced the amount of lot occupancy relief requested on the second and third floors from 100% lot occupancy to 97% lot occupancy from the requirement of 80% maximum residential lot occupancy, and the amount of rear yard relief requested 0 feet on all floors to 3 feet on floors 2 through 5 from the 15 foot rear yard requirement.

ANC Report. At a specially scheduled and duly noticed meeting held on July 6, 2016, with a quorum present, the ANC, by a vote of 6-0-2, voted to approve a resolution requesting a continuance of the initial hearing scheduled for July 12, 2016. At a subsequent regularly scheduled and duly noticed meeting held on November 15, 2016, the ANC voted to approve a resolution, by a vote of 5-3-1, to not object to the Board's approval of the Project contingent on the condition that the Board revoke the ability of the Property in perpetuity to apply for and receive an alcohol license. For the reasons explained below, the Board did not adopt the ANC's proposed condition. The ANC also raised additional issues and concerns in their resolution that are addressed fully below.

OP Report. By report dated July 5, 2016, OP recommended denial of the Applicant's request for relief from the lot occupancy requirement of 80% maximum for residential use under § 772.1 to allow 100% lot occupancy on the second and third floors and relief from the rear yard requirement of 15 feet under § 774.1 to allow no rear yard. The Applicant submitted revised plans reducing the lot occupancy relief requested from 100% to 97% for the second and third floors from the lot occupancy requirement of 80% maximum for residential use pursuant to § 772.1 and reducing the amount of rear yard relief required under § 774.1 to three feet for floors 2 through 5. Thereafter, OP submitted a second report, dated November 4, 2016, wherein OP recommended approval of both the lot occupancy and rear yard relief requested by the Applicant. At the public hearing on November 16, 2016, OP also recommended approval of the requested areas of relief.

DDOT Report. By report, dated July 6, 2016, DDOT had no objection to the approval of the Applicant's requested variance relief despite minor potential increases in traffic, noting that no parking was required by the Project under § 2120.3 and that the Applicant's plans for loading, trash removal, and long term bicycle storage met requirements of the Zoning Regulations and were sufficient in terms of potential safety and capacity impacts on the traffic networks in the area.

Requests for Party Status. The Applicant and the ANC were automatically parties in this proceeding. The Board reviewed one request for party status in opposition to the Application from Dupont West Condominium (the "Dupont West"). (Ex. 43.) At the hearing on July 12, 2016, the Board granted the Dupont West's request for party status. The Applicant did not object to the party status request.

Public Hearings. The Board conducted a public hearing on July 12, 2016, and at the request of both the ANC and the Applicant, the hearing was continued to October 18, 2016. At the request of the Applicant (Ex. 65), the October 18, 2015 hearing was subsequently postponed to November 16, 2016. At the Board's hearing on November 16, 2016, the Board requested additional filings and information (submitted on the record at Ex. 95-99B.) The Board took a vote during a public meeting on December 21, 2016, during which the conditions of approval were discussed and approved by the Board. (12/21/16 Tr. 22-24.)

Party in Opposition. The Dupont West is an association of condominium owners in the property adjacent to the Project, located at 2141 P Street, N.W. (Ex. 43.) A summary of the Party in Opposition's main issues and concerns is: (1) Property does not have extraordinary characteristics, whether taken singly or as a confluence; (2) The Vacant Area (*see* Finding of Fact 14) was part of the Dupont West's property as early as 1894, and because the Lot configuration has existed in that configuration for a "long period of time, through many uses…" (11/16/16 Tr. 87), the subdivision history does not constitute a unique condition; (3) The Property's change in grade also affects the Dupont West, and so is found within the same square. (11/16/16 Tr. 88); (4) The Property's narrow and long length "is what it is" (11/16/16 Tr. 88); (4) The existing, exposed side walls are no different from a "semi-detached house or a property on an alley in a historic district." (11/16/16 Tr. 92-93); (5) The only practical difficulties are "those imposed by the Applicant themselves because of their plans"; (6) The Project will have substantial detriment and negative impacts; including congestion, light and air (on both the Dupont West and the historic Walsh Stables); and (7) construction will also be detrimental.

Persons in Support. The Board received letters and petitions from persons and businesses in support of the application. Persons and businesses in support of the Project generally noted that the Project was appropriate for the surrounding area and that there would be no adverse impact on the neighborhood. Five petitions in support from neighboring residents, signed by a total 11 individuals, and two petitions signed by three businesses were submitted to the record.

Persons in Opposition. The Board also received letters and heard testimony from persons in opposition to the application. The persons in opposition were generally concerned with the impacts on the light, air, and privacy on their residences. Concerns regarding the impact of additional residents to the neighborhood on traffic, parking, noise, and waste management, as well as the change to the historic building streetscape, were also noted. Concerns were also raised regarding a tree on adjacent property in the rear and the Project's mechanical equipment screening. Twenty-six letters of opposition were submitted by individuals, including many of the residents of Dupont West Condominium and the owners of Walsh Stables. In addition, a petition in opposition, signed by 22 individuals (16 of whom were the same individuals who submitted letters in opposition), and copies of two Letters to the Editor of the *Dupont Current* signed by five of the same individuals who submitted letters in opposition, were submitted to the record. Kay Jackson, one of the owners of Walsh Stables, and Farrokh Khatami, John Hammond, and Judith Snyder, residents of Dupont West Condominium, testified at the hearing on November 16, 2016.

Applicant's Case. During the November 16, 2016 public hearing, the Applicant provided evidence and testimony in support of the Application. The Applicant produced expert testimony from Ellen McCarthy, an expert in land use planning and zoning, who asserted that the Property was subject to unique and exceptional conditions and that the Project will not cause substantial detriment to the public good or impair the Zone Plan. The Project architect, Matt Stevison of PGN Architects, spoke in an expert capacity regarding design elements of the Project and the need for the requested relief as it pertains to the Project's rear yard and lot occupancy

specifications. Mr. Stevison also concluded that the strict application of the Zoning Regulations would result in a practical difficulty to the Owner and that the Project will not cause substantial detriment to the public good in terms of reduction in light and air to the Dupont West. Finally, Will Lansing testified on behalf of the developer, responding to questions from the Board.

FINDINGS OF FACT

THE SUBJECT PROPERTY

1. The subject property is a single tax lot with the joint addresses of 2147-2149 P Street, N.W. (Square 67, Lot 835) ("the Property").

2. The Property is improved with two townhouses (the "East Row Dwelling", the "West Row Dwelling", collectively the "Existing Structures"). The Existing Structures were designed by architect, Alfred B. Mullett in 1894. The Existing Structures are approximately 40' in height along P Street, reducing in height towards the rear of the Property. Subsequently, the party wall shared by the structures was removed and the separate row dwellings were combined internally.[2]

3. The West Row Dwelling has an existing semi-exposed, historic side wall that is 51'-in length (the "West Side Wall"). The East Row Dwelling has an existing, exposed historic side wall that is 34' in length (the "East Side Wall").

4. The Existing Structures are three stories in height. The ground floors of the Existing Structures are built out to the Property's rear yard[3] and there is no rear yard on the ground floor. Accordingly, the Existing Structures occupy 100% of the lot.

5. The Property is 40' in width and 100' in depth. The Property's total land area is approximately 4,000 square feet, and it was zoned C-2-C in the Dupont Circle Overlay (C-2-C/DC).

6. The grade changes approximately 13' from the front to the rear of the Property.

7. The Property is located in the Dupont Circle Historic District (the "Historic District"), and the Historic Preservation Review Board ("HPRB") approved concept plan 16-528 on October 27, 2016, which requires the Project's proposed addition to be set back from the building façade by 34' along the east side and 51'along the west side. (Ex. 70C.)

8. Only 15% of the lot area along P Street is located in the Historic District.

[2] *See* Ex. 70C, which states that the interior of the two row dwellings "have had extensive renovations over the last several decades to accommodate different uses as a restaurant and nightclub, resulting in the loss of the original structural system and the construction of additions at the rear bringing it to 100% lot occupancy."

[3] The record does not include building permits documenting that the existing rear addition was constructed pursuant to building permits.

9. The Property is narrower than other neighboring, developed properties. It is also longer than other, historic properties to the west along P Street.

10. The Property is located in Square 67, which is a large square bounded by P Street, N.W. to the south, 22nd Street, N.W. to the west, Q Street and Massachusetts Avenue N.W. to the north and 21st Street, N.W. to the east. The Square is split-zoned between the C-2-C and R-5-E Zone Districts.

11. The Property is located mid-block, along the busy, commercial, and high-density residential/hotel block of P Street of Dupont Circle. The surrounding area on P Street is commercial in nature. The adjacent property, Dupont West, is a 10-story, mixed-use building with ground floor retail and residential units above. Also to the east are the Hotel Palomar and the Marriott Residence Inn, both 10 stories tall. The taller buildings to the east are not contributing to the Historic District. To the west along P Street are multi-level eateries and shops that are deemed to be contributing buildings to the Historic District.

12. To the north is the Walsh Stables, a historic carriage house.

13. The Dupont West building is separated from the Property by 23'-6", which includes a driveway that provides access to that building's below grade parking spaces, and the Dupont West's separate side yard. The Dupont West includes balconies that are inset into that building, and do not extend into the side yard separation between the Property and the Dupont West building.

14. There is an approximately 22' x 40' deep vacant area between the Property and the Walsh Stables (the "Vacant Area"). A plat from 1796 showed the Vacant Area as being part of the Property. (Ex. 9C, 83A1 [8].) The Property included the Vacant Area as late as 1843. (Ex. 9C showing the 1843 subdivision plat identified the Property as "Lot 6", which had the dimensions of 62' x 120'). Also, a Plat from 1892 included the Vacant Area in the "Lot 6", and in 1892, the Existing Structures could have been constructed all the way back to the 120; limit of Lot 6. (Ex. 53.) On or about 1910, the prior Lot 6 was subdivided into the current Property, and the new Lot 49 was created that became part of the Dupont West. (Ex. 9C, 1910 Plat.) Accordingly, in the 1910 Subdivision, the Vacant Area was removed from the Property lot and became part of the Dupont West. The Vacant Lot was the condition when the Dupont West was constructed in 1980. (11/16/16 Tr. 103.)

15. The Property is well-serviced by public transportation. The Property is approximately 0.3 miles from the Dupont Circle Metro Station. The Property also has direct access to numerous bus lines, including those that run along P Street, Q Street, 20th Street and Connecticut Avenue. Also, there are a number of Capital Bikeshare stations and ZipCar vehicles very close to the Property. On walkscore.com, the Property receives a walk score of 97 out of 100, deemed a "walker's paradise," and receives a bike score of 91, a

"biker's paradise."

THE APPLICANT'S PROPOSAL

16. The Applicant will preserve the Existing Structures' front façades and the historic side walls of the West and East Row Dwellings.

17. The Applicant will construct a two-story addition with approximately 2,653 s.f. of ground floor retail and nine units (the "Project").

18. The Project will have a total building height of 60 feet plus a mechanical penthouse. The Project initially proposed a three-story addition, but it was reduced. The maximum height in the zone is 90'.

19. The Project will have a total floor-area-ratio ("FAR") of 6.0. The maximum FAR in the zone is 9.0 FAR.

20. Due to the 13' change in grade from the front to the rear, the Applicant's proposed 2,635 s.f. ground floor retail/restaurant space will be at grade level on P Street, but will be below grade at the rear of the Property. The Project's main residential access will be on its west side, with the retail access near the middle of the frontage and the emergency egress on the east side.

21. The Applicant located the main residential entrance on the Project's west side, so it would be more than 63' away from the Dupont West's property line.

22. The Project requires two means of egress, which both need to egress out the front of the building. In addition, it requires an elevator. Accordingly, the Project's "Access Core" (the Project's elevator and stairway core) is approximately 27' in length, and must provide access to both sides of the 40'-wide Property. (Ex. 70.) If the Access Core were squared off, it would be functionally more than 1,000 s.f., equating to approximately 25% of the Property's total lot area. (Ex. 70.) The Access Core measures approximately 708 s.f., with a core factor of 18%.

23. To ensure that the Access Core could reach all four stories of units, the Access Core is pushed 51' into the lot. The "rear" of the Access Core is located 78' into the lot. (Ex. 70.)

24. The Project's second and third floors are identical in design and layout. Each floor extends from the front property line to the rear property line, and they propose three units each. The two front units will be long and narrow, and with one small, rectangular unit in the rear. The west side units will only have natural light from the P Street windows because it is bounded by the original, 51-foot West Side Wall that does not have any windows. The east side units will only have windows in the rear, beyond the end of the 34' East Side Wall. The rear units will be one bedroom units that have windows along

the rear. (Ex. 70A3.)

25. The Project's two-story addition (for the Project's fourth and fifth floors) will be set back from the building façade by 34' along the east side and 51 'along the west side, as approved by HPRB in concept plan 16-528 on October 27, 2016. (Ex. 70A3.) The addition will likely not be visible from P Street. (11/16/16 Tr. 105.)

26. As initially proposed, the upper story addition was proposed to be located only 20' from the façade. (Ex. 9D.) The Applicant moved the addition back to 34' along the east side and 51' along the west side, at the direction of HPRB. (Ex. 70A1- 70A5.)

27. The increased setback resulted in a 26% reduction in the fourth and fifth floors from what was initially proposed. (Ex. 70.)

28. The Project plans (Ex. 70A1- 70A5) illustrate that due to the reduced size of the upper story additions, the Access Core is approximately 523 s.f. on the fourth and fifth floors, resulting in an approximately 23% core factor, which is high for this type of development.

29. As initially designed, the Project had no rear yard. As approved, it has a three-foot rear yard on floors 2 through 5. (Ex. 70A3.)

30. The Project proposes 100% lot occupancy on the ground floor and 97% lot occupancy on the 2nd and 3rd floors. Due to the setbacks, the lot occupancy on the 4th and 5th stories is reduced to below 80%.

31. The Project's proposed materials include painted brick, metal panels and aluminum window frames. These materials were approved by HPRB.

32. As a Historic resource, no parking is required. None is provided, but the Project does provide bike spaces in the cellar.

33. No loading is required. None is provided.

ZONE PLAN/

34. The Property is zoned C-2-C, which permits a maximum height of 90' and a maximum FAR of 6.0. The C-2-C Zone District is identified as one of three community business center zones consistent with the mixed-use character and the presence of a major metro station within three blocks. (11/16/16 Tr. 76.)

SOLAR AND SHADOW STUDIES

35. For purposes of reviewing the Project's solar/shadow studies, it was determined that a "matter of right" project would be one that is 60' in height and includes an addition with the setbacks required by the HPRB Concept Plan approval (34' on the Project's west side

and 51' on the Project's east side), but provides a 15' rear yard. (11/16/16 Tr. 68; 75;162, Ex. 99A.)

36. The Record includes detailed sun/ shadow studies demonstrating that the Project with the requested rear yard and lot occupancy relief would only impact approximately 4.4% of the DuPont West's linear feet of windows over what could be constructed as a matter of right without the relief. (Exs. 70F, 70G, 83A3 [pg. 65]; 95A.)

37. The record details that the Existing Structures, the Walsh Stables and a matter of right design (with the same, HPRB-approved setback, at the same 60'-height, but without the rear yard and lot occupancy relief) do and would impact portions of the Dupont West's west-facing floors first through sixth. This impact would not change with the Project.

38. The Project will have no impact on the Dupont West's west-facing seventh, eighth and ninth stories. (Ex. 70.)

39. Further, the minor impact associated with the rear yard and lot occupancy relief would impact approximately 4.4% additional window linear feet than would a matter of right development without the relief. This results in a minor impact to five additional units (out of 47 of the Dupont West's west-facing units) in addition to the units that would be impacted by a matter of right design and that are already impacted by the Existing Structures and the Walsh Studies. (Exs. 83A3 [pg. 65], 95, 99A.) The Project would only extend over a minor portion of those five units, leaving a large portion of those windows non-impacted. (Exs. 83A3 [pg. 65], 95, 99A.)

40. The Applicant's sun/shadow studies also demonstrate that at most, during the Winter Solstice, an extra 30 minutes of shade, which equates to 5.1% of sunlight, will be impacted on the Dupont West. Further, that impact is limited only to approximately 4.4% of the windows on the East Side of the DuPont West over a matter of right design. (Ex. 70G, Ex. 83A2 [pg. 34].)

41. The Applicant's sun/shadow studies also demonstrate that at most, during the Summer Solstice, an extra 60 minutes of shade, which equates to approximately 6.6% of total day light would be reduced. Such reduction would only apply to approximately 4.4% of the DuPont West's east side's linear feet of windows over a matter of right design. (Ex. 70G, Ex. 83A2 [pg. 35].)

VIABILITY OF ALTERNATIVE MATTER OF RIGHT DESIGNS

42. Due to the required length and location of the Access Core, only 22' of lot length remain on floors 2-5. If the required 15' rear yard had to be accommodated, the maximum width of the rear units would be reduced to seven to eight feet. This width is not sufficient to provide a functional unit layout with the necessary adjacencies for bathroom, kitchen, and bedroom area. Nor would such a small space accommodate a bed because the standard

bed-frame is approximately 6'-8". (Ex. 70D.)[4]

43. The Access Core size and shape is dictated by fire and safety code requirements. This creates an Access Core that has a core factor of approximately 23% on the fourth and fifth stories, which is well above industry standards. (Ex. 70D.) If the rear yard were required, the core factor increases to approximately 30%, creating a condition the Board had previously determined to cause a practical difficulty. *See* BZA Case Nos. 18878, 19223, and 18905.

44. If the rear units are removed to accommodate the rear yard requirement, the resulting layout would be very inefficient. Such a design would require the Access Core be pushed back to be located at the absolute rear of the building. This location would block all rear light into the units. Because there are no windows on the historic East and West Side Walls, such a condition would require that the only sources of light to the second and third floor units would come from the P Street windows. This would result in long and dark, "bowling alley"-type units that are inefficient and awkwardly designed. In regard to the fourth and fifth floors, such a design would also produce awkward and inefficient units. Those units would need to be set back 51' on the west side and 34' on the east side and could not accommodate a new, side window, which will result in insufficient space for additional bedrooms and awkward, dark rooms. (Ex. 70.)

45. Also, "flipping" the Access Core to the east side and pushing it forward to start behind the East Row Dwelling's 34'-historic walls creates significant difficulties with unit layout and square footages. (Ex. 70E.) This alternative impacts all floors of the Project. On the ground floor, this alternative would narrow the usable area in the front of the proposed restaurant, and it would act like a "belt" to effectively divide the restaurant into a small, narrow front room with natural light with a larger, below-grade, dark rear room. This is directly contrary to optimal restaurant design, which seeks to maximize the space in the most visible front portion of the restaurant. On the second and third floors, this would create a blank wall facing the Dupont West, and would limit the size of the east side front unit to 660 s.f. with the only windows along the P Street frontage. Further, on the fourth and fifth floors, this "flipped" alternative reduces the size of the front unit to 288 s.f., which is too small for a functional, habitable space. (Ex. 70E.) Also, it would be impossible to combine the fourth and fifth floor units into a two-story duplex, because a compliant stairway to connect the two floors would take up 140 s.f., leaving insufficient room to locate a bedroom or kitchen. Also, the elevator and fire door location and door swing dimensions would eliminate the possibility of locating an interior connection stair between the fourth and fifth floors without improperly blocking one of the required access areas. This results in the only possible alternative, which would be to eliminate the 288 s.f. unit, thereby increasing the core factor of the fourth and fifth floors to an untenable 54%.

[4] Because the Application did not seek a use variance, review of alternative designs was not required. However, the Applicant provided that information into the record, and it is summarized here.

46. Also, compliance with the 80% lot occupancy requirement on the second and third floors would result in a two-foot-wide rear unit, given the required Access Core location. The total square footage of such a unit would be 80, which is not viable. Also, because the 80% lot occupancy is only required on the second and third floors, to be accommodated, the building design would have to be pulled in only on the second and third floors, allowing the fourth and fifth floors to cantilever down to the ground floor.[5]

REQUESTED RELIEF

47. In the DC/C-2-C Zone District, the Zoning Regulations require a 15' rear yard and permit a maximum lot occupancy of 80% for a building with residential use. As finally presented to the Board, the Project will provide a three-foot rear yard on floors 2 through 5, and a lot occupancy of 97% on the second and third floors. (Exs. 70A and 83A.)

48. The Application therefore requests 100% relief pursuant to 11 DCMR § 3103.2 from the requirements for rear yard § 774.1 and residential lot occupancy for the 2nd and 3rd floors (§ 772.1.)

EXCEPTIONAL CONDITIONS

49. The Property is a contributing building to the Dupont Circle Historic District, and only 15% of the lot area on the north side of P Street is located within the Historic District

50. Unlike many of the historic row dwelling type structures within the Square and along the P Street block, both sidewalls of the structure are either totally or almost entirely exposed (east side is totally exposed; west side is exposed above the adjacent one-story structure). (11/16/16 Tr. 61.)

51. Most historic structures are row dwellings and attached, and the walls on either side cannot be seen. (11/16/16 Tr. 61.)

52. The Property was designed and constructed as two distinct buildings by noted architect AB Mullett. (Ex. 92 (building permit history on page 5 of PowerPoint).)

53. The evidence is that the majority of the historic buildings in the Historic District are either relatively modestly scaled row house residential type dwellings, grand mansions like the Anderson house on the north side of the square, or service buildings like the three large stables. But the Property's structures were designed in a more ambitious scale, and "therefore more likely to be desirable for additions." (11/16/16 Tr. 62-63.)

54. Topographical change is 13 feet between the elevation in the front to the rear of the

[5] This design would be absurd even if the rear yard variance were not granted because the lot occupancy requirement would only apply to the second and third floors. Therefore, the ground, fourth, and fifth floors could still extend five feet beyond the beyond the second/ third floors and provide a compliant, 15-foot setback.

Property.

55. The Vacant Area had originally been a part of the Property from the 1700s through 1892. But in a 1910 Subdivision, the Vacant Area was removed from the Property lot and became part of the Dupont West's Lot 49.

56. HPRB approved concept plan 16-528. In approving the concept plan, HPRB required the Project's proposed addition to be set back from the building façade by 34' along the east side and 51' along the west side. This locates the Property's required elevator/stairway access core (the "Access Core") 51' behind the Property's façade. (Ex. 70C.)

57. At 40' in width, the Property is uniquely narrow compared to neighboring developed properties. The Dupont West property has a width of 84 feet, and the Hotel Palomar property is 5.8 times as wide as the Property, with an approximate width of 232 feet. Therefore, the Property is more than 53% narrower than the Dupont West and 83% narrower than the Hotel Palomar site.

58. The Property is uniquely longer than the four historically-designated properties to the west on P Street. The comparison is reflected in the chart below:

Address	**Lot No.**	**Lot Length**
2147-2149 P Street N.W. (the subject Property)	835	100'
2153-2155 P Street N.W.	62	50'
2157 P Street N.W.	46	50'
2159 P Street N.W.	47	50'
2161 P Street N.W.	48	50'

59. The combination of the exceptional conditions (part of the 15% of the north side of P Street determined to be contributing to the Historic District, unique subdivision history, uniquely narrow, uniquely long, grade change, HPRB approval, dual-row dwelling condition, uniquely exposed, historic side walls) makes the Property unique in the neighborhood. There is no other Property in the neighborhood and within the Square that shares the same confluence of exceptional characteristics with the Property.

PRACTICAL DIFFICULTIES

Rear yard

60. The Applicant would face a practical difficulty with strict compliance of the rear yard for the reasons stated in Findings of Fact 61 through 66.

61. The evidence demonstrates that provision of the full 15-foot rear yard would reduce the rear unit to 7'-8' in width, which is too small for a functional unit. (Ex. 70D.)

62. The HPRB concept plan approval required the 51'-west side setback in conjunction with the Property's other exceptional conditions and the location of the main residential entrance on the west side, and required the Project's approximately 523 s.f. Access Core (which is required to include two separate stairways and an elevator shaft to satisfy life-safety code) to be pushed back to 51' feet behind the Property's façade. (Ex. 70D.)

63. Therefore, only 22 feet of lot length remain on floors 2-5 based on the access core's size (523 s.f.) and its location on the west side of the building.

64. This would also result in extremely high core factors, ranging from 20% to 40%.

65. The evidence documented that without the rear yard relief, the resulting unit layout is inefficient, dark and narrow even without the rear units. (Ex. 70.)

66. The evidence also demonstrated that "Flipping the access core" to the east side is also inefficient, because it creates an unfeasible layout for ground floor retail and results in 4th and 5th floor units that are 288 s.f. in size, which is far too small for functional habitable space. (Ex. 70E.)

Lot Occupancy

67. For the reasons stated in Findings of Fact 68 through 70, It is practically difficult for the Applicant to provide the 80% residential lot occupancy on floors 2 – 3 due to the Access Core location (51' behind the façade).

68. Limiting residential lot occupancy to 80% would limit the rear unit sizes to two feet in width (total of 80 feet). This tiny unit is not feasible.

69. The change in grade also impacts the second and third floor units because with the lower grade at the rear, the second floor units are effectively "at grade". Therefore, those units are functionally "ground floor" units.

70. Requiring the 80% lot occupancy, would result in having the second and third floors pulled in 20', with the fourth and fifth floors extended further. This would be a cantilever condition that would not be feasible. (*See* Ex. No. 70, 11/16/16 Tr. 107.)

NO SUBSTANTIAL DETRIMENT TO PUBLIC GOOD OR ZONE PLAN

71. The Project furthers the intent and goals of the DC/C-2-C Zone, which permits heights of 90' and density of 6.0 FAR, by redeveloping the Property with a mixed-use development with an emphasis on residential density. The ground floor retail will provide an active, pedestrian-oriented experience with an "emphasis on fostering economic and housing opportunities." (11/16/16 Tr. 78.)

72. The Project would cause no substantial detriment to the public good, including the Dupont West or the Walsh Stables. The Project will be separated from the Dupont West by 23'-6", and from the Walsh Stables by 25'.

73. Also, the Applicant's "window study" and a "sun study," demonstrate minimal impact on the Dupont West. Specifically, those studies establish that only approximately four percent of the Dupont West's linear feet of windows would be impacted over and above a matter of right project. (11/16/16 Tr. 69.)

CONCLUSIONS OF LAW AND OPINION

Pursuant to 11 DCMR § 3103.2, the Applicant seeks area variances from the requirements for rear yard (§ 774.1) and residential lot occupancy for the second and third floors (C § 772.1) in order to provide no rear yard on the ground floor and a three-foot rear yard on floors 2 through 5 and 97% lot occupancy on the 2nd and 3rd floors. The Board is authorized under § 8 of the Zoning Act to grant variance relief where, "by reason of exceptional narrowness, shallowness, or shape of a specific property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property," the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that 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. (*See* 11 DCMR § 3103.2.)

Based on the findings of fact, the Board concludes that this application satisfies the requirements for variance relief in accordance with § 3103.2.

Extraordinary or exceptional situation.

For purposes of variance relief, the "extraordinary or exceptional situation" need not inhere in the land itself. *Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Rather, the extraordinary or exceptional conditions that justify a finding of uniqueness can be caused by subsequent events extraneous to the land at issue, provided that the condition uniquely affects a single property. *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987); *DeAzcarate v. District of Columbia Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978) (the extraordinary or exceptional condition that is the basis for a use variance need not be inherent in the land but can be caused by subsequent events extraneous to the land itself… [The] term was designed to serve as an additional source of authority enabling the Board to temper the strict application of the zoning regulations in appropriate cases…); *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979) (for purposes of approval of variance relief, "extraordinary circumstances" need not be limited to physical aspects of the land).

The extraordinary or exceptional conditions affecting a property can arise from a confluence of factors; the critical requirement is that the extraordinary condition must affect a single property. *Metropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment,* 141 A.3d 1079, 1082-1083 (D.C. 2016), citing *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990) (confluence of location of existing structure and easements created uniqueness); *see also Monaco v. District of Columbia Bd. of Zoning Adjustment,* 407 A.2d 1091, 1097 (D.C. 1979) (for purposes of approval of variance relief, "extraordinary circumstances" need not be limited to physical aspects of the land and finding uniqueness based on confluence of restrictive covenants, position of adjacent building and common ownership of contiguous properties)*; Downtown Cluster of Congregations v. District of Columbia Bd. of Zoning Adjustment*, 675 A.2d 484, 491 (D.C. 1996) (confluence of small footprint of building, limited vertical access, and proximity to public transportation created uniqueness). Further, a property's uniqueness should be different from other properties in the neighborhood. *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment,* 148 A.3d 1211 (D.C. 2016).

The Court has clearly determined that identification as a "contributing building" to a Historic District "in and of itself" cannot create an "exceptional condition". *See Dupont Circle Citizens Ass'n v. District of Columbia Bd. of Zoning Adjustment*, No. 16-AA-932 (D.C. April 12, 2018) (holding that the "presence of a contributing structure is not sufficient to constitute an exceptional condition" and vacating and remanding Board decision concluding that "the contributing nature of the [property in that case] would in and of itself represent an exceptional condition"); *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning* Adjustment, 534 A.2d 939, 942 (D.C. 1987) (reversing the decision of the Board after finding that the subject property was no different in size or other conditions to other, nearby properties and that the property in that case was not unique because "the inclusion of intervenor's property in the Capitol Hill Historic District is not a condition which uniquely affects the lot at issue); *See also Myrick v. District of Columbia Bd. of Zoning Adjustment*, 577 A.2d 757, 760-61 (D.C. 1990) (reversing the Board's granting of a variance when the subject property was indistinguishable from neighboring properties in size and explaining "the fact that a piece of property or a structure is located in a historic district cannot satisfy an applicant's burden of proving that the hardship is peculiar to that property or structure").

The Court, however, has not determined that being a contributing structure to a historic district *cannot* be one of the "confluence" of factors. Indeed, the testimony in this case establishes that the Office of Planning understands that a property's historic nature "may be considered a contributing factor" (*See* 11/16/16 Tr. 112.) This Board has found on numerous occasions that being identified as a contributing building in a historic district constitutes a portion of the confluence of factors that establish an "exceptional condition". *See Application No. 18905 of Jemal's 9th Street Gang of 3, LLC* (identifying multiple frontages and topography as exceptional conditions in addition to the property's historic nature); *Application No. 14247 of 1606 New Hampshire Ltd., Partnership* (identifying building's non-conforming nature as an exceptional condition in addition to the property's historic nature); *Application No. 18201 of Ingomar Associates Inc.* (finding the "relatively small building" and the scenic, open space and façade

easement created by a prior owner in addition to the property's historic nature create an exceptional condition).

In this proceeding, the Applicant asserted that the subject property has an exceptional situation or condition due to several factors, including: the historic status of the building and HPRB's approval of the Concept Plan 16-528 in which HPRB required the addition to be set back from the building façade by 34' along the east side and 51' along the west side; only 15% of the lot area on the north side of P Street is located within the historic district; the sidewalls of the structure are either totally or almost entirely exposed, which is unique in the square; the Property is formerly two distinct buildings that were designed by noted architect AB Mullett and as designed the structures are more ambitious in scale than other row dwellings; a 13-foot change in grade between the front and rear; the existence of a 22' x 40' Vacant Area between the Property and the Walsh Stables to the rear that had initially been part of the Property but was transferred to the adjacent property via a prior subdivision circa 1910; the Property is uniquely narrow compared to neighboring developed properties (it is more than 53% narrower than the Dupont West and 83% narrower than the Hotel Palomar); and the Property is more than twice as long in depth than historic properties. The evidence in the record regarding exceptional conditions was substantiated by the Applicant's expert in land use. (*See* Testimony of Ellen McCarthy, 11/16/16 Tr. 60-65.) This evidence is persuasive that a confluence of factors exists here that do not impact other properties in the neighborhood or Square.

The Dupont West agreed that certain elements of the Applicant's reasons for uniqueness have merit: the Vacant Area is owned by the Dupont West and it will not be developed; and that the Property is uniquely "long and narrow". (*See* 11/16/16 Tr. 88 (Bob Oaks' testimony regarding the Property's unique length and narrowness concluded that "it is what it is.").) However, the Dupont West argued that on the whole, the Property did not satisfy the "exceptional condition" test because being a contributing building to the Dupont Circle Historic District in itself did not create an "exceptional condition" and that "being part of the historic district [the Applicant] should have realized that the they would need to accommodate themselves with the current buildings that they had" (11/16/16 Tr. 121); the Property was a "garden variety rectangular parcel"; and the historic records did not appear to show that the Vacant Area had been part of the Property. The Dupont West also stated that the 13'- change in topography also affects its property, but provided no evidence to support that statement.[6] The Dupont West also argued that the previous subdivision history (that the Property and the Vacant Lot had been the only lot as recently at 1896) did not make the Property unique. Further, the Dupont West representative stated that "everything that the developer took on when they bought the building just over a year ago, has been in place for over a century".[7] The ANC also identified that the Property was

[6] The Board finds persuasive the testimony of William Adair and Kay Jackson, the owners of the Walsh Stables to the rear (who testified in opposition to the application), of the existence of the topographic change, stating "due to a slight incline" the 2005 addition to the structure "did not severely impact us". *See* BZA Ex. 48. Notably, the owners of the Walsh Stables did not argue that the Property lacked exceptional conditions.

[7] The Board notes that much of the Dupont West's argument regarding lack of "exceptional conditions" was actually more of a "self-created" hardship argument. To that end, the Board also finds that the Dupont West's suggestion of

"rectangular" in shape, making it "quite ordinary", and that "compliance with historic preservation is not an extraordinary condition". (Ex. 90.)

Because a property's identification as a contributing building to a historic district, "in and of itself," is not an "exceptional condition", *Dupont Circle Citizens Ass'n v. District of Columbia Bd. of Zoning Adjustment*, No. 16-AA-932 (D.C. April 12, 2018), the Board concurs with the Dupont West and the ANC that the fact the Property is a contributing building to the Dupont Circle Historic District alone would not make the Property unique.

However, the Board rejects both the ANC's and Dupont West's contention that the Property is not faced with exceptional conditions. In particular, the Board dismisses the Dupont West's assertions that "the Applicant 'should have known" about this historic nature of the Property. (11/16/16 Tr. 130.) Instead, the Board finds persuasive OP's agreement with Commissioner Turnbull's comment that in "in this particular case, though, with the setbacks that they've imposed, there's no way for an owner of a historic property to know that anybody would impose such a restriction like that. So, it does become a critical factor in the analysis of how you develop your property." (11/161/16 Tr. 131.) Especially in light of, as OP identified, the required amount of setback "changed over time [and] increased quite significantly as the process drew on." (11/16/16 Tr. 131.) Also, the information presented by the Dupont West to counter the Applicant's evidence that the Property is faced with a unique subdivision history was not persuasive, because the Dupont West's information showed the Property within "Lot 6" - including the Vacant Area – as late as 1892. (*See* Ex. 92.)

Further, based on the substantial evidence in the record, the Board concludes that the subject property *is* faced with a confluence of factors that apply uniquely and exceptionally to the Property, *in addition to the Property's Historic Nature*, that create an exceptional situation and condition on the Property. In so doing, the Board agrees with the Applicant and its land use expert that these factors include that the Property is formerly two distinct buildings that were designed by architect AB Mullett and are more ambitious in scale than other row dwellings; the Property's sidewalls are largely exposed resulting in the HPRB's directive to set back the addition on the west side by 51' and on the east side by 34' to preserve those walls, which were identified by OP as applying "some pretty significant restrictions on the building area"; and that the prior subdivision history created a situation in which the Vacant Area was once part of the Property, but is now owned by the adjacent Dupont West, instead of being part of the Property. The Board also finds that the Property's uniquely long length compared to the other historically-

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self-created hardship is not germane to the Applicant's requests for area variance relief. *See, e.g., Ass'n for the Preservation of 1700 Block of N Street v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674 (D.C. 1978) (grant of a parking variance was upheld even though the property owner, a YMCA, had "full knowledge" of all problems with the shape of the land, zoning, and costs of putting in parking before buying the property; the YMCA had no feasible alternative method to provide both a pool and all required parking spaces, and its self-created hardship was not a factor to be considered in an application for an area variance, as that factor applies only to a use variance.); *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1169 (D.C. 1990) (Prior knowledge or constructive knowledge or that the difficulty is self-imposed is not a bar to an area variance.); *A.L.W. v. District of Columbia Bd. of Zoning Adjustment*, 338 A.2d 428, 431 (D.C. 1975) (prior knowledge of area restrictions or self-imposition of a practical difficulty did not bar the grant of an area variance).

designated parcels and its uniquely narrow width compared to the developable parcels on the square are included in the confluence of factors that make the Property unique compared to other lots in the neighborhood. In particular, the fact that the Property is twice as deep as the other historically-designated properties and that it is narrower than other developable parcels combine to make the Property unique within the square and along P Street, compared to other lots. The Board also acknowledges the Dupont West agreed that the Property's unique length and width constituted exceptional conditions, and the Board notes that upon cross-examination questioning by the Dupont West's counsel, OP did not state that it "disagree[d] with the four new factors, the topography, the narrowness depth and the fact these are two buildings joined as one."[8]

The Board also finds persuasive the facts in the record that the combination of the exceptional conditions (part of the 15% of the north side of P Street determined to be contributing to the Historic District, unique subdivision history, uniquely narrow, uniquely long, grade change, HPRB approval, dual-row dwelling condition, uniquely exposed, historic side walls) makes the Property unique in the neighborhood. There is no other Property in the neighborhood and within the Square that shares the same confluence of exceptional characteristics with the Property. Accordingly, the finding of exception condition would be distinguishable from the Court's direction in *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment,* 148 A.3d 1211 (D.C. 2016)(reversing the BZA's decision in part because "But, we cannot say – without additional findings regarding, among other things, whether the 9th Street Property [the subject property in that case]'s shape is distinctively irregular or exceptionally narrow among properties in the neighborhood – that these two factors alone form a "confluence of factors" sufficient to justify the Board's conclusion that the 9th Street property is affected by an exceptional condition").

For purposes of the Applicant's request for area variances from the zoning requirements pertaining to lot occupancy and rear yard, the Board rejects the claims of the Dupont West and the ANC that the Property lacks exceptional qualities. Instead, the Board finds that the subject property is faced with an exceptional situation and condition as the result of the designation of the Property as a contributing property to the Historic District and the HPRB's approval of the Concept Plan 16-528 in which HPRB required the addition to be set back from the building façade by 34' along the east side wall and 51'along the west side wall, in conjunction with the confluence of the numerous factors discussed above that combine to make the Property unique within the Square and the block.

Practical difficulties.

An applicant for area variance relief is required to show that the strict application of the zoning regulations would result in "practical difficulties." *French v. District of Columbia Bd. of Zoning Adjustment,* 658 A.2d 1023, 1035 (D.C. 1995), quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment,* 417 A.2d 405, 408 (D.C. 1980). A showing of practical difficulty requires "'[t]he applicant [to] demonstrate that ... compliance with the area restriction would be

[8] During OP's presentation, it had said that "I wouldn't say that OP is entirely in agreement with everything that's been presented" (11/16/16 Tr. At 106), but on cross-examination, OP clarified her remarks, stating, "Those are not factors that we considered strongly in our analysis." (11/16/16 Tr. 111.)

unnecessarily burdensome…'" *Metropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1084 (D.C. 2016), quoting Fleishman v. District of Columbia Bd. of Zoning Adjustment, 27 A.3d 554, 561-62 (D.C. 2011). In assessing a claim of practical difficulty, proper factors for the Board's consideration include the added expense and inconvenience to the applicant inherent in alternatives that would not require the requested variance relief. *Barbour v. District of Columbia Bd. of Zoning Adjustment*, 358 A.2d 326, 327 (D.C. 1976).

Assertions of "self-created" hardships do not apply to area variance cases. *See, e.g., Ass'n for the Preservation of 1700 Block of N Street v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674 (D.C. 1978); etc. Further, it is well-settled that prior knowledge of a property's exceptional conditions does not negate a claim of practical difficulty. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). Accordingly, the Dupont West's claims that the Applicant's "practical difficulties" are "self-created" lack legal merit, and are dismissed by the Board.

The Applicant asserted that strict application of the Zoning Regulations with respect to rear yard and lot occupancy would result in a practical difficulty to the Applicant due to the confluence of the exceptional conditions discussed above. The Board agrees.

As a general matter, the Board finds persuasive the testimony of the Applicant's land use expert that the Property's unique status as the deepest historically-designated property on the block creates a practical difficulty due to the fact that the shorter lots "would not be able to even contemplate an addition because they are generally half or less than half of the depth of [the] Property." (11/16/16 Tr. 64-65.) Accordingly, the Board agrees that the Property's unique depth creates a practical difficulty, because but for that depth, the Property would not likely be a candidate for development in the first place.

Further, the Board also agrees that the subdivision history that created the Vacant Area behind the structure contributes to the practical difficulties the Applicant would face through strict application of the Zoning Regulations. Indeed, the subdivision that created the Vacant Area truncated the size of the Property, thereby eliminating the possibility of effectively providing a rear yard. Further, the Board acknowledges that because the existing structure is effectively built to the rear lot line on the ground floor, due to the existence of the Vacant Area there will always continue to be a separation of at least 25' from the rear of the Project to the Walsh Stables behind it.

With that, the Board will address the conclusions of law regarding the practical difficulties associated with the rear yard and lot occupancy relief separately below:

Rear Yard:

The C-2-C Zone requires a 15-foot rear yard, pursuant to 11 DCMR § 774.1 of ZR-58. The approved plans include a rear yard of three feet on floors 2-5, while the ground floor is built to

the rear lot line as existing.[9]

Based on the confluence of factors created by the unique elements of the Property discussed above, it is the Board's conclusion that mandating a compliant, 15-foot rear yard would result in a practical difficulty and that compliance would be unnecessarily burdensome. In sum, the existing, dual row dwelling condition, combined with the historic designation of the Existing Structures and subsequent HPRB approval, as well as the Property's narrowness mandates significant front setbacks for the Addition. In turn, this requires the Project's Access Core to be pushed back to 51' feet causing significant layout constraints and inefficiencies. In particular, the evidence in the record documents that providing a rear yard would create a significant practical difficulty, as the resulting rear unit would be only seven to eight feet in width and the resulting core factors, ranging from 25% to 40% would be infeasible. Moreover, although the Applicant was not required to do so in an area variance cases, a review of potential design alternatives (Exs. 70D, 70E and 83A-1 through 83A-2)[10] also directs the Board to conclude that compliance with the zone's rear yard requirement would be unnecessarily burdensome and would not result in a feasible development.

In particular, the evidence in the record establishes, in order to limit the impact of the Project on the Dupont West, the Applicant placed the main residential entrance on the Project's west side, more than 63' from the Dupont West's property line. This decision directs that the Project's access core, the stairway and access area, be located on the Property's west side, which due to the Property's dual row dwelling and exposed wall condition, the HPRB has mandated the 51'-west side setback for the proposed addition. In order to satisfy the Building Code requirements, the access core area must include two stairways and an elevator – resulting in an access core of approximately 523 s.f. in size. Due to this size of the access core, only 22 feet of lot length remain on floors 2-5 based on the access core's size (523 s.f.) and its location on the west side of the building, set back, as required, 51' from the front façade. Accordingly, if a 15-foot rear yard were required, the maximum width of a rear unit would be seven to eight feet. (Exs. 70, 70D.) As the Applicant's architectural expert testified, "What you end up with is a unit in the rear that's about seven feet wide, which is really not viable as any sort of a unit." (Testimony of Matt Stevison, 11/16/16 Tr. 67.) Further, the record established that such a narrow width is not sufficient to provide a functional layout with the standard adjacencies for bathroom, kitchen, and bedroom area.[11] The Board was also convinced through substantial evidence presented by the

[9] Initially, the Applicant had requested 100% rear yard relief. However, throughout the process, the Project was revised to provide a three-foot rear yard, reducing the amount of relief by 20%.

[10] Exhibit 70D demonstrated that providing a rear yard would result in an approximately seven-foot wide rear unit and inefficient core factors in the Addition, and Exhibit 70E demonstrated that that moving the Access Core forward would result in awkward ground floor retail; as well as a 288 s.f. unit in the Addition that could not be used or accessed, resulting in increasing the core factor in the Addition to 54%.

[11] The Board finds persuasive the Applicant's argument that the rear units would hardly be wide enough to locate a bed along the side wall, much less necessary space for other furniture, bathroom area, or kitchen appliances. Due to the Property's exceptional conditions, requiring a rear yard would result in non-functional rear units creating a clear practical difficulty for the Applicant.

Applicant that provision of a 15-foot rear yard would cause a practical difficulty because the resulting layout would be incredibly inefficient even without rear units because the units would be too dark and narrow (Exs. 70, 70D) and that "flipping' the Access Core to the east side and locating it forward would also result in practical difficulties through the creation of a practically inefficient retail space on the ground floor and reducing the sizes of the fourth and fifth floor units in a manner that would result in a 288 s.f. unit that would be far too small to be functionally habitable space. (Exs. 70, 70D.)

The Board also gives great weight to the Office of Planning, whose representative testified that, an "appropriate efficiency for a core" is "usually … around 18 to 20 percent [and] [i]n terms of the rear yard, I think that the applicant did a pretty good job of explaining how the placement of the core affects the floor – the layout of each floor …. And I think that what they've presented, again, does a pretty good job of demonstrating what some of those difficulties are in trying to provide a core that is functional for all floors." (*See* 11/16/16 Tr. 107.) As to the rear yard requirement, Ms. Elliott confirmed that "if a rear setback is provided on the fourth and fifth floors, I believe that the core factor actually goes up to around 40 percent … which is really inefficient; very costly and creates a … really awkward floorplan layout." (*See* 11/16/16 Tr. 108.)

The Board rejects the claims of the Dupont West and the ANC that the Applicant's "practical difficulties" are self-created. That concept does not apply to area variance requests. Further, the Board credits the testimony of OP referenced above that the required historic setback changed over time and "there's no way for" the Applicant to have known the depth of the setback until the HPRB provided its approval. (11/16/16 Tr. 131.)

Lot Occupancy:

While there is no lot occupancy restriction for retail uses in the C-2-C, a residential use may not exceed 80% lot occupancy. (11 DCMR § 772.1.)[12] As the second and third floors of the Project are entirely devoted to residential units, those floors will have a lot occupancy of 97%, requiring relief. No lot occupancy relief is required for the fourth and fifth floors.[13]

It is this Board's conclusion that the Property's dual row dwelling condition, historic designation, narrowness and change in topography create significant practical difficulties associated with complying with the zone's lot occupancy requirement. Similar to the rear yard discussed above, the lot occupancy relief is also driven by the required location of the Access Core, which, due to the Property's confluence of exceptional conditions, only has one reasonable

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[12] The Application was reviewed and approved under ZR-58. However, the Board identifies that under ZR-16 there is no lot occupancy requirement for residential uses in the applicable MU-19 Zone District. *See* ZR-16, 11 DCMR Subtitle G § 604.1.

[13] The floors of the Addition have a lot occupancy of approximately 56%. When averaged across the Project, the total lot occupancy is 70%.

location – 51 feet behind the façade on the Property's west side. The record establishes that without the lot occupancy relief, the length of the second and third floor units would be reduced to an unreasonable two feet. This is due to the narrow depth of the lot, which means that an 80% lot occupancy would mandate a 20-foot reduction in building length. As such, without the requested lot occupancy relief, the rear units on the second and third floors would be only two feet in width, and a total of 80 s.f. in size. Such a tiny unit is clearly not viable and creates a practical difficulty. The Board was also convinced that the Property's topographical change of 13 feet from the front to the rear creates a practical difficulty. This change in grade creates a situation in which the existing ground floor is effectively below grade from the middle of the Property to the rear. This results in a situation where the rear of the second floor units will be functionally at grade, making those units more akin to ground floor units than to second floor units.

Further, the Board was convinced that a compliant project would be impractically designed because to comply with the 80% lot occupancy limitation, the only option would be to design the rear of the second and third floors to be pulled in 20 feet from the rear property line, would create an absurd building in which the ground floor extends to the rear property line, the second and third floors are pulled in by 20 feet (resulting in a two foot rear unit as discussed above), and then the fourth and fifth floors extend toward the rear property line. In light of this evidence, the Board credits OP, which stated, "the issue with lot occupancy on the second and third floors is a little tricky because the core needs to be provided at the rear – but if the lot occupancy is reduced to 80 percent, then you end up with an unusual building form … the second and third [floors] are reduced, essentially providing a rear setback. But then the fourth and fifth and [sic] sort of cantilevered over those floors, if that makes sense, to provide the lot occupancy. We do think that that would be a practical difficulty in this case." (*See* 11/16/16 Tr. 106 - 107.)

The Board rejects the Dupont West and the ANC's claims of no practical difficulty for the reasons discussed above.

For these reasons, the Board finds that due to the confluence of all exceptional condition factors, and in particular the dual row dwelling condition, the HPRB's concept plan approval, and the Property's narrowness as well as the Vacant Area (which truncates the Property's length creating the need for rear yard relief in the first place) and topographical change, strict application of the Zoning Regulations to provide a 15' rear yard or 80% lot occupancy for the second and third floors create a practical difficulty that would be unnecessarily burdensome for the Applicant. The Board notes that the Dupont West did not contest the existence of these practical difficulties, but instead argued that they should be disregarded because they were "self-created". As stated above, the tenet of "self-created" hardships do not apply in this case, which requested area variances. Further, the Board has found that high core factor and inefficient unit layouts have constituted practical difficulties in other cases. *See e.g.* BZA Case No. 18905.[14]

[14] The Walsh Stables representatives also did not contest the existence of practical difficulties resulting from the exceptional conditions.

No Substantial Detriment to Public Good or Zone Plan.

The Board finds that approval of the requested variance relief will not result in substantial detriment to the public good or cause any impairment to the zone plan.

First, as to the Zone Plan, as previously discussed, the Applicant proposes to construct a pedestrian-engaging mixed-use development in a medium-density, mixed-use zone that *prioritizes* development of residential uses and fostering economic and housing opportunities. Further, the Project's maximum height is 60 feet, and its maximum density is 3.59 FAR. Both are below the zone's maximum height of 90 feet and 6.0 FAR. Accordingly, the Board credits the testimony of Ms. McCarthy as well as OP that the Project fulfills the intent and purpose of the DC/C-2-C Zone. (1/16/16 Hearing Tr. 78-80, 109; Ex. 71.)

Both the Dupont West and the ANC claimed that the Project would have a substantial impact on zone plans. The Board disagrees with the Dupont West and the ANC. Instead, the Board credits the testimony of the Applicant's land use expert that the Project is consistent with (and indeed shorter and smaller than) the matter of right standards of the DC/C-2-C Zone. Further, the Board found it persuasive that as Vice-Chair Butani-D'Souza asked the Dupont West representative, "when the Dupont West came in, essentially your building imposed the same impact on [the Property], on some level. I mean both buildings have the right to build up." (11/16/16 Tr. 122.)

Moreover, the Applicant offered evidence that the Project would cause no substantial detriment to the public good, including the Dupont West. When evaluating adverse effects on neighboring property, the D.C. Court of Appeals has approved the Board's use of comparing the proposed structure to a by-right structure. *See Draude v. D.C. Bd. of Zoning Adjustment*, 527 A.2d 1242, 1253 (DC 1987). In *Draude*, the Court found that the comparison of a proposed project to a matter-of-right project was a reasonable standard when seeking to determine whether an addition to a property was "objectionable." *See id*. The Board has followed this direction when evaluating solar studies in other cases. *See* BZA Case No. 16536 (order reflects Board consideration of shadow study comparison between proposed project and matter-of-right project); *see also* BZA Case Nos. 18886, 19230.

In this case, the "Matter of Right" design was established on October 27 when the HPRB approved Concept Plan 16-528 that permitted a two-story addition to the existing structure, creating a building that is 60 feet in height. Ex. 95 shows that a Matter of Right project, including the existing building and the Walsh Stables, on the Property will impact 30 units along the Dupont West's west façade. (Ex. 99A.)

To that end, the Board credits the Applicant's sun study demonstrating that the Project will have a minimal impact on light and air in comparison to by-right construction at the Property as approved by HPRB, which would impact 30 units. (Ex. 95.) Specifically, the Project, with the proposed rear yard and lot occupancy relief would only minimally impact portions of five additional units. (Ex. 95, 99A.)

The Board credits the Applicant's proffered "window study" and "sun study" in demonstrating the Project's minimal impact on the Dupont West over a matter of right design. (Ex. 70G and 83A2 [pg. 34-35].)

The Board also credits Mr. Stevison's following testimony:

> We studied a couple different schemes, both the existing conditions, what a matter of right scheme would be, and then what the proposed scheme would be. P Street, which is this street here, is an east-west street. We know the sun, because we're in the northern hemisphere, comes up in the south. So, we've got the West Park Building, which is a 10-story building, directly across P Street. So, most of the shadows that you see on all of these studies, are actually being cast on both our building and the DuPont West by the West Park Building. We have determined, based on this study and another graphic that we'll show you in a minute, that throughout the course of the day, we did it at two times during the year, but we'll do January first, that the additional sun that will be hitting areas of DuPont West will happen for 30 minutes of the day. And that 30 minutes only -- is only 5.1 percent of the daily sunlight, and so 5.1 percent of the daily sunlight will be -- will affect 4.4 percent of the windows of the DuPont West.

(11/16/16 Tr. 68-69.)

Additionally, the Board also finds Mr. Stevison's testimony that the Project's impact on the DuPont West, if any, would be minimized due to the 23-foot separation between the buildings to be credible. (*See* 11/16/16 Tr. 136.) The Dupont West did not provide any expert testimony to the contrary.

The Board also credits the Office of Planning, who testified that "while we do sympathize with the residents of Dupont West, and we just find that in general, based on what's provided, it's not a significant impact on those neighbors." (*See* 11/16/16 Tr. 108.) Further, the Board finds OP's follow up response to questions from Vice-Chair Butani-D'Souza persuasive, when OP states, "[OP has] requirements that we have to weigh and consider, so we're not trying to downplay the concerns of the residents by any means, but we feel that the actual relief that's being requested in this case does minimally – it creates a minimal impact on those neighbors, and it's not something that we would – so we, in our analysis we indicated that there was no substantial detriment to those neighbors." (11/16/16 Tr. 118.)

The Dupont West and the ANC had claimed that the Project, as designed "building to the lot line on to sides and nearly to the lot line in the rear" detrimentally impacts their building due to loss of views, loss of light, addition of sounds and odors, and what they perceive to be impacts on the historic view from the intersection of P and 22nd Streets.[15] Furthermore, as acknowledged by the

[15] Other than assertions, it must be noted that the Dupont West offers no evidence that the Project creates a substantial detriment to the public good. It neither provided a sun/shadow study (11/16/16 Tr. 84 –testimony of Dupont West representative "I don't have a shadow study for you …"), nor did it provide studies in any of the other

Dupont West at the Hearing (11/16/16 Tr. 105 Lines 7-10), it is well settled that an adjacent property owner is not entitled to views or access to light and air across another person's property without an express easement. *See Hefazi v. Stiglitz,* 862 A.2d 901, 911 (2004). This precedent has been adopted by the Board as well as the Zoning Commission. *See* BZA Cases 18787; *see also* Zoning Commission Case 12-02. Additionally, issues of noise, odor, and construction have been determined to be beyond the scope of BZA review. *See* BZA Case 18201.

Finally, the issue of the perceived impact on the historic views was conclusively determined at the HPRB Hearing, when the HPRB approved the concept plan for the Project and adopted the Historic Preservation Office's staff report in the record at BZA Exhibit 70C. The Board credits the HPRB's decisions and defers to that body in determinations regarding perceived impact on the Historic District. In so doing, the Board credits the HPRB's determination that the Project is consistent with the Historic District and the District's preservation act. Also, the Board credits the HPRB's determination that the Project offers a "transition" from the high-rise buildings to the west of the Project to the shorter buildings to the east along P Street, as noted by HPRB Chairperson Pfaehler. Further, the Board found it persuasive in the "gateway views" along P Street, the Project would only be 20' taller than the Existing Structures. (11/16/16 Tr. 129.)

While the Board sympathizes with the Dupont West, it found it particularly persuasive that when asked how the Dupont West owners "did not know that it was a possibility that the building next to them could be built up" given the zoning and the surrounding, tall buildings, the Dupont West representative stated, "I think we have an educated, sophisticated set of residents and owners, and so that was a possibility, but being in a historic district, we thought that gave us a lot of leverage… They expected [the status quo] to be preserved." (11/16/16 Tr. 123-124.) As stated above, the HPRB, not the Board reviews projects for their consistency with the historic district. In this case, the HPRB did that, and determined that the Project as proposed, with the addition setback as proposed, could be approved as a concept plan by the HPRB. Accordingly, the Dupont West's concerns about historic consistency are not within the jurisdiction of this Board, and this Board is not authorized to reverse decisions of the HPRB.

The Board notes that the ANC and other nearby residents had raised concerns about the previous tavern tenants of the Property, indicating that those uses had "caused adverse impacts on the peace, order, and quiet of the neighborhood due to their nightlife orientation." (Ex. 90.) However, this is an area variance, and the Board's concern is limited to the impact of the relief granted. Even if a use permission were sought, the asserted bad acts of prior tenants would not preclude the approval of future use and prior good behavior would not save an application that failed to show the absence of future adverse impacts. For this same reason, the Board declined to include a condition precluding tenants from seeking license to serve alcohol.

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areas of alleged substantial detriment. Further, issues relating to construction, sounds and odors are beyond the scope of the Board's jurisdiction.

Therefore, the substantial evidence in the record establishes compliance with the third prong of the variance test, which permits the Applicant to obtain relief from the rear yard and lot occupancy requirements.

Great Weight

The Board is required to give "great weight" to the recommendations made by OP. (D.C. Official Code § 6-623.04.) For the reasons discussed above, the Board concurs with OP's recommendation that the application, including the requested variance relief, should be approved.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (D.C. Official Code §§ 1-309.10(d)(3)(A).) Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive.[16]

On November 15, 2016, ANC 2B voted by a vote of 5-3-1 to "not object to the Project, contingent on a condition of approval by the Board of Zoning Adjustment that revokes the ability of the property in perpetuity to apply for and receive an alcohol license." The ANC also raised the following issues and concerns:

- "ANC 2B would like to note that the project is on a rectangular lot, which is a quite ordinary condition";

- "ANC 2B notes that compliance with historic preservation is not an extraordinary condition—it is a quite ordinary condition in Dupont Circle and the 40% of the District of Columbia built environment which is located within a historic district"

- "ANC 2B is concerned with the proposed impacts on the zone plan and the surrounding property views, light, and air quality";

- "ANC 2B is concerned with the project building to the lot line on two sides and nearly to the lot line in the rear, relying on the property and continued air rights of other owners, and";

[16] The D.C. Court of Appeals has interpreted "great weight" regulatory requirement to mean that the BZA must acknowledge the ANC's concerns and articulate reasons why those concerns and issues were rejected and the relief requested from the zoning regulations was granted. *See Metropole Condo Assoc. V. Bd. of Zoning Adjust*.' citing *Kopff v. District of Columbia Alcoholic Beverage Control Bd*., 381 A.2d 1372, 1384 (D.C. 1977) ("We conclude that 'great weight' … means … that an agency must elaborate, with precision, its response to the ANC issues and concerns."); see also *Levy v. District of Columbia Bd. of Zoning Adjustment*, 570 A.2d 739, 746 (D.C. 1990) ("[T]he [Board] is required … to give issues and concerns raised by the ANC 'great weight' [through] 'the written rationale for the government decision taken.'"). However, the Court is clear that the Board is only required to give great weight to those issues and concerns that are "legally relevant" to the relief requested. *Bakers Local 118 v. D.C. Bd. of Zoning Adjustment*, 437 A.2d 176, 179 (D.C. 1981).

- "the tavern tenants of 2147-2149 P Street N.W. have caused adverse impacts on the peace, order, and quiet of the neighborhood due to their nightlife orientation."

First, the Board has addressed the issues and concerns raised by the ANC in this order and was not persuaded that they warrant disapproval of any of the zoning relief requested in this application.

Next, as to the ANC's "no liquor license" condition, after hearing the testimony from both the Applicant and the Dupont West that "all of [the ANC's] conversations before have actually been exactly as Meridith says, to the higher level of tavern license," the Board did request that the Applicant reach out to the ANC to determine if the ANC intended the condition to completely prohibit any liquor license, or if it was intended to only limit the ability to obtain a "tavern" license, the higher type of ABRA license. (11/16/16 Tr. 135; 158.)

The Applicant emailed the ANC twice to request clarification, but did not receive a response. (Ex. 99A.) The Applicant did proffer to limit the ability to obtain a tavern license. (Ex. 97.)

Ultimately, after reviewing the case and giving great weight to the statements of the ANC, the Board chose not to adopt the "liquor license" condition, finding that it was not directly related to zoning. (12/21/16 Tr. 18.) The Board's decision is consistent with D.C. Court of Appeals case law that restricts the Board from adopting "personal conditions" on an applicant that "impermissibly regulate the business conduct of the owner, rather than the use of his property, and are unlawful per se." *See National Black Child Dev. Institute, Inc. v. D.C. Bd. Of Zoning Adjustment*, 483 A.2d 687, 691 (1984). The Board concluded that the ANC's ABRA Condition would constitute such a "personal condition" that would be prohibited by this Court of Appeals precedent. (12/21/16 Tr. 17.) Furthermore, this decision was consistent with the Board's previous holdings that conditions on the use of a property are only permissible if they relate to the relief requested and are supported by sufficient evidence in the Record. *See* BZA Case No. 18005-A (examining the record and determining that a condition on the use of a property was supported by the evidence in the record for that case.)

In this case, the Board found that the ANC's ABRA Condition did not relate to the requested rear yard or residential lot occupancy relief. (12/21/16 Tr. 17.) Rather, the Board found "I think we should leave [the liquor license] to our colleagues on ABRA to decide." (12/21/16 Tr. 17, 20-21.) This was also found to apply to the Applicant's "no tavern" license, which the Board also chose not to adopt. (12/21/16 21-22.)

Based on the findings of fact and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for variances from 11 DCMR § 774.1 for variance relief for a 15-foot rear yard on the ground floor and a 12-foot rear yard on floors 2-5 and 11 DCMR § 772.1 for 97% residential lot occupancy on the 2nd and 3rd Floors for the premises at 2147-2149 5th Street N.W. (Square 67, Lot 835).

Accordingly, it is **ORDERED** that the application is **GRANTED for variance relief under 11 DCMR § 774.1 for a 12-foot rear yard, and under 11 DCMR § 772.1 for 97% residential lot occupancy on the 2nd and 3rd Floors for premises at 2147-2149 5th Street, N.W., AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 70A1 through 70A5, WITH ONE OF THE MECHANICAL SCREENING OPTIONS SHOWN IN EXHIBIT 96, AND WITH THE FOLLOWING CONDITIONS:**[17]

1. Interior partition locations, the number, size, and location of units, stairs and elevators are preliminary and shown for illustrative purposes only. Final layouts, design and interior plans may vary to the extent that such variations do not require additional relief from the Zoning Regulations.

2. The Applicant shall have minor flexibility to vary the final selection of exterior materials within the color ranges and general material types proposed, pursuant to Historic Preservation Review Board approval and based on the availability at the time of construction, without reducing the quality of materials or intent of the original design.

3. The Applicant shall have minor flexibility to make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings, trim, and window location, sizes, and shapes to comply with Historic Preservation Review Board approval or that are otherwise necessary to obtain a final building permit to the extent that such changes do not require additional relief from the Zoning Regulations.

VOTE: **4-0-1** (Frederick L. Hill, Carlton E. Hart[18], Anita Butani D'Souza, and Michael G. Turnbull (by absentee vote) to Approve; 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: December 24, 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.

[17] Conditions were discussed by the Board during deliberation at the Decision meeting. (12/21/16 Tr. 22-24.)

[18] Board Member Hart read the record in the case to participate in the decision.

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 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
BOARD OF ZONING ADJUSTMENT

Application No. 19757 of 1201 Staples, LLC, as amended[1], pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.3, to convert an existing non-residential building to a three-unit apartment house in the RF-1 Zone at premises 1201 Staples Street N.E. (Square 4067, Lot 2).

HEARING DATES: June 6, July 11, October 3, November 28, December 19, 2018[2]
DECISION DATE: December 19, 2018

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 59 (revised), 39 and 57 (prior revised), and 5 (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") 5D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. The ANC did not submit a report. The Applicant testified that the ANC voted in favor of the project.

The Office of Planning ("OP") submitted two reports. In its supplemental report (Exhibit 58), OP recommended approval of the revised application that did not include penthouse setback relief,

[1] The original application for special exception from the upper floor addition requirements of E § 206.1 (Exhibit 5) was revised to add special exception relief for penthouse setback under Subtitle C § 1502.1(c)(2) and the conversion provisions of Subtitle U § 301.2(e). (Exhibit 39.) The Applicant revised the application again to withdraw relief for penthouse setback and the upper floor addition requirements (Exhibit 57) and to correct the citation for conversion of a non-residential structure to Subtitle U § 320.3. (Exhibit 59.)

[2] The case was postponed from the hearing dates of June 6 and July 11, 2018 at the Applicant's request. On July 11, the Board granted party status to Mark Stilp and postponed the remainder of the hearing to October 3, 2018. On October 3rd, the Board granted the Applicant's third motion to postpone the hearing to allow the Applicant more time to redesign the project, to work further with the adjacent neighbors to resolve their concerns, and to present the project to the ANC. The Board denied the ANC's request to postpone the November 28th hearing but continued the hearing to allow the ANC to submit a report. The case was heard on November 28, 2018 and continued to December 19, 2018.

noting that the design revisions addressed OP's concerns raised in its original report where it had recommended denial of the application. (Exhibit 48.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 31.)

On July 11, 2018 the Board granted the party status application of Mark Stilp of 1203 Staples Street, N.E. in opposition to the application. (Exhibit 46.) At the November 28, 2018 hearing, the party in opposition testified that he was withdrawing his opposition and was now in support of the revised application. In addition, Mr. Stilp indicated that he and the Applicant has entered into an agreement to handle the impacts of the development on Mr. Stilp's solar energy system and for other matters to protect the structural integrity of his property. (Exhibit 68.) As a result, the party in opposition stated that he withdrew his opposition and was supporting the application. (Exhibit 67.)

The Board also heard testimony in opposition to the application from Jaqueline Vialpando and received letters in opposition from Jacqueline Vialpando and Rosemary Richardson. (Exhibit 37.) Mark Stilp and Kevin Horgan originally submitted letters in opposition, but later submitted letters in support. (Exhibits 34, 50, 66, and 67.)

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 § 320.3, to convert an existing non-residential building 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 reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U § 320.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 62.**

VOTE: **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter G. May 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: December 26, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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