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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 23-95, Warehousing and Storage Eminent Domain Authority Act of 2019
- D.C. Council enacts Act 23-96, Power Line Undergrounding Program Certified Business Enterprise Utilization Act of 2019
- Department of Behavioral Health announces availability of grants for developing a comprehensive care and recovery system for opioid use disorder
- Department of Energy and Environment solicits public comment on the Fiscal Year 2020 Low Income Home Energy Assistance Program Draft State Plan
- Department of Housing and Community Development announces funding availability for real estate development projects that produce or preserve affordable housing in the District
- Department of Housing and Community Development announces availability of opportunity to restructure and leverage Preservation Fund resources
- Office of Victim Services and Justice Grants announces funding availability for developing a strategic plan for enhancing access to safe housing for victims of domestic violence

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-94

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To order the closing of a portion of South Dakota Avenue, N.E., adjacent to Squares 3760 and 3766, in Ward 4.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Portion of South Dakota Avenue, N.E., Adjacent to Squares 3760 and 3766, S.O. 18-40261, Act of 2019".

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds that a portion of South Dakota Ave., N.E., adjacent to Squares 3760 and 3766, as shown by the hatch-marks on the Surveyor's plat in S.O. 18-40261, is unnecessary for street purposes and orders it closed with title to the land to vest as shown on the Surveyor's plat.

(b) The ordering of this street closing is contingent upon the execution and recordation of an easement or easements for the benefit of Washington Gas for access to the utility's facilities located in a portion of the street to be closed, as shown on the Surveyor's plat in S.O. 18-40261.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-95

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To authorize the Mayor to exercise eminent domain to acquire certain property located on or near W Street, N.E., Lots 36 and 41 in Square 3942 and Parcel 0143/107, for the purposes of warehousing and storage.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Warehousing and Storage Eminent Domain Authority Act of 2019".

Sec. 2. Findings.

The Council finds that:

(1) The District government has a significant need for warehousing and storing equipment, records, property, and supplies maintained by District agencies.

(2) The District government has a need to properly store and maintain government records, equipment of agencies such as the Department of Parks and Recreation and the Department of Public Works, surplus property held by the Office of Contracting and Procurement, and emergency medical supplies for the Department of Health.

(3) The District's need for warehousing and storage is near to exceeding the District's current capacity at its owned facilities, and there is a reduction in the supply of, and limited vacancy within, warehouse space available for lease in the District.

(4) The District has identified a site located on or near W Street, N.E., east of Brentwood Road, N.E. ("W Street Site") as a strong site for these purposes because the site allows for by-right use as a warehouse and storage facility and the site is large enough to accommodate the warehouse and storage needs of numerous District agencies.

(5) The W Street Site is currently occupied by a private trash transfer station.

(6) Acquisition of the W Street Site will allow the District to construct and operate a facility or multiple facilities to warehouse and store the equipment, records, property and supplies of numerous District agencies in a District-owned facility.

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Sec. 3. Exercise of eminent domain.

The Mayor may exercise eminent domain in accordance with the procedures set forth in Subchapter II of Chapter 13 of Title 16 of the District of Columbia Official Code to acquire Lots 36 and 41 in Square 3942 and Parcel 0143/107 for warehousing and storage purposes.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-96

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

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.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Power Line Undergrounding Program Certified Business Enterprise Utilization Act of 2019".

Sec. 2. Title I of the Electric Company Infrastructure Improvement Financing Act of 2014, effective May 3, 2014 (D.C. Law 20-102; D.C. Official Code § 34-1311.01 *et seq.*), is amended as follows:

(a) The title heading is amended to read as follows:

"TITLE I. DEFINITIONS AND FINDINGS; PROCUREMENT".

(b) Section 101 (D.C. Official Code § 34-1311.01) is amended by adding new paragraphs (4A) and (4B) to read as follows:

"(4A) "Certified business enterprise" shall have the same meaning as provided in section 2302(1D) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D)).

"(4B) "Certified joint venture" shall have the same meaning as provided in section 2302(1E) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1E)).".

(c) Section 102(7) (D.C. Official Code § 34-1311.02(7)) is amended by striking the phrase "100% of the construction contracts are awarded to District businesses" and inserting the phrase "100% of the construction contracts are awarded to certified business enterprises or certified joint ventures" in its place.

(d) A new section 103 is added to read as follows:

"Sec. 103. Procurements.

"Section 604 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-356.04) ("PPRA"), shall apply to procurements for architectural and engineering services, as that term is defined in section 104(3) of the PPRA

ENROLLED ORIGINAL

(D.C. Official Code § 2-351.04(3)), to carry out the purposes of this act, however, the District may:

"(1) Set aside contracts for such services for certified business enterprises and certified joint ventures; or

"(2) Award preferences to certified business enterprises as provided in section 2343 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.43), as part of the evaluation of statements of qualifications submitted in response to a request for qualifications.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
July 24,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-97

IN THE COUNCIL OF DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on a temporary basis, Chapter 10 of Title 47 of the District of Columbia Official Code to provide a real property tax exemption to the properties on Square 2950, Lots 824 and 826.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Children's Hospital Research and Innovation Campus Phase 1 Temporary Amendment Act of 2019".

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended by adding a new section 47-1099.04 to read as follows:

"§ 47-1099.04. Children's Hospital real property tax exemption.

"(a) Only that portion of real property currently described for assessment and taxation purposes as Square 2950, Lot 808, which is to be subdivided in part into Square 2950, Lots 824 and 826, effective for tax year 2020, and the buildings located thereon ("Property"), owned by Children's National at Walter Reed, LLC, a wholly-owned subsidiary of Children's Hospital, a District of Columbia nonprofit corporation, shall remain exempt from real property taxation to the extent the Property is validly exempt as of the day before the date any lease is granted to certain business entities known as Building 52/53 NMTC Borrower, LLC, and Building 54 NMTC Borrower, LLC (controlled directly or indirectly by Children's Hospital), and for the period during which the Property is eligible to receive federal tax benefits, including New Markets Tax Credits under 26 U.S.C. § 45D, Opportunity Zone tax benefits under 26 U.S.C. § 1400Z-1, *et seq.*, or Historic Rehabilitation Tax Credits under 26 U.S.C. § 47; provided, that the Property shall be subject to §§ 47-1007 and 47-1009. The Property shall be subject to the provisions of §§ 47-1005, 47-1007 and 47-1009 where a sublease or lease is made to another entity (other than the certain business entities referenced in this subsection) that would not qualify for exemption under § 47-1002 if it were both the owner and user of the property.

"(b) Any transfer, assignment, or other disposition of all or any portion of the Property, including an assignment of leasehold interest in the Property or a sublease of the Property, between Children's National at Walter Reed, LLC, and Children's Hospital, any business entity controlled directly or indirectly by Children's Hospital, or a security interest instrument,

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including a deed of trust, secured by the Property or any interest therein, shall be exempt from the tax imposed by §§ 42-1103 and 47-903.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-98

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on a temporary basis, the St. Elizabeths East Redevelopment Support Act of 2014 to clarify that it is not subject to An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, and to authorize the Mayor to dispose of a portion of the exchanged property for the redevelopment of St. Elizabeths East – Phase I.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "St. Elizabeths East Redevelopment Support Temporary Amendment Act of 2019".

Sec. 2. Section 2 of the St. Elizabeths East Redevelopment Support Act of 2014, effective April 30, 2015 (D.C. Law 20-244; 62 DCR 1490) is amended as follows:

(a) The lead in language is amended by striking the phrase "(a-1)" both times it appears.

(b) Paragraph (1) is designated as paragraph (1)(A).

(c) Paragraphs (2) and (3) are designated as subparagraphs (B) and (C), respectively.

(d) The newly designated subparagraph (C) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(2) Dispose of approximately 8,413 square feet of the real property to be acquired from WMATA and designated as Lot 17B, being a part of Parcel 228/144 to be developed as part of the development project approved by the Council pursuant to the St. Elizabeths East Campus - Phase I Disposition Approval Resolution of 2015, effective March 1, 2016 (Res. 21-416; 63 DCR 9325).".

Sec. 3 Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 4. Effective date.

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-99

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on a temporary basis, the Department of Health Functions Clarification Amendment Act of 2001 to exempt the tobacco bar and retail store located at 1132 19th Street, N.W., from the revenue requirements needed to gain an exemption from the indoor smoking prohibition from the Department of Health.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Health Functions Clarification Temporary Amendment Act of 2019".

Sec. 2. The Department of Health Functions Clarification Amendment Act of 2001, effective April 4, 2006 (D.C. Law 16-90; D.C. Official Code § 7-741.01 *et seq.*), is amended as follows:

(a) Section 4915(5) (D.C. Official Code § 7-741.01(5)) is amended by striking the period and inserting the phrase "; except, that no total annual revenue requirement shall apply to the establishment located at 1132 19th Street, N.W." in its place.

(b) Section 4917(a)(1) (D.C. Official Code § 7-741.03(a)(1)) is amended by striking the phrase "other establishment;" and inserting the phrase "other establishment; except, that no total revenue requirement shall apply to the establishment located at 1132 19th Street, N.W." in its place.

Sec. 3. Sunset.

This act shall expire one year after the effective date of the Department of Health Functions Clarification Emergency Amendment Act of 2019, passed on emergency basis on June 25, 2019 (Enrolled version of Bill 23-355), or upon the expiration date of this act, whichever comes first.

Sec. 4. Fiscal impact statement.

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

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Sec. 5. Effective date.

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-100

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on an emergency basis, the Food Production and Urban Gardens Program Act of 1986 to clarify that, under the Urban Farming Land Lease Program, the District may enter into a lease agreement with a qualified applicant to create and maintain an urban farm on vacant land and to authorize the Department of Energy and Environment to waive soil testing requirements for a lessee who agrees not to plant in or use the site soil.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Urban Farming Land Lease Emergency Amendment Act of 2019".

Sec. 2. Section 3a of the Food Production and Urban Gardens Program Act of 1986, effective April 30, 2015 (D.C. Law 20-248; D.C. Official Code § 48-402.01), is amended as follows:

(a) Subsection (a) is amended by striking the phrase "Department to" and inserting the phrase "District to" in its place.

(b) Subsection (b) is amended by striking the phrase "the Office" and inserting the phrase "the Department of General Services and the Office" in its place.

(c) Subsection (d)(1) is amended by striking the word "Department" and inserting the word "District" in its place.

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

"(d-1) The Department may waive the requirements in subsection (d)(2) and (3) of this section when the lessee does not grow produce in the site soil of the leased property but instead uses, for example, raised beds, greenhouses, or hydroponic towers; provided, that the lease agreement includes a provision stating that the lessee will not plant in or use the site soil.".

Sec. 3. Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
July 24, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-101

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To officially designate, on an emergency basis, a portion of the public alley system within Square 1090, bounded by 16th Street, S.E., D Street, S.E., 17th Street, S.E., and E Street, S.E., as Adelaide Alley.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Adelaide Alley Designation Emergency Act of 2019".

Sec. 2. Pursuant to sections 401, 403, and 421 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01, 9-204.03 and 9-204.21) ("Act"), and notwithstanding the requirements of section 421(b), (e), and (f) of the Act (D.C. Official Code § 9-204.21(b), (e), and (f)), the Council officially designates a portion of the public alley system within Square 1090, as shown on the Surveyor's plat included in the committee report to the Adelaide Alley Designation Act of 2019, passed on 2nd reading on June 25, 2019 (Enrolled version of Bill 23-22), bounded by 16th Street, S.E., D Street, S.E., 17th Street, S.E., and E Street, S.E., as "Adelaide Alley".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-102

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To approve, on an emergency basis, Contract No. NFPHC-2018-436-A Modification 2 between the Not-for-Profit Hospital Corporation and George Washington University Medical Faculty Associates, Inc., to provide hospitalist services to the Hospital, and to authorize payment for the services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. NFPHC-2018-436-A Modification 2 between the Not-for-Profit Hospital Corporation and GWU Medical Faculty Associates, Inc., Approval and Payment Authorization Emergency Act of 2019".

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 notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Contract No. NFPHC-2018-436-A Modification 2 between the Not-for-Profit Hospital Corporation, commonly known as United Medical Center ("Hospital"), and George Washington University Medical Faculty Associates, Inc., ("GWU MFA") for GWU MFA to provide hospitalist services to the Hospital and authorizes payment for the services received and to be received under this contract in the amount of $1,614,226.50.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
July 24, 2019
APPROVED

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-103

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on an emergency basis, due to congressional review, the Office of Administrative Hearings Establishment Act of 2001 to extend the jurisdiction of the Office of Administrative Hearings to adjudicated cases involving certain civil violations relating to fare evasion and other unlawful conduct on passenger vehicles; to amend the District of Columbia Mental Health Information Act of 1978 to authorize mental health professionals to disclose mental health information when necessary to request an extreme risk protection order and to require the disclosure of mental health information to the Office of Attorney General in response to a court order; to amend the Firearms Control Regulations Act of 1975 to prohibit the issuance of a firearm registration certificate to the subject of an extreme risk protection order, to require the Superior Court for the District of Columbia, for good cause shown, to issue such orders as may be necessary to obtain mental health records and other relevant information for the purposes of petitions for relief from disqualifications from firearm registration, to authorize the Mayor to issue rules, subject to Council review, to implement the provisions of the Firearms Control Regulations Act of 1975, to clarify that the Office of Attorney General may intervene and represent the interests of the District of Columbia with respect to petitions for extreme risk protection orders or provide individual legal representation, upon request, to a petitioner, to broaden the court's ability to place records related to extreme risk protection orders under seal, to establish procedures for computing periods of time relating to an extreme risk protection order, to provide for the use of calendar days instead of business days for timelines related to extreme risk protection orders, to require that the court consider the unlawful or reckless use, display, or brandishing of any weapon by the respondent in determining whether to issue an extreme risk protection order, to require that the initial hearing for a petition for a final extreme risk protection order be held within 14 days after the petition was filed, to require the Superior Court for the District of Columbia, for good cause shown, to issue such orders as may be necessary to obtain mental health records and other relevant information for the purposes of petitions for an extreme risk protection order, to modify the duration of ex parte extreme risk protection orders, to establish procedures for the issuance and execution of search warrants accompanying extreme risk protection orders, to add the Office of Attorney General and the Superior Court for the District of Columbia to the list of entities that shall receive from the Metropolitan Police Department information related to extreme risk protection

orders, to require the Mayor or the Mayor's designee to submit information about extreme risk protection orders to the National Instant Criminal Background Check System for the purposes of firearm purchaser background checks; to amend the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006 to create a quorum requirement for the Comprehensive Homicide Elimination Strategy Task Force and extend its report submission deadline; and to amend the Act to Regulate Public Conduct on Public Passenger Vehicles to provide that certain violations of the act shall be punishable by civil fine and adjudicated by the Office of Administrative Hearings and to authorize Metro Transit Police Department officers to issue notices of infractions for alleged civil violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Firearms Safety Omnibus Clarification Congressional Review Emergency Amendment Act of 2019".

Sec. 2. Section 6 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by adding a new subsection (b-26) to read as follows:

"(b-26) This act shall apply to all adjudicated cases involving a civil violation penalized under section 5(a) of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective September 23, 1975 (D.C. Law 1-18; D.C. Official Code § 35-254(a)).".

Sec. 3. Title IV of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1204.01 et seq.), is amended as follows:

(a) Section 402 (D.C. Official Code § 7-1204.02) is amended to read as follows:

"Sec. 402. Civil commitment proceedings; extreme risk protection orders.

"Mental health information may be disclosed by a mental health professional when and to the extent necessary to:

"(1) Initiate or seek civil commitment proceedings under D.C. Official Code § 21-541; or

"(2) Request an extreme risk protection order under Title X of the Firearms Control Regulations Act of 1975, effective May 10, 2019 (D.C. Law 22-314; 66 DCR 1672).".

(b) Section 403 (D.C. Official Code § 7–1204.03) is amended by adding a new subsection (c) to read as follows:

"(c) Mental health information shall be disclosed to the Office of the Attorney General for the District of Columbia in response to a court order issued pursuant to section 203(f)(3)(A)(i) of the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2502.03(f)(3)(A)(i)) ("Firearms Act") or section 1003(d)(2) of the Firearms Act (D.C. Official Code § 7-2510.03(d)(2)).".

ENROLLED ORIGINAL

Sec. 4. The Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7–2501.01 et seq.), is amended as follows:

(a) Section 203 (D.C. Official Code § 7-2502.03) is amended as follows:

(1) Subsection (a)(15) is amended to read as follows:

"(15) Is not the subject of an ex parte extreme risk protection order issued pursuant to section 1004 or a final extreme risk protection order issued pursuant to section 1003 or renewed pursuant to section 1006.".

(2) Subsection (f)(3) is amended as follows:

(A) Subparagraph (A) is amended to read as follows:

"(A)(i) Upon receipt of a petition filed under paragraph (1) of this subsection, and for good cause shown, the court shall issue such orders as may be necessary to obtain any mental health records and other information relevant for the purposes of the petition. The order shall require the disclosure of records to the Office of the Attorney General so that the Office of the Attorney General can conduct a search of the petitioner's mental health records and report its findings to the court as required by subparagraph (B) of this paragraph.

"(ii) The court shall order the Office of the Attorney General to file a response to the petition. Within 60 days after the court's order for a response, the Office of the Attorney General shall file a response indicating whether the Office of the Attorney General supports or opposes the petition.

"(iii) The court may, for good cause shown, extend in 30-day increments the date by which the Office of Attorney General must file its response under sub-subparagraph (ii) of this subparagraph.".

(B) Subparagraph (B) is amended by striking the phrase "criminal history" and inserting the phrase "criminal history and firearms eligibility" in its place.

(b) Section 705(b) (D.C. Official Code § 7–2507.05(b)) is amended by striking the phrase "the United States Attorney and the Corporation Counsel for the District whether" and inserting the phrase "the United States Attorney's Office and the Office of Attorney General whether" in its place.

(c) Section 712 (D.C. Official Code § 7–2507.11) is amended to read as follows:

"The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved.".

(d) Section 1001(2)(A) (D.C. Official Code § 7-2510.01(2)A)) is amended by striking the phrase "relationship rendering the application of this title appropriate" and inserting the word "relationship" in its place.

(e) Section 1002 (D.C. Official Code § 7-2510.02) is amended as follows:

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

(A) Paragraph (3) is amended by striking the semicolon and inserting the phrase "; and" in its place.

(B) Paragraph (4) is repealed.

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

"(c)(1) The Office of the Attorney General may:

"(A) Intervene in the case and represent the interests of the District of Columbia; or

"(B) At the request of the petitioner, provide individual legal representation to the petitioner in proceedings under this title.

"(2) If the Office of the Attorney General intervenes in a case under paragraph (1)(A) of this subsection, the intervention shall continue until:

"(A) The court denies the petition for a final extreme risk protection order pursuant to section 1003;

"(B) The court terminates a final extreme risk protection order pursuant to section 1008; or

"(C) The Office of the Attorney General withdraws from the intervention.".

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

"(d) The court may place any record or part of a proceeding related to the issuance, renewal, or termination of an extreme risk protection order under seal for good cause shown.".

(4) A new subsection (e) is added to read as follows:

"(e) When computing a time period specified in this title, or in an order issued under this title:

"(1) Stated in days or a longer unit of time:

"(A) Exclude the day of the event that triggers the time period;

"(B) Count every day, including intermediate Saturdays, Sundays and legal holidays; and

"(C) Include the last day of the time period, but if the last day of the time period specified falls on a Saturday, Sunday, a legal holiday, or a day on which weather or other conditions cause the court to be closed, the time period specified shall continue to run until the end of the next day that is not a Saturday, Sunday, legal holiday, or a day on which weather or other conditions cause the court to be closed.

"(2) Stated in hours:

"(A) Begin counting immediately on the occurrence of the event that triggers the time period;

"(B) Count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

"(C) If the time period would end on a Saturday, Sunday, legal holiday, or a day on which weather or other conditions cause the court to be closed, the time period shall

continue to run until the same time on the next day that is not a Saturday, Sunday, legal holiday, or a day on which weather or other conditions cause the court to be closed.".

(f) Section 1003 (D.C. Official Code § 7-2510.03) is amended as follows:

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

"(2) The initial hearing shall be held within 14 days after the date the petition was filed.".

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

(A) Paragraph (1) is amended by striking the phrase "5 business days" and inserting the phrase "7 days" in its place.

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

"(3) If the respondent is unable to be personally served after the court has set a new hearing date and required new attempts at service pursuant to paragraph (2) of this subsection, the court may dismiss the petition without prejudice.".

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

"(d) Upon receipt of a petition filed under section 1002, and for good cause shown, the court shall issue such orders as may be necessary to obtain any mental health records and other information relevant for the purposes of the petition. The order shall require the disclosure of records to the Office of the Attorney General so that it can conduct a search of the respondent's mental health records and report its findings to the court as required by this subsection. Before the hearing for a final extreme risk protection order, the court shall order that the Office of the Attorney General:

"(1) Conduct a reasonable search of all available records to determine whether the respondent owns any firearms or ammunition;

"(2) Conduct a reasonable search of all available records of the respondent's mental health;

"(3) Perform a national criminal history and firearms eligibility background check on the respondent; and

"(4) Submit its findings under this subsection to the court.".

(4) The lead-in language for subsection (e) is amended by striking the phrase "consider all relevant evidence," and inserting the phrase "consider any exhibits, affidavits, supporting documents, and all other relevant evidence," in its place.

(5) Subsection (h)(6) is amended by striking the phrase "connected with a petition filed under this title" and inserting the phrase "connected with this title" in its place.

(g) Section 1004 (D.C. Official Code § 7-2510.04) is amended as follows:

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

(A) The lead-in language for subsection (c) is amended by striking the phrase "consider all relevant evidence," and inserting the phrase "consider any exhibits, affidavits, supporting documents, and all other relevant evidence," in its place.

(B) Paragraph (4) is amended by striking the phrase "firearm by" and inserting the phrase "firearm or other weapon by" in its place.

(2) Subsection (f) is amended by striking the phrase "to section" and inserting the phrase "to this section" in its place.

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

(A) Paragraph (3) is amended to read as follows:

"(3) The date and time the order will expire;".

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

"(7) The procedures for the surrender of firearms, ammunition, registration certificates, licenses to carry a concealed pistol, or dealer's licenses in the respondent's possession, control, or ownership pursuant to section 1007; and".

(4) Subsection (h) is amended to read as follows:

"(h) An ex parte extreme risk protection order issued pursuant to this section shall remain in effect for an initial period not to exceed 14 days. The court may extend an ex parte extreme risk protection order in additional 14-day increments for good cause shown.".

(h) Section 1005(a) (D.C. Official Code § 7-2510.05) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase "next business day" and inserting the phrase "next day" in its place.

(2) Paragraph (3) is amended by striking the phrase "5 business days" and inserting the phrase "7 days" in its place.

(3) Paragraph (4) is amended by striking the phrase "one business day" and inserting the phrase "24 hours" in its place.

(i) Section 1006 (D.C. Official Code § 7-2510.06) is amended as follows:

(1) Subsection (c) is amended by striking the phrase "15 business days" and inserting the phrase "21 days" in its place.

(2) Subsection (d)(4) is amended by striking the phrase "firearm by" and inserting the phrase "firearm or other weapon by" in its place.

(j) Section 1007(a) (D.C. Official Code § 7-2510.07(a)) is repealed.

(k) New sections 1007a, 1007b, 1007c, and 1007d are added to read as follows:

"Sec. 1007a. Nature and issuance of search warrants.

"(a) If the court issues a final extreme risk protection order pursuant to section 1003, issues an ex parte extreme risk protection order pursuant to section 1004, or renews a final extreme risk protection order pursuant to section 1006, the court may issue an accompanying search warrant. The search warrant may authorize a search to be conducted anywhere in the District of Columbia and shall be executed pursuant to its terms.

"(b) A search warrant issued under this section may direct a search of any or all of the following:

"(1) One or more designated or described places or premises;

"(2) One or more designated or described vehicles;

"(3) One or more designated or described physical objects; or

"(4) The respondent.

"(c) The search warrant shall authorize the search for, and seizure of, any firearms, ammunition, registration certificates, licenses to carry a concealed pistol, or dealer's licenses that the respondent is prohibited from having possession or control of, purchasing, or receiving pursuant to the terms of an extreme risk protection order issued or renewed under this title.

"(d) A search warrant issued under section 1007a may be addressed to a specific law enforcement officer or to any classification of officers of the Metropolitan Police Department of the District of Columbia or other agency authorized to make arrests or execute process in the District of Columbia.

"(e) A search warrant issued under section 1007a shall contain:

"(1) The name of the issuing court, the name and signature of the issuing judge, and the date of issuance;

"(2) If the search warrant is addressed to a specific officer, the name of that officer, otherwise, the classifications of officers to whom the warrant is addressed;

"(3) A designation of the premises, vehicles, objects, or persons to be searched, sufficient for certainty of identification;

"(4) A description of the property whose seizure is the object of the search warrant;

"(5) A direction that the search warrant be executed between 6 a.m. and 9:00 p.m. or, where the court has found cause therefor, including one of the grounds set forth in section 1007b(c), an authorization for execution at any time of day or night; and

"(6) A direction that the search warrant and an inventory of any property seized pursuant thereto be returned to the court within 72 hours after its execution.

"Sec. 1007b. Time of execution of search warrants.

"(a) A search warrant issued under section 1007a shall not be executed after the expiration of the extreme risk protection order it accompanies, or after 10 days from the date the warrant was issued, whichever is earlier.

"(b) The search warrant shall be returned to the court after its execution or expiration in accordance with section 1007a(e)(6).

"(c) A search warrant issued under section 1007a may be executed on any day of the week and, in the absence of express authorization in the warrant pursuant to subsection (c) of this section, shall be executed only between 6 a.m. and 9:00 p.m..

"(d) If the court finds that there is probable cause to believe that the search warrant cannot be executed between 6 a.m. and 9:00 p.m., the property sought is likely to be removed or destroyed if not seized forthwith, or the property sought is not likely to be found except at certain times or in certain circumstances, the court may include in the search warrant an authorization for execution at any time of day or night.

"Sec. 1007c. Execution of search warrants.

"(a) An officer executing a search warrant issued under section 1007a directing a search of a dwelling house or other building or a vehicle shall execute that search warrant in accordance with 18 U.S.C. § 3109.

"(b) An officer executing a search warrant issued under section 1007a directing a search of a person shall give, or make reasonable effort to give, notice of his identity and purpose to the person, and, if such person thereafter resists or refuses to permit the search, such person shall be subject to arrest by such officer pursuant to D.C. Official Code § 23-581(a) for violation of section 432a of the Revised Statutes of the District of Columbia (D.C. Official Code § 22-405.01), or other applicable provision of law.

"(c)(1) An officer or agent executing a search warrant issued under section 1007a shall write and subscribe an inventory setting forth the time of the execution of the search warrant and the property seized under it.

"(2) If the search is of a person, a copy of the search warrant and of the return shall be given to that person.

"(3) If the search is of a place, vehicle, or object, a copy of the search warrant and of the return shall be given to the owner thereof or, if the owner is not present, to an occupant, custodian, or other person present. If no person is present, the officer shall post a copy of the warrant and of the return upon the premises, vehicle, or object searched.

"(d) A copy of the search warrant shall be filed with the court on the next court day after its execution, together with a copy of the return.

"(e) An officer executing a search warrant issued under section 1007a directing a search of premises or a vehicle may search any person therein to the extent reasonably necessary to:

"(1) Protect himself or others from the use of any weapon which may be concealed upon the person; or

"(2) Find property enumerated in the warrant which may be concealed upon the person.

"Sec. 1007d. Disposition of property.

"(a) A law enforcement officer or a designated civilian employee of the Metropolitan Police Department who seizes property in the execution of a search warrant issued under section 1007a shall cause it to be safely kept until the property is returned to:

"(1) The respondent, upon the expiration of the extreme risk protection order that the search warrant accompanied; or

"(2) A lawful owner, other than the respondent, claiming title to the property pursuant to section 1007(d).

"(b) Nothing in subsection (a) of this section shall be construed to require the Metropolitan Police Department to release property seized pursuant to a warrant to a person who did not legally possess the property at the time it was taken.

"(c) No property seized shall be released or destroyed except in accordance with law and upon order of a court or of the United States Attorney for the District of Columbia or the Office of the Attorney General.".

(l) Section 1008 (D.C. Official Code § 7-2510.08) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "order in in effect" and inserting the phrase "order is in effect" in its place.

(2) Subsection (c)(4) is amended by striking the phrase "firearm by" and inserting "firearm or other weapon by" in its place.

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

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

(i) Strike the phrase "upon the petitioner" and insert the phrase "upon the petitioner and respondent" in its place.

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

"(1A) If the petitioner or respondent was personally served in court when the motion to terminate an extreme risk protection order was granted, the personal service requirement of paragraph (1) of this subsection shall be waived with respect to the party served in court.".

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

(i) Strike the phrase "next business day" and insert the phrase "next day" in its place.

(ii) Strike the phrase "the respondent" and insert the phrase "the petitioner" in its place.

(C) Paragraph (3) is amended by striking the phrase "5 business days" and inserting the phrase "7 days" in its place.

(D) Paragraph (4) is amended by striking the phrase "one business day" and inserting the phrase "24 hours" in its place.

(m) Section 1010 (D.C. Official Code § 7-2510.10) is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "available to any" and inserting the phrase "available to the Superior Court for the District of Columbia, the Office of the Attorney General, and any" in its place.

(2) Subsection (b) is amended by striking the phrase "Superior Court of the District of Columbia" and inserting the phrase "Mayor, or the Mayor's designee," in its place.

Sec. 5. Section 501 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 § 22-4251), is amended as follows:

(a) Subsection (b)(1) is amended by striking the phrase "following entities" and inserting the phrase "following entities, of which one-third shall constitute a quorum" in its place.

(b) Subsection (c) is amended by striking the phrase "June 1, 2019" and inserting the phrase "June 1, 2020" in its place.

Sec. 6. Section 5(a) of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective September 23, 1975 (D.C. Law 1-18; D.C. Official Code § 35-254(a)), is amended to read as follows:

"(a)(1) Except as provided in subsection (b)(1) of this section, a violation of section 2(b) or section 3 shall be punishable by a civil fine of not more than $50.

ENROLLED ORIGINAL

"(2)(A) Violations penalized under this subsection shall be adjudicated by the Office of Administrative Hearings in accordance with Title II of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code § 48-1211 et seq.); provided, that a person issued a notice of infraction shall not be assessed any additional penalties other than the civil fine for the violation, including the penalties described in sections 202(e) and 203(d) of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code §§ 48-1212(e) and 48-1213(d)).

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

"(3) Individuals authorized to issue notices of infractions for the violations penalized under this subsection include any police officer with authority to make arrests within the District, including members of the Metro Transit Police Department.".

Sec. 7. Fiscal impact statement.

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

Sec. 8. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
July 24, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-104

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on an emergency basis, due to congressional review, the District of Columbia Public Space Rental Act to authorize the use of certain public space by a legitimate theater as a sidewalk café; and to amend Chapter 3 of Title 24 of the District of Columbia Municipal Regulations to allow a legitimate theater to operate a sidewalk café, and reconcile the general requirements for a sidewalk café permit and the application procedures for a sidewalk café permit.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Legitimate Theater Sidewalk Café Authorization Congressional Review Emergency Amendment Act of 2019".

Sec. 2. The District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1156; D.C. Official Code § 10-1101.01 *et seq.*), is amended by adding a new section 201b to read as follows:

"Sec. 201b. Legitimate theater sidewalk café authorization.

"(a) The Mayor shall allow the use by a legitimate theater of public space abutting the legitimate theater as a sidewalk café; provided, that the applicant:

"(1) Meets the administrative procedures for a sidewalk café as set forth in Chapter 3 of Title 24 of the District of Columbia Municipal Code; and

"(2) Obtains the necessary licenses and license endorsements required by the Alcoholic Beverage Control Board to sell, serve, or permit the consumption of alcoholic beverages in a sidewalk café pursuant to D.C. Official Code § 25-113a(c).

"(b) For the purposes of this section, the term:

"(1) "Legitimate theater" shall have the same meaning as in section 399.1 of Title 24 of the District of Columbia Municipal Regulations (24 DCMR 399.1).

"(2) "Sidewalk café" shall have the same meaning as in section 399.1 of Title 24 of the District of Columbia Municipal Regulations (24 DCMR 399.1).".

ENROLLED ORIGINAL

Sec. 3. Chapter 3 of Title 24 of the District of Columbia Municipal Regulations (24 DCMR 300), is amended as follows:

(a) Section 301.3 is amended by striking the phrase "restaurant, grocery store, brewery, winery, or distillery" both times it appears and inserting the phrase "legitimate theater, restaurant, distillery, brewery, winery, grocery store, fast food establishment, or prepared food shop" in its place.

(b) Section 303.13(h) is amended by striking the phrase "abutting restaurant" and inserting the phrase "abutting legitimate theater, restaurant," in its place.

(c) Section 399.1 is amended by adding a new definition to read as follows:

"Legitimate theater - a building, or a part of a building, that is designed and used for the presentation of live plays and other forms of dramatic performance. The facility typically has a stage or other performing area plus tiers of seats for the audience, or other arrangements for the audience to sit or stand to view the performance.".

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-105

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on an emergency basis, Chapter 46 of Title 47 of the District of Columbia Official Code to provide an abatement of real property taxes for property located at 1201-1215 Good Hope Road, S.E., and known for tax and assessment purposes as Lots 1017, 847, 867, 866, and 864 in Square 5769.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "MLK Gateway Real Property Tax Abatement Emergency Amendment Act of 2019".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-4671. MLK Gateway real property tax abatement.".

(b) A new section 47-4671 is added to read as follows:

"§ 47-4671. MLK Gateway real property tax abatement.

"(a) For the purposes of this section, the term:

"(1) "CBE" means a certified business enterprise or joint venture certified pursuant to the CBE Act.

"(2) "CBE Act" means the Small and Certified Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*).

"(3) "Developer" means MLK Gateway Partners LLC, a District of Columbia limited liability company, with a business address of 3401 8th Street, N.E., comprised of the Menkiti Group, with a business address of 3401 8th Street N.E., or its successors, or one of its affiliates or assignees and Enlightened Inc., with a business address of 1101 Connecticut Avenue, N.W., Washington D.C. 20036, or its successors, or one of its affiliates or assignees, as approved by the Mayor.

"(4) "First Source Agreement" means an agreement with the District governing certain obligations of the Developer pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor's Order 83-265, dated November 9, 1983, regarding job creation and employment generated as a result of the construction on the Property.

"(5) "Project" means a mixed-use commercial project, including renovating the historic storefronts, new office and retail space, and any ancillary uses allowed under applicable law.

"(6) "Property" means the real property described as 1201-1215 Good Hope Road, S.E., known for tax and assessment purposes as Lots 1017, 847, 867, 866, and 864 in Square 5769, and any improvements on that real property.

"(b)(1) Beginning with the tax year immediately following the tax year during which a certificate of occupancy (whether temporary or final) is issued authorizing Enlightened Inc., or another locally owned and operated business with employees in the District of Columbia approved by the Mayor, any use of the Property, the tax imposed by Chapter 8 of this title on the Property shall be abated for 15 real property tax years. The total amount of the abatement shall not exceed $3 million.

"(2) The Project shall be exempt from recordation taxation imposed pursuant to Chapter 11 of Title 42.

"(3) The Project shall be exempt from transfer taxes imposed pursuant to Chapter 9 of this title.

"(4) Notwithstanding paragraph (1) of this subsection, in no case shall the abatement provided in paragraph (1) of this subsection begin before October 1, 2020. .

"(c) For the Property to receive the abatement described in this section, the:

"(1) Developer shall maintain a lease agreement with Enlightened Inc., or another locally owned and operated business with employees in the District of Columbia approved by the Mayor, for approximately 20,000 square feet of office space within the Project;

"(2) Project shall include 35% CBE participation;

"(3) Project shall comply with a First Source Hiring Agreement; and

"(4) Developer shall conduct 2 employment fairs in Ward 8 to encourage local participation in the redevelopment of the Property and make local residents aware of job opportunities in the redevelopment of the Property and in the businesses that will occupy the Property after completion of the redevelopment.

"(d)(1) The Mayor shall certify to the Office of Tax and Revenue the Property's eligibility for the abatement provided pursuant to this section. The Mayor's certification shall include:

"(A) A description of the Property by street address, square, suffix, and lot, and the date the abatement begins and ends;

"(B) The date a certificate of occupancy for Enlightened Inc., or another locally owned and operated business with employees in the District of Columbia as approved by the Mayor, authorizing any use of the Property was issued;

"(C) A statement that the conditions specified in subsection (c) of this section have been satisfied; and

"(D) Any other information that the Mayor considers necessary or appropriate.

"(2) If at any time the Mayor determines that the Property has become ineligible for the abatement provided pursuant to this section, the Mayor shall notify the Office of Tax and Revenue and shall specify the date that the Property became ineligible. The entire Property shall be ineligible for the abatement on the first day of the tax year following the date when ineligibility occurred.

"(e) The exemption provided by this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the MLK Gateway Disposition, as approved by the MLK Gateway Disposition Approval Resolution of 2017, effective December 5, 2017 (Res. 22-319; 65 DCR 33).".

Sec. 3. Applicability.

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

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

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in Section

ENROLLED ORIGINAL

412 (a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-106

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend, on an emergency basis, the Data-Sharing and Information Coordination Amendment Act of 2010 to allow the disclosure of health and human services information to aid in the development of the report on the root causes of youth crime and the prevalence of adverse childhood experiences among justice-involved youth; to amend the District of Columbia Mental Health Information Act of 1978 to allow the disclosure of mental health information when necessary to conduct an analysis of the root causes of youth crime and the prevalence of adverse childhood experiences among justice-involved youth; to amend the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to extend the deadline for submission of the analysis of the root causes of youth crime and prevalence of adverse childhood experiences report to March 31, 2020, and to require that certain District agencies provide the Criminal Justice Coordinating Council with information necessary to complete the report; and to amend An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes to clarify that amendments to section 3c of the act apply to all proceedings pending in any District of Columbia court that were initiated under that section, regardless of when those proceedings were initiated.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Criminal Justice Coordinating Council Information Sharing Emergency Amendment Act of 2019".

Sec. 2. Section 102(a) of the Data-Sharing and Information Coordination Amendment Act of 2010, effective December 4, 2010 (D.C. Law 18-273; D.C. Official Code § 7-242(a)), is amended as follows:

(a) Paragraph (3)(K) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Paragraph (4)(B) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(5) To aid in the development of the report required by section 1505(b-3) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234(b-3)).".

Sec. 3. Section 302 of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1203.02), is amended as follows:

(a) Paragraph (2) is amended by striking the phrase "; or" and inserting a semicolon in its place.

(b) Paragraph (3) is amended by striking the period and inserting the phrase "; or" in its place.

(c) A new paragraph (4) is added to read as follows:

"(4) To meet the requirements of section 1505(b-3) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234(b-3)).".

Sec. 4. Section 1505 of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234), is amended as follows:

(a) Subsection (b-3) is amended by striking the phrase "On October 1, 2018" and inserting the phrase "On March 31, 2020" in its place.

(b) A new subsection (b-4) is added to read as follows:

"(b-4) Upon request by the CJCC, and to aid in the development of the report required by subsection (b-3), the following agencies shall provide, or cause to be provided, the information listed below to the CJCC, including any associated personally identifying information:

"(1) For the Office of the State Superintendent of Education, the following information for each student enrolled in a District of Columbia Public School or a District of Columbia public charter school for the preceding 2 completed academic years:

"(A) Demographic information, including:

"(i) Name, address, and date of birth;

"(ii) Sex;

"(iii) Gender;

"(iv) Race; and

"(v) Ethnicity;

"(B) Enrollment data, including:

"(i) The school or campus attended by each student;

"(ii) The location of the school or campus;

"(iii) Whether the school or campus is an elementary school, middle school, or high school;

"(iv) Whether the school or campus is a public school, public charter school, or private school;

"(v) The student's grade level;

"(vi) Whether the student receives special education services;

"(vii) Whether the student is identified as homeless; and

"(viii) Whether the student is one year older, or more, than the expected age for the grade in which the student is enrolled;

"(C) Attendance data;

"(D) Performance data, including:

"(i) Student performance on any District-wide assessments; and

"(ii) Grade advancement for students enrolled; and

"(E) Discipline data, including:

"(i) Total number of in-school suspensions, out-of-school suspensions, involuntary dismissals, emergency removals, disciplinary unenrollment, voluntary withdrawals or transfers, referrals to law enforcement, school-based arrests, or, for students with disabilities, changes in placement, experienced by the student during each school year;

"(ii) Total number of days excluded from school;

"(iii) Whether the student was referred to an alternative education setting for the duration of a suspension, and whether the student attended the alternative education setting;

"(iv) Whether the student was subject to a disciplinary unenrollment during the school year;

"(v) Whether the student voluntarily withdrew or voluntarily transferred from the school during the school year;

"(vi) Whether the student was subject to referral to law enforcement;

"(vii) Whether the student was subject to school-related arrest; and

"(viii) A description of the misconduct that led to, or reasoning behind, each suspension, involuntary dismissal, emergency removal, disciplinary unenrollment, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest and, for students with disabilities, change in placement;

"(2) For the Department of Health Care Finance, the following information for individuals between the ages of 10 and 18:

"(A) Demographic information, including:

"(i) Name, address, and date of birth;

"(ii) Sex;

"(iii) Gender;

"(iv) Race; and

"(v) Ethnicity;

"(B) Enrollment data, including;

"(i) Eligibility start date;
"(ii) Eligibility end date; and
"(iii) Eligibility basis;
"(C) Claims data with mental, behavioral, and neurodevelopmental disorder diagnoses or substance abuse diagnoses; and
"(D) Claims data with mental health or substance abuse procedures;
"(3) For the Department of Human Services, enrollment data for households participating in the District's Temporary Assistance for Needy Families ("TANF") program, including:
"(A) The name, address, and date of birth for each household member for individuals between the ages of 10 and 18; and
"(B) Household income information; and
"(4) For the Child and Family Services Agency, the following information for individuals between the ages of 10 and 18:
"(A) Demographic information, including:
"(i) Name, address, and date of birth;
"(ii) Sex;
"(iii) Gender;
"(iv) Race; and
"(v) Ethnicity;
"(B) Investigation data related to alleged child abuse or neglect, including:
"(i) Allegations made against the individual's parents, guardians, or other custodians;
"(ii) Whether the allegations were substantiated or inconclusive;
"(iii) The date the investigation was completed or suspended;
"(iv) Whether the individual was removed from the home or another location;
"(v) The reason for the removal; and
"(vi) The date of the removal; and
"(C) Family assessment data related to alleged child abuse or neglect, including:
"(i) Allegations made against the individual's parents, guardians, or other custodians;
"(ii) The date the family assessment was initiated;
"(iii) The date the family assessment was completed;
"(iv) Whether the family assessment resulted in the determination that the family needs services or resulted in a referral for investigation; and
"(v) The reason the family assessment was closed.".

ENROLLED ORIGINAL

Sec. 5. Section 3c of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, effective April 4, 2017 (D.C. Law 21-238; D.C. Official Code § 24-403.03), is amended by adding a new subsection (f) to read as follows:

"(f) Any amendments to this section shall apply to all proceedings initiated under this section, including any appeals thereof, in any District of Columbia court, including proceedings that are pending as of the effective date of the Criminal Justice Coordinating Council Information Sharing Emergency Amendment Act of 2019, passed on final reading on July 9, 2019 (Enrolled version of Bill 23-388), regardless of when those proceedings were initiated.".

Sec. 6. Fiscal impact statement.

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

Sec. 7. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
July 24,2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-107

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2019

To amend Chapter 46 of Title 47 of the District of Columbia Official Code to exempt from taxation the real property described as Lot 884, Square 2885, located at 2714 Georgia Avenue, N.W., and to provide equitable tax relief.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Mypheduh Films DBA Sankofa Video and Books Real Property Tax Exemption Act of 2019".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-4670. Mypheduh Films DBA Sankofa Video and Books; Lot 884, Square 2885.".

(b) A new section 47-4670 is added to read as follows:

"§ 47-4670. Mypheduh Films DBA Sankofa Video and Books; Lot 884, Square 2885.

"(a) The real property designated for tax purposes as Lot 884, Square 2885, located at 2714 Georgia Avenue, N.W., ("Property"), which is owned by Mypheduh Films, Inc., (dba) Sankofa Video and Books, shall be exempt from the tax imposed by Chapter 8 of this title for the period beginning October 1, 2019, and ending September 30, 2029; provided, that:

"(1) The Property is owned and maintained by Mypheduh Films, Inc., (dba) Sankofa Video and Books, or by an entity controlled, directly or indirectly, by Mypheduh Films, Inc., (dba) Sankofa Video and Books;

"(2) The Property is operated as a cafe, video store, or bookstore;

"(3) At least 51% of permanent jobs in the Sankofa Video and Books are filled by District residents, with a minimum of 30% of the District-resident jobs reserved for Ward One residents; and

"(4) All apprenticeships are reserved for District residents, with preference given to Ward One residents.

"(b)(1) In each year of the exemption period, the Mayor shall certify to the Office of Tax and Revenue the Property's eligibility for the exemption provided pursuant to subsection (a) of this section.

"(2) If at any time the Mayor determines that the Property has become ineligible for the exemption provided pursuant to subsection (a) this section, the Mayor shall notify the Office of Tax and Revenue and shall specify the date that the Property became ineligible.".

Sec. 3. The Council of the District of Columbia orders that all real property taxes, interest, penalties, fees, and other related charges assessed against as Lot 884, Square 2885, for the period beginning on October 1, 2019, and ending 45 days after the effective date of this act be forgiven and any payment made for this period be refunded to the person who made the payment.

Sec. 4. Applicability.

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

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

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

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
July 24, 2019
APPROVED

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-108

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 30, 2019

To officially designate, on an emergency basis, the new middle school in Square 3269 as Wells Middle School, to disapprove the Master Facilities Plan submitted by the Mayor to the Council, and to amend the School Based Budgeting and Accountability Act of 1998 to no longer require that the Council vote on the 10-year Master Facilities Plan concurrently with its vote on the Mayor's capital budget proposal.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Wells School Designation and Master Facilities Plan Disapproval Emergency Amendment Act of 2019".

Sec. 2. Pursuant to sections 401 and 422 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.22) ("Act"), and notwithstanding section 422(a) of the Act (D.C. Official Code § 9-204.22(a)), the Council officially designates the new middle school in Square 3269 as "Ida B. Wells Middle School".

Sec. 3. Notwithstanding section 1104(a)(1) of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803(a)(1)), the DC Public Education Master Facilities Plan 2018, submitted by the Mayor to the Council of the District of Columbia on March 15, 2019, is disapproved.

Sec. 4. Section 1104(a)(1) of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803(a)(1)), is amended by striking the phrase "in accordance with this section. The Council shall vote on the 10-year Master Facilities Plan concurrently with its vote on the Mayor's capital budget proposal." and inserting the phrase "in accordance with this section." in its place.

ENROLLED ORIGINAL

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED
Mayor
District of Columbia
July 24,2019

ENROLLED ORIGINAL

A RESOLUTION

23-108

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2019

To confirm the appointment of Mr. Ernest Chrappah as the Director of the Department of Consumer and Regulatory Affairs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Director of the Department of Consumer and Regulatory Affairs Ernest Chrappah Confirmation Resolution of 2019."

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

Mr. Ernest Chrappah
(Ward 3)

as the Director of the Department of Consumer and Regulatory Affairs, established by Reorganization Plan No. 1 of 1983, effective March 31, 1983, in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-5203.01), 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

23-112

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2019

To confirm the appointment of Mr. Shawn Ellis as a member of the Board of Industrial Trades.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Industrial Trades Shawn Ellis Confirmation Resolution of 2019".

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

Mr. Shawn Ellis
(Ward 4)

as a steam and other operating engineer licensed in the District member of the Board of Industrial Trades, established by D.C. Official Code § 47-2853.06(d), pursuant to D.C. Official Code § 47-2853.07 and section 2(f)(39) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)(39)), to replace Keith Jones, for a term to end June 26, 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

23-113

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 4, 2019

To confirm the appointment of Mr. Courtney Braxton as a member of the Board of Industrial Trades.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Industrial Trades Courtney Braxton Confirmation Resolution of 2019".

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

Mr. Courtney Braxton
(Ward 7)

as an asbestos worker member of the Board of Industrial Trades, established by D.C. Official Code § 47-2853.06(d), pursuant to D.C. Official Code § 47-2853.07 and section 2(f)(39) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)(39)), to fill a vacant seat, for a term to end June 26, 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

23-149

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 25, 2019

To declare the existence of an emergency with respect to the need to approve measures that are necessary to support action taken on the District's Fiscal Year 2020 Budget and Financial Plan.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2020 Budget Support Emergency Declaration Resolution of 2019".

Sec. 2. (a) The Fiscal Year 2020 Budget Support Act of 2019 contains various measures necessary to support the Fiscal Year 2020 Budget and Financial Plan.

(b) There are several time-sensitive provisions contained in the Fiscal Year 2020 Budget Support Act of 2019 that need to be in place in advance of October 1, 2019.

(c) Other provisions in the emergency bill will retain the October 1, 2019 applicability date as provided in the permanent legislation, but should be enacted before October 1, 2019, to allow agencies and stakeholders to prepare for implementation.

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 2020 Budget Support Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-155

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 9, 2019

To appoint Dr. Christopher J. King to the Commission on Health Equity.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on Health Equity Christopher J. King Appointment Resolution of 2019".

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

Dr. Christopher J. King
(Ward 5)

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

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

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

ENROLLED ORIGINAL

A RESOLUTION

23-174

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 9, 2019

To declare the existence of an emergency with respect to the need to approve Contract No. NFPHC-2018-436-A Modification 2 between the Not-for-Profit Hospital Corporation, and George Washington University Medical Faculty Associates, Inc., to provide inpatient hospitalists services , and to authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. NFPHC-436-A Modification 2 between the Not-for-Profit Hospital Corporation and GWU Medical Faculty Associates, Inc., Approval and Payment Authorization Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists an immediate need to approve Contract No. NFPHC-2018-436-A ("Revised Contract") between the Not-for-Profit Hospital Corporation ("Hospital") and George Washington University Medical Faculty Associates, Inc., ("GWU MFA") to provide inpatient hospitalists services to the Hospital and to authorize payment for the services received and to be received under the Revised Contract.

(b) The base year of the Original Contract, in the amount of $3,141,226.00, was deemed approved by Council on March 2, 2018 (CA22-407).

(c) On March 16, 2018, however, GWU MFA notified the Hospital that the Original Contract's base year amount was incorrect. After discussing the matter at length, the parties realized that an error had been made during negotiations. Instead of an arrangement whereby the Hospital would pay GWU MFA, monthly, for the cost of inpatient hospitalists services ("GWU MFA Hospitalists Services Cost"), and the Hospital would, in return, receive the net revenue earned by GWU MFA up to said cost of services ("Hospitalists Net Revenue"), the parties inadvertently used the Hospitalists Net Revenue as the GWU MFA Hospitalists Services Cost. This error was not realized until after Council approval of the Original Contract, and after the new Hospital operators, Mazars, began their engagement at the Hospital.

(d) Modification 1 was in the FY19 portion of the base period (October 1, 2018 – June 30, 2019, 9 months) in the amount of $4,842,684.

ENROLLED ORIGINAL

(e) The Revised Contract for inpatient hospitalists services is for July 1, 2019, to September 30, 2019, in the amount of $1,614,226.50. The parties agreed to address the FY19 portion of the base year before the expiration of the contract.

(f) The Revised Contract has an aggregate value that exceeds $1 million in a 12-month period and therefore Council approval is necessary.

(g) Emergency approval of the Revised Contract for $1,614,226.50 is necessary to prevent any impact to the hospital's provision of inpatient hospitalists services.

(h) Without Council approval, GWU MFA cannot be paid for these critical services provided and to be 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 Contract No. NFPHC-2018-436-A Modification 2 between the Not-for-Profit Hospital Corporation and GWU Medical Faculty Associates, Inc., Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-192

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 9, 2019

To approve, on an emergency basis, the proposed compensation system changes submitted by the Mayor for certain Career, Educational, Excepted, Management Supervisory, Legal, and Executive Services employees not covered by collective bargaining.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2020 District Government Employee Pay Schedules Emergency Approval Resolution of 2019".

Sec. 2. (a) Pursuant to sections 858, 956, 1052, 1105, 1106, and 1111 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-608.58, 1-609.56, 1-610.52, 1-611.05, 1-611.06, and 1-611.11), the Council approves the proposed Fiscal Year 2020 cost of living and pay parity salary increases for the non-union Career, Excepted, Management Supervisory, Legal, and Executive Services employees; Educational Service employees of the Office of the State Superintendent of Education; and non-instructional and "When-Actually-Employed" (WAE) instructional Educational Service employees of the District of Columbia Public Schools covered by the pay schedules referred to in section 3 of this resolution.

(b) The compensation system changes approved by this resolution do not apply to:

(1) Former employees; and

(2) Employees of the Board of Trustees of the University of the District of Columbia.

Sec. 3. The compensation system changes referred to in section 2(a) of this resolution are approved as outlined in the attached pay schedules and shall become effective October 13, 2019.

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Career Service (General)

Fiscal Year:	2020	*Service Code Definition:*	*Career Service (General)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU/Service Code(s):*	XAA A01, XAA A06, XAA A90, XAA A93, XAA C88, XAA A03, XAA A15, XAA A22, DOC A01, DOC A06, DOC A15, XAA A10, XAB A10, **XFA A01, XAA A21**
Pay Plan/Schedule:	CS		
Peoplesoft Schedule:	DS0087		
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

Grade	Step 1	2	3	4	5	6	7	8	9	10	Between Steps
1	$ 25,860	$ 26,729	$ 27,598	$ 28,467	$ 29,336	$ 30,205	$ 31,074	$ 31,943	$ 32,812	$ 33,681	$ 869
2	$ 27,844	$ 28,821	$ 29,798	$ 30,775	$ 31,752	$ 32,729	$ 33,706	$ 34,683	$ 35,660	$ 36,637	$ 977
3	$ 30,353	$ 31,406	$ 32,459	$ 33,512	$ 34,565	$ 35,618	$ 36,671	$ 37,724	$ 38,777	$ 39,830	$ 1,053
4	$ 31,837	$ 32,918	$ 33,999	$ 35,080	$ 36,161	$ 37,242	$ 38,323	$ 39,404	$ 40,485	$ 41,566	$ 1,081
5	$ 34,439	$ 35,635	$ 36,831	$ 38,027	$ 39,223	$ 40,419	$ 41,615	$ 42,811	$ 44,007	$ 45,203	$ 1,196
6	$ 38,141	$ 39,472	$ 40,803	$ 42,134	$ 43,465	$ 44,796	$ 46,127	$ 47,458	$ 48,789	$ 50,120	$ 1,331
7	$ 42,273	$ 43,741	$ 45,209	$ 46,677	$ 48,145	$ 49,613	$ 51,081	$ 52,549	$ 54,017	$ 55,485	$ 1,468
8	$ 46,420	$ 47,899	$ 49,378	$ 50,857	$ 52,336	$ 53,815	$ 55,294	$ 56,773	$ 58,252	$ 59,731	$ 1,479
9	$ 51,059	$ 52,691	$ 54,323	$ 55,955	$ 57,587	$ 59,219	$ 60,851	$ 62,483	$ 64,115	$ 65,747	$ 1,632
10	$ 56,021	$ 57,816	$ 59,611	$ 61,406	$ 63,201	$ 64,996	$ 66,791	$ 68,586	$ 70,381	$ 72,176	$ 1,795
11	$ 61,521	$ 63,498	$ 65,475	$ 67,452	$ 69,429	$ 71,406	$ 73,383	$ 75,360	$ 77,337	$ 79,314	$ 1,977
12	$ 76,126	$ 78,487	$ 80,848	$ 83,209	$ 85,570	$ 87,931	$ 90,292	$ 92,653	$ 95,014	$ 97,375	$ 2,361
13	$ 87,703	$ 90,514	$ 93,325	$ 96,136	$ 98,947	$ 101,758	$ 104,569	$ 107,380	$ 110,191	$ 113,002	$ 2,811
14	$ 103,657	$ 106,977	$ 110,297	$ 113,617	$ 116,937	$ 120,257	$ 123,577	$ 126,897	$ 130,217	$ 133,537	$ 3,320

	MINIMUM	MIDPOINT	MAXIMUM	
15/16	$ 110,006	$ 132,628	$ 155,248	OPEN RANGE
17/18	$ 133,360	$ 166,835	$ 200,309	OPEN RANGE

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Management Supervisory Service (MSS)

Fiscal Year:	2020	*Service Code Definition:*	
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU/Service Code*	MSS A51, MSS A53, MSS A65, XAA A51
Pay Plan/Schedule:	MS		
Peoplesoft Schedule:	DS0086		
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

Grade	*MINIMUM*		*MAXIMUM*
11	$ 69,106	$ 82,927	$ 96,748
12	$ 81,544	$ 97,853	$ 114,162
13	$ 93,776	$ 112,531	$ 131,286
14	$ 107,843	$ 129,411	$ 150,979
15	$ 119,706	$ 143,646	$ 167,586
16	$ 132,831	$ 159,396	$ 185,960

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Excepted Service (ES)

Fiscal Year:	2020	*Service Code Definition:*	*Excepted Service(ES)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU/Service Code(s):*	XAA A40, XAA A80
Pay Plan/Schedule:	ES		
Peoplesoft Schedule:	XS0001		
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

Grade	MINIMUM	MIDPOINT	MAXIMUM	CS Grade Allocation
ES1	$ 36,381	$ 45,476	$ 54,570	5/6
ES2	$ 43,907	$ 54,885	$ 65,860	7/8
ES3	$ 50,179	$ 62,724	$ 75,269	9
ES4	$ 56,451	$ 70,564	$ 84,677	10
ES5	$ 62,723	$ 78,406	$ 94,084	11
ES6	$ 71,505	$ 89,382	$ 107,258	12
ES7	$ 87,815	$ 109,766	$ 131,719	13
ES8	$ 100,357	$ 125,447	$ 150,537	14/15
ES9	$ 112,902	$ 141,129	$ 169,354	15/16
ES10	$ 125,448	$ 156,808	$ 188,171	16/17
ES11	$ 156,809	$ 196,011	$ 235,214	17/18

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Regular/Leader/Foreman

Fiscal Year:	2020	*Service Code Definition:*	*Regular/Leader/Foreman Non-Supervisory Service*
Effective Date:	October 13, 2019		*L- Leader F= Foreman*
Union/Nonunion:	Non-union	*Affected CBU/Service Code(s):*	XAA B01, XAA B02, XAA B03, MSS B13
Pay Plan/Schedule:	RW/LW/SW/MW		
Peoplesoft Schedule:	WS0028-	Regular/MSS	
	WS0036-	Leaders	
	WS0035-	Foreman (up to grade 10)	
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

Grade	Step 1	2	3	4	5	6	7	8	9	10	Between Steps
02	$ 15.70	$ 16.23	$ 16.76	$ 17.29	$ 17.82	$ 18.35	$ 18.88	$ 19.41	$ 19.94	$ 20.47	$ 0.53
02L	$ 17.04	$ 17.64	$ 18.24	$ 18.84	$ 19.44	$ 20.04	$ 20.64	$ 21.24	$ 21.84	$ 22.44	$ 0.60
02F	$ 20.40	$ 21.10	$ 21.80	$ 22.50	$ 23.20	$ 23.90	$ 24.60	$ 25.30	$ 26.00	$ 26.70	$ 0.70
03	$ 16.82	$ 17.41	$ 18.00	$ 18.59	$ 19.18	$ 19.77	$ 20.36	$ 20.95	$ 21.54	$ 22.13	$ 0.59
03L	$ 18.40	$ 19.05	$ 19.70	$ 20.35	$ 21.00	$ 21.65	$ 22.30	$ 22.95	$ 23.60	$ 24.25	$ 0.65
03F	$ 21.45	$ 22.19	$ 22.93	$ 23.67	$ 24.41	$ 25.15	$ 25.89	$ 26.63	$ 27.37	$ 28.11	$ 0.74
04	$ 18.04	$ 18.67	$ 19.30	$ 19.93	$ 20.56	$ 21.19	$ 21.82	$ 22.45	$ 23.08	$ 23.71	$ 0.63
04L	$ 19.75	$ 20.44	$ 21.13	$ 21.82	$ 22.51	$ 23.20	$ 23.89	$ 24.58	$ 25.27	$ 25.96	$ 0.69
04F	$ 22.48	$ 23.27	$ 24.06	$ 24.85	$ 25.64	$ 26.43	$ 27.22	$ 28.01	$ 28.80	$ 29.59	$ 0.79
05	$ 19.21	$ 19.89	$ 20.57	$ 21.25	$ 21.93	$ 22.61	$ 23.29	$ 23.97	$ 24.65	$ 25.33	$ 0.68
05L	$ 20.98	$ 21.72	$ 22.46	$ 23.20	$ 23.94	$ 24.68	$ 25.42	$ 26.16	$ 26.90	$ 27.64	$ 0.74
05F	$ 23.65	$ 24.45	$ 25.25	$ 26.05	$ 26.85	$ 27.65	$ 28.45	$ 29.25	$ 30.05	$ 30.85	$ 0.80
06	$ 20.49	$ 21.18	$ 21.87	$ 22.56	$ 23.25	$ 23.94	$ 24.63	$ 25.32	$ 26.01	$ 26.70	$ 0.69
06L	$ 22.41	$ 23.19	$ 23.97	$ 24.75	$ 25.53	$ 26.31	$ 27.09	$ 27.87	$ 28.65	$ 29.43	$ 0.78
06F	$ 24.64	$ 25.49	$ 26.34	$ 27.19	$ 28.04	$ 28.89	$ 29.74	$ 30.59	$ 31.44	$ 32.29	$ 0.85
07	$ 21.78	$ 22.53	$ 23.28	$ 24.03	$ 24.78	$ 25.53	$ 26.28	$ 27.03	$ 27.78	$ 28.53	$ 0.75
07L	$ 23.82	$ 24.64	$ 25.46	$ 26.28	$ 27.10	$ 27.92	$ 28.74	$ 29.56	$ 30.38	$ 31.20	$ 0.82
07F	$ 25.77	$ 26.66	$ 27.55	$ 28.44	$ 29.33	$ 30.22	$ 31.11	$ 32.00	$ 32.89	$ 33.78	$ 0.89
08	$ 22.94	$ 23.74	$ 24.54	$ 25.34	$ 26.14	$ 26.94	$ 27.74	$ 28.54	$ 29.34	$ 30.14	$ 0.80
08L	$ 25.20	$ 26.08	$ 26.96	$ 27.84	$ 28.72	$ 29.60	$ 30.48	$ 31.36	$ 32.24	$ 33.12	$ 0.88
08F	$ 26.80	$ 27.73	$ 28.66	$ 29.59	$ 30.52	$ 31.45	$ 32.38	$ 33.31	$ 34.24	$ 35.17	$ 0.93
09	$ 24.21	$ 25.03	$ 25.85	$ 26.67	$ 27.49	$ 28.31	$ 29.13	$ 29.95	$ 30.77	$ 31.59	$ 0.82
09L	$ 26.45	$ 27.37	$ 28.29	$ 29.21	$ 30.13	$ 31.05	$ 31.97	$ 32.89	$ 33.81	$ 34.73	$ 0.92
09F	$ 27.90	$ 28.85	$ 29.80	$ 30.75	$ 31.70	$ 32.65	$ 33.60	$ 34.55	$ 35.50	$ 36.45	$ 0.95
10	$ 25.40	$ 26.27	$ 27.14	$ 28.01	$ 28.88	$ 29.75	$ 30.62	$ 31.49	$ 32.36	$ 33.23	$ 0.87
10L	$ 27.92	$ 28.86	$ 29.80	$ 30.74	$ 31.68	$ 32.62	$ 33.56	$ 34.50	$ 35.44	$ 36.38	$ 0.94
10F	$ 29.00	$ 29.99	$ 30.98	$ 31.97	$ 32.96	$ 33.95	$ 34.94	$ 35.93	$ 36.92	$ 37.91	$ 0.99

OPEN RANGE

	MINIMUM	MIDPOINT	MAXIMUM
11	$ 32.70	$ 38.76	$ 44.81
12	$ 33.71	$ 39.95	$ 46.19
13	$ 35.00	$ 41.48	$ 47.95
14	$ 36.61	$ 43.37	$ 50.13
15	$ 37.42	$ 44.33	$ 51.26
16	$ 38.84	$ 46.03	$ 53.19

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Nurses (Non-union)

Fiscal Year:	2020	*Service Code Definition:*	*Registered Nurses*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU/Service Code(s):*	XAA A28
		Occupational Series:	0610
Pay Plan/Schedule:	CS		
Peoplesoft Schedule:	DS0096		
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

	Steps										
Grade	*1*	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	Classification
5	$59,948	$61,221	$62,498	$63,775	$66,326	$68,875	$71,425	$73,978	$76,530	$79,079	Nurse Graduate
7	$70,527	$72,027	$73,527	$75,026	$78,029	$81,030	$84,033	$87,033	$90,033	$93,034	Clinical Nurse I (Registered Nurse)
9	$76,169	$77,790	$79,409	$81,030	$84,270	$87,514	$90,753	$93,995	$97,236	$100,478	Clinical Nurse II (Occupational Health Nurse Community Health Nurse, Lead Registered Nurse)
10	$79,214	$80,901	$82,586	$84,270	$87,643	$91,014	$94,384	$97,756	$101,125	$104,497	Clinical Nurse III (Nurse Team Leader
11	$82,780	$84,542	$86,303	$88,063	$91,587	$95,108	$98,631	$102,154	$105,677	$109,199	Nurse Specialist I (Nurse Consultant I, Nurse Specialist I)
12	$86,921	$88,767	$90,617	$92,465	$96,166	$99,865	$103,564	$107,261	$110,960	$114,660	Nurse Specialist II (Nurse Consultant II- Team Leader, Nurse Specialist II- Team Leader)

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Fire Service (Non-Union)

Fiscal Year:	2020		
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	***Affected CBU/Service Code(s):***	XAA D02, XAA DO3, XAA D12, XAA D13
Pay Plan/Schedule:	Fire Service (FS)		
Peoplesoft Schedule:	DS0052, FS0003		
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

Grade		*Steps* 1	2	3	4
Class 08 Battalion Chief	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 119,285	$ 125,487	$ 132,011	$ 138,878
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #1= Pay #2	$ 125,249	$ 131,761	$ 138,612	$ 145,822
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #1= Pay #3	$ 131,214	$ 138,036	$ 145,212	$ 152,766
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #1= Pay #4	$ 137,178	$ 144,310	$ 151,813	$ 159,710
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #1= Pay #5	$ 143,142	$ 150,584	$ 158,413	$ 166,654
Class 09 Deputy Chief	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 139,986	$ 149,364	$ 159,374	$ 170,054
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #1= Pay #2	$ 146,985	$ 156,832	$ 167,343	$ 178,557
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #1= Pay #3	$ 153,985	$ 164,300	$ 175,311	$ 187,059
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #1= Pay #4	$ 160,984	$ 171,769	$ 183,280	$ 195,562
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #1= Pay #5	$ 167,983	$ 179,237	$ 191,249	$ 204,065
Class 10 Assistant Chief	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 164,842	$ 175,824	$ 187,539	
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #1= Pay #2	$ 173,084	$ 184,615	$ 196,916	
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #1= Pay #3	$ 181,326	$ 193,406	$ 206,293	
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #1= Pay #4	$ 189,568	$ 202,198	$ 215,670	
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #1= Pay #5	$ 197,810	$ 210,989	$ 225,047	

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Police Service (Non-Union)

Fiscal Year: 2020

Effective Date: October 13, 2019

Union/Nonunion: Non-union *Affected CBU/Service Code(s):* XAA D01, XAA D11

Pay Plan/Schedule: Police Service
Peoplesoft Schedule: PS0002

% Increase: 3%

Resolution Number:

Date of Resolution:

Grade		*Steps* 1	2	3	4	5
Class 05 Lieutanant	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 94,230	$ 99,433	$ 104,882	$ 110,652	$ 116,736
	Retention Allowance less than 20 yrs:Pay #1 + 4.2% = Pay #2	$ 98,188	$ 103,609	$ 109,287	$ 115,299	$ 121,639
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #2= Pay #3	$ 103,097	$ 108,519	$ 114,196	$ 120,209	$ 126,548
	Base Retention Differential- 20 or more YOS: Pay #2 + 5%= Pay #4	$ 103,097	$ 108,790	$ 114,751	$ 121,064	$ 127,721
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #4= Pay #5	$ 113,407	$ 119,099	$ 125,061	$ 131,374	$ 138,031
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #4= Pay #6	$ 118,562	$ 124,254	$ 130,216	$ 136,529	$ 143,185
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #4= Pay #7	$ 123,716	$ 129,409	$ 135,371	$ 141,684	$ 148,340
Class 07 Captain	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 111,634	$ 117,442	$ 123,547	$ 129,973	
	Retention Allowance less than 20 yrs:Pay #1 + 4.2% = Pay #2	$ 116,323	$ 122,375	$ 128,736	$ 135,432	
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #2= Pay #3	$ 122,139	$ 128,191	$ 134,552	$ 141,248	
	Base Retention Differential- 20 or more YOS: Pay #2 + 5%= Pay #4	$ 122,139	$ 128,493	$ 135,173	$ 142,203	
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #4= Pay #5	$ 134,353	$ 140,707	$ 147,387	$ 154,417	
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #4= Pay #6	$ 140,460	$ 146,814	$ 153,494	$ 160,524	
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #4= Pay #7	$ 146,567	$ 152,921	$ 159,601	$ 166,631	

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Police Service (Non-Union)

Fiscal Year: 2020

Effective Date: October 13, 2019

Union/Nonunion: Non-union *Affected CBU/Service Code(s):* XAA D01, XAA D11

Pay Plan/Schedule: Police Service
Peoplesoft Schedule: PS0002

% Increase: 3%

Resolution Number:

Date of Resolution:

Grade		Steps 1	2	3	4	5
Class 08 Inspector	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 124,221	$ 130,683	$ 137,474	$ 144,627	
	Retention Allowance less than 20 yrs:Pay #1 + 4.2% = Pay #2	$ 129,438	$ 136,172	$ 143,248	$ 150,701	
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #2= Pay #3	$ 135,910	$ 142,644	$ 149,720	$ 157,173	
	Base Retention Differential- 20 or more YOS: Pay #2 + 5%= Pay #4	$ 135,910	$ 142,980	$ 150,410	$ 158,236	
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #4= Pay #5	$ 149,501	$ 156,571	$ 164,001	$ 171,827	
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #4= Pay #6	$ 156,297	$ 163,367	$ 170,797	$ 178,623	
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #4= Pay #7	$ 163,092	$ 170,162	$ 177,592	$ 185,418	
Class 09 Commander	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 145,781	$ 155,548	$ 165,967	$ 177,091	
	Retention Allowance less than 20 yrs:Pay #1 + 4.2% = Pay #2	$ 151,904	$ 162,081	$ 172,938	$ 184,529	
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #2= Pay #3	$ 159,499	$ 169,676	$ 180,533	$ 192,124	
	Base Retention Differential- 20 or more YOS: Pay #2 + 5%= Pay #4	$ 159,499	$ 170,185	$ 181,584	$ 193,755	
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #4= Pay #5	$ 175,449	$ 186,135	$ 197,534	$ 209,705	
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #4= Pay #6	$ 183,424	$ 194,110	$ 205,509	$ 217,680	
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #4= Pay #7	$ 191,399	$ 202,085	$ 213,484	$ 225,655	
Class 10 Assistant Chief	Base Pay with 3% Increase as of October 13, 2019= Base Pay #1	$ 171,663	$ 183,105	$ 195,300		
	Retention Allowance less than 20 yrs:Pay #1 + 4.2% = Pay #2	$ 178,873	$ 190,795	$ 203,503		
	Service Longevity Payment- 15 YOS @ 5% of Step 1 Pay #2= Pay #3	$ 187,816	$ 199,739	$ 212,446		
	Base Retention Differential- 20 or more YOS: Pay #2 + 5%= Pay #4	$ 187,816	$ 200,335	$ 213,678		
	Service Longevity Payment- 20 YOS @ 10% of Step 1 Pay #4= Pay #5	$ 206,598	$ 219,117	$ 232,459		
	Service Longevity Payment- 25 YOS @ 15% of Step 1 Pay #4= Pay #6	$ 215,989	$ 228,508	$ 241,850		
	Service Longevity Payment- 30 YOS @ 20% of Step 1 Pay #4= Pay #7	$ 225,380	$ 237,898	$ 251,241		

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Executive Service Schedule

Fiscal Year:	2020	*Service Code Definition:*	*Executive Service (DX)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU/Service Code(s):*	XXX A87
Pay Plan/Schedule:	DX		
Peoplesoft Schedule:	DX0000		
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

Grade	*MINIMUM*	*MIDPOINT*	*MAXIMUM*
E1	$ 103,870	$ 129,839	$ 155,805
E2	$ 112,958	$ 141,159	$ 169,361
E3	$ 122,825	$ 153,416	$ 184,006
E4	$ 133,474	$ 166,685	$ 199,897
E5	$ 144,509	$ 181,319	$ 218,126

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule:
NONUNION SUPERVISORY MEDICIAL OFFICERS PAY SCHEDULE

Effective Date: *October 13, 2019* *Fiscal Year:* 2020
Nonunion: Non-Union *% Increase:* Varies
Service Code Definition:

CBU/Service Code: CMH/A94 *Occupationa Series:* 0602, 0668, 0680
Resolution #: *Date of Resolution:* *Peoplesoft Plan: DS0033*

Level	Minimum	Midpoint	Maximum	Level of Supervision
MD 1	$119,176	$149,753	$180,330	1st Level Supervision
MD 2	$137,992	$162,769	$187,545	2nd Level Supervision
MD 3	$156,809	$193,815	$230,821	3rd Level Supervision
MD 4	$181,899	$213,574	$245,249	4th Level Supervision
MD 5	$194,444	$230,668	$266,891	5th Level Supervision
MD 6	$213,260	$250,894	$288,528	6th Level Supervision

The levels on this pay Schedule are 1, 2, 3, 4, 5, and 6.
Levels 1,2,3,4,5 and 6 = (fully trained/board eligible)/Supervisory Medical Officer Positions
The following factors will be considered when making salary placements:
Board Certified In Primary
Board certified in primary specialty and in a subspecialty or a second primary specialty
Each year spent in a fellowship related to the specialty area generally practiced for the employer shall be counted as one year of "post training experience"
Except when based on completion of two residency programs, certification in Clinical and Anatomical Pathology will constitute a certification in a primary specialty
Except when based on completion of two residency programs, certification by the American Board of Neurology and Psychiatry will constitute a certification in a primary specialty

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Legal Services (Non-union)

Fiscal Year:	2020	*Service Code Definition:*	*Attorneys (includes both OAG and other agencies)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU/Service Code(s):*	XAA A35
Pay Plan/Schedule:	LS (Legal Service)		
Peoplesoft Schedule:	LA0001		
% Increase:	3.00%		
Resolution Number:			
Date of Resolution:			

	Steps										
Grade	*1*	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	Between Steps
09	$ 59,554	$ 61,540	$ 63,526	$ 65,512	$ 67,498	$ 69,484	$ 71,470	$ 73,456	$ 75,442	$ 77,428	$ 1,986
10	$ 65,585	$ 67,772	$ 69,959	$ 72,146	$ 74,333	$ 76,520	$ 78,707	$ 80,894	$ 83,081	$ 85,268	$ 2,187
11	$ 72,058	$ 74,462	$ 76,866	$ 79,270	$ 81,674	$ 84,078	$ 86,482	$ 88,886	$ 91,290	$ 93,694	$ 2,404
12	$ 86,366	$ 89,246	$ 92,126	$ 95,006	$ 97,886	$ 100,766	$ 103,646	$ 106,526	$ 109,406	$ 112,286	$ 2,880
13	$ 102,712	$ 106,134	$ 109,556	$ 112,978	$ 116,400	$ 119,822	$ 123,244	$ 126,666	$ 130,088	$ 133,510	$ 3,422
14	$ 121,369	$ 125,415	$ 129,461	$ 133,507	$ 137,553	$ 141,599	$ 145,645	$ 149,691	$ 153,737	$ 157,783	$ 4,046
15	$ 142,769	$ 147,526	$ 152,283	$ 157,041	$ 161,798	$ 166,554	$ 171,311	$ 176,068	$ 178,626	$ 182,232	Varies

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: Legal Supervisory Service (LX)

Fiscal Year:	2020	*Service Code Definition:*	*Legal Service Attorney Managers and Attorneys in the Senior Executive Service (includes both OAG and other agencies)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU/Service Code(s):*	XAA A34
		Occupational Series:	905
Pay Plan/Schedule:	LX (Legal Service)		
Peoplesoft Schedule:	LX0001		
% Increase:	3%		
Resolution Number:			
Date of Resolution:			

Grade	*MINIMUM*	*MIDPOINT*	*MAXIMUM*
LX1	$ 117,386	$ 148,446	$ 179,507
LX2	$ 130,461	$ 163,809	$ 197,157
LX3	$ 145,790	$ 182,027	$ 218,262

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: PUBLIC SAFETY EXCEPTED PAY SCHEDULE

Public Safety and Justice Cluster (Medical Services)

Effective Date:	***October 13, 2019***	***Fiscal Year:***	**2020**
Nonunion:	Non-Union	***% Increase:***	**3%**
Service Code Definition:			
CBU/Service Code:	XAA A80		
Resolution #:		***PeopleSoft Plan:***	***XS0002***
Date of Resolution:			

Level	Minimum	Midpoint	Maximum
PS I	$189,193	$217,572	$245,952
PS 2	$221,356	$254,559	$287,763
PS 3	$258,986	$297,835	$336,682
PS 4	$303,015	$348,468	$393,919

The levels on this pay Schedule are 1, 2, 3 AND 4

Levels 1,2,3 AND 4 = (fully trained/board eligible)/Supervisory Public Safety Medical Officer Positions

The following factors will be considered when making salary placements:

Area of Specialized Expertise and Education

As it pertains to Supervisory Medical Positions only:

Board Certified In Primary

Board certified in primary specialty and in a subspecialty or a second primary specialty

Each year spent in a fellowship related to the specialty area generally practiced for the employer shall be counted as one year of "post training experience"

ENROLLED ORIGINAL

District of Columbia Government Salary Schedule: PUBLIC SAFETY EXECUTIVE PAY SCHEDULE
Public Safety and Justice Cluster

Effective Date:	***October 13, 2019***	***Fiscal Year:***	**2020**
Nonunion:	Non-Union	***% Increase:***	**3%**
Service Code Definition:			
CBU/Service Code:	XXX/A87		
Resolution #:		***PeopleSoft Plan:***	***DX0001***
Date of Resolution:			

Level	Minimum	Midpoint	Maximum
PS I	$189,193	$217,572	$245,952
PS 2	$221,356	$254,559	$287,763
PS 3	$258,986	$297,835	$336,682
PS 4	$303,015	$348,468	$393,919

ENROLLED ORIGINAL

District of Columbia Public Schools

Fiscal Year:	2020	*Service Code Definition:*	*Executive Service - Central Office (EX)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU:*	WAA
		Service Code(s):	A07
Pay Plan	EX		
PeopleSoft Sched ID:	ED0466		
% Increase:	3%		
Resolution Number			
Resolution Date			

	Step								
Grade	1	2	3	4	5	6	7	8	9
EX-1	$ 121,818	$ 123,663	$ 125,508	$ 127,352	$ 129,199	$ 131,044	$ 132,889	$ 134,734	$ 136,579
EX-2	$ 130,502	$ 132,348	$ 134,194	$ 136,038	$ 137,884	$ 139,729	$ 141,574	$ 143,418	$ 145,264
EX-3	$ 139,003	$ 140,847	$ 142,693	$ 144,539	$ 146,384	$ 148,228	$ 150,074	$ 151,919	$ 153,764
EX-4	$ 145,708	$ 147,553	$ 149,397	$ 151,243	$ 153,088	$ 154,933	$ 156,779	$ 158,624	$ 160,469
EX-5	$ 171,048	$ 172,893	$ 174,737	$ 176,584	$ 178,429	$ 180,274	$ 182,118	$ 183,964	$ 185,809
EX-6	$ 184,517	$ 186,362	$ 188,208	$ 190,053	$ 191,897	$ 193,743	$ 195,588	$ 197,432	$ 199,278

ENROLLED ORIGINAL

District of Columbia Public Schools

Fiscal Year: 2020

Effective Date: October 13, 2019

Union/Nonunion: Non-union

Pay Plan EG
Sched ID: ED0468

% Increase: 3%

Resolution Number
Resolution Date

Service Code Definition: *Non-Union Educational Service Employees Non-Instructional*

Affected CBU: WAA and XGA
Service Code(s): A01, A06, A17, and K10

	Step									
Grade	1	2	3	4	5	6	7	8	9	10
EG-1	$ 18,240	$ 18,798	$ 19,353	$ 19,910	$ 20,465	$ 21,021	$ 21,579	$ 22,133	$ 22,690	$ 23,247
EG-2	$ 20,327	$ 20,945	$ 21,561	$ 22,180	$ 22,796	$ 23,414	$ 24,031	$ 24,648	$ 25,266	$ 25,884
EG-3	$ 22,009	$ 22,690	$ 23,372	$ 24,054	$ 24,734	$ 25,415	$ 26,097	$ 26,778	$ 27,460	$ 28,141
EG-4	$ 24,522	$ 25,281	$ 26,043	$ 26,802	$ 27,562	$ 28,321	$ 29,081	$ 29,840	$ 30,601	$ 31,359
EG-5	$ 27,218	$ 28,074	$ 28,931	$ 29,785	$ 30,640	$ 31,497	$ 32,353	$ 33,207	$ 34,063	$ 34,920
EG-6	$ 30,166	$ 31,114	$ 32,063	$ 33,012	$ 33,961	$ 34,910	$ 35,858	$ 36,807	$ 37,755	$ 38,705
EG-7	$ 33,318	$ 34,374	$ 35,434	$ 36,492	$ 37,549	$ 38,607	$ 39,664	$ 40,721	$ 41,780	$ 42,839
EG-8	$ 36,730	$ 37,899	$ 39,070	$ 40,239	$ 41,408	$ 42,578	$ 43,747	$ 44,917	$ 46,087	$ 47,257
EG-9	$ 40,390	$ 41,685	$ 42,980	$ 44,275	$ 45,568	$ 46,864	$ 48,159	$ 49,452	$ 50,747	$ 52,043
EG-10	$ 44,329	$ 45,748	$ 47,168	$ 48,588	$ 50,008	$ 51,427	$ 52,847	$ 54,267	$ 55,686	$ 57,106
EG-11	$ 48,701	$ 50,261	$ 51,821	$ 53,380	$ 54,939	$ 56,500	$ 58,056	$ 59,616	$ 61,176	$ 62,735
EG-12	$ 58,374	$ 60,242	$ 62,109	$ 63,977	$ 65,847	$ 67,714	$ 69,582	$ 71,450	$ 73,317	$ 75,185
EG-13	$ 69,397	$ 71,625	$ 73,850	$ 76,076	$ 78,303	$ 80,527	$ 82,753	$ 84,980	$ 87,206	$ 89,431
EG-14	$ 82,007	$ 84,639	$ 87,271	$ 89,903	$ 92,534	$ 95,166	$ 97,797	$ 100,430	$ 103,061	$ 105,693
EG-15	$ 92,748	$ 95,724	$ 98,702	$ 101,680	$ 104,655	$ 107,633	$ 110,611	$ 113,586	$ 116,563	$ 119,541
EG-16	$ 108,671	$ 112,164	$ 115,657	$ 119,149	$ 122,642	$ 126,134	$ 129,628	$ 133,118	$ 136,612	$ 140,105

ENROLLED ORIGINAL

District of Columbia Public Schools

Fiscal Year:	2020	*Service Code Definition:*	*WAE Educational Services (Instructional)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU:*	WAA
		Service Code(s):	W01
Pay Plan	ET		
Sched ID:	ED0400		
% Increase:	3%		
Resolution Number			
Resolution Date			

	Step		
Grade	1	2	3
ET-16	$ 28.55	$ 32.41	$ 36.66

ENROLLED ORIGINAL

District of Columbia Public Schools

Fiscal Year:	2020	*Service Code Definition:*	*Non-Union Educational Service Employees Non-Instructional (WAE)*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU:*	WAA
		Service Code(s):	A60
Pay Plan	EG		
PeopleSoft Sched ID:	ED0469		
% Increase:	3%		
Resolution Number			
Resolution Date			

	Step									
Grade	1	2	3	4	5	6	7	8	9	10
EG-1	$ 8.78	$ 9.03	$ 9.31	$ 9.57	$ 9.85	$ 10.10	$ 10.37	$ 10.64	$ 10.91	$ 11.18
EG-2	$ 9.77	$ 10.06	$ 10.37	$ 10.66	$ 10.96	$ 11.25	$ 11.56	$ 11.86	$ 12.14	$ 12.44
EG-3	$ 10.58	$ 10.91	$ 11.24	$ 11.57	$ 11.90	$ 12.22	$ 12.55	$ 12.88	$ 13.20	$ 13.53
EG-4	$ 11.78	$ 12.15	$ 12.52	$ 12.89	$ 13.25	$ 13.62	$ 13.99	$ 14.35	$ 14.71	$ 15.08
EG-5	$ 13.09	$ 13.50	$ 13.91	$ 14.32	$ 14.73	$ 15.14	$ 15.56	$ 15.97	$ 16.38	$ 16.79
EG-6	$ 14.50	$ 14.96	$ 15.41	$ 15.87	$ 16.33	$ 16.79	$ 17.24	$ 17.70	$ 18.16	$ 18.60
EG-7	$ 16.03	$ 16.52	$ 17.03	$ 17.54	$ 18.05	$ 18.56	$ 19.07	$ 19.57	$ 20.09	$ 20.59
EG-8	$ 17.66	$ 18.22	$ 18.79	$ 19.34	$ 19.91	$ 20.47	$ 21.03	$ 21.59	$ 22.16	$ 22.72
EG-9	$ 19.42	$ 20.04	$ 20.66	$ 21.29	$ 21.91	$ 22.54	$ 23.15	$ 23.77	$ 24.39	$ 25.03
EG-10	$ 21.32	$ 21.99	$ 22.67	$ 23.35	$ 24.04	$ 24.72	$ 25.40	$ 26.09	$ 26.77	$ 27.45
EG-11	$ 23.42	$ 24.16	$ 24.91	$ 25.67	$ 26.41	$ 27.16	$ 27.91	$ 28.66	$ 29.41	$ 30.16
EG-12	$ 28.06	$ 28.96	$ 29.86	$ 30.77	$ 31.65	$ 32.56	$ 33.45	$ 34.35	$ 35.25	$ 36.15
EG-13	$ 33.37	$ 34.44	$ 35.50	$ 36.58	$ 37.65	$ 38.72	$ 39.79	$ 40.86	$ 41.93	$ 43.00
EG-14	$ 39.43	$ 40.69	$ 41.96	$ 43.22	$ 44.49	$ 45.75	$ 47.02	$ 48.29	$ 49.54	$ 50.82
EG-15	$ 44.59	$ 46.02	$ 47.45	$ 48.88	$ 50.32	$ 51.75	$ 53.18	$ 54.61	$ 56.04	$ 57.46
EG-16	$ 52.24	$ 53.93	$ 55.61	$ 57.28	$ 58.96	$ 60.64	$ 62.33	$ 64.00	$ 65.68	$ 67.35

ENROLLED ORIGINAL

District of Columbia Public Schools

Fiscal Year:	2020	*Service Code Definition:*	*Deputy Chancellor*
Effective Date:	October 13, 2019		
Union/Nonunion:	Non-union	*Affected CBU:*	XXX
		Service Code(s):	A01
Pay Plan	ET		
Sched ID:	ED0411		
% Increase:	3%		
Resolution Number			
Resolution Date			

Grade	*MINIMUM*	*MIDPOINT*	*MAXIMUM*
ET-1	$ 156,809	$ 196,011	$ 235,214

ENROLLED ORIGINAL

A RESOLUTION

23-194

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 9, 2019

To approve, on an emergency basis, the negotiated collective bargaining agreement submitted by the Mayor for employees of the District of Columbia Public Schools who are represented by Council of School Officers, Local #4, American Federation of School Administrators, AFL-CIO.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Collective Bargaining Agreement between the District of Columbia Public Schools and Council of School Officers, Local #4, American Federation of School Administrators, AFL-CIO Emergency Approval Resolution of 2019".

Sec. 2. Pursuant to section 1717(j) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.17(j)), the Council approves the collective bargaining agreement, and attached related pay schedules, between the District of Columbia Public Schools and the Council of School Officers, Local #4, American Federation of School Administrators, AFL-CIO, which was transmitted to the Council by the Mayor on July 2, 2019.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Council of School Officers and the Mayor.

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-196

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 9, 2019

To approve, on an emergency basis, the negotiated memoranda of agreement submitted by the Mayor for employees of the Office of the State Superintendent of Education, Division of Transportation, who are represented by Teamsters Local 639 and American Federation of State, County, and Municipal Employees, District Council 20, Local 1959.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Memoranda of Agreement for FY 2020 Wages between the Office of the State Superintendent of Education, Division of Student Transportation and Teamsters 639 and American Federation of State, County and Municipal Employees, District Council 20, Local 1959 Emergency Approval Resolution of 2019".

Sec. 2. Pursuant to section 1717(j) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.17(j)), the Council approves the memoranda of agreement, and the related Fiscal Year 2020 pay schedules, for the contracts negotiated through collective bargaining between the Office of State Superintendent of Education, Division of Transportation and Teamsters Local 639, and American Federation of State, County and Municipal Employees, District Council 20, Local 1959, which were transmitted to the Council by the Mayor on July 2, 2019.

Sec. 3. Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 4. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to Teamsters Local 639, American Federation of State, County and Municipal Employees, District Council 20, Local 1959, and the Mayor.

Sec. 5. Effective date.

This resolution shall take effect immediately.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 2, 2019
Protest Petition Deadline:	September 16, 2019
Roll Call Hearing Date:	September 30, 2019
License No.:	ABRA-106108
Licensee:	EMB International, LLC
Trade Name:	Café Georgetown
License Class:	Retailer's Class "D" Restaurant
Address:	3141 N Street, N.W.
Contact:	Emel Bayrak: (703) 401-6482

WARD 2 ANC 2E SMD 2E05

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

NATURE OF SUBSTANTIAL CHANGE
Applicant requests a Class Change from a Retailer Class "D" Restaurant to a Retailer Class "C" Restaurant.

HOURS OF OPERATION
Sunday through Saturday 6am – 12am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION AND LIVE ENTERTAINMENT
Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 2, 2019
Protest Petition Deadline:	September 16, 2019
Roll Call Hearing Date:	September 30, 2019
Protest Hearing Date:	November 20, 2019

License No.:	ABRA-114097
Licensee:	Rob Beverage III, LLC
Trade Name:	Ledo Pizza and Bar
License Class:	Retailer's Class "C" Restaurant
Address:	1400 Irving Street, N.W. #109
Contact:	Sean T. Morris: (301) 654-6570

WARD 1 ANC 1A SMD 1A03

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 September 30, 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 **November 20, 2019 at 1:30 p.m.**

NATURE OF OPERATION

A new full-service Ledo Pizza & Pasta franchise with a sit-down dining room, carryout counter and full bar with on-premises consumption only. Seating Capacity of 100 inside. Total Occupancy Load of 120. Request to add a Sidewalk Café with a Total Occupancy Load of 40.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SIDEWALK CAFÉ

Sunday 12pm – 10pm, Monday through Thursday 11am – 11pm,
Friday and Saturday 11am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 2, 2019
Protest Petition Deadline:	September 16, 2019
Roll Call Hearing Date:	September 30, 2019
Protest Hearing Date:	November 20, 2019
License No.:	ABRA-114270
Licensee:	Leon USA, Inc.
Trade Name:	LEON
License Class:	Retailer's Class "C" Restaurant
Address:	649 New York Avenue, N.W.
Contact:	Sean T. Morris, Esq.: (301) 654-6570

WARD 6 ANC 6E SMD 6E04

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 September 30, 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 **November 20, 2019 at 4:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class C Restaurant with a seating capacity of 80 and a Total Occupancy Load of 100. Sidewalk Cafe with 22 seats.

HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday 8am – 10pm, Monday through Saturday 7am – 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday 8am – 10pm, Monday through Saturday 8am –11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 2, 2019
Protest Petition Deadline:	September 16, 2019
Roll Call Hearing Date:	September 30, 2019
Protest Hearing Date:	November 20, 2019
License No.:	ABRA-114299
Licensee:	Queen of Sheba 2, Inc.
Trade Name:	Queen's Restaurant and Lounge
License Class:	Retailer's Class "C" Tavern
Address:	1503 9th Street, N.W.
Contact:	Bernard C. Dietz: (202) 822-3934

WARD 6 ANC 6E SMD 6E01

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 September 30, 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 N**ovember 20, 2019 at 1:30 p.m.**

NATURE OF OPERATION
New Tavern serving Ethiopian/Eritrean cuisine. Requesting an Entertainment Endorsement to provide Live Entertainment. Total Occupancy Load is 100 with seating for 100.

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

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday 12pm – 2am, Monday through Thursday 11am – 2am,
Friday and Saturday 11am – 3am

HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 9pm – 2am, Friday through Saturday 9pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 2, 2019
Protest Petition Deadline:	September 16, 2019
Roll Call Hearing Date:	September 30, 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:	Begashaw Deneke: (202) 525-3631

WARD 1 ANC 1B SMD 1B02

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

NATURE OF SUBSTANTIAL CHANGE
Request to add an Entertainment Endorsement with Dancing.

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

PROPOSED HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 9pm – 2am, Friday and Saturday 9pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 2, 2019
Protest Petition Deadline:	September 16, 2019
Roll Call Hearing Date:	September 30, 2019
License No.:	ABRA-096176
Licensee:	Wet Dog, LLC
Trade Name:	Wet Dog Tavern
License Class:	Retailer's Class "C" Tavern
Address:	2100 Vermont Avenue, N.W.
Contact:	Sidon Yohannes, Esq.: (202) 686-7600

WARD 1 ANC 1B SMD 1B02

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

NATURE OF SUBSTANTIAL CHANGES
Applicant requests an expansion of the existing licensed premises on both the first and second floors. Request to add 76 seats and standing room for 116 on the first floor, increasing total capacity to 282. Expansion also includes request for a second Summer Garden on the second floor with a capacity of 211. New interior space is also requested on the second floor, adding 27 seats and room for 25 standing, for a new total capacity of 323 on the second floor. Total Occupancy Load of the entire establishment will increase from 150 to 605. Finally, applicant also requested to add Sports Wagering to their operations. There will be three wagering devices and a cellphone wagering application available to download.

HOURS OF OPERATION INSIDE PREMISES AND FOR EXISTING SUMMER GARDEN AND HOURS OF SPORTS WAGERING INSIDE PREMISES
Sunday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR EXISTING SUMMER GARDEN
Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SIDEWALK CAFÉ
Sunday through Thursday 11am – 11pm, Friday and Saturday 11am – 12am

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES
Sunday through Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION FOR SECOND SUMMER GARDEN
Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF EXTENDED COMMENT PERIOD

The Department of Energy and Environment (DOEE or Department), is extending the public comment on the proposed rulemaking for a triennial review of the District of Columbia's Water Quality Standards regulations as required by section 5(a) of the Water Pollution Control Act (D.C. Official Code § 8-103.04(a)) and section 303(c) of the federal Clean Water Act (33 U.S.C. § 1313(c)).

Proposed changes to the water quality standards include updates to the aquatic life criteria for ammonia and cadmium, and human health criteria for 94 constituents.

The notice of proposed rulemaking was published in the *D.C. Register* on June 28, 2019. The 30-day comment period established in that notice will end on August 5, 2019. Pursuant to this notice, the comment period is being extended until October 7, 2019.

A copy of the proposed rulemaking is available at the following link: https://www.dcregs.dc.gov/Common/DCR/Issues/IssueCategoryList.aspx?CategoryID=14&IssueID=770.

A hard copy may also be obtained from the DOEE offices at 1200 First Street NE, Washington, DC 20002, 5th floor. Please email rebecca.diehl@dc.gov with "DOEE WQS Second Proposed Rule" in the subject line to arrange for pick-up.

Public Hearing

HEARING DATE:	**Monday, September 2, 2019**
TIME:	**6:00 PM – 7:00 PM**
PLACE:	**Department of Energy and Environment** **1200 First Street NE, 5th Floor** **Washington, DC 20002** **NOMA Gallaudet (Red Line) Metro Stop**

Comments clearly marked "DOEE WQS Second Proposed Rule" may also be hand delivered or mailed to the DOEE offices at the address listed above. Persons may also submit written testimony by email, with a subject line of "DOEE WQS Second Proposed Rule," to the attention of Rebecca Diehl at Rebecca.Diehl@dc.gov. All comments should be received no later than the conclusion of the public comment period on Monday, October 7, 2019.

Persons present at the hearing who wish to be heard may testify. All presentations shall be limited to five minutes. Presenters are urged to submit written statements. DOEE will consider all comments received.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PUBLIC HEARING AND SOLICITATION OF PUBLIC COMMENT

Fiscal Year 2020 (FY 2020) Low Income Home Energy Assistance Program (LIHEAP) Draft State Plan

The Department of Energy and Environment (the Department) invites the public to present its comments at a public hearing on the FY 2020 Draft State Plan for the Low Income Home Energy Assistance Program (LIHEAP).

Public Hearing

HEARING DATE:	**Friday, August 30, 2019**
TIME:	**11:00 am**
PLACE:	**Department of Energy and Environment** **1200 First Street, NE, Washington, DC 20002** **5th Floor** **NOMA Gallaudet (Red Line) Metro Stop**

Beginning August 2, 2019, the full text of the **FY 2020 Draft LIHEAP State Plan** will be available online at the Department's website. A person may obtain a copy of the Draft LIHEAP State Plan by any of the following means:

Download from the Department's website, doee.dc.gov/liheap. Look for "LIHEAP FY20 Draft State Plan" near the bottom of the page. Follow the link to the page, where the document can be downloaded in a PDF format;

Email a request to LIHEAP.StatePlan@dc.gov with "Request copy of **FY 2020 Draft State Plan**" 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 the Department's reception at (202) 535-2600 and mention this Notice by name.

Write the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Kenley Farmer RE: FY20 Draft LIHEAP State Plan" on the outside of the envelope.

The deadline for comments is August 30, 2019 at the conclusion of the public hearing. All persons present at the hearing who wish to be heard may testify in person. All presentations shall be limited to five minutes. Persons are urged to submit duplicate copies of their written statements.

Persons may also submit written testimony by email, with a subject line of "FY 2020 Draft LIHEAP State Plan", to LIHEAP.StatePlan@dc.gov. Comments clearly marked "FY 2020 Draft LIHEAP State Plan" may also be hand delivered or mailed to the Department's offices at the address listed above. All comments should be received no later than the conclusion of the public hearing on Friday, August 30, 2019. The Department will consider all comments received in its final decision.

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, OCTOBER 2, 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 ONE

20115 ANC 1C — **Application of L Corp, LLC,** pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the minimum lot area requirements of Subtitle E § 201.1 for three existing, attached principal dwelling units in the RF-1 Zone at premises 1630-1634 Argonne Place N.W. (Square 2589, Lots 848-850).

WARD ONE

20116 ANC 1B — **Application of Elee and Joseph Wakim,** pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion use permissions of Subtitle U § 320.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the residential conversion requirements of Subtitle U § 320.2(d), and the minimum parking size and layout requirements of Subtitle C § 712.5, to convert an existing flat into a three-unit apartment house in the RF-1 Zone at premises 2705 11th Street, N.W. (Square 2858, Lot 18).

WARD FOUR

20117 ANC 4C — **Application of Naomi Glassman and Kopano Majara,** pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201 from the pervious surface requirements of Subtitle D § 308.3, the alley centerline setback requirements of Subtitle D § 5004.1, and pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the lot occupancy requirements of Subtitle D § 304.1, to construct an accessory garage structure with a roof deck in the R-3 Zone at premises 4614 4th Street N.W. (Square 3249, Lot 111).

WARD ONE

20118 ANC 6A — **Application of Demetra Weir,** pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a two-story flat in the RF-1 Zone at premises 645 16th Street, N.E. (Square 4540, Lot 292).

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?
የተለየ እርዳታ ካስፈለገዎት ወይምየ ቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማሻሻያ ን ም) ካስፈለገዎት እባክዎን ከስብሰባውአምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይምበኤሜል 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 CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.10(a)(12) (2015 Repl.)), and Mayor's Order 2000-70, dated May 2, 2000, hereby adopts the following amendments to Chapter 15 (Professional Engineers and Land Surveyors) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking creates continuing education requirements for applicants seeking to renew or reinstate a license approved by the Board of Professional Engineering and establishes standards and administrative procedures for the approval of continuing education programs. In adopting this requirement, which is in conformity with similar standards established by neighboring jurisdictions, the District seeks to ensure that its licensed professional engineers and land surveyors maintain professional and ethical competence in their respective fields.

A Notice of Proposed Rulemaking was published into the *D.C. Register* on December 7, 2018 at 65 DCR 013374. Two comments were received during the comment period opposing this rulemaking. The commenters believe the continuing education requirements are burdensome. The Board of Professional Engineering considered these comments and determined that the value of having continuing education requirements outweighed any potential burden on licensees. No changes have been made to the text of the proposed rules as published with that notice.

These rules were adopted as final on April 25, 2019 and shall take effect upon publication of this notice in the *D.C. Register*.

Chapter 15, PROFESSIONAL ENGINEERS AND LAND SURVEYORS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

New Sections 1526 - 1528 are added to read as follows:

1526 CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OR REINSTATEMENT OF A LICENSE

1526.1 This section shall apply to all applicants for the renewal or reinstatement of a license to practice as a land surveyor or professional engineer, except those applicants seeking first renewal of a license granted by examination.

1526.2 An applicant for renewal of a license to practice as a land surveyor shall attest to having completed no less than twelve (12) hours of acceptable continuing professional education during the term of the license, to include the following:

(a) No less than eight (8) hours of surveying education specific to the District of Columbia; and

(b) At least one (1) hour on the subject of professional ethics.

1526.3 An applicant for renewal of a license to practice as a professional engineer shall attest to having completed no less than twenty (20) hours of acceptable continuing professional education, to include at least one (1) hour on the subject of professional ethics, during the term of the license.

1526.4 An applicant for reinstatement of an expired license or renewal of an inactive license to practice as a land surveyor shall attest to having completed, no more than two (2) years prior to the date of application, at least six (6) hours of credit in approved continuing education programs for each year the license was expired or inactive, up to a maximum of twenty-four (24) hours, and shall include the following:

(a) No less than eight (8) hours of surveying education specific to the District of Columbia; and

(b) At least one (1) hour on the subject of professional ethics.

1526.5 An applicant for reinstatement of an expired license or renewal of an inactive license to practice as a professional engineer shall attest to having completed ten (10) hours of credit in approved continuing education programs for each year the license was expired or inactive, up to a maximum of forty (40) hours, and shall include no less than one (1) hour on the subject of professional ethics. To be creditable, courses shall not have been completed more than two (2) years prior to the date of application.

1526.6 An applicant under this section shall report the completion of required continuing education credits by submitting with the renewal or reinstatement application the following information with respect to each program:

(a) The name of the sponsor of the program;

(b) The name of the program and a description of the subject matter covered;

(c) The dates on which the applicant attended the program; and

(d) The hours of credit claimed.

1526.7 A continuing education credit shall be valid only if it is part of a program approved by the Board in accordance with § 1527 of this chapter. Licensees are responsible for ensuring that continuing education courses taken to satisfy the Board's renewal or reinstatement requirements are approved by the Board.

1526.8 An applicant for the renewal of a license who fails to complete the continuing education requirements by or before the expiration date may renew the license within sixty (60) days after expiration by completing the outstanding hours and by paying the required late fee. Any hours obtained after licensure expiration and claimed for late renewal shall not be creditable for the next renewal period. Upon renewal, the Board shall deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal.

1526.9 If an applicant for the renewal of a license fails to complete the continuing education requirements within sixty (60) days after the expiration of the applicant's license, the license shall be deemed to have lapsed on the date of expiration, and the applicant shall be required to apply for reinstatement of the expired license pursuant to § 3308 of this title.

1526.10 The Board may grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to complete continuing education requirements was for good cause. For purposes of this subsection, "good cause" includes proof of the following:

(a) Serious and protracted illness of the applicant, who submits a doctor's statement verifying the illness;

(b) The death or serious and protracted illness of a member of the applicant's immediate family, which death or illness resulted in the applicant's inability to complete the continuing education requirements within the specified time. For the purposes of this subsection, the term "immediate family" means the applicant's spouse and any parent, brother, sister, or child of the applicant and the spouse of any such parent, brother, sister, or child; or

(c) Active military service.

1526.11 An extension granted under this section shall not relieve an applicant from complying with the continuing education requirement for the next renewal period.

1527 APPROVED CONTINUING EDUCATION PROGRAMS

1527.1 The Board, in its sole discretion, may approve continuing education programs or activities that contribute to the growth of an applicant in professional competence in the practices of land surveying and professional engineering and which meet the other requirements of this section.

1527.2 A continuing education program shall be deemed approved by the Board if the offering is approved, provided or sponsored by one of the following:

(a) National Society of Professional Engineers (NSPE), American Society of Civil Engineers (ASCE), and any other recognized national or state society of professional engineers;

(b) District of Columbia Association of Land Surveyors (DCALS) and any other recognized national or state society of land surveyors;

(c) National Council of Examiners for Engineering and Surveying (NCEES);

(d) A licensing board of another jurisdiction that regulates the practice of land surveying or professional engineering;

(e) Federal or state agencies offering training in land surveying or professional engineering; and

(f) Accredited colleges and universities offering training in land surveying or professional engineering.

1527.3 The Board may grant up to six (6) hours of continuing education credits for each of the following activities, if consistent with the requirements of § 1527.1:

(a) Completion of an undergraduate or graduate course given at an accredited college or university;

(b) Performing the initial development, substantial updating, or the initial teaching of a conference program or an academic course;

(c) Authoring or editing a published book, a published chapter in a book, or a published article in a professional journal or other nationally recognized publication; or

(d) Serving on a committee or task force that addresses technical and regulatory issues related to the professional practice of land surveying or professional engineering.

1528 CONTINUING EDUCATION: RECORDKEEPING AND AUDIT REQUIREMENTS

1528.1 A licensee shall be responsible for documenting his or her completion of the required continuing education, and shall bear the burden of providing satisfactory proof of completion and establishing that any program or activity for which credit is claimed merits approval in accordance with § 1527.

1528.2 A licensee shall retain course documentation for four (4) years after completing a continuing education program or activity for which credit is claimed. Acceptable documentation shall include, but is not limited to, the following:

(a) A certificate of successful completion from the sponsor or provider which includes the following information:

(1) The name of the sponsor of the program;

(2) The name of the program and a description of the subject matter covered;

(3) The dates on which the licensee attended the program; and

(4) The hours of credit earned; and

(b) A copy of the course outline prepared by the course sponsor;

(c) In the case of courses taken at accredited universities and colleges, proof of satisfactory completion of the course;

(d) In the case of licensees claiming credit for publication of a technical paper, article, or book, satisfactory proof of its publication; or

(e) Other comparable proof deemed satisfactory by the Board.

1528.3 The Board may, as it deems appropriate, conduct an audit of active licensees to determine compliance with the continuing education requirements.

1528.4 Upon notification by the Board that a licensee has been selected for an audit, the licensee shall submit proof of his or her compliance with the continuing education requirements in accordance with § 1526 within thirty (30) days of receipt of the notice.

1528.5 A licensee who fails to provide proof of continuing education compliance during an audit may be subject to another audit in the subsequent licensure term.

1528.6 If the Board determines that the licensee has not met his or her continuing education requirement in accordance § 1526, the Board may either grant an additional period of time in which the deficiencies can be cured, or impose disciplinary action in accordance with the Act.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2016 Repl.)), hereby gives notice of a correction to the Notice of Final Rulemaking issued by the Construction Codes Coordinating Board and published in the *D.C. Register* at 61 DCR 2782 (March 28, 2014 – Part 2).

The final rulemaking amended, among others, Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations (DCMR).

In Section 12-M101 (Building Permit Fees) of Chapter 12-M1 (DCRA Permits Division Schedule of Fees) of Subtitle 12-M (Fees) of the DCMR, the rulemaking incorrectly stated that the Green Building Fee for construction valued at over $1 million is $1,300 + 0.0065% of construction value over $1 million. The Green Building Fee in D.C. Official Code § 6-1451.08(b)(3) states the following:

> (b) Upon March 8, 2007, the green building fee shall be established by increasing the building permit fees in effect at the time in accordance with the following schedule of additional fees:
>
> …
>
> (3) Alterations and repairs exceeding $1 million — an additional **0.065%** of construction value.

This errata notice corrects the requirements by removing an extra "0" in the percentage to be added to the $1,300.

The corrections to the final rulemaking are made below (deletions are shown in ~~strikethrough~~ text and additions are shown in <u>underline</u>).

Chapter 12-M1, DCRA PERMITS DIVISION SCHEDULE OF FEES, of Title 12 DCMR, CONSTRUCTION CODE SUPPLEMENT of 2013, Subtitle 12-M, FEES, is amended as follows:

Section 101.1, BUILDING PERMIT FEES, is amended as follows:

Green Building Fee: construction valued over $1 million	$1,300 + 0.~~0~~0065% of construction value over $1 million

The rules are effective upon the original publication date of March 28, 2014.

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq., Administrator, Office of Documents and Administrative Issuances, 441 4th Street, N.W., Suite 520 South, Washington, D.C. 20001, email at victor.reid@dc.gov, or via telephone at (202) 727-5090.

RENTAL HOUSING COMMISSION

NOTICE OF PROPOSED RULEMAKING

Pursuant to the authority set forth in § 202(a)(1) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.02(a)(1) (2012 Repl.)) ("Act"), the Rental Housing Commission ("Commission") hereby gives notice of the intent to adopt the following rules related to the Rent Stabilization Program of the Act, registration requirements under the Act, requirements for notices to vacate a rental unit covered by the Act, other tenant rights provided by the Act, and procedures used by the Commission and the Rental Accommodations Division of the Department of Housing and Community Development ("RAD") to processes petitions and adjudicate cases arising under the Act.

The proposed rulemaking would amend all of the implementing rules under the Act in Title 14 (Housing) of the District of Columbia Municipal Regulations ("DCMR"), Chapters 38 through 44. The six core purposes of the proposed rules are as follows:

1. Implement Statutory Changes in Determining Lawful Rents

The proposed rules implement two major amendments enacted by the Council with respect to lawfulness of rents charged for rental units subject to the Rent Stabilization Program: (a) the Rent Control Reform Amendment Act of 2006, effective August 5, 2006 (D.C. Law 16-145; 53 DCR 4889 (June 23, 2006)) ("Rent Control Reform Act"); and (b) the Elderly Tenant and Tenant with a Disability Protection Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-239; 64 DCR 1588 (February 17, 2017) ("Elderly and Disability Protection Act").

(a) The Rent Control Reform Act abolished "rent ceilings," the legal limit on rents for rental units covered by the Rent Stabilization Program and substituted the term "rent charged" throughout the Act. As amended, the Act uses the terms "rent," "rent charged," "allowable rent charged," and "applicable rent charged" in variety of contexts without clear distinction between money actually demanded or received from a tenant and the maximum, legal amount that a housing provider may be entitled to demand or receive, as filed with the RAD. As the Commission determined in *Fineman v. Smith Prop. Holdings Van Ness, LP*, RH-TP-16-30,842 (RHC Jan. 18, 2018), the legislative history of the Rent Control Reform Act shows that the intent of the Council was that the term "rent charged" should ordinarily be construed to refer to the actual rent, as the term "rent" is defined by the Act. *See* D.C. Official Code § 42-3501.03(28). The Council subsequently ratified this interpretation in the Rent Charged Definition Clarification Amendment Act of 2018, effective March 13, 2019 (D.C. Law 22-248; 66 DCR 973 (January 25, 2019)) (see the accompanying committee report).

As the Commission noted in *Fineman*, several uses of the term "rent charged" nonetheless only make sense as referring to a legal limit; for example, the vacancy adjustment and the calculation of rent refunds and rollbacks. Accordingly, the proposed rules refer, as necessary, to the "amount of rent lawfully calculated and properly filed with the Rental Accommodations Division" or the "rent that may be charged" when determining the lawfulness of past or future rent levels, respectively.

(b) The Elderly and Disability Protection Act made two major changes to the determination of lawful rents that are implemented in the proposed rules. First, the proposed rules limit annual rent adjustments for protected tenants to the least of five percent (5%), the adjustment of general applicability (based on the Consumer Price Index) for the year, or the Social Security Cost of Living Adjustment for the year. Second, the proposed rules implement the conversion of certain rent adjustments (hardship petitions and substantial rehabilitation petitions and, for protected tenants, related services and facilities petitions and voluntary agreements) into "surcharges" that are not calculated as part of the legal rent that is or may be otherwise charged (previously, only capital improvement petitions operated this way). *See* D.C. Official Code § 42-3501.03(25C). The Act and the proposed rules provide exemptions for protected tenants from these rent surcharges, to the extent offsetting tax credits to housing providers are available (except for voluntary agreements).

2. Implement and Clarify Transfer of Evidentiary Hearing Function

The proposed rules conform the procedures of the Commission and RAD with § 6(b-1) of the Office of Administrative Hearings Establishment Act of 2001, effective December 7, 2004 (D.C. Law 14-76; D.C. Official Code § 2-1831.03(b-1) (2016 Repl.)), which transferred jurisdiction over hearings arising under the Act from the former Rental Accommodations and Conversion Division of the Department of Consumer and Regulatory Affairs ("RACD") to the Office of Administrative Hearings ("OAH"). Accordingly, Chapter 40 (RACD Hearings) will be repealed, and those provisions of former Chapter 40 that remain relevant for the limited processing functions performed by RAD will be transferred to Chapter 39 (RAD).

Although in some sections of the current rules the only necessary change is to replace "Rent Administrator" or "hearing examiner" with "OAH" or "Administrative Law Judge," in many places substantial reorganization is required. For example, in § 4210.9 (Petitions Based on Capital Improvements), the current rules direct the Rent Administrator to "render a final decision . . . within sixty (60) days[.]" Under § 202(a)(1) of the Act (D.C. Official Code § 42-3502.02(a)(1)), the Commission cannot promulgate rules directing OAH to act within a certain time; however, the statutory consequences of a failure to issue a decision in sixty (60) days, *i.e.*, that the housing provider may begin an improvement, remains the same irrespective of the agency tasked with issuing the decision. In some sections, the proposed rules effectuate the transfer of jurisdiction by establishing specific types of orders that OAH may issue under the Act. For examples, the proposed rules clarify the timing of orders and appeals of orders to pay attorney's fees, in § 3825, and also provide that an audit report on a hardship petition may be remanded to the Rent Administrator for correction, in § 4209 (Petitions Based on Claims of Hardship).

Moreover, in consultation with RAD and OAH, the Commission believes that greater efficiency in processing of housing provider petitions can be achieved by, with limited exceptions, transferring all service of notice, response, and review functions to OAH. In the event that a housing provider's petition is not contested by tenants, other than a hardship petition or if a housing provider seeks a substantial rehabilitation petition for vacant rental units, OAH will nonetheless review and rule on the petition to assure that the petitioner meets the legal and evidentiary burden.

Unlike standard petitions, however, the Commission, in consultation with RAD, OAH, the Office of the Tenant Advocate, and the Housing Provider Ombudsman, believes that Voluntary Agreements, in § 4213 (Rent Adjustments by Voluntary Agreement), should be subject to more thorough, pre-hearing oversight by the Rent Administrator in order to mitigate the possibility of confusion and coercion of tenants in the negotiation and signature-gathering process. The Commission has therefore incorporated OAH's hearing jurisdiction in a substantially different manner for Voluntary Agreement applications than the housing provider petitions that are enumerated in § 216(a) of the Act (D.C. Official Code § 42-3502.16(a)). *See* D.C. Official Code § 42-3502.15 (2012 Repl.).

3. Implementation of Other Statutory Changes

The proposed rules conform to the numerous other amendments to the Act that have been enacted since the initial promulgation of implementing rules in 1986 and since the last rulemaking promulgated by the Commission in 1998. For example, the Definition of Persons with Disabilities A.D.A. Conforming Amendment Act of 2006, effective March 9, 2007 (D.C. Law 16-240; 54 DCR 597 (January 26, 2007)), changed the standard for determining whether a tenant's disability qualifies him or her for an exemption from capital improvement-based rent surcharges. As an additional example, the Right of Tenants to Organize Amendment Act of 2006, effective September 19, 2006 (D.C. Law 16-160; D.C. Official Code § 42-3505.06 (2012 Repl.)), established enhanced fines for interference with certain tenant rights, which are codified in new § 4304 (Tenant Rights to Organize).

The proposed rules further implement recent legislation including the Rental Housing Late Fee Fairness Amendment Act of 2016, effective December 8, 2016 (D.C. Law 21-172; 63 DCR 12959 (October 21, 2016)), and the Residential Lease Clarification Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-210; 63 DCR 15302 (December 16, 2016)), specifically, by amending the definition of "rent" in § 3899 (Definitions) to clarify that mandatory fees, other than late fees, are treated as rent charged for a rental unit and therefore may not be imposed or increased except as provided by the Rent Stabilization Program (typically, through a services or facilities petition).

In addition, although not a direct amendment to the Act, the provisions that relate to housing code violations, § 4216 (Requirement to Maintain Substantial Compliance with Housing Regulations) are updated in the proposed rules to reflect the adoption of the 2013 District of Columbia Construction Codes (Title 12 DCMR, Subtitles A-M, published March 28, 2014, at 61 DCR 2782), specifically the Property Maintenance Code Supplement of 2013 (Title 12- G DCMR), which applies to existing buildings and includes the majority of the housing code violations that the current rules deem "substantial" as a matter of law. The proposed rules also update and amend the enumerated violations that are deemed "substantial" as a matter of law to reflect the language and requirements of the Property Maintenance Code.

Several recent acts of the Council are subject to inclusion in an approved budget and financial plan, as certified by the Chief Financial Officer. *See, e.g.*, Rental Housing Affordability Re-establishment Amendment Act of 2018, effective February 22, 2019 (D.C. Law 22-202; 65 DCR 12333 (November 9, 2018)). The proposed rules incorporate these legislative changes in

anticipation that a final rulemaking will be not be promulgated before the inclusion of their effects in the Fiscal Year 2020 budget.

4. Codify and Conform to Existing Case Law

The proposed rules codify interpretations of the Act and the existing rules established by Commission and D.C. Court of Appeals cases that have been decided in the thirty (30) or more years since most of the existing rules or their predecessors were promulgated. For example, *Strand v. Frenkel*, 500 A.2d 1368 (D.C. 1985), and *Hanson v. District of Columbia Rental Hous. Comm'n*, 584 A.2d 592 (D.C. 1991), effectively overruled the existing rules at 14 DCMR § 3805 (Stay Pending Appeal) regarding the enforceability and stays of orders to pay rent refunds while an appeal is pending before the Commission. The Commission believes that the fairest and most efficient way to revise its rules is therefore to automatically stay all final orders that are appealed to the Commission in order to preserve the status quo until all legal issues are resolved.

As an additional example, cases including *Quality Mgmt., Inc. v. District of Columbia Rental Hous. Comm'n*, 505 A.2d 73 (D.C. 1986), and *Miller v. District of Columbia Rental Hous. Comm'n*, 870 A.2d 556 (D.C. 2005), provide definitions for the terms "knowingly," "willfully," and "bad faith," as used in § 901 of the Act (D.C. Official Code § 42-3509.01), which are added to 14 DCMR § 4217 (Enforcement, Remedies, and Penalties) in the proposed rules.

With regard to the Act's statute of limitations, D.C. Official Code § 42-3502.06(e), the proposed rules, in § 4214.10, codify several decisions on the meaning of the "effective date" of a rent adjustment. In *United Dominion Mgmt. Co. v. Hinman*, RH-TP-06-28,728 (RHC June 5, 2013), *aff'd, United Dominion Mgmt. Co. v. District of Columbia Rental Hous. Comm'n*, 101 A.3d 426 (D.C. 2014), the Commission held that the perfection of a rent ceiling adjustment could be challenged more than three (3) years after it was taken, if that rent ceiling adjustment formed the basis for a later increase in the rent charged. To the extent any previously taken and perfected rent ceiling adjustments remain as potential bases to increase the rent charged under § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)), the proposed rules, in § 4214.10(b), make it explicit that those rent ceiling adjustments are subject to legal challenge. In *Pinnacle Realty Mgmt. Co. v. Voltz*, TP 25,092 (RHC Mar. 4, 2004), the Commission determined that the statute of limitations began to run from the date tenants had notice that a related facility would not be restored, rather than the date it was first blocked off. The proposed rules, in § 4214.10(c)(1), codify that actual or chargeable knowledge of the cause of action starts the running of the statute of limitations.

With regard to the existence of housing code violations, however, prior Commission decisions are in conflict on how to apply the statute of limitations. Some decisions have affirmed awards of rent refunds capped at three years, while others have held that all recovery is barred if a violation existed more than three years before a tenant petition was filed. *Compare Shapiro & Co. v. Poorazar*, TP 22,427 (RHC June 10, 1996) *with Borger Mgmt., Inc. v. Warren*, TP 23,909 (RHC July 22, 1998). However, in *Majerle Mgmt. v. District of Columbia Rental Hous. Comm'n*, 768 A.2d 1003, 1008 n.13 (D.C. 2001), *vacated in part*, 777 A.2d 785 (D.C. 2001), the D.C. Court of Appeals summarily rejected the "argument that the statute of limitations completely bars recovery" where "housing code violations may have initially occurred more than three (3) years before the tenant filed her complaint." On a subsequent appeal in the same case, the D.C. Court

of Appeals noted that its holding as to housing code violations was not vacated on rehearing and instead "conclusively resolved" the issue. *Majerle Mgmt. v. District of Columbia Rental Hous. Comm'n*, 866 A.2d 41, 44 n.6 (D.C. 2004). Nonetheless, some later Commission decisions appear not to have acknowledged this holding by the D.C. Court of Appeals and have determined that all recovery is barred. *See, e.g., Willoughby Real Estate Co., Inc. v. Shuler*, TP 28,266 (RHC Nov. 7, 2008); *Amiri v. Gelman Mgmt. Co.*, TP 27,501 (RHC Oct. 20, 2003).

The proposed rules, in § 4214.10(c)(2), clarify that recovery for housing code violations is not completely barred by the statute of limitations and a tenant may obtain a refund for a reduction in related services up to three years prior to the filing of a petition, in accordance with the holding in *Majerle*. The Commission also believes this to be the better interpretation because it is more consistent with the applicability of the housing code generally, *see* 14 DCMR § 102.7 ("every day such violation continues shall constitute a separate offense"), and it does not produce the bizarre result that a housing provider's extended failure to abate substantial violations, such as rodent or insect infestations, would be shielded from liability. Reductions in related services or facilities that are required by lease agreement, but not required by the housing code, remain subject to the complete bar of the statute of limitations. *See, e.g., Kuratu v. Ahmed, Inc.*, RH-TP-07-28,985 (RHC Jan. 29, 2012); *Peerless Properties v. Hashim*, TP 21,159 (RHC Oct. 26, 1992).

5. Update and Improve Operations and Procedures

The proposed rules update operational and adjudicative procedures of the Commission and RAD for greater efficiency and fairness to parties, based on the experience of the agencies with established roles and duties under the Act. For example, the filing and service of pleadings by parties with the Commission will, with prior consent, be permitted by email, and appellants will be provided a limited opportunity to amend a notice of appeal after its filing. The proposed rules also eliminate the Appendix of Forms published with the current rules, which were intended as model filings for appeals before the Commission, in favor of the updated (and easily updatable) publication of model forms online.

As an additional example, the existing rules in § 3816 (Calculation of Deadlines) are clarified by eliminating the rule that "business days" are used for periods of ten (10) days or less; the proposed rules, accordingly, extend those deadlines, typically to fifteen (15) calendar days. However, the Commission has not changed the use of "business days" for the time to file a notice of appeal. The Commission recognizes that the ten (10)-day period set by § 216(h) of the Act (D.C. Official Code § 42-3502.16(h)) is substantially shorter than the period for filing of appeals to the D.C. Court of Appeals and may create difficulties for parties deciding whether to appeal and on what grounds, and therefore the Commission has endeavored to provide as much procedural latitude as possible within the statutory requirement.

More substantively, after consultation with RAD and OAH, the Commission believes that the rule in § 4101.6 for giving notice to tenants of a registration or claim of exemption should be modified. The existing rule requires that a copy of a Registration/Claim of Exemption Form shall be posted or mailed to tenants "prior to or simultaneously with" the filing of by a housing provider, which has been a source of confusion for housing providers and fails to give tenants complete information. The proposed rule requires that tenants shall be given a copy of the form that has been date-stamped and assigned a registration or exemption number by RAD, within

fifteen (15) days of RAD's date-stamp. The proposed rule also implements legislative changes to Section 205(h)(2) of the Act (D.C. Official Code § 42-3502.05(h)(2)), made by the Rental Housing Registration Update Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-168; 65 DCR 9388 (September 14, 2018)), to clarify the requirements for posting notice at a housing accommodation or mailing notice to tenants when posting is not practicable.

6. Clarify Language and Increase Specificity

The proposed rules clarify the language and, in some cases, the organization, of the existing rules for readability and ease of application. The proposed rules, in general, maintain the organization of subjects by section within each chapter, with the goal that citations in prior decisions will remain easily usable for legal research.

For example, the proposed rules provide an expanded explanation of rent refunds, trebled rent refunds, and rent rollbacks in 14 DCMR §§ 3899 (Definitions) and 4217 (Enforcement, Remedies, and Penalties). In part, this change reflects the impact of the abolition of rent ceilings on the calculation of unlawful rent, and in part it merely clarifies the difference between rollbacks, as adjustments to the lawful amount of rent that may be charged from the date of an order, and rent refunds, as monetary damages for past time periods in which excess rent was charged. As an additional example, the proposed rules clarify, in § 4216 (Requirement to Maintain Substantial Compliance with Housing Regulations), the necessary timing for proving compliance with the housing code when a housing provider files a petition for a rent adjustment, in accordance with § 208(a)(1) of the Act (D.C. Official Code § 42-3502.08(a)(1)). Further, because tenant petitions to challenge the "base rent" established in 1985 are no longer relevant (*see* D.C. Official Code § 42-3502.06(e), providing that such challenges must be brought within six (6) months of the Act's effective date), § 4215 is repurposed to implement certain aspects of the Elderly and Disability Protection Act.

Although the proposed rules mostly retain the existing organization of subsections within each subject, some additions, deletions, and reordering are necessary or clarifying. Some sections, in particular the housing provider petition-based rent adjustments, the Commission determined were best clarified by total redrafting to explain in detail the filing requirements, applicable legal and evidentiary standards, and administrative review procedures. *See, e.g.,* §§ 4208 (Rent Adjustments by Housing Provider Petitions) and 4209 (Petitions Based on Claims of Hardship).

Except where the revised language of the proposed rules effectuates one of the other five purposes stated above or plainly requires a different result than would have been required under the existing rules, the Commission intends that amended provisions of the rules should be treated as clarifications and that its and the D.C. Court of Appeals' prior interpretations in decisions and orders should continue to serve as binding precedent.

Strike Chapters 38-44 of Title 14 DCMR, HOUSING, in their entirety, and insert the following in their place:

CHAPTER 38: RENTAL HOUSING COMMISSION OPERATIONS AND PROCEDURES

SECTION

3800 GENERAL OPERATING PROVISIONS

3800.1 The Rental Housing Commission ("Commission") shall establish, with the approval of a majority of its membership, internal operating procedures for the handling of the Commission's business and the fair distribution of work among its members.

3800.2 The office of the Commission shall be open daily from 8:30 a.m. to 4:30 p.m., except Saturdays, Sundays, legal holidays, furlough days, and other closed days, or days of delayed opening, as designated by the District of Columbia Government.

3800.3 For the purpose of Chapters 38 through 44 of this title, all references to "the Act" shall mean the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 *et seq.*), and its amendments.

3800.4 A quorum of two (2) or more Commissioners shall be required for the Commission to take official action in the exercise or carrying out of its powers and duties under the Act, and official action shall be taken only by a vote of the majority of Commissioners present at a meeting on the record.

3800.5 For the purposes of § 3800.4, official action of the Commission shall not include the exercise or carrying out of the powers and duties delegated to the Chairperson of the Commission by § 201a of the Act (D.C. Official Code § 42-3502.02a).

3800.6 Notwithstanding § 3800.4, an order issued in the course of an appeal may be issued in writing by a single Commissioner without a meeting on the record if:

(a) The order dismisses an appeal or an issue on appeal for procedural reasons, including a failure to comply with the filing requirements for a notice of appeal, as provided in § 3802.12, for failure to appear at a hearing, as provided in § 3819.5, pursuant to a motion to withdraw an appeal under § 3824, including for approval of a settlement under § 3829, or for lack of jurisdiction;

(b) Any other section of this chapter specifically provides that an order may be issued by a single Commissioner; or

(c) The order otherwise relates to the process and management of the litigation of an appeal.

3800.7 A meeting on the record shall be open to the public, except as permitted by law to be conducted in closed session, and shall be held at least two (2) business days after notice of the meeting is posted at the Commission's office at One Judiciary Square, 441 4th Street, N.W., Suite 1140BN, Washington, D.C. 20001, and on the Commission's website or the website of the Office of Open Government.

3800.8 A meeting on the record shall be recorded electronically in accordance with § 3820, and the recording of a hearing shall be part of the record of the case being heard. Copies of recordings, accompanied by any written materials upon which the Commission votes to take official action, shall be available on the Commission's website or the website of the Office of Open Government and for public inspection at the Commission's office. Copies of any written materials

upon which the Commission will vote to take official action at a meeting shall be made available to the public within three (3) business days following the meeting. Recordings or written materials made or discussed in a closed meeting or closed portion of a meeting may be withheld from public availability in accordance with D.C. Official Code § 2-575(b).

3800.9 All orders of the Commission, including final decisions and orders, shall be issued in writing and made publicly available at the Commission's office, and may additionally be made available on the Commission's website or the website of the Office of Open Government or by electronic database through other service as the Commission may deem suitable.

3800.10 Amendments to the rules contained in Chapters 38 through 44 of this title shall be effective as follows:

(a) The final rulemaking promulgated on [date] to amend Chapters 38 through 44 of this title shall be effective on [January 1, 2020] ("Effective Date");

(b) An appeal filed with the Commission prior to the Effective Date shall remain subject to the rules in effect under Chapter 38 on the date the appeal was filed;

(c) A petition or other proceeding before the Rental Accommodations Division that was filed or initiated prior to the Effective Date shall remain subject to the rules in effect under Chapter 39 or 40 on the date the proceeding was filed or initiated;

(d) An appeal to the Commission from a proceeding before the Rental Accommodations Division or Office of Administrative Hearings shall be subject to the rules in effect under Chapter 38 on the date the final order becomes appealable. If the Commission remands a proceeding, further proceedings before the Rental Accommodations Division shall be subject to the rules in effect on the date the proceeding was filed or initiated; and

(e) All conduct regulated or acts required by Chapters 41 through 44 of this title shall be subject to the rules in effect under those chapters on the date the conduct occurred or act was required, without regard to the date on which a petition or other proceeding is filed or initiated or a decision or order is issued. No claim of, cause of action against, or liability for, a violation of the rules prior to the Effective Date shall be extinguished by the amendment of these rules. Failure to comply with those chapters after the Effective Date shall not be excused by reason that a course of conduct began or a condition existed prior to the Effective Date.

3801 FILING OF PLEADINGS, MOTIONS, AND OTHER DOCUMENTS

3801.1 All pleadings, motions, and other documents that a person wishes to submit to the Commission shall be filed by delivering them in person or by U.S. mail to the Commission's staff at One Judiciary Square, 441 4th Street, N.W., Suite 1140B North, Washington, D.C. 20001, by electronic mail ("e-mail") attachment if authorized by the Clerk pursuant to § 3801.11, or as otherwise directed by the Clerk or by order of the Commission.

3801.2 All pleadings, motions, or other documents shall be deemed filed when received by the Commission's staff during the business hours provided in § 3800.2.

3801.3 All pleadings, motions, and other documents filed with the Commission shall be promptly date stamped by the Commission's staff and entered into the Commission's daily log.

3801.4 In addition to the copies required by § 3801.7, all pleadings, motions, and other documents filed by U.S. mail shall be accompanied by a self-addressed postage paid envelope, and one (1) additional copy which shall be date stamped for mailing to the filing party by the Commission's staff.

3801.5 The Commission's daily log shall be available for public inspection.

3801.6 The Clerk may reject a filing that does not comply with this section. The receipt of a pleading, motion, or other document by the Commission's staff that is not timely or which does not comply with the filing requirements of this chapter shall not constitute a waiver of those requirements, and any such pleading or document may be rejected later by the Commission.

3801.7 Unless otherwise required or filed by e-mail attachment, five (5) copies of all pleadings, motions, and other documents shall be filed, to include the original plus four (4) identical copies.

3801.8 All pleadings, motions, and other documents filed by a party shall be served on the opposing party or parties prior to or at the same time as filed with the Commission and shall contain proof of service as required by § 3803.7.

3801.9 No fees shall be charged for the filing of any papers with the Commission.

3801.10 Any forms that are designed to be filed by parties with the Commission and that may be provided at the Commission's offices or on its website are only for illustration purposes of style and basic content; use of a form is not required and does not guarantee that a filing will be found legally sufficient by the Commission.

3801.11 Pleadings, motions, or other documents, except a notice of appeal, may be filed by e-mail attachment as follows:

(a) All e-mail attachments shall be in Portable Document Format (".pdf" file type) or Microsoft Word format (".doc" or ".docx" file types) and, without modification, shall comply with the formatting requirements in § 3801.13 when printed;

(b) A party may file by e-mail attachment only with the prior authorization of the Clerk in the course of a proceeding before the Commission and in accordance with all directions given by the Clerk; provided, that the Clerk may, in his or her discretion, revoke authorization to file by e-mail attachment with three (3) business days' notice to the party;

(c) For the purpose of documenting receipt, the Clerk shall make a copy of the e-mail to which the filing is attached as part of the record of the case for which it is filed, but nothing in the body of the e-mail shall be considered part of the filing;

(d) An e-mail received outside the business hours provided in § 3800.2 shall be deemed filed at the next day and time that the Commission's office is open;

(e) A party filing by e-mail accepts the risk that an e-mail or attachment may be delayed or disrupted by technical failure or defect and may not be properly filed, but if a failure is caused by the Commission's or District of Columbia Government's e-mail systems the Commission shall excuse an improper filing; and

(f) All filings by e-mail attachment shall be sent to rhc.clerk@dc.gov.

3801.12 No pleadings, motions, or other documents may be filed by fax.

3801.13 All pleadings, motions, and other documents shall be formatted as follows:

(a) Typed or printed in black ink, with a font size of twelve (12) points, with no less than one-inch (1") margins, on eight and one half-inch (8.5") by eleven-inch (11") inch white paper:

(b) No longer than forty (40) pages, excluding relevant supporting exhibits;

(c) Supporting exhibits, if filed, shall be provided in the original format but shall be reproduced on eight and one half-inch (8.5") by eleven-inch (11") inch white paper; and

(d) On request of the filing party or on its own initiative, the Commission may, in its discretion, waive the requirements of this subsection.

3801.14 All pleadings, motions, and other documents shall contain the following:

(a) The name, address, and telephone number of the party filing the pleading, motion, or other document, and the party's e-mail address if the party has consented to service by e-mail in accordance with § 3803.3(c);

(b) The Rental Accommodations Division, Office of Administrative Hearings, or Commission case numbers;

(c) The signature of the party, the party's attorney, or the other person authorized to represent the party, which may be by conformed signature ("/s/") in an e-mail attachment if the person signing retains a signed copy and makes the signed copy available to the Commission or any other party upon request;

(d) The signatory's address, telephone number, and e-mail address (if the party has consented to e-mail service in accordance with § 3803.3(c)); and

(e) Proof of service as required by § 3803.7.

3801.15 Any changes in the name, address, e-mail address, or telephone number of the parties or their representatives shall be filed with the Commission within ten (10) days of the change. Opposing parties must be served with notice of the change in the manner prescribed in § 3803.7.

3801.16 By signing a pleading, motion, or other document filed with the Commission, a person certifies that, to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(a) The pleading, motion, or other document is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(b) Any factual assertions therein are true; and

(c) The legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

3802 INITIATION OF APPEALS

3802.1 Any party aggrieved in whole or in part by a final order of the Rent Administrator or the Office of Administrative Hearings may obtain review of the order by filing a notice of appeal with the Commission.

3802.2 An aggrieved party shall file a notice of appeal within ten (10) business days of the issuance of a final order after the Rent Administrator or the Office of

Administrative Hearings issues a final order; provided, that if the final order has been served on the party by U.S. mail, an additional five (5) calendar days shall be added to the time to file an appeal. The filing of a notice of appeal by one party shall not extend the time for any other party to file its own notice of appeal (a cross-appeal).

3802.3 The filing of a notice of appeal from a final order removes jurisdiction over the matter from the Rent Administrator or the Office of Administrative Hearings, except as follows:

(a) If a timely motion for reconsideration is also filed:

(1) If the motion for reconsideration of a final order is not granted, the Commission shall not take jurisdiction over the matter, and the time to file a notice of appeal shall not begin to run, until the motion for reconsideration has been denied by order of the Rent Administrator or the Office of Administrative Hearings, or by the expiration of time pursuant to § 3924.2 or 1 DCMR § 2938.1, respectively; provided, that a timely notice of appeal that was filed prior to the denial of the motion for reconsideration need not be refiled; or

(2) If the motion for reconsideration of a final order is granted in whole or in part, only the order granting reconsideration shall be final and appealable, and the time to file a notice of appeal shall begin to run from the date reconsideration is granted, regardless of whether a party has filed a notice of appeal prior to reconsideration;

(b) The Office of Administrative Hearings shall retain jurisdiction to accept a timely motion for attorney fees, but shall not decide the motion until all appeals of the final order are exhausted and the prevailing party determined; and

(c) The Rent Administrator or Office of Administrative Hearings shall retain jurisdiction to accept a motion for relief from judgment or for a new hearing and shall certify the consideration or disposition of a motion to the Commission so that the Commission may proceed with, stay, remand, or dismiss the appeal without prejudice, as appropriate.

3802.4 A notice of appeal shall be served on opposing parties prior to or at the same time that it is filed with the Commission and shall contain proof of service as required by § 3803.7. If an opposing party had an attorney or other representative of record in the proceeding before the Rent Administrator or Office of Administrative Hearings, service shall be made upon the representative, unless the representative entered a limited appearance.

3802.5 A notice of appeal shall be formatted in accordance with § 3801.13, and shall contain the following:

(a) The name and address of the appellant and the status of the appellant (*e.g.*, housing provider, tenant, or intervenor), the Rental Accommodations Division or Office of Administrative Hearings case number, and the date of the Rent Administrator's or Office of Administrative Hearings' order appealed from;

(b) A clear and concise statement of the alleged error(s) in the order of the Rent Administrator or the Office of Administrative Hearings; and

(c) All other information required by § 3801.14.

3802.6 A party that has filed a timely notice of appeal may, within fifteen (15) days of the expiration of the time provided by § 3802.2 to file a notice of appeal, file a motion to amend its notice of appeal to correct a misstatement of law or fact, to restate an issue raised on appeal, or to raise a new issue on appeal. The motion shall set forth the proposed amendment(s) and may be granted if the Commission determines that no prejudice to an appellee's opportunity to respond to the appellant would result. A party may amend a notice of appeal for any reason, without leave of the Commission, if the time to file a notice of appeal in § 3802.2 has not yet expired.

3802.7 A party may file a brief in support of its position on appeal as follows:

(a) The brief shall be filed within fifteen (15) days after the Commission issues the notification that the record in the matter has been certified and transmitted to the Commission by the Rent Administrator or the Office of Administrative Hearings, in accordance with § 3804.5; and

(b) The brief should contain a statement of the issues raised in the notice(s) of appeal and, with respect to each issue, a discussion of the party's position and citations to the relevant laws, cases, statutes, regulations, and parts of the record that support the argument.

3802.8 A party may file a responsive brief as follows:

(a) The responsive brief shall be filed within fifteen (15) days of service of the brief to which the response is filed;

(b) The responsive brief should contain a statement of the arguments made in the brief that the party wishes to rebut, and, with respect to each argument, a discussion of the party's counter-arguments and citations to the relevant

laws, cases, statutes, regulations, and parts of the record that support the argument; and

3802.9 There shall be no reply to a responsive brief and the Commission shall not consider the reply if submitted.

3802.10 No party shall file any supplemental brief or points of authority except:

(a) By leave of the Commission for good cause shown;

(b) Upon the issuance of a new, relevant decision or order by a court or agency in the District of Columbia after the time to file any brief otherwise permitted has elapsed;

(c) Upon a relevant development in a related judicial or administrative proceeding involving one or more parties to the matter before the Commission; or

(d) By order of the Commission issued on its own initiative.

3802.11 The filing of a notice of appeal of a final order of the Rent Administrator or Office of Administrative Hearings shall stay the effect of the order in accordance with § 3805.

3802.12 The Commission, on its own initiative or on the motion of an appellee, may dismiss an appeal if the appellant fails to comply with the requirements of §§ 3802.2, .3(a), .4, or .5; provided, that an order determining that a notice of appeal does not contain a clear and concise statement of error as required by § 3802.5(b) shall only be issued by a quorum of the Commission.

3802.13 No later than thirty (30) days after the Commission issues a notice that the certified record has been received in accordance with § 3804.3, the Commission shall schedule a hearing on the merits of the appeal in accordance with § 3819. A hearing shall be scheduled for no earlier than five (5) business days after the final day on which any briefing may be filed in accordance with this section, unless otherwise ordered by the Commission in its discretion.

3802.14 Unless the Commission dismisses an appeal pursuant to § 3802.12, the Commission shall not issue a final decision and order on an appeal until the expiration of all time for briefing or oral argument by the parties, as provided in this chapter, has concluded.

3803 SERVICE OF PLEADINGS, MOTIONS, AND OTHER DOCUMENTS

3803.1 All pleadings, motions, and other documents required to be served on any person under this chapter shall be served on that person or shall be served on the

representative designated by a party, as provided in § 3812, in the manner provided in this section.

3803.2 When a party has a representative of record as provided in § 3812, service shall be made upon the representative.

3803.3 Notwithstanding § 904(a) of the Act (D.C. Official Code § 42-3509.04(a)), for the purposes of this chapter, service upon any person or representative shall be completed only:

(a) By handing the document to the person, by leaving it at the person's place of business with a responsible person in charge, or by leaving it at the person's usual place of residence with a person of suitable age and discretion;

(b) By first class mail of the United States Postal Service, properly stamped and addressed;

(c) By electronic mail ("e-mail") attachment in Portable Document Format (".pdf" file type) or Microsoft Word format (".doc" or ".docx" file types); provided, that the prior, written consent of the person to be served has been filed with the Commission, the Rent Administrator, or the Office of Administrative Hearings in the course of the proceeding for which service is made; or

(d) By any other means that is in conformity with an order of the Commission in the course of the proceeding for which service is made.

3803.4 Actual receipt of service shall bar any claim of defective service, except for a claim with respect to the timeliness of service. A party that consents to service by e-mail is responsible for monitoring its e-mail account, including any "junk" or "spam" folders, and a party that fails to do so will not be excused from having actually received service.

3803.5 Service by mail of the U.S. Postal Service shall be complete upon mailing. Service by e-mail attachment shall be complete upon transmission by the serving party's e-mail system, unless the party promptly receives a notice that the message has been delayed or disrupted by technical failure or defect, and the failure or defect is not within the control of the receiving party (for example, a "full mailbox" is within a receiving party's control).

3803.6 Pleadings, motions, and other documents shall be served on the other party or parties prior to or at the same time as they are filed with the Commission.

3803.7 Every pleading, motion, and other document filed with the Commission shall include a signed statement that it was served as required, which shall be captioned

as a "certificate of service" and shall show the date, name of the person(s) served, address at which service was made, and the manner of service, and:

(a) If service is made by a process server, proof of service shall be in an affidavit showing the date, the person served, address at which service was made, the manner of service, and the name and address of the process server; or

(b) If service is made by e-mail attachment, proof of service shall show the date and time of service, the e-mail address of the person served, and the name of the person serving, and the e-mail address used to send the attachment.

3804 RECORD ON APPEAL: FILING, COMPOSITION, NOTICE, AND CORRECTION

3804.1 Upon receipt of a notice of appeal pursuant to § 3802.2 or the initiation of a review by the Commission pursuant to § 3808.1, the Clerk shall request in writing that the Rent Administrator or the Office of Administrative Hearings forward the official record of the proceeding.

3804.2 The Rent Administrator or the Office of Administrative Hearings, within sixty (60) days of the request by the Clerk, shall furnish to the Commission a written or electronic copy of the official record of the proceeding and shall certify that the copy is complete ("certified record").

3804.3 The official record of a proceeding shall consist of the following:

(a) The final order and any other orders or notices issued by the Rent Administrator or the Office of Administrative Hearings;

(b) The recordings and transcripts, if any, of all hearings before the Administrative Law Judge;

(c) All papers and exhibits offered into evidence, if any, at the hearing before the Administrative Law Judge, including any files and documents found in the public record of which the Administrative Law Judge took official notice;

(d) All papers filed by the parties with the Rent Administrator and all papers filed by the parties or the Rent Administrator at the Office of Administrative Hearings; and

(e) Memoranda, if any, of *ex parte* communications as required by § 3916.

3804.4 The Clerk shall serve notice to all parties in accordance with § 3803 that the certified record has been received and of the time to file briefs pursuant to §§ 3802.7 – 3802.10.

3804.5 If it is determined, on the Commission's initiative or by motion of a party, that any material part of the record is not complete, omitted from, or misstated in the certified record, the parties may at any time, by stipulation, supply any omission from the record or correct a misstatement, or any Commissioner may direct the Clerk to obtain a recertified copy of the official record to supply the omission or correct the misstatement. Recertification of the record of a case shall not change the time for parties to file briefs unless the Commissioner determines that a party's opportunity to present arguments has been prejudiced by the omission or misstatement.

3805 STAY PENDING APPEAL

3805.1 If a party appeals to the Commission, the filing of a notice of appeal with the Commission shall automatically stay the effect of a final order of the Rent Administrator or Office of Administrative Hearings after the Commission takes jurisdiction of the case pursuant to § 3802.3.

3805.2 If a party appeals from the Commission to the District of Columbia Court of Appeals, within thirty (30) days of a final decision and order by the Commission that affirms a final order, or any other order by the Commission that dismisses the appeal of the final order, the party that seeks or intends to seek judicial review may file a motion with the Commission to request a stay pending judicial review. The party may also request a stay from the District of Columbia Court of Appeals in accordance with its rules.

3805.3 A motion for a stay pending judicial review shall inform the Commission whether any related matter is pending in the Courts of the District of Columbia and the status of the matter, including payments into the Court's registry or stays of eviction proceedings, or of any administrative order allowing or requiring payments into an escrow account.

3805.4 Any party may request in a motion for a stay pending judicial review or in response to a motion for a stay, or the Commission on its own initiative may order, that the stay only be granted on the condition that a disputed amount of money be guaranteed for later payment in accordance with § 3806.

3805.5 If a housing provider seeks judicial review of a Commission decision that authorizes the housing provider to implement a rent adjustment less than that requested by the housing provider, and the authorization is not stayed by the Commission or the District of Columbia Court of Appeals pending judicial review, the housing provider shall not charge any affected tenant any rent in excess of the amount authorized in the decision, in accordance with § 216(l) of the Act (D.C. Official Code § 42-3502.16(l)).

3805.6 A motion for a stay pending judicial review shall be decided by the Commission within ten (10) days. If the Commission does not act on the motion within that time, it shall be deemed denied. A motion for a stay shall only be granted by a quorum of the Commission.

3805.7 The Commission may grant a motion for a stay pending judicial review by balancing the following factors:

(a) Whether the party filing the motion is likely to succeed on the merits of the appeal;

(b) Whether and to what degree denial of the stay will cause irreparable injury to the party filing the motion;

(c) Whether and to what degree granting the stay will injure other parties; and

(d) Whether the public interest favors granting a stay.

3805.8 The stay of a final order of the Rent Administrator or Office of Administrative Hearings that has been appealed to the Commission shall be automatically lifted, and the final order shall become effective, ten (10) days after the issuance of a final decision and order by the Commission that affirms the stayed order, or any other order by the Commission that dismisses the appeal of the stayed order, unless a motion for reconsideration or modification is filed pursuant to § 3823.

3805.9 A party may file an application for entry of the final order as a judgment in accordance with Superior Court Civil Rule 12-I(b)(1)(G) or otherwise commence a civil action in the Superior Court of the District of Columbia or file a tenant petition under § 4214, and fines may be imposed pursuant to § 901 of the Act (D.C. Official Code § 42-3509.01), if any other party fails to comply with an order that is not stayed or takes any action pursuant to an order that is stayed.

3806 ESCROW ACCOUNTS AND SUPERSEDEAS BONDS

3806.1 While an appeal is pending before the Commission, in order to guarantee later payment of a disputed amount of money, any party may request that a party that has been directed to pay a specific amount of money, including rent refunds, fines, or awards of attorney's fees, be permitted or required to deposit the amount into an escrow account or obtain a supersedeas bond.

3806.2 At the same time a party seeking or intending to seek judicial review by the District of Columbia Court of Appeals requests a stay pursuant to § 3805.2, the moving party may request that an amount of money disputed in the appeal be guaranteed for later payment by the means provided in this section.

3806.3 The Commission shall not issue any order respecting the ongoing payment of a disputed amount of rent pending appeal. If an appeal involves a disputed amount of ongoing rent due, a party may request the entry of a protective order in the Superior Court of the District of Columbia for the payment of all or part of the rent into the Court's registry in accordance with the Court's rules and on such terms as the Court may require.

3806.4 The Commission may, on its own initiative, order that any appeal or stay of a final order be conditioned on a guarantee of later payment of an amount of money disputed in the appeal, by the means provided in this section.

3806.5 If the Commission has ordered a party to provide a guarantee of later payment in accordance with this section, an appeal filed by that party may be dismissed for failure to comply.

3806.6 An escrow account required under this section shall:

(a) Be held by a bank or other financial institution within the District of Columbia;

(b) Pay the prevailing rate of interest;

(c) Be outside the control of the party depositor; and

(d) Not be released in any way other than as ordered by the Commission.

3806.7 Within a time period established by order of the Commission, a party required to establish an escrow account under this section shall file a copy of the escrow agreement with the Commission and serve a copy on all other parties.

3806.8 The Commission may order that any escrow fees imposed by the bank or financial institution shall be paid or refunded by a party that does not prevail in an appeal.

3806.9 A party required to guarantee the later payment of a specific amount of money may obtain a supersedeas bond through a surety or other financial institution in the amount the party would otherwise be required to deposit into escrow, plus ten percent (10%), which shall be applied towards any interest that may accrue under § 3826.

3806.10 A party obtaining a supersedeas bond shall file a copy of the bond with the Commission and serve a copy on all other parties within the time period established under § 3806.7.

3806.11 Nothing in this section shall relieve a party of an obligation to pay interest in the amount that may be owed under § 3826 on an order to pay a rent refund or award of attorney's fees; provided, that any interest accrued in escrow shall be taken

against that obligation first, and excess interest earned, if any, shall be refunded to the depositing party.

3806.12 An order pursuant to this section may be issued by a single Commissioner.

3807 REVIEW OF APPEALS

3807.1 The Commission shall reverse a final order of the Rent Administrator or the Office of Administrative Hearings that the Commission finds to be based upon arbitrary action, capricious action, or an abuse of discretion, or which contains conclusions of law not in accordance with the provisions of the Act or findings of fact unsupported by substantial evidence on the record of the proceedings before the Rent Administrator or the Office of Administrative Hearings.

3807.2 Interlocutory appeals shall be reviewed pursuant to the provisions found at § 3922 of this title for an order by the Rent Administrator or at 1 DCMR § 2936 for an order by the Office of Administrative Hearings. The Commission shall assign interlocutory appeals priority and may schedule interlocutory appeals for hearing.

3807.3 The Commission shall rule on an interlocutory appeal as follows:

(a) On the merits of the appeal based upon 14 DCMR § 3922 for an order by the Rent Administrator or at 1 DCMR § 2936 for an order by the Office of Administrative Hearings; or

(b) By dismissing the interlocutory appeal without prejudice to the issue being determined in the final order by the Rent Administrator or the Office of Administrative Hearings if the Commission determines that the motion was incorrectly certified under the applicable rules.

3807.4 Review by the Commission shall be limited to the issues raised in the proceedings below and in the notice of appeal; provided, that the Commission may correct plain error or minor, technical mistakes on its own initiative.

3807.5 The Commission shall not receive new evidence on appeal.

3808 COMMISSION-INITIATED REVIEWS

3808.1 After the time for any party to file a notice of appeal has expired pursuant to § 3802.2, the Commission may, within thirty (30) days, initiate a review of any final order of the Rent Administrator or the Office of Administrative Hearings if the Commission has reason to believe that the order may be erroneous in any material way.

3808.2 The Commission shall serve the parties, or representatives of record who appeared before the Rent Administrator or the Office of Administrative Hearings, with its reasons for initiating a review ("Notice of Commission Review").

3808.3 The Commission shall conduct a review under this section by following all applicable procedures, and affording the parties all opportunities to present arguments, that are set forth in this chapter as if the Notice of Commission Review were a notice of appeal.

3808.4 A Notice of Commission Review shall include a statement of the right to respond under § 3808.5 and of the times to file briefs, after the Commission issues notice that the record has been certified, in accordance with §§ 3802.7 – 3802.10.

3808.5 Where a Notice of Commission Review identifies an issue in a final order as potentially erroneous, a party adversely affected by the disposition of that issue may, within ten (10) days of the issuance of the Notice, file a statement that the party declines to appear before the Commission, without waiving any relief to which the party may be entitled by a reversal on the issue, or may inform the Commission of any reason why the order should not be disturbed, which shall waive any right to relief.

3808.6 If the Commission determines, based on information filed pursuant to § 3808.5, that a final order should not be disturbed, it shall dismiss the Notice of Commission Review.

3808.7 A Notice of Commission Review shall only be issued by order of a quorum of the Commission.

3808.8 In accordance with § 3805, the effect of a final order shall be stayed by the issuance of a Notice of Commission Review.

3808.9 The Commission shall reverse a final order under this section only where the Commission determines that the order contains plain error. A party that prevailed before the Rent Administrator or Office of Administrative Hearings on an issue identified in a Notice of Commission Review shall not bear the burden of proving that the order or the disposition of the issue should be affirmed.

3809 PARTIES

3809.1 A case before the Commission shall be captioned as each appellant versus each appellee, and shall designate the intervenor, if any. If the Commission has initiated the review or if a petition has been adjudicated by the Office of Administrative Hearings without an opposing party, the case shall be captioned as regarding the petition of the party that initiated the case ("In re Petition of [Name]").

3809.2 In the event of the death, dissolution, reorganization, or change of ownership or interest of a party, the Commission may, upon its own motion when such an event is suggested on the record, or upon the motion of a party, substitute or add a

person, including a trust or representative of the party's estate, as a party to the appeal.

3809.3 If it appears to the Commission that the identity of the parties has been incorrectly determined by the Rent Administrator or the Office of Administrative Hearings, the Commission may substitute or add the correct parties on its own motion.

3809.4 No substitution or addition of parties shall occur unless all current and proposed parties are served with the motion in accordance with § 3803 and given an opportunity to file written arguments in support of or in opposition to a motion for substitution of parties. The Commission may require a current or proposed party to submit evidence establishing the relationship or interest of the party to be substituted.

3809.5 If an appeal is filed against an order of the Rent Administrator that is issued without a hearing, the Rent Administrator shall be named as the appellee. The Rent Administrator shall be identified by official title, and any successor to the office shall be substituted automatically.

3810 INTERVENORS

3810.1 Any person that is not a party to an appeal, but that has a substantial interest in a case pending before the Commission, may file in writing a motion for leave to intervene.

3810.2 Motions shall be filed at any time, but no later than fifteen (15) days after the issuance of notification that the record in the matter has been certified to the Commission and shall describe in detail the position and interest of the moving party and the grounds of the proposed intervention.

3810.3 Any party may file an opposition to a motion to intervene in accordance with § 3814.

3810.4 The Commission may grant or deny the motion, and, if granted, may attach conditions to the participation of the moving party, and shall issue an order scheduling briefs in support of and opposition to the moving party's position.

3810.5 The Rent Administrator may, by filing a motion or upon a request issued by the Commission on its own initiative, intervene in any appeal before the Commission within the time provided by § 3810.2, where the Rent Administrator or the Commission believes an issue on appeal raise a substantial question of the proper, effective, or efficient enforcement of the Act and its implementing rules.

3811 CONSOLIDATION OF APPEALS

3811.1 If two (2) or more parties are entitled to an appeal from an order of the Rent Administrator or the Office of Administrative Hearings, and their interests are

such as to make consolidation practicable, they may file a joint notice of appeal, or may move to consolidate their separate appeals by a motion to consolidate.

3811.2 Appeals may be consolidated by the Commission upon its own motion, or upon a motion of a party, and any party to an appeal that is proposed to be consolidated may file an opposition to the motion.

3812 APPEARANCES AND REPRESENTATION

3812.1 In any appeal before the Commission, a party may be represented as follows:

(a) Any person may be represented by an attorney;

(b) An individual, receiver, or beneficiary may appear on his or her own behalf;

(c) A trustee or administrator may appear on behalf of the trust or estate;

(d) An authorized officer, director, partner, or employee may represent a corporation, partnership, limited partnership, or other private legal entity;

(e) An unincorporated association may select one member or an employee of the association to represent the association;

(f) A tenant or a group of tenants may be represented by a tenant association; provided, that the association shall be represented by an attorney in accordance with paragraph (a), by an authorized officer or director in accordance with paragraph (d), or by a member of the tenant association selected by the members in accordance with paragraph (e); or

(g) A housing provider, whether an owner or a managing agent, may be represented in accordance with paragraphs (a)-(e).

3812.2 Any individual who wishes to appear in a representative capacity before the Commission shall file a written notice of appearance stating the individual's name, local address, telephone number, District of Columbia Bar identification number, if applicable, and for whom the appearance is made. Written notice may be filed concurrently with a notice of appeal or any other pleading.

3812.3 An attorney or other representative of record who is served with any documents related to a matter before the Commission, but who does not wish to or is no longer representing the party before the Commission, shall immediately notify the party of the service and, if the party has entered an appearance before the Commission, shall file a motion to withdraw in accordance with § 3813.

3812.4 An attorney or other representative may limit the scope of his or her appearance by specifying in the notice of appearance the date, time period, activity, or subject

matter for which the appearance is made. A limited appearance shall terminate automatically, notwithstanding § 3813, upon the date or end of the time period specified, or upon the filing of a notice of completion with the Commission and service of the notice upon all parties.

3812.5 Any person appearing before or transacting business with the Commission in a representative capacity may be required by order of the Commission to establish the authority to act on behalf of the represented party by affidavit, written authorization, bylaws of an organization, or other proof the Commission may deem sufficient.

3812.6 A party who would otherwise appear on his or her own behalf as provided in § 3812.1(b) may be represented by a family member or close personal friend, where the party is incapable of presenting his or her case because of a language barrier, physical infirmity, or mental incapacity; provided, that the family member or friend receives no compensation for representing the party before the Commission.

3812.7 Nothing in this section shall prohibit the provision of technical assistance by a non-profit community service agency or the Office of the Tenant Advocate.

3812.8 A person may be represented by an attorney, as provided in § 3812.1(a), if the attorney is:

(a) An active member in good standing of the District of Columbia Bar or otherwise authorized to practice law pursuant to Rules 49(c)(1), (4), (8), or (9) of the District of Columbia Court of Appeals;

(b) Admitted to practice before the highest court of any state upon the granting by the Commission of a motion to appear *pro hac vice*; or

(c) A law student who is practicing under the supervision of an attorney and who is admitted to practice in the District of Columbia as part of a program approved by an accredited law school for credit; except that a law student who has been denied admission to practice before the District of Columbia Court of Appeals pursuant to its Rule 48 may not appear before the Commission; and provided, that the Commission may terminate a law student's representation under this subsection at any time, for any reason, without notice or hearing.

3812.9 An attorney wishing to appear *pro hac vice* in accordance with § 3812.8(b) shall file a motion in which the attorney shall declare under penalty of perjury that:

(a) I have not applied for admission *pro hac vice* in more than five cases in the Office of Administrative Hearings, in the Commission, or in the courts of the District of Columbia during this calendar year. I have applied for

admission *pro hac vice* in the Office of Administrative Hearings, in the Commission, and in the courts of the District of Columbia _____ (list number) times previously in this calendar year;

(b) I am a member in good standing of the bar of the highest court(s) of the State(s) of _____ (list all states);

(c) There are no disciplinary complaints pending against me for violation of the rules of the courts of those states;

(d) I am not currently suspended or disbarred from practice in any court;

(e) I do not practice or hold out to practice law in the District of Columbia;

(f) I am familiar with the Commission's rules found at 14 DCMR Chapter 38;

(g) I am applying for admission *pro hac vice* for the following reason(s): _____ (list all reasons);

(h) I acknowledge the jurisdiction of the Commission and the courts of the District of Columbia over my professional conduct, and agree to be bound by the District of Columbia Court of Appeals Rules of Professional Conduct, in this matter, if I am admitted *pro hac vice*; and

(i) I have informed my client that I am not a member of the District of Columbia Bar, and my client has consented to my representation in this case.

3812.10 A law student wishing to appear as an attorney in accordance with § 3812.8(c) shall:

(a) Be enrolled in a law school approved by the American Bar Association and have successfully completed forty-two (42) credit hours;

(b) Have the consent and oversight of a supervising attorney assigned to the law student;

(c) Sign a notice of appearance in the case with the supervising attorney and file such notice with the Commission;

(d) Have the written permission of the client, which must be filed in the record;

(e) Not file any paper unless the law student and supervising attorney sign it;

(f) Not appear at any proceeding without the supervising attorney;

(g) Neither ask for nor receive a fee of any kind for any services provided under this rule, except for the payment of any regular salary made to the law student; and

(h) Comply with any limitations ordered by the Commission.

3812.11 An attorney who has appeared *pro hac vice* or as a supervised law student before the Office of Administrative Hearings pursuant to 1 DCMR § 2833 or the Rental Accommodations Division pursuant to § 3819 of this title may appear before the Commission in the same matter without filing a new motion or notice to so appear; provided, the law student shall be subject to the same requirements enumerated in § 3812.9 or .10, respectively.

3812.12 An individual whose practice or appearance before the Rental Accommodations Division or the Office of Administrative Hearings has been restricted shall be subject to the same restriction before the Commission.

3812.13 The Commission may disqualify or deny, temporarily or permanently, the privilege of appearing or practicing before the Commission to any individual who is found by the Commission, after notice and an opportunity to respond, either to be lacking in the requisite qualifications to represent others or to have engaged in unethical, improper or unprofessional conduct; provided, that any individual who is appearing or practicing before the Commission who willfully misleads the Commission or its staff by a false statement of fact or law shall be disqualified permanently.

3812.14 An attorney who fails to comply with the provisions of the Rules of Professional Conduct may be referred to the Office of Bar Counsel or may be disqualified from appearing before the Commission.

3812.15 An individual appearing before the Commission who is or ever has been a member of the District of Columbia Bar or the bar of any state shall be subject to the standards of conduct for an attorney under this section, regardless of whether that person appears as a non-attorney representative; provided, that nothing in this subsection shall prohibit an individual, receiver, or beneficiary from appearing *pro se* in accordance with § 3812.1(b).

3813 WITHDRAWAL OF APPEARANCE

3813.1 If an attorney or other person representing a party wishes to withdraw from a case pending before the Commission, a written motion to withdraw shall be filed in accordance with § 3814.

3813.2 An attorney or other representative who has not been granted leave to withdraw shall remain the representative of record.

3813.3 If an attorney or other representative who has not been granted leave to withdraw fails to attend a Commission hearing or respond to a notice or pleading, the attorney may be subjected to the provisions of §§ 3812.13, 3812.14, or 3812.15.

3813.4 A motion to withdraw an appearance shall contain a statement of the following:

(a) The specific reasons for withdrawal;

(b) Whether the party will be unrepresented or will have substitute representation, and whether the absence of representation will prejudice the rights of the party.

(c) Whether the party consents in writing to the motion, or opposes the motion in writing or otherwise;

(d) If the party has not obtained substitute representation, certification that the attorney or representative filing the motion has:

(1) Notified the party of the intent to withdraw and of the party's opportunity to oppose the motion, and advising the party to obtain other counsel or representation prior to filing the motion; and

(2) Provided the party with the list of legal resources published by the Rental Accommodations Division; and

(e) A current name, address, and phone number or e-mail address for either the unrepresented party, or a person suitable to receive service for the party, or for substitute representation, if any has been obtained.

3813.5 The Commission shall decide a motion to withdraw an appearance promptly and may deny the motion if it does not comply with the requirements of this section or if withdrawal would unduly delay the case, would be unduly prejudicial to any party, or would otherwise not be in the interests of justice.

3813.6 If an attorney or other representative's motion for leave to withdraw does not include the contact information required by § 3813.4(e), the motion may be granted if it contains a certification that the party has ceased communication and that the representative has been unable to obtain the information after a good faith effort to do so.

3814 MOTIONS

3814.1 A request for the Commission to take a particular action shall be made by filing a written motion or making a motion orally at a hearing, unless a rule in this chapter requires that the particular type of motion be made in writing. If the Commission does not immediately rule on an oral motion, it may request that the moving party additionally file the motion in writing.

3814.2 Motions made in writing shall be filed with the Commission in accordance with § 3801 and served on other parties in accordance with § 3803.

3814.3 A written motion may be filed at any time unless the time for filing a specific type of motion is prescribed by the rules in this chapter or the provisions of the Act.

3814.4 The party making a motion shall have the burden of proving that the requested action is warranted. A written motion shall state the legal and factual reasons why the Commission should take the requested action, and a separate memorandum of points and authorities does not need to be filed.

3814.5 When a motion is based on information not on the record, a party may support or oppose the motion by attaching affidavits, declarations, or other papers. The Commission may order a party to file supporting affidavits, declarations, or other papers.

3814.6 Before filing any motion, except a motion to dispose of an appeal or for reconsideration of a final decision and order, a party must make a good faith effort to ask all parties if they agree to the motion. The motion shall state what effort was made and whether all other parties agreed to the motion.

(a) A "good faith effort" means a reasonable attempt, considering all the circumstances, to contact a party or representative in person, by telephone, by fax, by e-mail, or by other means.

(b) Contact by U.S. mail is a good faith effort only if no other means is reasonably available (for example, not having another party's telephone number or e-mail address).

(c) By itself, serving a party with the motion is not a good faith effort to ask if the party agrees to the motion.

(d) If a party fails to make a good faith effort to seek agreement, the Commission may deny the motion without prejudice.

3814.7 Any party may file a response to a motion within ten (10) days after service of the motion. No further filings related to the motion are permitted unless ordered by the Commission.

3814.8 The Commission, in its discretion, may schedule any motion for an oral hearing if requested by the moving party or may decide any motion without a hearing.

3814.9 A motion for expedited hearing or other form of expedited relief shall be acted upon promptly.

3814.10 The Commission shall grant or deny each motion by issuing a written order that shall be served on all parties, or a party's representative of record, by U.S. mail or by e-mail attachment in accordance with § 3803.3. The Commission may grant or deny an oral motion by order at a hearing on the record; provided, that the order shall be promptly followed by a written order in accordance with this subsection.

3814.11 In accordance with §§ 3800.4 and 3800.6, an order on any motion shall be issued by a quorum of the Commission unless a provision in this chapter states that the specific type of action requested in the motion may be ordered by a single Commissioner.

3815 CONTINUANCES, LATE FILINGS, AND AMENDMENT OF PLEADINGS

3815.1 Any party may request, by motion, a continuance of a scheduled hearing at least five (5) days before its scheduled date. The motion shall propose a new date and time for the scheduled hearing that is no more than thirty (30) days from the original scheduled date.

3815.2 When a party is allowed to or required to take action within a specific time period under this chapter or an order of the Commission, the party may request, by motion, an extension of the time period, even after the period has expired.

3815.3 Notwithstanding § 3815.2, the Commission shall not extend the time for filing of a notice of appeal unless equitable tolling of the time is warranted by the specific facts of the case, there is no unexplained or undue delay by the appellant, and there is no prejudice to the appellee.

3815.4 A motion under this section shall set forth good cause for the extension. A continuance of a particular hearing or an extension of time to make a particular filing shall be granted liberally the first time requested, and subsequent requests or recurring motions by a party shall be strictly limited.

3815.5 A motion filed under this section shall be filed in writing in accordance with § 3814, including a certification of good faith effort to obtain agreement of all parties pursuant to § 3814.5.

3815.6 A pleading that has been untimely filed may be treated as timely filed with the consent of all parties or may be struck on the Commission's initiative or by motion of a party.

3815.7 A party may request, by motion, leave to amend a pleading that has already been filed, other than a notice of appeal, to correct a misstatement of law or fact or to raise an argument that would otherwise be waived, within five (5) days of filing the pleading. A party may amend a pleading for any reason, without leave of the Commission, if the time to file the pleading has not yet expired. A motion to amend a notice of appeal shall only be filed in accordance with § 3802.6.

3815.8 A motion to amend a pleading shall set forth the proposed amendment(s) and may be granted if the Commission determines that no prejudice to an opposing party's opportunity to respond to the moving party would result.

3816 CALCULATION OF DEADLINES

3816.1 Where this chapter or any order of the Commission specifies a time period, any reference to "days" shall mean all calendar days, unless specifically designated as "business days."

3816.2 "Business days," where expressly used in this chapter or by order of the Commission, shall be all days other than Saturdays, Sundays, legal holidays codified at D.C. Official Code § 1-612.02, furlough days, and other closed days as designated by the District of Columbia Government.

3816.3 In calculating any time period specified by this chapter or by order of the Commission, the day of the act, event, or default from which the time period begins to run shall not be included.

3816.4 In calculating any time period specified by this chapter or by order of the Commission, the last day of the period shall be included, unless it is not a business day, in which case the period shall end on the next business day.

3816.5 In accordance with § 3803.5, a party's obligation to serve any pleading, motion, or other document on another person, if done by U.S. mail, shall be deemed complete on the date of mailing.

3816.6 If a party is permitted or required to act within a specified time period after an event, such as the issuance of any order or the service of a motion by another party, if the party has been served with the order, pleading, motion, or other document by U.S. mail, five (5) days shall be added to the time period for the party to act.

3816.7 In accordance with § 3801.2, a party's obligation to file any pleading, motion, or other document with the Commission shall only be deemed complete upon actual receipt by the Commission during its business hours, regardless of how the filing is made.

3816.8 The Commission may enlarge the time period specified, either on motion by a party or on its own initiative in accordance with § 3815; provided, that the Commission shall not enlarge the time for filing a notice of appeal.

3817 SUBPOENAS

3817.1 Any party to an appeal may file a motion with the Commission requesting the issuance of a subpoena requiring the production of documents or the attendance

and testimony of witnesses, or a subpoena may be issued by the Commission on its own initiative.

3817.2 The Commission shall prepare a subpoena form that shall be available from the Clerk.

3817.3 Requests for subpoenas shall:

(a) Be submitted in writing;

(b) Include a completed subpoena form;

(c) Specify with particularity the books, papers, testimony, or electronic records desired; and

(d) Be served on the Commission and opposing parties at least ten (10) days before a hearing is scheduled.

3817.4 The Commission shall rule promptly on requests for subpoenas.

3817.5 A subpoena may be served in the same manner and by any person authorized by the civil rules of the Superior Court of the District of Columbia; provided, that no witness fees are required.

3818 EX PARTE COMMUNICATIONS

3818.1 An *ex parte* communication is any oral or written communication that is:

(a) To or by a Commissioner or member of the Commission's staff;

(b) Regarding the merits of a particular case; and

(c) Not made:

(1) At a scheduled hearing;

(2) In a filing that is also served on all required parties; or

(3) With reasonable prior notice and opportunity, under the circumstances, for all parties to be present for, to be a party to, or to be simultaneously made aware of the contents of the communication.

3818.2 *Ex parte* communications shall be prohibited unless:

(a) The communication is specifically authorized by law;

(b) The communication is regarding administrative or procedural matters, and any reference to the merits is merely incidental; or

(c) The communication is made in the course of another proceeding of the Commission to which the communication primarily relates, and which is on the public record.

3818.3 *Ex parte* communications regarding a particular case shall be prohibited any time after the petition initiating the case has been filed with the Rent Administrator and until the time that all possible appeals of the case are completed.

3818.4 Any *ex parte* communication made in violation of this section that comes to the attention of the Commission shall be made part of the record, and the Commission shall provide an opportunity for rebuttal by other parties by serving each party with a copy of any such communication or a memorandum describing the communication, within five (5) days of the communication.

3818.5 If the Commission determines that a communication was knowingly made (or caused to be made) by a party acting in violation of this section, the Commission may, to the extent consistent with the interest of justice and applicable law, require the party to show cause why his or her appeal, claim, or interest in the proceeding should not be dismissed, denied, or otherwise adversely affected.

3819 HEARINGS

3819.1 In hearing appeals, the Commission shall sit as a body with a quorum of the Commission present. All hearings shall be conducted as meetings on the record in accordance with §§ 3800.4 – 3800.8, and at the conclusion of all permitted arguments at the hearing, the Commission may enter into closed session to deliberate on the appeal.

3819.2 No later than thirty (30) days after the Commission issues a notice that the certified record has been received in accordance with § 3804.3, the Commission shall schedule a hearing on the merits of the appeal. A hearing shall be scheduled for no earlier than five (5) business days after the final day on which any briefing may be filed in accordance with § 3802, unless otherwise ordered by the Commission in its discretion.

3819.3 The Commission, in its discretion, may schedule additional hearings to allow the parties to an appeal to present arguments on a pending motion or any other matter related to the appeal.

3819.4 All parties to an appeal shall appear, personally or through a representative in accordance with § 3812, for all properly noticed hearings, unless the Commission grants a request for a continuance as provided in § 3815.

3819.5 If an appellant fails to appear for a hearing on the merits of an appeal, the appeal may be dismissed for want of prosecution; provided, that the appellee may present arguments at that time without prejudice to any motion to dismiss.

3819.6 If an appellee fails to appear for a hearing on the merits of an appeal, the Commission may commence the hearing and deem the appellee's opportunity to present oral argument as waived.

3819.7 If any party fails to appear for a hearing on a motion or other matter, the Commission may deem party's position on the subject of the hearing to be withdrawn, conceded, consented to, stipulated, or otherwise unopposed.

3819.8 By filing a joint motion before a hearing is scheduled or no less than ten (10) days before any scheduled hearing, the parties may waive the opportunity to present oral arguments, without prejudice to their respective positions, and the Commission shall decide the appeal or other subject of the hearing solely on the record and written pleadings. The Commission, in its discretion, may deny the motion and hold the hearing as scheduled.

3819.9 Each party to an appeal or cross appeal shall be allowed a total of twenty (20) minutes to present oral argument on the merits of the issue(s) appealed to the Commission. The appellant may reserve a portion of no more than five (5) minutes of the allotted time for rebuttal. The appellee shall not be allowed to reserve any portion of its allotted time for rebuttal.

3819.10 An intervenor, if any, shall have ten (10) minutes to present oral argument on the merits of the issue(s) appealed to the Commission, and shall not be allowed to reserve time for rebuttal. The intervenor shall present oral argument after the appellant and before the appellee.

3819.11 When a cross-appeal is filed or an appeal is initiated by the Commission, each party shall have an opportunity to present oral argument on the issue(s) for twenty (20) minutes; provided, that each party may reserve a portion of no more than five (5) minutes of its allotted time for rebuttal to the oral argument made by the other party.

3819.12 In an order scheduling a hearing other than one on the merits of an appeal, the Commission shall specify whatever times for argument and rebuttal it deems appropriate to the subject(s) of the hearing.

3819.13 The Commission reserves the right to question the parties without diminishing the allotted time periods.

3819.14 If a party has been aggrieved by an order of the Commission due to a failure to appear for a Commission hearing, the Commission may set aside the order based on the following factors:

(a) Whether the party had actual notice of the hearing;

(b) Whether the party acted in good faith;

(c) Whether the party acted promptly upon notice of the order; and

(d) Whether the party presents a *prima facie* argument that it could have prevailed in the order.

3820 RECORDINGS AND TRANSCRIPTS

3820.1 The entire proceedings of Commission hearings and meetings on the record shall be recorded electronically and shall be permanently retained by the Commission.

3820.2 A copy of the recording of a public meeting or hearing, or public portion thereof, shall be made available for public inspection at the Commission's offices and on the Commission's website or the website of the Office of Open Government within seven (7) business days after the meeting or hearing.

3820.3 At the request of a party to an appeal, the Commission shall provide an additional copy of the recording of a public hearing on the appeal to the party.

3820.4 If a party to an appeal desires a transcript of the recording of the hearing, the cost of the transcript shall be borne by the party.

3820.5 A party that desires a transcript shall designate a qualified reporter or transcriber who is not a party or counsel to a party or otherwise related to or employed by a party or counsel in the case to transcribe the recording, and the Commission shall deliver an exact copy of the electronic recording directly to the qualified reporter or transcriber.

3820.6 A copy of a recording made for the purposes of §§ 3820.3 or 3820.5 shall be certified by the Commission as being an exact duplicate of the original electronic recording.

3820.7 A transcript of a certified duplicate copy of the electronic recording of a Commission hearing may be relied on in proceedings before the Commission only if:

(a) The qualified reporter or transcriber certifies the transcript as being complete, accurate, and based upon the certified duplicate copy; and

(b) Unless otherwise stipulated by the parties or ordered by the Commission, if a party cites to a portion of a transcript, the entire transcript of the case must be filed with the Commission, and a copy must be served on all parties.

3820.8 Any party to an appeal may seek corrections to a transcript by motion to the Commission filed within ten (10) days of receipt of the transcript.

3821 DECISIONS ON APPEALS

3821.1 Unless an appeal is otherwise dismissed pursuant to an order issued in accordance with this chapter, the Commission shall dispose of all appeals on the merits by issuing a final decision and order. Each final decision and order shall be issued by a majority vote of a quorum of the Commission at a public meeting on the record, in accordance with § 3800.4.

3821.2 A final decision and order shall be in writing and shall be signed by all participating Commissioners, whether concurring in or dissenting from the result.

3821.3 Upon the signing of a final decision and order, the Clerk shall serve a copy on all parties, or a party's representative of record, by U.S. mail, or by electronic mail attachment with the prior consent of the party, in accordance with § 3803.3.

3821.4 The Commission shall retain the original copy of each signed final decision and order, and a copy shall be made publicly available at the Commission's office, on the website of the Department of Housing and Community Development, and by electronic database through the Lexis service or other service as the Commission may deem suitable.

3821.5 The original and each copy of a final decision and order that is served on a party shall include a certificate of service that includes the following:

(a) The date and method of service;

(b) Names and addresses of the persons or parties on whom the decision was served; and

(c) The signature of the Commissioner or staff person completing the service.

3821.6 A decision and order of the Commission shall become final and effective on the date it is served on the parties; provided, that if a motion for reconsideration or modification is filed, the decision and order shall become final when the motion is granted or denied pursuant to § 3823.

3821.7 Any party aggrieved by a final decision and order of the Commission may obtain judicial review of the order by filing a petition for review in the District of Columbia Court of Appeals in accordance with its rules for review of agency orders.

3821.8 The effect of a final decision and order of the Commission shall not be stayed automatically by the filing of a petition for judicial review with the District of

Columbia Court of Appeals. A party that seeks or intends to seek judicial review in the District of Columbia Court of Appeals may file a motion with the Commission to request a stay pending judicial review.

3821.9 A motion for a stay pending judicial review shall be made and decided in accordance with § 3805.

3822 REMANDS

3822.1 A remand is an order of the Commission to return a case on appeal, in whole or limited to one or more issues raised in the appeal, to the Office of Administrative Hearings or the Rent Administrator for further action.

3822.2 The Commission may order a remand of a case that it reverses, in whole or in part, based on its review of the record in accordance with § 3807.1 or by consent of the appellee(s) to a case.

3822.3 A remand order of the Commission may direct the Office of Administrative Hearings or the Rent Administrator to:

(a) Conduct further proceedings, which may include an evidentiary hearing before the Office of Administrative Hearings;

(b) Correct legal errors in the final order, including the interpretation or application of appropriate laws, regulations, cases, or legal standards;

(c) Revise and re-issue incomplete or legally insufficient findings of fact or conclusions of law; or

(d) Carry out any other corrective action that the Commission determines to be necessary with respect to the final order or procedural error.

3823 RECONSIDERATION OR MODIFICATION

3823.1 Any party adversely affected by a final decision and order of the Commission that affirms, reverses, or remands a case, or an order that dismisses an appeal, may file a motion for reconsideration or modification with the Commission within fifteen (15) days of service of the decision or order; provided, that an order issued on reconsideration is not subject to reconsideration.

3823.2 If any party files a motion for reconsideration or modification within the time provided in § 3823.1, the effect of the decision or order shall be stayed and the time for seeking judicial review of the decision or order shall not start to run until either the Commission rules on the motion or the motion is denied automatically by the expiration of the time provided in § 3823.4.

3823.3 A motion for reconsideration shall contain a short and plain statement of the specific grounds on which the moving party considers a final decision and order, an order that dismisses an appeal, to be erroneous or unlawful. Grounds for reconsideration shall be as follows:

(a) The moving party failed to appear at a Commission hearing, to respond to a motion of another party, or to respond to an order of the Commission and the failure resulted in the order dismissing the party's appeal, and the party has good cause or an adequate defense for failing to appear or to respond;

(b) The decision or order contains a clear mistake in the application of law;

(c) The decision or order contains a clear mistake of the factual record; or

(d) There has been a change in circumstances since the initiation of the appeal that makes any relief provided by the decision impossible or inequitable.

3823.4 Within thirty (30) days of the filing of a motion for reconsideration, the Commission shall grant the motion, deny the motion or issue an order enlarging the time for later disposition of the motion.

3823.5 An order granting a motion for reconsideration filed pursuant to this section shall be decided by a quorum of the Commission.

3823.6 Failure of the Commission to act in the time prescribed by § 3823.4 shall constitute a denial of the motion for reconsideration.

3823.7 A motion for modification shall contain a short and plain statement of a specific error that is typographical, numerical, or technical in nature.

3823.8 An order granting or denying a motion for modification may be issued by a single Commissioner.

3824 WITHDRAWAL OF APPEALS

3824.1 An appellant may file a motion to withdraw an appeal pending before the Commission.

3824.2 The Commission shall review all motions to withdraw to ensure that the interests of all parties are protected.

3824.3 Where a party seeks to withdraw its appeal because a settlement has been reached, the party shall submit the executed settlement agreement in accordance with § 3829.

3824.4 An order granting a motion to withdraw an appeal may be granted by a single Commissioner.

3825 ATTORNEY'S FEES

3825.1 Attorney's fees may be awarded to a party for fees incurred in the administrative adjudication of a petition before the Rent Administrator, the Office of Administrative Hearings, or the Rental Housing Commission, pursuant to § 902 of the Act (D.C. Official Code § 42-3509.02).

3825.2 The Office of Administrative Hearings may award attorney's fees, in accordance with this section, that are incurred in a contested case before it and may include fees incurred for substantial work done, if any, to contest the matter while it was pending before the Rental Accommodations Division. In accordance with § 3802.3(b), the filing of a notice of appeal removes jurisdiction from the Office of Administrative Hearings to decide a motion for attorney's fees until all appeals of its final order are exhausted and the prevailing party ultimately determined.

3825.3 The Commission may award attorney's fees that are incurred in an appeal before it and shall review awards of attorney's fees by the Office of Administrative Hearings pursuant to a notice of appeal from such an award filed in accordance with § 3802.

3825.4 A motion for an award of attorney's fees shall be submitted to the Commission within thirty (30) days after the later of either the issuance of a final decision and order or an order dismissing an appeal, or a motion for reconsideration of the decision or order is granted or denied in accordance with § 3823. The Commission shall not decide a motion for attorney's fees until any further administrative proceedings, including a remand of the case, and all judicial review are exhausted and the prevailing party determined.

3825.5 If a party did not prevail before the Office of Administrative hearings but does so in an appeal to the Commission, and the matter is not remanded by the Commission, the party may file a motion for attorney's fees incurred before the Office of Administrative Hearings with that office within the time provided by 1 DCMR § 2940 from the date on which the party prevails before the Commission.

3825.6 A presumption of entitlement to an award of attorney's fees is created by a prevailing tenant who is represented by an attorney. An award of fees may be withheld, in the discretion of the Office of Administrative Hearings or the Commission, if the equities indicate otherwise.

3825.7 A prevailing housing provider represented by an attorney may be awarded attorney's fees where the Office of Administrative Hearings or the Commission, as applicable, finds that the litigation by a tenant, or a specific part thereof, was frivolous, unreasonable, or without foundation.

3825.8 The Office of Administrative Hearings or Commission may deny an award of attorney's fees to either a housing provider or a tenant, if it is determined that the equities indicate.

3825.9 Attorney's fees may be awarded only for the services of an attorney, including the work of a law clerk, paralegal, or law student supervised by the attorney, who:

(a) Entered an appearance in the case or was otherwise the representative of record;

(b) Is authorized to appear as an attorney under the rules, as applicable to the motion, of the Rental Accommodations Division, the Office of Administrative Hearings, or the Commission in § 3812.8 as a member in good standing of the bar, by *pro hac vice* admission, or as a supervised law student;

(c) Did not withdraw his or her appearance from the case prior to the issuance of a dispositive order by the Office of Administrative Hearings or the Commission, as applicable to the motion, unless the party was immediately represented by substitute counsel; and

(d) Is not a *pro se* party to a case who is incidentally an attorney.

3825.10 Attorney's fees may only be awarded for services performed after a party makes or is served with an initial filing in a contested case, and the filing or response to the filing is signed by an attorney of record. Fees may also be awarded for services within a reasonable period of time prior to a party's initial filing, as necessary to determine whether to represent the party, to investigate the basis for the claims, or to prepare the initial filing. For purposes of this section, an initial filing in a contested case shall be:

(a) A tenant petition;

(b) Exceptions and objections to, or other notice of the intent to contest, a housing provider's petition or an application for approval of a voluntary agreement; or

(c) A notice of appeal.

3825.11 A party moving for an award of attorney's fees has the burden of proving the amount of the award with substantial evidence of the hours of services provided and the rates charged for those services, in accordance with § 3825.12. Substantial evidence may include an affidavit executed by the party's attorney itemizing the attorney's time and rates for legal services, and shall include a client engagement letter, or other memorialization of the attorney-client relationship, that states the fee agreement.

3825.12 An award of attorney's fees shall be calculated as follows, in accordance with the standards applied by courts in the District of Columbia under similar fee-shifting statutes:

(a) A party shall be presumptively entitled to the lodestar amount, which shall be the product of:

(1) The number of hours reasonably expended on the matter, which shall be calculated as:

(A) The actual hours of work attributable to the matter, as supported by affidavits or other competent evidence; minus

(B) Any hours of work that are excessive, redundant, or otherwise unnecessary; minus

(C) Any hours of work that are attributable to, or a proportional reduction based on, any issue(s) upon which the party did not prevail; multiplied by

(2) A reasonable hourly rate, in consideration of:

(A) The attorney's billing practices;

(B) The attorney's skill, experience, and reputation; and

(C) The prevailing market rates in the relevant community; and

(b) In extraordinary circumstances, the lodestar amount may be increased or reduced based on specific evidence that the lodestar amount is not fair or reasonable because it does not reflect one or more of the following factors:

(1) The time and labor required;

(2) The novelty, complexity, and difficulty of the legal issues or questions;

(3) The skill requisite to perform the legal service properly;

(4) The preclusion of other employment by the attorney, due to acceptance of the case;

(5) The customary fee;

(6) Whether the fee is fixed or contingent;

(7) The time limitations imposed by the client or the circumstances;

(8) The amount involved and the results obtained;

(9) The experience, reputation, and ability of the attorney;

(10) The undesirability of the case;

(11) The nature and length of the professional relationship with the client; or

(12) The award in similar cases.

3825.13 No award of attorney's fees shall be granted in an action for eviction authorized under § 501 of the Act (D.C. Official Code § 42-3505.01).

3825.14 An award of attorney's fees may accrue interest from the date of the award, and the interest shall be calculated in accordance with § 3826.

3825.15 A motion for an award of attorney's fees may be decided by a single Commissioner.

3826 INTEREST

3826.1 The Office of Administrative Hearings or the Commission may impose simple interest on a rent refund ordered pursuant to § 901(a) of the Act (D.C. Official Code § 42-3509.01(a)) and §§ 4217.1 and 4217.2 of this title, or on an award of attorney's fees pursuant to § 902 of the Act (D.C. Official Code § 42-3509.02) and § 3825 of this chapter.

3826.2 Interest shall accrue separately for each month for which a rent refund is ordered. The total interest imposed shall be the sum of the interest calculated for each rent overcharge in the rent refund order. If the total amount of a rent refund in any month results from multiple violations of the Act that arose on different dates, the interest on the refund owed shall be separately calculated for each violation, from the date of the violation.

3826.3 The applicable interest rate imposed on a rent refund shall be the judgment interest rate used by the Superior Court of the District of Columbia pursuant to D.C. Official Code § 28-3302(c) on the date of the order to pay the refund.

3826.4 The accrual period for interest on a rent refund shall be calculated from the date the unlawful rent was charged, which includes the date a service or facility was reduced without a corresponding reduction in rent, to the date of the order to pay the rent refund.

3826.5 The interest accrued on a rent refund shall be the product of:

(a) The amount of the rent overcharge, or treble that amount in the event of bad faith (*i.e.*, the principal), in accordance with § 3826.2; multiplied by

(b) The interest factor for the overcharge, which shall be:

(1) The applicable interest rate, in accordance with § 3826.3, divided by twelve (12) to produce a monthly rate; multiplied by

(2) The accrual period for the overcharge, in accordance with § 3826.4, measured in months and any percentage of partial months (*i.e.*, the time).

3826.6 If the amount of a rent refund is modified by a subsequent order on reconsideration, appeal, or remand, the subsequent order shall include a recalculation of the total interest accrued through the date of the subsequent order. For the purposes of § 3826.3, "the date of the order to pay the refund" shall mean the date of the first order that imposed a rent refund, not the subsequent order.

3826.7 If the Commission determines in an appeal that a final order of the Office of Administrative Hearings miscalculates the interest to be imposed on a rent refund but does not find error in the amount of the rent refund itself, the Commission may correct the calculation and impose interest in accordance with § 3826.6.

3826.8 After a final order to pay a rent refund or attorney's fees is issued, interest shall accrue and be owed on any unpaid portion of the refund or fees, at the rate established by § 3826.4, until full payment is made. Interest imposed under this subsection shall be calculated on the total amount of a rent refund, not each separate rent overcharge or violation, and not including any interest calculated in the order. Payment of interest owed under this subsection may be enforced by filing an application for entry of the final order as a judgment in accordance with Superior Court Civil Rule 12-I(b)(1)(G) or by otherwise commencing a civil action in the Superior Court of the District of Columbia for enforcement of the final order pursuant to § 218 of the Act (D.C. Official Code § 42-3502.18).

3826.9 Interest shall not be imposed under this section on any rent overcharges that are deposited in an escrow account or court registry if the deposit bears interest.

3827 FINES AND INFRACTIONS

3827.1 In accordance with the provisions of § 901 of the Act (D.C. Official Code § 42-3509.01), the Commission shall hear and decide appeals involving fines for infractions or violations of the Act. The Commission may impose fines not exceeding five thousand dollars ($5,000) for each violation.

3828 COMMISSION PROCEDURES GENERALLY

3828.1 When this chapter is silent on a procedural issue before the Commission, that issue may be decided by using as guidance, first, the Rules of the District of Columbia Court of Appeals or, second, the District of Columbia Superior Court Rules of Civil Procedure.

3828.2 Where the Commission determines, after notice and reasonable opportunity to respond, that a party, or a party's attorney or other representative as authorized by § 3812, has violated an obligation under this chapter or an order of the Commission, the Commission may impose monetary sanctions, including a fine, or an award of attorney's fees in an amount consistent with § 3825.12.

3828.3 A determination that a person has committed a violation under § 3828.2 may be made by the Commission pursuant to a motion of any party or pursuant to an order of the Commission to show cause that sanctions should not be imposed.

3828.4 The Commission, in its discretion, may continue a determination of the amount of attorney's fees to be imposed as a sanction pursuant to § 3828.2 until after the final disposition of the issues on appeal.

3829 SETTLEMENTS, STIPULATIONS, AND MEDIATION

3829.1 An appeal, any issue in an appeal, or any liability or remedy under the Act may be resolved or disposed of by settlement, stipulation, or other agreement. This may occur in cases on appeal before the Commission at any time before the issuance of a final decision and order.

3829.2 A settlement, stipulation, or other agreement may be reached through the written consent of any or all affected parties, including a mediated agreement reached through mediation proceedings offered by a designated member the Commission's staff.

3829.3 Mediation is a process of assisted, informal negotiation which uses a neutral third party, a mediator, to aid the parties in exploring the possibility of settlement. No party may be compelled to accept a settlement or other resolution of a dispute in mediation.

3829.4 At any time during case proceedings, the Commission may, on its own or by request of any party, refer a case for mediation to a designated member of its staff, who shall be an attorney, to act as a mediator for the parties to an appeal by the following procedure:

(a) The Commission shall serve a notice to all parties offering the opportunity for mediation, and shall provide the parties thirty (30) days to respond;

(b) Upon the receipt of a response from all parties, if more than one party agrees to mediation, the designated member of the Commission's staff who will serve as the mediator shall schedule a mediation session with the advice of all participating parties; and

(c) A party agreeing to mediation may request to reschedule a mediation session at least ten (10) days before it is scheduled for good cause shown.

3829.5 If the Commission has received the certified record of a case on appeal, it may, by motion of a party or on its own initiative, grant a continuance of all briefing, hearings, or other argument of the appeal, and may defer the issuance of a final decision and order, while mediation proceedings are pending.

3829.6 A member of the Commission's staff who serves as a mediator may speak privately with any party or any representative during the mediation process, and any communications made in the mediation process by the designated mediator shall not constitute *ex parte* communications under § 3818.

3829.7 No Commissioner shall act as a mediator between parties to an appeal before the Commission.

3829.8 Mediation proceedings conducted by the designated member of the Commission's staff shall be confidential, closed to the public, and not recorded in any manner, with or without the consent of the parties. No statements during a mediation proceeding or any documents prepared exclusively for a mediation proceeding shall become part of the record of an appeal or be admissible in any adjudication under the Act. The designated member of the Commission's staff who acts as a mediator shall not disclose any information learned from his or her participation.

3829.9 Parties agreeing to participate in mediation provided by the Commission's staff shall negotiate in good faith towards resolution of the appeal or an issue on appeal, and any representative appearing at mediation must have authority from the party to resolve the case or issues within the scope of the mediation. Mediation proceedings may be terminated for failure of one or more parties to comply with this subsection.

3829.10 Notwithstanding § 3829.8, a mediator may report, without elaboration, to the Commission:

(a) Whether the parties reached an agreement; and, if not

(b) Whether he or she believes further mediation would be productive.

3829.11 A settlement, stipulation, or other agreement, including a mediated agreement, that contains terms for the approval of a rent adjustment for which administrative approval is required under the Rent Stabilization Program, as specified in 14

DCMR § 4204, shall be filed with the Commission by the appellant within five (5) days of its execution as an attachment to a motion for the Commission to dismiss the appeal, dismiss an issue on appeal, or accept any stipulation.

3829.12 An agreement required to be filed by § 3829.11 shall be made a part of the record of the case, notwithstanding any terms of the agreement requiring confidentiality or nondisclosure.

3829.13 The Commission shall review all settlements, stipulations, or other agreements filed pursuant to § 3829.11 to ensure that the interests of all parties are protected, in consideration of:

(a) The extent to which the settlement enjoys support among the affected Tenants;

(b) The potential for finally resolving the dispute;

(c) The fairness of the proposal to all affected persons;

(d) The potential saving of litigation costs to the parties; and

(e) The difficulty of arriving at prompt final evaluation of merits, given complexity of law, and delays inherent in administrative and judicial processes.

3829.14 If the Commission determines that a settlement, stipulation, or other agreement meets the requirements of § 3829.13, the Commission may issue an order dismissing the appeal or issue on appeal.

3829.15 Any order provided under this section may be issued by a single Commissioner.

3830 INVOLUNTARY DISMISSAL

3830.1 The Commission may dismiss an appeal for failure to comply with these rules or for any other lawful reason.

3899 DEFINITIONS

3899.1 The provisions of this section shall be applicable to Chapters 38 through 44 of this title.

3899.2 The following words and phrases shall have the meanings ascribed:

Act – the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 *et seq.*), as amended. The terms "arising under the Act," "provisions of the Act," "pursuant to the Act," and "violation of the Act" include the rules in Chapters 38 through 44 of

this title or, where a specific section of the Act is referenced, any rules in those Chapters that are relevant to the referenced section of the Act.

Adjustment of general applicability – a rent adjustment that is authorized on an annual basis for all rental units covered by the Rent Stabilization Program, which is calculated based on the consumer price index, as provided by § 206(b) of the Act (D.C. Official Code § 42-3502.06(b)) and § 4206 of this title.

Administrative Law Judge – an Administrative Law Judge of the Office of Administrative Hearings who presides over a contested case or other administrative adjudicative proceeding arising under the Act.

Base rent – the rent legally charged or chargeable on April 30, 1985, for a rental unit, which was the sum of the rent charged on September 1, 1983, and all rent increases authorized for that rent unit by prior rent control laws, or any administrative decision issued under those laws, and any rent increases authorized by a court of competent jurisdiction.

Business days – all days other than Saturdays, Sundays, legal holidays codified at D.C. Official Code § 1-612.02, furlough days, and other closed days as designated by the District of Columbia Government.

Capital improvement – an improvement or renovation of a rental unit or housing accommodation, other than ordinary repair, replacement, or maintenance, if the improvement or renovation is deemed depreciable under the Internal Revenue Code (26 USC).

Clerk – the Clerk of Court employed by the Commission.

Commission – the Rental Housing Commission, the three (3)-member body established by § 201 of the Act (D.C. Official Code § 42-3502.01) to decide appeals and promulgate regulations under the Act and to certify and publish the annual adjustment of general applicability.

Conciliation Service – the service established within the Rental Accommodations Division by § 503 of the Act (D.C. Official Code § 42-3505.03) that provides a voluntary, non-adversarial forum for the resolution of disputes arising between housing providers and tenants.

Condominium – real estate, portions of which, in accordance with the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code §§ 42-1901.01 *et seq.*), are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the portions designated for separate

ownership. Real estate shall not be deemed a condominium unless the undivided interests in the common elements are vested in the unit owners.

Contested case – a proceeding arising under the Act in which the legal rights, duties, or privileges of specific parties are required by the provisions of the Act or any other law, or by constitutional right, to be determined after a hearing.

Cooperative housing association – an association incorporated for the purpose of owning and operating residential real property in the District, the shareholders or members of which, by reason of their ownership of stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit under the terms of a proprietary lease or occupancy agreement.

Cooperative housing use – the ownership of residential real property, or any portion thereof, by a cooperative housing association, and the occupancy of such property, or portion thereof, by a shareholder or member of the association, or the offering of occupancy to shareholders or members.

Dormitory – any structure or building owned by an institution of higher education or private boarding school, in which at least ninety-five percent (95%) of the units are occupied by presently matriculated students of the institution of higher education or private boarding school.

Elderly tenant – a tenant who is sixty-two (62) years of age or older.

Hardship adjustment – a rent adjustment that is authorized by §§ 206(c) and 212 of the Act (D.C. Official Code §§ 42-3502.06(c) and 42-3502.12) and § 4209 of this title that requires prior approval and allows a housing provider to receive a twelve percent (12%) rate of return on a housing accommodation.

Home and community-based services waiver provider – means an entity that provides residential habilitation or supported living services under the Medicaid Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities program authorized by Section 1915(c) of the Social Security Act, approved August 13, 1981 (95 Stat. 809; 42 USC § 1396n).

Housing accommodation – any structure or building in the District containing one (1) or more rental units and the land appurtenant thereto. The term "housing accommodation" does not include any hotel or inn with a valid certificate of occupancy or any structure, including any room in the structure, used primarily for transient occupancy and in which at least

sixty percent (60%) of the rooms devoted to living quarters for tenants or guests were used for transient occupancy as of May 20, 1980.

Housing provider – a landlord, owner, lessor, sub-lessor, assignee, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District, and includes any agent of a housing provider.

Housing Provider Ombudsman – the office within the Department of Housing and Community Development, Housing Regulation Administration that helps small housing providers better understand the District of Columbia's housing laws and provides assistance to them.

Housing Regulations – the Housing Regulations of the District of Columbia, effective August 11, 1955 (Commissioners' Order 55-1503; 14 DCMR Chapters 1-13), as amended, including all applicable provisions of the Property Maintenance Code in accordance with 12-G DCMR § 102.4.1.

Initial leasing period – that period for which the first tenant leases a rental unit immediately after the date it is first offered for rent as a rental unit that is not otherwise exempt from the Act.

Late fee – any amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a consequence of the payment or receipt of rent after the date on which it is due.

Multi-building housing complex – the aggregate of rental units located in two (2) or more physically contiguous buildings that share common ownership and management and are operated and treated for management and accounting purposes as a single business entity.

Office of Administrative Hearings – the agency established by the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code §§ 2-1831.01 *et seq.*), responsible for the administrative adjudication of contested cases and other administrative adjudicative proceedings arising under the Act, and includes its Chief Administrative Law Judge and Administrative Law Judges.

Office of the Tenant Advocate – the agency established by the Office of the Chief Tenant Advocate Establishment Act, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code §§ 42-3531.01 *et seq.*), to provide education, outreach, technical and legal advice, and other advocacy and assistance to tenants in the District, and includes the Chief Tenant Advocate.

Person – an individual, corporation, partnership, association, joint venture, business entity, or an organized group of individuals, and includes any agent, successor, or assignee of a person.

Property Maintenance Code – The 2012 Property Maintenance Code published by the International Code Council, and any subsequent editions thereof, as adopted by the District of Columbia with additions, insertions, deletions and changes as set forth in the 2013 District of Columbia Property Maintenance Code Supplement, 12-G DCMR, or any successor thereto.

Qualifying income – household income, as defined by D.C. Official Code § 47-1806.06(b), that is no greater than sixty percent (60%) of the area median income, as defined by D.C. Official Code § 42-2801(1), for a household of four (4) persons in the statistical area that includes the District of Columbia, as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development, increased or decree, increased or decreased by ten percent (10%) per person in the relevant household.

Related facility – any facility, furnishing, or equipment made available to a tenant by a housing provider, the use of which is authorized by the payment of the rent charged for a rental unit, including any use of a kitchen, bath, laundry facility, parking facility, or the common use of any common room, yard, or other common area.

Related service – any service provided by a housing provider that is required by law, including the Housing Regulations, or by the terms of a rental agreement to a tenant in connection with the use and occupancy of a rental unit, including repairs, decorating and maintenance, the provision of light, heat, hot and cold water, air conditioning, telephone answering or elevator services, janitorial services, or the removal of trash and refuse.

Rent – the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities, including mandatory move-in, move-out, amenity, utility, appliance, facility, service, and other fees however described, other than late fees.

Rent adjustment – the legal basis under the Rent Stabilization Program for, or the specific authorization to, increase or decrease the rent charged for a rental unit covered by the Rent Stabilization Program.

Rent Administrator – the head of the Rental Accommodations Division who is appointed by the Mayor and administers the Act, including the Rent

Stabilization Program, in accordance with § 204 of the Act (D.C. Official Code § 42-3502.05) and Chapter 39 of this title.

Rent ceiling – the amount that, prior to the Rent Control Reform Amendment Act of 2006, effective August 5, 2006 (D.C. Law 16-145; 53 DCR 4889 (June 23, 2006)), was defined in or computed under § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)) and Chapter 42 of this title to be the maximum amount of rent permitted for a rental unit covered by the Rent Stabilization Program.

Rent charged – the monthly rent a tenant is actually demanded to pay or does actually pay to a housing provider. As used in Chapter 42, any restriction on adjustments to the rent charged for a rental unit, including timing, tenant notice, and administrative filing requirements, shall, unless otherwise stated, include the implementation of rent surcharges, but any calculation of the amount of the lawful amount of any adjustment to the rent charged shall not include any rent surcharges applicable to the rental unit.

Rent surcharge – an amount of rent that, with prior administrative approval, may be charged for a rental unit on a monthly basis notwithstanding the lawfully calculated amount of rent otherwise charged for the rental unit in accordance with the Rent Stabilization Program.

Rent refund – monetary compensation to a tenant for rent previously unlawfully demanded or received by a housing provider for a rental unit.

Rent rollback – a reduction in the rent that may be charged for a rental unit covered by the Rent Stabilization Program to correct a violation of the Act.

Rent Stabilization Program – the provisions of §§ 205(f) through 219, except § 217, of the Act (D.C. Official Code §§ 42-3502.05(f) - 42-3502.19, except 42-3502.17) and Chapter 42 of this title, which regulate rents and related services and facilities in rental units that it covers.

Rental Accommodations Division – the division of the Department of Housing and Community Development, Housing Regulation Administration, established by § 42-3502.03 of the Act (D.C. Official Code § 42-3502.03) to assist the Rent Administrator in carrying out his or her functions and duties under the Act.

Rental Housing Act of 1980 – the Rental Housing Act of 1980, effective March 4, 1981 (D.C. Law 3-131; 28 DCR 326 (January 23, 1981)), as amended, prior to its repeal on July 17, 1985.

Rental unit – any part of a housing accommodation that is rented or offered for rent for residential occupancy, and includes an apartment, efficiency apartment, room, single-family house and the land appurtenant thereto, suite of rooms, or duplex.

Social Security COLA – the cost-of-living adjustment to the benefits for social security recipients announced by the Social Security Administration pursuant to § 215(i) of the Social Security Act, approved August 28, 1950 (64 Stat. 506; 42 USC § 415(i)).

Substantial evidence – relevant evidence that a reasonable mind might accept as adequate to support a conclusion.

Substantial rehabilitation – any improvement to or renovation of a housing accommodation for which:

(a) The building permit was granted after January 31, 1973; and

(b) The total expenditure for the improvement or renovation equals or exceeds fifty percent (50%) of the assessed value of the housing accommodation before the rehabilitation.

Substantial violation – the presence of any housing condition, the existence of which violates the Housing Regulations or any other statute or regulation relative to the condition of residential premises and may endanger or materially impair the health and safety of any tenant or person occupying the property.

Tenant – a person entitled to the possession, occupancy, or the benefits of any rental unit owned by another person, and includes a tenant, subtenant, lessee, sub-lessee, and does not include a proprietary lease holder, shareholder, or other member of a cooperative housing association.

Tenant association – a group of tenants organized by a signed, written agreement to act on behalf of its members, or other tenants agreeing to be represented, in any specifically identified matter arising under the Act.

Tenant petition – a petition filed with the Rental Accommodations Division by a tenant or tenant association pursuant to § 4214 to contest and request appropriate relief for a violation of the Act or Chapters 41 through 44 of this title.

Tenant with a disability – a tenant who, in accordance with § 3(1)(A) of the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 329; 42 USC § 12102(1)(A)), as amended by the ADA Amendments Act of 2008 (Pub. L. 110-325; 122 Stat. 3553), and the implementing

regulations promulgated by the Equal Employment Opportunity Commission, 29 CFR § 1630.2(g)(1)(i), has a physical or mental impairment that substantially limits one or more major life activities of such individual.

Transient occupancy – the regular furnishing of any room or rooms, lodgings, or accommodations to transients for consideration that is subject to retail sale tax pursuant to D.C. Official Code § 47-2001(n)(1)(C).

Vacancy adjustment – a rent adjustment that is authorized at the time a rental unit becomes vacant, as provided by § 213 of the Act (D.C. Official Code § 42-3502.13) and § 4207 of this title.

Voluntary agreement – a written agreement to be executed by seventy percent (70%) or more of the tenants of a housing accommodation and the housing provider that, with approval, establishes the rents, levels of services or facilities, or provides for capital improvements and repairs and maintenance, as provided by § 215 of the Act (D.C. Official Code § 42-3502.15) and § 4213 of this title.

CHAPTER 39: RENTAL ACCOMMODATIONS DIVISION

SECTION

3900 THE RENT ADMINISTRATOR

3900.1 The Rent Administrator, in addition to other duties, shall:

(a) Carry out the administration of the Rent Stabilization Program, including the receipt and maintenance of records of registrations, exemptions, rent levels, and petitions;

(b) Receive and review all applications and petitions arising under Titles II, IV, V, VI, and IX of the Act;

(c) Publish and update legally sufficient forms required by the provisions of the Act for use by housing providers and tenants;

(d) Make conciliation services available to housing providers and tenants in accordance with § 3913; and

(e) Issue advisory opinions regarding the applicability of the Act and Chapters 39-44 of this title upon request in accordance with § 3915.

3900.2 After making any initial determinations or issuing any necessary or appropriate preliminary orders, the Rent Administrator shall transmit all matters that require an evidentiary hearing pursuant to the Act or Chapters 41-44 of this title to the Office of Administrative Hearings, including:

(a) Housing providers' petitions for hardship surcharges, capital improvement surcharges, related service or facility adjustments, and substantial rehabilitation surcharges pursuant to § 4208 and the applicable section for the type of adjustment that is requested, pursuant to §§ 4209-4212;

(b) Applications for approval of voluntary agreements to which exceptions and objections have been filed pursuant to § 4213.25;

(c) Tenant petitions filed pursuant to § 4214; and

(d) Show cause orders issued pursuant to § 3926.

3900.3 The Rent Administrator shall issue final orders on applications and petitions that do not require an evidentiary hearing pursuant to the Act or Chapters 41-44 of this title, including:

(a) Petitions that do not state a claim for which relief can be granted under the Act, in accordance with § 3903.2;

(b) Duplicative petitions filed within six (6) months of a prior petition, in accordance with § 216(f) of the Act (D.C. Official Code § 42-3502.16(f)) and § 3903.3 of this chapter;

(c) Applications by non-profit charitable housing providers for exclusion from the Act pursuant to § 4105.3;

(d) Housing provider petitions that have not been properly filed, in accordance with § 4208.6;

(e) Hardship petitions for which the housing provider has failed to comply with an order to supplement the documentation or to provide notice to the tenants, in accordance with § 4209.34;

(f) Hardship petitions for which a proposed order has been issued and no party has filed exceptions or objections, in accordance with § 4209.32-.36;

(g) Substantial rehabilitation petitions for which all affected rental units are vacant, in accordance with § 4212.21-.22;

(h) Applications for approval of voluntary agreements that either comply with § 215(c) of the Act (D.C. Official Code § 42-3502.15(c)) and § 4213.20 of this title or to which no exceptions and objections have been filed pursuant to § 4213.25;

(i) Applications to register tenants' protected status from rent surcharges and rent adjustments of general applicability, in accordance with § 4215; and

(j) Applications to serve notices to vacate for unsafe alterations or renovations, pursuant to § 501(f) of the Act (D.C. Official Code § 42-3505.01(f)).

3900.4 The Rent Administrator shall enforce the Act and Chapters 41-44 of this title by:

(a) Issuing show cause orders and compliance notices pursuant to §§ 3926 and 3927;

(b) Filing complaints in the Superior Court of the District of Columbia pursuant to § 218 of the Act (D.C. Official Code § 42-3502.18) and § 4217.5 of this title; and

(c) Referring appropriate matters to the Office of the Attorney General or the Department of Consumer and Regulatory Affairs.

3900.5 The Rent Administrator shall establish internal operating procedures for the handling of Rental Accommodations Division business.

3900.6 The Rent Administrator may issue written delegations of authority pursuant to § 204(d) of the Act (D.C. Official Code § 42-3502.04(d)) to Rental Accommodations Division rental property specialists to issue preliminary orders or make other determinations on petitions or other applications in accordance with § 3900.3.

3900.7 The Rental Accommodations Division shall be open for public business at the Housing Resource Center of the Department of Housing and Community Development daily from 8:30 a.m. to 3:30 p.m., except Saturdays, Sundays, legal

holidays, furlough days, and other closed days as designated by the Department of Housing and Community Development or the District of Columbia Government.

3900.8 The Rent Administrator shall provide for the operation of a telephone service during the hours provided by § 3900.7 to provide assistance to tenants in accordance with the provisions of § 705 of the Act (D.C. Official Code § 42-3507.05).

3900.9 The Rent Accommodations Division shall maintain an internet-accessible, searchable database of filings made pursuant to the Rent Stabilization Program, following completion of the publicly accessible rent control housing database required by § 203c of the Act (D.C. Official Code § 42-3502.03c).

3901 FILING PETITIONS AND OTHER DOCUMENTS

3901.1 All petitions and other documents to be filed with the Rent Administrator shall be received in the Department of Housing and Community Development, Housing Regulation Administration, Rental Accommodations Division, Housing Resource Center at 1800 Martin Luther King Jr. Avenue, S.E., Washington, D.C. 20020, unless otherwise directed or as provided by § 3901.11, during the hours provided by § 3900.7.

3901.2 No fee shall be charged for filing any petition or other document with the Rental Accommodations Division.

3901.3 All petitions and applications arising under the Act shall be filed on forms published by the Rent Administrator and accompanied by any supporting documents as required.

3901.4 All documents filed shall be promptly date-stamped and entered into the appropriate Rental Accommodations Division daily log.

3901.5 All petitions filed shall be promptly date-stamped and entered into the appropriate Rental Accommodations Division petition log.

3901.6 All Rental Accommodations Division daily logs and petition logs shall be available for public inspection.

3901.7 Unless otherwise provided by Chapters 39-44, each petition and other document filed with the Rental Accommodations Division shall consist of an original and five (5) identical copies of each document submitted; one of the date-stamped copies shall be returned to the filing party.

3901.8 All petitions and other documents filed shall be deemed filed when received and date-stamped by the Rental Accommodations Division during business hours provided in § 3900.4, unless, as provided by § 4208.6, the Rent Administrator determines a petition will be deemed filed at a later date.

3901.9 The Rent Administrator may refuse to accept for filing any pleading or other document that does not comply with the requirements of the Act or Chapters 39 through 44 of this title, including by reason that:

(a) It is not properly filed;

(b) It is not on the prescribed form pursuant to § 3901.3;

(c) It is not prepared in accordance with the instructions of the Rent Administrator;

(d) It is not accompanied by documents where required; or

(e) It is not signed by the party, or authorized representative of the party filing the petition.

3901.10 The receipt of a document for filing shall not constitute a waiver of any failure to comply with the requirements of the Act or the regulations.

3901.11 The Rental Accommodations Division shall, following completion of the publicly accessible rent control housing database required by § 203c of the Act (D.C. Official Code § 42-3502.03c), provide an internet-accessible portal for the submission of any petition, application, or other document by housing providers. The Rental Accommodations Division may additionally provide for the filing of any petition, application, or other document through the portal by tenants. For the purposes of §§ 3901.1 and 3901.3, any time Chapters 38-44 of this title require information be filed on a form published by the Rent Administrator, submission through the portal shall be deemed to comply with the requirements that the document be received at the Housing Resource Center and that the published form be used. Any submission made through the portal outside the business hours provided by § 3900.7 shall be deemed received by the Rental Accommodations Division at the start of the next business day.

3902 PROCEDURES UPON FILING PETITION

3902.1 Upon receipt of a petition or initiation of another proceeding, the Rent Administrator shall assign a case number to it, using the following prefixes:

	DOCUMENT	PREFIX
(a)	Tenant Petitions	TP
(b)	Hardship Petitions	HP
(c)	Capital Improvement Petitions	CI

(d)	Substantial Rehabilitation Petitions	SR
(e)	Petitions for Changes in Related Services and Facilities	SF
(f)	Voluntary Agreements	VA
(g)	Show Cause Orders	SC
(h)	Non-compliance Notices	COMPLIANCE
(i)	Notices to Vacate	NV
(j)	Charitable Exclusions	CE

3902.2 The Rent Administrator shall enter the date of receipt of each petition in a docket, which shall list the petition number and the address of the affected housing accommodation or rental unit.

3902.3 In the case of a petition filed by a housing provider, the housing provider shall provide copies of the petition and postage-paid envelopes for the notification of tenants in accordance with the rules of the Office of Administrative Hearings, 1 DCMR § 2923, as well as any additional copies or envelopes that the Rent Administrator may request in the case of a hardship petition or voluntary agreement.

3903 RIGHT TO HEARING AND DISPOSITION WITHOUT HEARING

3903.1 If a petition or other application requires an evidentiary hearing pursuant to the Act or Chapters 41-44 of this title, including those listed in § 3900.2, the Rent Administrator, after making any initial determinations or issuing any necessary or appropriate preliminary orders, shall transmit the petition or application, along with the official record in accordance with § 3919, to the Office of Administrative Hearings. A hearing before the Office of Administrative Hearings shall be conducted in accordance with the District of Columbia Administrative Procedures Act (D.C. Official Code § 2-509), the Office of Administrative Hearings Establishment Act of 2001 (D.C. Official Code §§ 2-1831.01 *et seq.*), and the rules of the Office of Administrative Hearings (1 DCMR §§ 2800 *et seq.* and § 2920 *et seq.*).

3903.2 The Rent Administrator on his or her motion may dismiss any petition without a hearing which does not state a claim for which relief can be granted under the Act.

3903.3 The Rent Administrator shall dismiss a petition for adjustment of rent without a hearing if a ruling on the same issue has been made by the Rent Administrator, the Office of Administrative Hearings, or the Commission for the same housing

accommodation or rental unit within six (6) months prior to the filing of the petition, unless that previous ruling dismissed a former petition without prejudice to refiling.

3904 PARTIES

3904.1 Proceedings on a petition or application pending before the Rent Administrator shall individually identify each petitioner and each respondent named by the petitioner or each person electing to contest the petition or application, as applicable.

3904.2 If a petition or application is filed by or contested by a tenant association that meets the requirements of § 216a of the Act (D.C. Official Code § 42-3502.16a), the association shall be a party and be identified in place of its members or the tenants represented by the association.

3904.3 The Rent Administrator may require a tenant association filing or contesting a petition to submit written authorization of the members or other tenants represented by the association to represent them in proceedings on the petition.

3904.4 Representation by a tenant association shall be conducted in accordance with § 3918.

3905 CAPTIONS

3905.1 In order to achieve uniformity of pleadings before the Rent Administrator in all proceedings arising under the Act, all cases arising from complaints and petitions shall be properly captioned as provided in this section.

3905.2 Captions shall contain the name of the housing provider as listed on the registration statement; provided, however, that if the management agent represents the housing provider in any proceeding, the management agent shall also be listed in the caption and identified as the agent.

3905.3 Captions shall contain the name of each tenant or tenant association that is a party to the proceeding, in accordance with § 3904.

3906 SUBSTITUTION OR ADDITION OF PARTIES

3906.1 In the event of the death, dissolution, reorganization, or change of ownership or interest of a party, the Rent Administrator may, upon his or her own motion when such an event is suggested by any documents filed, or upon the motion of a party, substitute or add a person, including a trust, estate, or representative, as a party to the proceeding.

3906.2 If it appears to the Rent Administrator that the identity of the parties has been incorrectly determined, the Rent Administrator may substitute or add the correct parties on his or her own motion.

3906.3 No substitution or addition of parties may occur unless all current and proposed parties are served with the motion in accordance with § 3911 and given an opportunity to file written arguments in support of or in opposition to a motion for substitution of parties. The Rent Administrator may require a current or proposed party to file documentation establishing the relationship or interest of the party to be substituted.

3907 INTERVENORS

3907.1 There shall be no intervenors as a matter of right in Rental Accommodations Division proceedings but intervenors may be permitted to participate in the proceeding prior to a hearing if the proceedings will directly affect their rights or duties and is otherwise appropriate.

3907.2 A request to intervene shall be by motion stating the reasons why intervention should be permitted.

3907.3 While a proceeding is pending before the Rent Administrator, intervenors shall be considered full parties and shall have the same rights and duties as a party to a petition, with the following exceptions.

(a) Intervenors shall not have an independent right to a hearing; and

(b) Intervenors may participate only with respect to issues affecting them that do not require a hearing, as determined by the Rent Administrator.

3908 EXPANDING THE SCOPE OF A PROCEEDING

3908.1 If, prior to the transfer by the Rent Administrator of a tenant petition to the Office of Administrative Hearings, the Rent Administrator determines that the issues raised in the petition may affect other tenants or all tenants in the housing accommodation, the Rent Administrator may provide written notice and advise the Office of Administrative Hearings of the possible grounds to expand the scope of the proceeding to include all affected tenants.

3909 CONSOLIDATION OF PETITIONS

3909.1 The Rent Administrator may consolidate two (2) or more petitions where they contain identical or similar issues or where they involve the same rental unit or housing accommodation.

3909.2 The Rent Administrator may consolidate petitions on the motion of a party to a petition, if consolidation would expedite the processing of the petition and would not adversely affect the interests of the parties.

3910 [RESERVED]

3911 SERVICE OF NOTICE

3911.1 All petitions and other documents required to be served upon any person under this chapter shall be served upon that person or the representative designated by a party, as provided in § 3918, in the manner provided in this section. All petitions and applications under Chapter 42 shall be served on affected parties by the Rent Administrator or Office of Administrative Hearings after they are filed, unless otherwise specified by that chapter.

3911.2 When a party has a representative of record after a proceeding has been initiated, as provided in § 3918, service shall be made upon the representative.

3911.3 Notwithstanding § 904(a) of the Act (D.C. Official Code § 42-3509.04(a)), service upon any person or representative shall be completed only:

(a) By handing the document to the person, by leaving it at the person's place of business with a responsible person in charge, or by leaving it at the person's usual place of residence with a person of suitable age and discretion;

(b) By first class mail of the United States Postal Service, properly stamped and addressed; or

(c) By any other means that is in conformity with an order of the Rent Administrator in the course of the proceeding for which service is made.

3911.4 Actual receipt of service shall bar any claim of defective service, except for a claim with respect to the timeliness of service.

3911.5 Service by mail of the U.S. Postal Service shall be complete upon mailing.

3911.6 All petitions or other documents required to be served on the other party or parties shall be served prior to or at the same time as they are filed with the Rental Accommodations Division.

3911.7 Every pleading, motion, and other document filed with the Rental Accommodations Division shall include a signed statement that it was served as required, which shall be captioned as a "certificate of service" and shall show the date, name of the person(s) served, address at which service was made, and the manner of service. If service is made by a process server, proof of service shall

be in an affidavit showing the date, the person served, address at which service was made, the manner of service, and the name and address of the process server.

3912 CALCULATION OF DEADLINES

3912.1 Where this chapter or any order of the Rent Administrator specifies a time period, any reference to "days" shall mean all calendar days, unless specifically designated as "business days."

3912.2 "Business days," where expressly used in this chapter or by order of the Rent Administrator, shall be all days other than Saturdays, Sundays, legal holidays codified at D.C. Official Code § 1-612.02, furlough days, and other closed days as designated by the District of Columbia Government.

3912.3 In calculating any period of time prescribed or allowed by this chapter or by order of the Rent Administrator, the day of the act, event, or default from which the time period begins to run shall not be included.

3912.4 In calculating any time period specified by this chapter or by order of the Rent Administrator, the last day of the period shall be included, unless it is not a business day, in which case the period shall end on the next business day.

3912.5 In accordance with § 3811.5, a party's obligation to serve any petition or other document on another person, if done by U.S. mail, shall be deemed complete on the date of mailing.

3912.6 If a party is permitted or required to act within a specified time period after an event, such as the issuance of any order or the service of a motion by another party, if the party has been served with the petition or other document by U.S. mail, five (5) days shall be added to the time period for the party to act.

3912.7 In accordance with § 3901.8, a party's obligation to file any petition or other document with the Rent Administrator shall only be deemed complete upon actual receipt by the Rental Accommodations Division during its business hours, as provided by § 3901.7, regardless of how the filing is made.

3912.8 The Rent Administrator may enlarge any time period specified in the course of a proceeding, either on motion by a party or on its own initiative in accordance with § 3925.

3913 CONCILIATION OF DISPUTES AND THE CONCILIATION SERVICE

3913.1 Either a housing provider or a tenant may initiate a request for conciliation of a dispute arising under the Act by the Rental Accommodations Division Conciliation Service established by § 503 of the Act (D.C. Official Code § 42-3505.03). Nothing herein shall prevent the Rent Administrator from initiating a conciliation proceeding with the approval of the parties.

3913.2 A request for conciliation of a dispute shall be filed on a form published by the Rent Administrator and shall include a completed request packet in accordance with the requirements of the published form.

3913.3 The Conciliation Service shall do the following:

(a) Utilize knowledge of the Act, this subtitle, and, if applicable, an Apartment Improvement Program building improvement plan, and other specific information about the circumstances of the dispute to assist the parties in arriving at a mutually acceptable explanation of the dispute and to assist the parties in developing a mutually acceptable settlement or resolution of the dispute;

(b) Advise both the housing provider and the tenant of their rights and obligations under the Act, this subtitle, and other applicable D.C. laws; and

(c) Advise both the housing provider and the tenant of circumstances surrounding the dispute which constitute violations of the Act, this subtitle, and other D.C. laws.

3913.4 Neither party to a dispute brought before the Conciliation Service shall be compelled to attend a session or participate in any proceeding of the Conciliation Service.

3913.5 The results of an attempt to conciliate a dispute shall not be binding upon either party, except where an agreement is developed voluntarily as a result of the conciliation.

3913.6 Agreements reached during conciliation shall not prevent the Rent Administrator from enforcing the provisions of the Act or this subtitle.

3913.7 The proceedings of the Conciliation Service shall be informal, voluntary, and non-adversarial. No evidentiary record for a pending petition shall be established by any filings, statements, or proceedings before the Conciliation Service.

3913.8 Admissions of responsibility by either party or other stipulations required as an essential condition for making an agreement shall not be admissible in any adjudicatory proceedings under the Act, this subtitle, or any other administrative or judicial proceedings under provisions of District law.

3913.9 Each tenant petition may be reviewed by the Conciliation Service to determine if it involves issues which could be resolved through conciliation.

3913.10 If issues which may be resolved through conciliation are presented in a tenant petition, the Conciliation Service shall discuss with the tenant the conciliation of the matters raised in the tenant petition. If the tenant agrees, the Conciliation Service shall contact the housing provider.

3913.11 If a tenant and housing provider agree to conciliation, the Rent Administrator shall delay the transmittal of the case of the Office of Administrative Hearings or, if the case has already been transmitted, notify the presiding Administrative Law Judge that a stay or continuance of proceedings may be advisable.

3913.12 If conciliation fails, upon mutual consent of the parties, the housing provider and the tenant may submit any dispute for arbitration, in accordance with § 3914.

3914 ARBITRATION

3914.1 By mutual agreement, both the housing provider and the tenant(s) who are parties to a dispute under this Act, may file with the Rent Administrator, on a form published by the Rent Administrator, a request for arbitration of any dispute not satisfactorily conciliated under § 503 of the Act (D.C. Official Code § 42-3505.03) and § 3913 of this chapter.

3914.2 Parties may waive the conciliation process and mutually agree to have the dispute arbitrated pursuant to this section and § 504 of the Act (D.C. Official Code § 42-3505.04).

3914.3 An arbitration recommendation, issued pursuant to the Arbitration Panel's recommendation, shall not be binding on the parties unless both parties demonstrate their acceptance by signing it. The Rent Administrator shall approve agreements entered into by the parties under the panel's recommendation.

3914.4 The Rent Administrator shall designate three (3) members of the Rental Accommodations Division staff, other than those who heard the dispute under § 503 of the Act (D.C. Official Code § 42-3505.03) to serve as members of the Arbitration Panel.

3914.5 The Arbitration Panel shall schedule and conduct an arbitration hearing at a time convenient to the parties.

3914.6 The Arbitration Panel shall issue a written recommendation to resolve the dispute within ten (10) days of the arbitration request, which shall be served on all parties to the arbitration.

3914.7 Any agreement accepted and entered into by the parties, pursuant to the Arbitration Panel's recommendation shall be approved by the Rent Administrator and shall be binding on the parties. The agreement shall not be appealable to the Commission.

3914.8 Any arbitration agreement accepted and entered into by the parties, pursuant to the Arbitration Panel's recommendation, shall be enforceable by a court of competent jurisdiction, upon application by the Rent Administrator or the parties.

3915 ADVISORY OPINIONS

3915.1 The Rent Administrator may issue, at the request of any person, an advisory opinion on issues of first impression relating to specific proposed actions under the Act or Chapters 39 through 44 of this title.

3915.2 Advisory opinions shall not address an issue currently pending before the Rent Administrator, Office of Administrative Hearings, the Commission, or any court of competent jurisdiction in a hearing, appeal, or other administrative or judicial proceeding.

3915.3 Each inquiry shall meet the following requirements:

(a) Be submitted in writing;

(b) Specifically request an advisory opinion;

(c) Contain a signed statement of proposed action, of all relevant facts and of the author's interpretation of the law or regulations; and

(d) Be accompanied by any relevant documents.

3915.4 The Rent Administrator shall maintain a file of all advisory opinions that is available for public inspection.

3915.5 An advisory opinion issued by the Rent Administrator shall not be binding on or provide safe harbor to the requesting person, or be binding on any District agency.

3916 EX PARTE COMMUNICATIONS

3916.1 An *ex parte* communication is any oral or written communication that is:

(a) To or by the Rent Administrator or staff of the Rental Accommodations Division;

(b) Regarding the merits of a particular case; and

(c) Not made:

(1) In a filing that is also served on all required parties; or

(2) With reasonable prior notice and opportunity, under the circumstances, for all parties to be present for, to be a party to, or

to be simultaneously made aware of the contents of the communication.

3916.2 *Ex parte* communications shall be prohibited unless:

(a) The communication is specifically authorized by law;

(b) The communication is regarding administrative or procedural matters, and any reference to the merits is merely incidental; or

(c) The communication is made in the course of another proceeding before the Rent Administrator to which the communication primarily relates, and which is on the public record.

3916.3 *Ex parte* communications regarding a particular case shall be prohibited any time after the petition initiating the case has been filed with the Rent Administrator and until the time that all possible appeals of the case are completed.

3916.4 Any *ex parte* communication made in violation of this section that comes to the attention of the Rent Administrator shall be made part of the record, and the Rent Administrator shall provide an opportunity for rebuttal by other parties by serving each party with a copy of any such communication or a memorandum describing the communication, within five (5) days of the communication.

3916.5 If the Rent Administrator determines that a communication was knowingly made (or caused to be made) by a party acting in violation of this section, the Rent Administrator may, to the extent consistent with the interest of justice and applicable law, require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, or otherwise adversely affected.

3917 BURDEN OF PROOF

3917.1 The proponent of a rule or order shall have the burden of establishing each finding of fact essential to the rule or order by a preponderance of evidence, except claims or defenses for which the burden is shifted as provided by the Act, Chapters 41-44 of this title, or 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941.

3917.2 In show cause hearings, the burden of proof shall rest on the Rent Administrator.

3918 APPEARANCES AND REPRESENTATION

3918.1 In any proceeding before the Rent Administrator, a party may be represented as follows:

(a) Any person may be represented by an attorney;

(b) An individual, receiver, or beneficiary may appear on his or her own behalf;

(c) A trustee or administrator may appear on behalf of the trust or estate;

(d) An authorized officer, director, partner, or employee may represent a corporation, partnership, limited partnership, or other private legal entity;

(e) An unincorporated association may select one member or an employee of the association to represent the association;

(f) A tenant or a group of tenants may be represented by a tenant association; provided, that the association shall be represented by an attorney in accordance with paragraph (a), by an authorized officer or director in accordance with paragraph (d), or by a member of the tenant association selected by the members in accordance with paragraph (e); or

(g) A housing provider, whether an owner or a managing agent, may be represented in accordance with paragraphs (a)-(e).

3918.2 Any individual who wishes to appear in a representative capacity before the Rent Administrator shall file a written notice of appearance stating the individual's name, local address, telephone number, District of Columbia Bar identification number, if applicable, and for whom the appearance is made. Written notice may be filed concurrently with a notice of appeal.

3918.3 An attorney or other representative of record who is served with any documents related to a matter before the Rent Administrator, but who does not wish to or is no longer representing the party before the Rent Administrator, shall immediately notify the party of the service and shall file a motion to withdraw in accordance with § 3813.

3918.4 Any person appearing before or transacting business with the Rent Administrator in a representative capacity may be required by order of the Rent Administrator to establish the authority to act on behalf of the represented party by affidavit, written authorization, bylaws of an organization, or other proof the Rent Administrator may deem sufficient.

3918.5 A party who would otherwise appear on his or her own behalf as provided in § 3918.1(b) may be represented by a family member or close personal friend, where the party is incapable of presenting his or her case because of a language barrier, physical infirmity, or mental incapacity; provided, that the family member or friend receives no compensation for representing the party before the Rent Administrator.

3918.6 Nothing in this section shall prohibit the provision of technical assistance by a non-profit community service agency or the Office of the Tenant Advocate.

3918.7 A person may be represented by an attorney, as provided in § 3918.1(a), if the attorney is:

(a) An active member in good standing of the District of Columbia Bar or otherwise authorized to practice law pursuant to Rules 49(c)(1), (4), (8), or (9) of the District of Columbia Court of Appeals;

(b) Admitted to practice before the highest court of any state upon the granting by the Rent Administrator of a motion to appear *pro hac vice*; or

(c) A law student who is practicing under the supervision of an attorney authorized to practice law in the District of Columbia and who is admitted to practice in the District of Columbia as part of a program approved by an accredited law school for credit; except that a law student who has been denied admission to practice before the District of Columbia Court of Appeals pursuant to its Rule 48 may not appear before the Rent Administrator; and provided, that the Rent Administrator may terminate a law student's representation under this subsection at any time, for any reason, without notice or hearing.

3918.8 An attorney wishing to appear *pro hac vice* in accordance with § 3918.7(b) shall file a motion in which the attorney shall declare under penalty of perjury that:

(a) I have not applied for admission *pro hac vice* in more than five cases in the Office of Administrative Hearings, in the Rental Accommodations Division or the Commission, or in the courts of the District of Columbia during this calendar year. I have applied for admission *pro hac vice* in the Office of Administrative Hearings, in the Rental Accommodations Division or the Commission, and in the courts of the District of Columbia _____ (list number) times previously in this calendar year;

(b) I am a member in good standing of the bar of the highest court(s) of the State(s) of _____ (list all states);

(c) There are no disciplinary complaints pending against me for violation of the rules of the courts of those states;

(d) I am not currently suspended or disbarred from practice in any court;

(e) I do not practice or hold out to practice law in the District of Columbia;

(f) I am familiar with the Rent Administrator's rules found at 14 DCMR Chapter 39;

(g) I am applying for admission *pro hac vice* for the following reason(s): _____ (list all reasons);

(h) I acknowledge the jurisdiction of the Rent Administrator, the Office of Administrative Hearings, the Commission, and the courts of the District of Columbia over my professional conduct, and agree to be bound by the District of Columbia Court of Appeals Rules of Professional Conduct, in this matter, if I am admitted *pro hac vice*; and

(i) I have informed my client that I am not a member of the District of Columbia Bar, and my client has consented to my representation in this case.

3918.9 A law student wishing to appear as an attorney in accordance with § 3918.7(c) shall:

(a) Be enrolled in a law school approved by the American Bar Association and have successfully completed forty-two (42) credit hours;

(b) Have the consent and oversight of a supervising attorney assigned to the law student;

(c) Sign a notice of appearance in the case with the supervising attorney and file such notice with the Rent Administrator;

(d) Have the written permission of the client, which must be filed in the record;

(e) Not file any paper unless the law student and supervising attorney sign it;

(f) Not appear at any proceeding without the supervising attorney;

(g) Neither ask for nor receive a fee of any kind for any services provided under this rule, except for the payment of any regular salary made to the law student; and

(h) Comply with any limitations ordered by the Rent Administrator.

3918.10 An attorney who has appeared *pro hac vice* or as a supervised law student before the Office of Administrative Hearings pursuant to 1 DCMR § 2833 or the Commission pursuant to § 3812 of this title may appear before the Rent Administrator in the same matter without filing a new motion or notice to so appear; provided, the law student shall be subject to the same requirements enumerated in § 3918.8 or § 3918.9, respectively.

3918.11 An individual whose practice or appearance before the Office of Administrative Hearings or the Commission has been restricted shall be subject to the same restriction before the Rent Administrator.

3918.12 The Rent Administrator may disqualify or deny, temporarily or permanently, the privilege of appearing or practicing before the Rent Administrator to any individual who is found by the Rent Administrator, after notice and an opportunity to respond, either to be lacking in the requisite qualifications to represent others or to have engaged in unethical, improper or unprofessional conduct; provided, that any individual who is appearing or practicing before the Rent Administrator who willfully misleads the Rent Administrator or the staff of the Rental Accommodations Division by a false statement of fact or law shall be disqualified permanently.

3918.13 An attorney who fails to comply with the provisions of the Rules of Professional Conduct may be referred to the Office of Bar Counsel or may be disqualified from appearing before the Rent Administrator.

3918.14 An individual appearing before the Rent Administrator who is or ever has been a member of the District of Columbia Bar or the bar of any state shall be subject to the standards of conduct for an attorney under this section, regardless of whether that person appears as a non-attorney representative; provided, that nothing in this subsection shall prohibit an individual, receiver, or beneficiary from appearing *pro se* in accordance with § 3918.1(b).

3919 OFFICIAL RECORD OF A PROCEEDING

3919.1 The official record of a petition or complaint filed with the Rental Accommodations Division shall consist of the following:

(a) All decisions or orders of the Rent Administrator;

(b) All notices, transcripts, documents, and exhibits filed as part of a petition or application before Rental Accommodations Division, the Rent Administrator, or the Commission;

(c) Memoranda, if any, of *ex parte* communications as required by § 3916;

(d) Housing accommodation registration files and any other documents found in the public record of which the Rent Administrator took official notice; and

(e) All petitions, complaints, or pleadings filed with the Rent Administrator in the course of the proceeding.

3920 MOTIONS

3920.1 A request for the Rent Administrator to take a particular action shall be made by filing a written motion.

3920.2 Motions shall be filed with the Rent Administrator in accordance with § 3901 and served on other parties in accordance with § 3911.

3920.3 A written motion may be filed at any time unless the time for filing a specific type of motion is prescribed by the rules in this chapter or the provisions of the Act.

3920.4 The party making a motion shall have the burden of proving that the requested action is warranted. A written motion shall state the legal and factual reasons why the Rent Administrator should take the requested action, and a separate memorandum of points and authorities does not need to be filed.

3920.5 When a motion is based on information not on the record, a party may support or oppose the motion by attaching affidavits, declarations, or other papers. The Rent Administrator may order a party to file supporting affidavits, declarations, or other papers.

3920.6 Before filing any motion, except a motion to dispose of a petition or application or for reconsideration of a final decision and order, a party must make a good faith effort to ask all parties if they agree to the motion. The motion shall state what effort was made and whether all other parties agreed to the motion.

(a) A "good faith effort" means a reasonable attempt, considering all the circumstances, to contact a party or representative in person, by telephone, by fax, by e-mail, or by other means.

(b) Contact by U.S. mail is a good faith effort only if no other means is reasonably available (for example, not having another party's telephone number or e-mail address).

(c) By itself, serving a party with the motion is not a good faith effort to ask if the party agrees to the motion.

(d) If a party fails to make a good faith effort to seek agreement, the Rent Administrator may deny the motion without prejudice.

3920.7 Any party may file a response to a motion within ten (10) days after service of the motion. No further filings related to the motion are permitted unless ordered by the Rent Administrator.

3920.8 A motion for expedited hearing or other form of expedited relief shall be acted upon promptly.

3920.9 The Rent Administrator shall grant or deny each motion by issuing a written order that shall be served on all parties, or a party's representative of record, by U.S. mail in accordance with § 3911.3.

3921 OFFICIAL NOTICE

3921.1 During the disposition of a petition or complaint, the Rent Administrator, on his or her own motion or on the motion of a party, may take official notice of the following:

(a) Matters of common knowledge;

(b) Any information contained in the record of the Rental Accommodations Division; or

(c) Any information contained in the records of any federal or District agency, board or commission; provided, that all parties have been given notice of the Rent Administrator's intention to do so and have been given an opportunity to show the contrary.

3921.2 Official notice taken of any fact shall satisfy a party's burden of proving that fact.

3921.3 If the Rent Administrator takes official notice of information contained in public records, as described in this section, all parties are entitled to be informed in writing of the fact found by the Rent Administrator, and to be provided an opportunity to contest the fact(s) officially noticed before a decision is issued.

3921.4 Any registration files or other public documents of which the Rent Administrator takes official notice shall be entered into the official record of the proceeding in accordance with § 3919.1(e).

3922 INTERLOCUTORY APPEALS

3922.1 An interlocutory appeal is an appeal taken prior to the issuance of a final decisions or orders of the Rent Administrator on a proceeding.

3922.2 An interlocutory appeal shall only be permitted if the Rent Administrator certifies the issue for review by the Commission on his or her own initiative or by motion of any party to a proceeding before the Rental Accommodations Division.

3922.3 The Rent Administrator shall certify an interlocutory appeal only if he or she determines that the issue presented is of such importance in a proceeding that it requires the immediate attention of the Commission, and only if the following are shown:

(a) The issue presented involves an important question of law or policy requiring interpretation of the Act or this title, and about which there is substantial basis for difference of opinion; and

(b) Either of the following applies:

(1) An immediate decision will materially advance the disposition of a petition, application, or complaint before the Rental Accommodations Division; or

(2) Refusal to make or issue an immediate ruling will cause undue harm to the parties or the public.

3922.4 A party seeking review by interlocutory appeal shall file a motion for certification within ten (10) days of a ruling by the Rent Administrator. The Rent Administrator shall rule on the motion within ten (10) days following the filing of the motion.

3922.5 If certification is denied, the ruling may be raised as part of an appeal of the final decision of the Rent Administrator or, if the case is later transferred to the Office of Administrative Hearings, the final decision of the Office of Administrative Hearing.

3923 DECISIONS OF THE RENT ADMINISTRATOR

3923.1 The Rent Administrator shall issue a final order for each petition, application, or complaint filed with the Rental Accommodations Division for which the Rent Administrator retains jurisdiction and is not required to transfer to the Office of Administrative Hearings by Chapters 41-44 of this title.

3923.2 A final order shall contain the following:

(a) Findings of fact and conclusions of law (including the reasons or basis of those findings) upon each issue presented in the proceeding;

(b) The final disposition of the petition or complaint, (including appropriate relief and any penalties, if applicable under the Act); and

(c) A statement of the parties' right to appeal.

3923.3 A decision shall become final and effective when issued pursuant to §§ 3923.1 and 3923.2, except that if a motion for reconsideration is filed, the decision shall not become final until the motion is disposed of in accordance with § 3924.

3923.4 The ten (10) business day time limit in which an appeal to the Commission shall be filed, as prescribed in § 216(h) of the Act (D.C. Official Code § 42-3502.16(h)) and § 3802.2 of this title, shall begin to run when the decision becomes final.

3924 RECONSIDERATION OR MODIFICATION OF FINAL ORDERS

3924.1 Any party adversely affected by a final order of the Rent Administrator in a proceeding may file a motion for reconsideration or modification with the Rent Administrator within ten (10) business days of service of the order; provided, that an order issued on reconsideration is not subject to reconsideration.

3924.2 If any party files a motion for reconsideration or modification within the time provided in § 3924.1, the effect of the final order shall be stayed and the time for seeking review of the order by the Commission shall not start to run until either the Rent Administrator rules on the motion or the motion is denied automatically by the expiration of the time provided in § 3924.4.

3924.3 A motion for reconsideration shall contain a short and plain statement of the specific grounds on which the moving party considers a final order to be erroneous or unlawful. Grounds for reconsideration shall be as follows:

(a) The moving party failed to respond to a motion of another party or to respond to an order of the Rent Administrator, which resulted in a dismissal or denial of the party's position, and the party has good reason for failing to respond;

(b) The decision or order contains a clear mistake in the application of law;

(c) The decision or order contains a clear mistake of the factual record; or

(d) There has been a change in circumstances since the initiation of the appeal that makes any relief provided by the decision impossible or inequitable.

3924.4 Within thirty (30) days of the filing of a motion for reconsideration, the Rent Administrator shall grant the motion, deny the motion or issue an order enlarging the time for later disposition of the motion.

3924.5 Failure of the Rent Administrator to act in the time prescribed by § 3924.4 shall constitute a denial of the motion for reconsideration.

3924.6 A motion for modification shall contain a short and plain statement of a specific error that is typographical, numerical, or technical in nature.

3924.7 The ten (10) business day time limit in which an appeal to the Commission shall be filed, as prescribed in § 216(h) of the Act (D.C. Official Code § 42-3502.16(h)) and § 3802.2 of this title, shall begin to run when a motion for reconsideration or modification is granted or denied.

3925 LATE FILINGS AND AMENDMENT OF PLEADINGS

3925.1 When a party is allowed to or required to take action within a specific time period under this chapter or an order of the Rent Administrator, the party may request, by motion, an extension of the time period, even after the period has expired.

3925.2 Motions under this section shall set forth good cause for the relief requested.

3925.3 Before filing a motion under this section, a party must make a good faith effort to ask all parties if they agree to the motion, in accordance with § 3920.6.

3926 SHOW CAUSE ORDERS

3926.1 A show cause proceeding may be initiated by the Rent Administrator after an investigation by the Rent Administrator has resulted in a determination that there are substantial grounds to believe that violations of the Act may have occurred.

3926.2 The investigation of possible violations of the Act may be conducted as a result of the review of the records of the Rental Accommodations Division, or the records of federal or District courts and agencies.

3926.3 Investigations of possible violations may also be conducted on the basis of complaints and allegations received orally or in writing by the Rent Administrator.

3926.4 If an investigation by the Rent Administrator finds substantial grounds to believe that possible violations of the Act have occurred, the Rent Administrator may prepare and serve an order to show cause on the alleged violator and file a copy with the Office of Administrative Hearings.

3926.5 A determination by the Rent Administrator, after an investigation, that there are no substantial grounds to believe a possible violation of the Act has occurred shall not preclude any person from seeking any relief to which they may be entitled under the Act in any forum, nor shall such a determination provide safe harbor or other defense to a person alleged to have violated the Act.

3926.6 An order to show cause shall state clearly the section of the Act or regulation that has allegedly been violated, along with a brief statement of the evidence found during the investigation that supports the determination that the alleged violation has occurred.

3926.7 An order to show cause shall also set forth the proposed corrective action that the Rent Administrator seeks or the sanction that the Rent Administrator seeks to have imposed upon the alleged violator, which may include a civil fine of up to five thousand dollars ($5,000) per violation pursuant to § 901(b) of the Act (D.C. Official Code § 42-3509.01(b)).

3926.8 Notice of an order to show cause shall be served on the alleged violator, in accordance with the provisions of § 3911, on the same day as the as the order to show cause is filed with the Office of Administrative Hearings.

3926.9 At a show cause hearing, the burden of proof shall be upon the Rent Administrator, except claims or defenses for which the burden is shifted as provided by the Act, Chapters 41-44 of this title, or 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941.

3926.10 A show cause hearing shall be conducted by the Office of Administrative Hearings consistent with the provisions of 1 DCMR Chapters 28 and 29.

3926.11 The issues in a show cause hearing shall be disposed of in a final decision and order of the Office of Administrative Hearings, which may be appealed to the Commission in accordance with Chapter 38.

3926.12 There shall be no intervenors as a matter of right in a show cause hearing.

3926.13 A request to intervene may be made by motion to the Office of Administrative Hearings in accordance with 1 DCMR § 2816.

3926.14 Affected housing providers, tenants, and other persons with relevant evidence shall be permitted to testify as witnesses at show cause hearings.

3927 COMPLIANCE

3927.1 The Rent Administrator shall issue a notice of non-compliance when an investigation results in a determination that a failure to comply with an order of the Rent Administrator, Office of Administrative Hearings, or the Commission may have occurred.

3927.2 An investigation of possible failure to comply with an order of the Rent Administrator, Office of Administrative Hearings, or the Commission may be conducted for the following reasons:

(a) As a result of the review of the records of the Rental Accommodations Division and other District agencies;

(b) On the basis of complaints and allegations received orally or in writing by the Rent Administrator, the Office of Administrative Hearings, or the Commission; or

(c) As a result of an investigation undertaken by the Rent Administrator.

3927.3 If an investigation by the Rent Administrator has found substantial grounds to believe that possible failure to comply with an order may have occurred, a notice of non-compliance shall be prepared and served on the alleged violator.

3927.4 The notice of non-compliance shall state clearly the section of the order which has allegedly not been complied with, along with a brief statement of the substantial evidence found during the investigation which supports the determination that a failure to comply has occurred.

3927.5 A notice of non-compliance shall be served on the alleged violator in accordance with the service of notice provisions under § 3911 and shall contain a statement providing the alleged violator with fifteen (15) days to reply to the notice of non-compliance.

3927.6 If the alleged violator fails to demonstrate compliance or reply to the notice of non-compliance within fifteen (15) days of receipt of the notice of non-compliance, the Rent Administrator shall immediately refer the matter to the Office of the Attorney General for appropriate enforcement or to the Department of Consumer and Regulatory Affairs if the conduct or inaction also constitutes a violation of any law or regulation enforced by that agency.

3928 RELIEF FROM JUDGMENT

3928.1 On motion and upon such terms as are just, the Rent Administrator may relieve a party from a final order issued by the Rent Administrator for the following reasons:

(a) Mistake, inadvertence, surprise, excusable neglect; newly discovered evidence which by due diligence could not have been discovered in time to move for reconsideration under § 3924;

(b) Fraud, misrepresentation, or other misconduct of an adverse party; or

(c) The decision has been satisfied, released, or discharged, or a prior decision upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the decision have prospective application.

3928.2 A motion filed pursuant to § 3928.1 shall be filed within a reasonable time after the date the grounds for relief first exist or are discovered; provided, that motions filed pursuant to § 3928.1(a) or (b) shall not be filed more than one (1) year after the order was issued.

3928.3 The filing of a motion under this section does not stay the effectiveness of a final order or extend the time to file an appeal.

3929 RENT ADMINISTRATOR PROCEDURES GENERALLY

3929.1 When these rules are silent on a procedural issue before the Rent Administrator, issues must be decided by using as guidance the current rules of civil procedure published and followed by the Superior Court of the District of Columbia.

3930 ATTORNEY'S FEES-RENT ADMINISTRATOR

3930.1 A prevailing party in a contested case may be awarded attorney's fees for work performed while a matter is pending before the Rent Administrator and Rental Accommodations Division, in accordance with § 3825.

3930.2 A motion for attorney's fees shall be filed with the Office of Administrative Hearings or the Commission, as applicable.

3999 DEFINITIONS

3999.1 The provisions of § 3899 of Chapter 38 of this title and the definitions set forth in that section shall be applicable to this chapter.

CHAPTER 40: [REPEALED]

CHAPTER 41: COVERAGE AND REGISTRATION

SECTION

4100 SCOPE AND COVERAGE OF THE RENTAL HOUSING ACT

4100.1 The jurisdiction of the Rent Administrator and of the Rental Housing Commission extends to all rental units in the District of Columbia that are covered by the Act and to all housing accommodations in which a covered rental unit is located, except for matters under titles III and VIII of the Act (D.C. Official Code §§ 42-3503.01 *et seq.* and 42-3507.01 *et seq.*).

4100.2 The jurisdiction of the Rent Administrator and of the Rental Housing Commission extends to all tenants of a rental unit covered by the Act and to all housing providers of a covered rental unit, except for matters under titles III and VIII of the Act (D.C. Official Code §§ 42-3503.01 *et seq.* and §§ 42-3507.01 *et seq.*).

4100.3 All rental units in the District of Columbia are covered by the Act except those rental units excluded from coverage by § 205(e) of the Act (D.C. Official Code § 42-3502.05(e)) and § 4105 of this chapter; provided, that no rental unit shall be excluded under § 205(e)(4) of the Act (the non-profit exclusion) without the prior approval of the Rent Administrator issued pursuant to § 4105 of this chapter.

4101 REGISTRATION REQUIREMENTS OF RENTAL UNITS AND HOUSING ACCOMMODATIONS

4101.1 Each rental unit covered by the Act, as provided by § 4100.3, and the housing accommodation of which a covered rental unit is a part, including rental units

exempt from the Rent Stabilization Program, shall be registered with the Rental Accommodations Division in accordance with this chapter.

4101.2 The terms "to register" and "registration" shall mean filing, in accordance with § 4102, a form approved by the Rent Administrator that contains:

(a) For a rental unit covered by the Rent Stabilization Program, the information required to establish and regulate rents charged pursuant to § 205(f) of the Act (D.C. Official Code § 42-3502.05(f)) and Chapter 42 of this title ("Rent Stabilization Registration Form"); or

(b) For rental units that may be exempt from the Rent Stabilization Program, the information required to establish the claim of exemption pursuant to § 205(a) of the Act (D.C. Official Code § 42-3502.05(a)) and § 4106 of this chapter ("Claim of Exemption Form").

4101.3 The registration requirements of this chapter shall be satisfied for any newly established rental unit, any converted rental unit subject to § 208(b) of the Rental Housing and Sale Act of 1980 (D.C. Official Code § 42-3402.08(b)), any rental unit that ceases to be excluded from the Act under § 205(e) of the Act (D.C. Official Code § 42-3502.05(e)) and § 4105 of this chapter, or any rental unit that has not been previously, properly registered only if the following occurs:

(a) The housing provider of the rental unit and housing accommodation properly completes and files with the Rent Administrator a new Rent Stabilization Registration Form or Claim of Exemption Form in the manner prescribed by § 4102; and

(b) The housing provider timely complies with the posting or mailing requirements of § 4101.6 to provide notice to tenants.

4101.4 Until such time as all housing providers are required to re-register pursuant to the Rental Housing Registration Update Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-168; 65 DCR 9388 (September 14, 2018)), including any temporary or emergency legislation to extend such time, the registration requirements of this chapter shall be satisfied for any rental unit that was previously, properly registered under the following laws or regulations only if no change in circumstances has required the housing provider to file a new or amended registration:

(a) The Rental Housing Act of 1980 only if the prior registration claimed an exemption from rent stabilization and the rental unit can be claimed as exempt from the Rent Stabilization Program on the same basis under current law;

(b) The Rental Housing Emergency Act of 1985 (D.C. Law 6-18); or

(c) Any version of this chapter promulgated by emergency or final rulemaking before the effective date provided by § 3800.10.

4101.5 All Rent Stabilization Registration Forms and Claim of Exemption Forms filed with the Rent Administrator under the Act and this chapter shall be available for public inspection in the Housing Resource Center of the Department of Housing and Community Development and by the internet-accessible database maintained by the Rent Administrator in accordance with § 203c of the Act (D.C. Official Code § 42-3502.03c) and § 3900.9 of this title.

4101.6 A housing provider who files a Rent Stabilization Registration Form or Claim of Exemption Form under the Act shall, within fifteen (15) days of the filing date, as indicated by the Rental Accommodations Division date-stamp, provide a true copy of the form bearing the registration or exemption number from the Rent Administrator to all tenants of the housing accommodation as follows:

(a) If the housing accommodation to which the form applies contains multiple rental units and common elements that are owned, managed, or maintained by the housing provider, by posting the copy in a conspicuous place at the rental unit or housing accommodation and keeping the copy posted in that place for the duration of its validity, until a new or amended filing is required by § 4103; or

(b) If the housing accommodation to which the form applies consists of a single rental unit, or no suitable location is available at the housing accommodation for posting as described in paragraph (a):

(1) By sending the copy to each tenant of the rental unit or housing accommodation by U.S. mail or a commercial delivery service by any method that includes a certificate of mailing; or

(2) By personal service.

4101.7 A rental unit or housing accommodation for which a Rent Stabilization Registration Form or Claim of Exemption Form has not been timely posted or mailed shall be deemed unregistered or not exempt until the housing provider complies with the requirements of this section.

4101.8 Any housing provider who has failed to meet the registration requirements of this chapter, until a Rent Stabilization Registration Form or Claim of Exemption Form is properly filed in accordance with § 4101.2 and after notice has been posted or mailed in accordance with § 4101.6, shall not be eligible for and shall not file or implement any increase in the rent charged or change in related services or facilities for a rental unit that is not properly registered, whether or not the rental unit may be eligible for an exemption from the Rent Stabilization Program.

4102 REGISTRATION PROCEDURES

4102.1 Each rental unit required to be registered by this chapter shall be listed on a Rent Stabilization Registration Form or Claim of Exemption Form filed with the Rental Accommodations Division in accordance with § 3901 for the housing accommodation of which the rental unit is a part.

4102.2 Except as provided by § 4102.3, by § 4107 if claiming the small landlord exemption, or by § 4108 if claiming the cooperative exemption, each housing accommodation that has a separate street address shall be registered by filing a separate Rent Stabilization Registration Form or Claim of Exemption Form with the Rental Accommodations Division.

4102.3 If a multi-building housing complex consists of more than one (1) street address but is operated under a single housing business license, the housing provider shall file a single Rent Stabilization Registration Form or Claim of Exemption Form with the Rental Accommodations Division to register the complex as a single housing accommodation, stating each street address comprising the housing accommodation. If a multi-building housing complex, or a single structure containing multiple rental units with one street address, is operated under more than one (1) housing business license, a housing provider shall file a Rent Stabilization Registration Form or Claim of Exemption Form to register one housing accommodation for each housing business license used.

4102.4 A residential condominium unit rented or offered for rent by its separate owner shall be deemed to be a housing accommodation consisting of one (1) rental unit, and shall be registered on a separate Rent Stabilization Registration Form or Claim of Exemption Form, in accordance with § 4102.2, except where the housing provider owns more than one (1) and fewer than five (5) rental units in the District of Columbia and claims the small landlord exemption in accordance with § 4107. Each condominium unit leased to and occupied by an elderly tenant or tenant with a disability with a qualifying income by a condominium association pursuant to § 208(a) of the Rental Housing Conversion and Sale Act of 1980 (D.C. Official Code § 42-3402.08(a)) shall be registered by the association as a rental unit within the housing accommodation that was converted pursuant to the Rental Housing Conversion and Sale Act of 1980.

4102.5 A Rent Stabilization Registration Form or Claim of Exemption Form that is filed by a housing provider shall be accompanied by a copy of the housing business license for the premises that constitutes a housing accommodation, as required by 14 DCMR §§ 200-207. The street address of a housing accommodation on a Rent Stabilization Registration Form or Claim of Exemption Form shall be the same as the street address shown on the housing business license.

4102.6 Each Rent Stabilization Registration Form or Claim of Exemption Form shall contain:

(a) The name, street address (not including mailbox services or post office box addresses), and telephone number of the owner of the housing accommodation, including, if claiming the small landlord or cooperative exemptions pursuant to §§ 4107 or 4108, each person with an interest, directly or indirectly, in the housing accommodation; and

(b) If the owner is a non-resident of the District of Columbia, the name and street address (not including mailbox services or post office box addresses) and any other contact information of the registered agent, as required by the Department of Consumer and Regulatory Affairs pursuant to D.C. Official Code § 42-903(b) and 14 DCMR § 203.

4102.7 If a housing accommodation required to be registered under this chapter contains one (1) or more rental units excluded from coverage under the Act pursuant to § 205(e) of the Act (D.C. Official Code § 42-3502.05(e)), or one (1) or more rental units exempt from the Rent Stabilization Program pursuant to § 205(a) of the Act (D.C. Official Code § 205(a)), the housing provider shall identify the excluded or exempt rental units on the Rent Stabilization Registration Form or Claim of Exemption Form for the housing accommodation and shall specify the section of the Act under which the exclusion or exemption is claimed.

4102.8 A housing provider registering under the Act shall submit to the Rent Administrator an original and one (1) copy of each Rent Stabilization Registration Form or Claim of Exemption Form to be filed.

4102.9 The Rent Administrator shall accept for filing, date-stamp, and, after a review of the filing, assign a registration or exemption number to each housing accommodation for which the Rent Stabilization Registration Form or Claim of Exemption Form meets the requirements of this chapter and shall promptly return to the housing provider the date-stamped copy of the form bearing the registration or exemption number.

4102.10 If the housing accommodation or any rental units being registered are subject to the Rent Stabilization Program, the registration number shall be identical to the housing business license number issued by the D.C. Department of Consumer and Regulatory Affairs. If the housing accommodation is or any rental units being registered are claimed to be exempt from the Rent Stabilization Program, the Rent Administrator shall issue an exemption number in accordance with the procedures of the Rental Accommodations Division.

4103 CHANGES TO REGISTRATION AND CLAIM OF EXEMPTION FORMS

4103.1 A housing provider of a rental unit or units covered by the Act shall file an amendment to the Rent Stabilization Registration Form or Claim of Exemption Form, on a form provided by the Rent Administrator, in the following circumstances:

(a) Within thirty (30) days after any change in the management of a registered housing accommodation; or

(b) For rental units covered by the Rent Stabilization Program, within thirty (30) days after approval of a change in the previously registered related services or facilities of a rental unit pursuant to § 211 of the Act and § 4211 of this title.

4103.2 A housing provider of a rental unit or units covered by the Act shall file a new Rent Stabilization Registration Form or Claim of Exemption Form in the following circumstances:

(a) Within thirty (30) days after any change in the ownership of a registered housing accommodation; or

(b) Within thirty (30) days after any change that causes a housing accommodation to no longer be exempt from the Rent Stabilization Program.

4103.3 A housing provider who files an amendment to a Rent Stabilization Registration Form or Claim of Exemption Form as required by § 4103.1 or who files a new form as required by § 4103.2 shall post or mail a date-stamped copy of the amendment form or the new form in accordance with § 4101.6.

4103.4 A housing provider who fails to file an amendment to or a new Rent Stabilization Registration Form or Claim of Exemption Form when required by § 4103.1 or .3 or to provide notice to tenants in accordance with § 4101.6 shall be deemed to have failed to register the rental unit or housing accommodation from the date on which the change in circumstances required housing provider to file the required form. The housing provider shall be deemed properly registered on the date on which the required form is date-stamped by the Rent Administrator; provided, that the housing provider timely complies with the notice requirements of § 4101.6.

4104 DEFECTIVE REGISTRATION

4104.1 The Rent Administrator shall review each Rent Stabilization Registration Form or Claim of Exemption Form after accepting it for filing in accordance with § 4102.9 in order to determine if the form has been properly completed. If, at the time of filing or subsequent to filing, the Rent Administrator determines that the form is defective under § 4104.3, the Rent Administrator shall notify the housing provider in writing of the specific defect(s) and allow the housing provider thirty (30) days to correct the defect(s).

4104.2 Any housing provider who has been notified in writing by the Rent Administrator of a defective registration and who does not correct the defects in thirty (30) days shall be deemed to have not met the registration requirements of this chapter and

shall not, until a corrected Rent Stabilization Registration Form or Claim of Exemption Form is properly filed and after notice has been posted or mailed in accordance with § 4101.6, be eligible for and shall not take or implement any increase in the rent charged or change in related services or facilities for a rental unit that is not properly registered, whether or not the rental unit may be eligible for an exemption from the Rent Stabilization Program.

4104.3 A Rent Stabilization Registration Form or Claim of Exemption Form shall be considered defective if:

(a) It is not signed;

(b) It is not completed in accordance with instructions accompanying the form;

(c) It contains incorrect information or is not accompanied by the required supporting documents as described in § 4102, § 4106, or on the form; or

(d) It is not accompanied by proof that the rental unit fee was paid as required by § 401 of the Act (D.C. Official Code § 42-3504.01) and § 4109 of this chapter.

4104.4 A housing provider that files a Rent Stabilization Registration Form or Claim of Exemption Form that is defective under § 4104.3, but notice of the defect(s) has not been provided in writing by the Rent Administrator, or the time for the housing provider to correct the defect(s) has not expired, shall only be deemed not to have met the registration requirements of this chapter if a defect is material to the validity of the registration or claim exemption. Material defects shall include, but not be limited to, those defects listed in §§ 4104.6 and 4104.7.

4104.5 If the Rent Administrator notifies a housing provider in writing of non-material defects in a Rent Stabilization Registration Form or Claim of Exemption Form and the defects are corrected within thirty (30) days, the registration shall be deemed to be proper from the date it was originally filed.

4104.6 If a Rent Stabilization Registration Form or Claim of Exemption Form is defective under § 4104.3(b) because it does not contain the name and contact information of the housing provider as required by § 4102.6, the Rent Administrator shall issue a written notice requiring that an amendment to the form be filed within thirty (30) days that provides the name and contact information of the housing provider.

4104.7 If a Rent Stabilization Registration Form or Claim of Exemption Form does not contain the ownership information or street address of a registered agent for service of process that is required by § 4102.6, the Rent Administrator shall issue a written notice requiring that an amendment to the form be filed, within thirty

(30) days of the notice, that provides the required ownership or agent information and the relationship between the owner(s) and the housing provider filing the form.

4105 EXCLUSIONS FROM COVERAGE BY THE ACT

4105.1 A rental unit shall be excluded from coverage of the Act, pursuant to § 205(e) of the Act (D.C. Official Code § 42-3502.05(e)), under the following circumstances:

(a) If the rental unit is operated by a foreign government as a residence for diplomatic personnel;

(b) If the rental unit is operated by a hospital, convalescent, nursing or personal care home, or other entity which has as its primary purpose providing diagnostic care and treatment of disease, including therapeutic transitional treatment facilities certified in accordance with D.C. Official Code § 44-1204, and the rental unit is occupied or intended for occupancy by a recipient of the diagnostic care or treatment of disease; or

(c) If the rental unit is or is part of a dormitory as defined in § 3899.2 of this title, and the rental unit is occupied or intended for occupancy by a matriculating student.

4105.2 A rental unit which is used or intended for use as long-term temporary housing under § 205(e)(4) of the Act (D.C. Official Code § 42-3502.05(e)(4)) may be excluded from coverage by the Act with the prior approval of the Rent Administrator if the housing provider files a request for an order of exclusion ("non-profit charitable application") in accordance with § 4105.3.

4105.3 A non-profit charitable application shall be filed in duplicate and shall include the following:

(a) The name and street address (not including mailbox services or post office box addresses) of the applicant housing provider, and documentation of the applicant's exemption from federal income tax under § 501(c)(3) of the Internal Revenue Code (26 USC § 501(c)(3)) and exemption from the District of Columbia franchise tax under D.C. Official Code § 47-1802.01(c)(3);

(b) A schedule identifying each rental unit covered by the application, whether the rental unit is vacant or occupied and, if occupied, the name of the tenant and the rent charged for the rental unit, if any;

(c) The plan of comprehensive social services to be offered by the applicant housing provider to the tenant, listing in detail the services to be provided and the obligations to be assumed by the tenant and the applicant housing

provider, and the criteria for qualification to be a tenant of a rental unit excluded from coverage under the Act;

(d) A schedule of proposed rents for each rental unit included in the application including the proposed rent charged for each rental unit for which exclusion may be denied under § 4105.6(b).

4105.4 Upon receipt of a properly executed and filed non-profit charitable application, the Rent Administrator shall promptly notify in writing the tenant of each occupied rental unit affected by the application of the following:

(a) The pendency of the application;

(b) The tenant's right to participate voluntarily in the proposed plan of comprehensive social services in which case the tenant's rental unit may be excluded from coverage by the Act, or to decline to participate in the proposed plan in which case the tenant's rental unit shall be covered by the Act; provided, that no tenant may elect to participate in the proposed plan if the tenant does not meet the income requirements of § 4105.7(b); and

(c) The tenant's right to oppose or contest the non-profit charitable application by filing written exceptions and objections with the Rent Administrator.

4105.5 The notice required by § 4105.4 shall be in a form approved by the Rent Administrator, and shall:

(a) Explain the plan and the effect of the proposed exclusion in sufficient detail to permit the tenant to make an informed choice; and give all affected tenants not less than thirty (30) days from the service of the notice in which to make the election to participate in the plan or not and to file written exceptions and objections, if any;

(b) State clearly that an affirmative election to participate in the plan is irrevocable for the duration of the tenancy;

(c) Provide a space for the tenant to indicate his or her irrevocable election to participate or not in the proposed comprehensive plan, or to decline to participate and state his or her exceptions and objections, if any, to the plan; and

(d) Be returnable to the Rent Administrator over the tenant's signature.

4105.6 Upon consideration of properly filed exceptions and objections in accordance with § 4105.5(a), the Rent Administrator shall either:

(a) Approve a non-profit charitable application for each vacant rental unit and each rental unit occupied by a tenant who elects to participate in the applicant's proposed plan of comprehensive social services; or

(b) Dismiss a non-profit charitable application for each rental unit occupied by a tenant who elects not to participate in the applicant's proposed plan or who fails to make an election within the time provided; provided, that the Rent Administrator shall grant exclusion to a covered, occupied rental unit at any time if the eligible tenants under § 4105.7(b) notify the Rent Administrator in writing that they elect to participate in the plan.

4105.7 The Rent Administrator shall approve a non-profit charitable application and issue an order of exclusion only if the Rent Administrator determines the following:

(a) The rental unit shall be operated under the proposed plan of comprehensive social services;

(b) The rental unit shall be occupied by a family of one (1) or more members that has a household income less than fifty percent (50%) of the median income in the District of Columbia for a family of the same size; or a family who previously indicated agreement to participate in the housing provider's plan under the Act or prior rent control law and met the income requirements at the time of the previous election;

(c) The rental unit is occupied as long-term temporary housing; and

(d) The applicant housing provider is recognized as a non-profit charitable corporation by the District of Columbia and federal governments.

4105.8 An order by the Rent Administrator denying a non-profit charitable application may be appealed to the Commission within ten (10) business days of its issuance, in accordance with Chapter 38 of this title.

4106 CLAIMS OF EXEMPTION FROM RENT STABILIZATION PROGRAM

4106.1 A housing provider who claims that a rental unit is exempt from the Rent Stabilization Program shall file a Claim of Exemption Form with the Rent Administrator in accordance with § 4101. All rental units in the District of Columbia shall be subject to the Rent Stabilization Program unless a valid claim of exemption is filed in accordance with this section.

4106.2 Each Claim of Exemption Form shall contain a signed oath or affirmation by the housing provider that a claim of exemption is valid.

4106.3 A Claim of Exemption Form that is accepted for filing in accordance with § 4102.9 shall, after review, be issued an exemption number by the Rent Administrator.

4106.4 The Rent Administrator may initiate a review of a claim of exemption at any time to require a housing provider to show his or her entitlement to the exemption through a show cause proceeding, in accordance with § 3926.

4106.5 A housing provider that claims an exemption shall bear the burden, in all circumstances, of proving its entitlement to the exemption and that its claim was properly and timely filed.

4106.6 Failure to file or to later provide accurate information in accordance with the Act and this section may result in the rejection of the filing of the Claim of Exemption Form, a determination by the Rent Administrator that the registration is defective, a determination in any legal proceeding that the housing provider has failed to meet the registration requirements of this chapter, or the imposition of other penalties and sanctions, including rent refunds and civil fines under § 901 of the Act (D.C. Official Code § 42-3509.01).

4106.7 Claims of exemption found to contain defects may be corrected by the housing provider in accordance with § 4104.

4106.8 Prior to the execution of a lease or other rental agreement, a prospective tenant of any unit claimed to be exempt under § 205(a) of the Act (D.C. Official Code § 42-3502.05(a)) and this section shall receive from the housing provider a written notice, on a form published by the Rent Administrator in accordance with § 222(b)(1) of the Act (D.C. Official Code § 42-3502.22(b)(1)) and § 4111 of this chapter, advising the prospective tenant that rent increases for the housing accommodation are not regulated by the Rent Stabilization Program. As provided in §§ 4111.7 – 4111.9, for any rental unit that could otherwise be properly claimed as exempt but for which a tenant did not receive notice of the exempt status prior to execution of the rental agreement, the housing provider shall be deemed to have not met the registration requirements of this chapter until thirty (30) days after the tenant is provided with the required notice.

4106.9 Notwithstanding any other requirement of this chapter, a housing accommodation or rental unit that is owned by the federal or District of Columbia government or an instrumentality thereof shall be exempt from the Rent Stabilization Program under § 205(a)(1) of the Act (D.C. Official Code § 42-3502.05(a)(1)) without filing a Claim of Exemption Form.

4106.10 A rental unit may be exempt under § 205(a)(1) of the Act (D.C. Official Code § 42-3502.05(a)(1)) (the government subsidy exemption), as long as the rental unit is enrolled in a formal program of the federal or District of Columbia government under which the operating expenses or mortgage are subsidized.

4106.11 A rental unit may be exempt under § 205(a)(1) of the Act (D.C. Official Code § 42-3502.05(a)(1)) where the unit is rented to or co-leased by a home and community-based services waiver provider and occupied by a tenant with a disability.

4106.12 A rental unit may be exempt under § 205(a)(2) of the Act (D.C. Official Code § 42-3502.05(a)(2)) (the new construction exemption), where:

(a) The rental unit is:

(1) In a housing accommodation for which the building permit was issued after December 31, 1975; or

(2) Newly created in an addition to a housing accommodation or converted from non-residential space in a housing accommodation, where the addition or conversion was first covered by a Certificate of Occupancy for housing use issued after January 1, 1980; and

(b) If the construction of the new housing accommodation under subparagraph (a)(1) required the demolition of an existing housing accommodation that was covered by the Act, the Claim of Exemption Form is accompanied by a certification that the number of newly constructed rental units exceeds the number of demolished rental units.

4106.13 A rental unit may be exempt under § 205(a)(3) of the Act (D.C. Official Code § 42-3502.05(a)(3)) (the small landlord exemption) if:

(a) The rental unit for which exemption is claimed meets the requirements of § 4107;

(b) The Claim of Exemption Form includes the name and street address (not including mailbox services or post office box addresses) of each person having a direct or indirect interest in the rental unit; and

(c) The Claim of Exemption Form includes the addresses of all other housing accommodations or rental units located in the District of Columbia in which the owners, individually or collectively, have a direct or indirect interest, and the number of rental units in each listed housing accommodation.

4106.14 A rental unit may be exempt under § 205(a)(4) of the Act (D.C. Official Code § 42-3502.05(a)(4)) (the continuous vacancy exemption), where it meets the following requirements:

(a) The housing accommodation was:

(1) Continuously vacant and not subject to a rental agreement during the period beginning on January 1, 1985, and ending on July 17, 1985 (the effective date of the Act); or

(2) Previously exempt under § 206(a)(4) of the Rental Housing Act of 1980; and

(b) The Claim of Exemption Form is filed prior to re-rental and includes a certification to the Rent Administrator that the housing accommodation fulfills the conditions set forth in subsection (a) and is in substantial compliance with the D.C. Housing Regulations when offered for rent.

4106.15 A rental unit may be exempt under § 205(a)(5) of the Act (D.C. Official Code § 42-3502.05(a)(5)) (the cooperative exemption) if:

(a) The rental unit for which exemption is claimed meets the requirements of § 4108; and

(b) The Claim of Exemption Form is filed in accordance with § 4107 (the small landlord exemption) and includes the signature of each person having a direct or indirect interest in the proprietary lease or occupancy agreement.

4106.16 A rental unit may be exempt under § 205(a)(7) of the Act (D.C. Official Code § 42-3502.05(a)(7)) if the housing accommodation of which the unit is a part:

(a) Is subject to a building improvement plan under the Apartment Improvement Program administered with grant funds under the Housing and Community Development Act of 1974 (42 USC §§ 5301 *et seq*.); provided, that the building improvement plan, accompanied by a certification signed by the tenants of seventy percent (70%) of the occupied units of the housing accommodation, is or was filed with the Rent Administrator at the time of execution; or

(b) Receives rehabilitation assistance under a multi-family assistance program of the Department of Housing and Community Development.

4107 SMALL LANDLORD EXEMPTION

4107.1 A rental unit may be exempt from the Rent Stabilization Program pursuant to § 205(a)(3) of the Act (D.C. Official Code § 42-3502.05(a)(3)) (the small landlord exemption) if:

(a) A Claim of Exemption Form is filed with the Rental Accommodations Division in accordance with §§ 4101, 4102, and 4106 of this chapter; and

(b) The claim of exemption for the rental unit, as filed, meets each requirement of this section.

4107.2 A rental unit may be exempt under this section if the Claim of Exemption Form shows that:

(a) A total of four (4) or fewer natural persons own or have an interest, directly or indirectly, in the rental unit; and

(b) The four (4) or fewer persons listed pursuant to paragraph (a) own or have an interest, directly or indirectly, in a collective total of four (4) or fewer rental units within the District of Columbia.

4107.3 A natural person does not include a partnership, corporation, limited liability company, an estate or revocable, irrevocable, or other trust except as provided by § 4107.4, or any other business association with a separate legal existence.

4107.4 A decedent's estate (or the personal representative thereof) or a testamentary trust that owns or has an interest in a rental unit may claim the small landlord exemption if the unit was validly claimed to be exempt under the decedent's ownership, at the time of his or her death.

4107.5 Notwithstanding § 4102.2, a housing provider that claims the small landlord exemption shall file a single Claim of Exemption Form that includes all rental units within the District of Columbia that are owned by the housing provider or in which the housing provider has an interest, directly or indirectly.

4107.6 All persons who own or have an interest, directly or indirectly, in each rental unit for which an exemption is claimed under this section shall be listed on the Claim of Exemption Form.

4107.7 All rental units within the District of Columbia that are owned by or in which each person listed in accordance with § 4107.6 has an interest, directly or indirectly, shall also be listed on the Claim of Exemption Form.

4107.8 For the purposes of this section, an interest in a rental unit shall mean ownership, in whole or in part, of the real property that constitutes or contains a rental unit. Membership in a cooperative housing association or ownership of a condominium unit shall not, on its own, be deemed to be an interest in any rental unit other than the unit that the member or owner is entitled to use and occupy.

4107.9 For the purposes of this section, an indirect interest in a rental unit shall be attributed to a person if:

(a) The rental unit is owned, directly or indirectly, except as provided by § 4107.11, by or for an individual's spouse, other than a spouse who is legally separated from the individual; or

(b) The rental unit is owned, directly or indirectly, by or for:

(1) A partnership, including a limited liability company or S corporation, or an unincorporated association, in which the person, directly or indirectly, has an interest of five percent (5%) or more in either the profits or capital of the partnership or association, whichever proportional interest is greater;

(2) An estate or trust of which the person is a beneficiary who has an actuarial interest of five percent (5%) or more, except as provided by § 4107.13, assuming the maximum exercise of discretion by the fiduciary in favor of the beneficiary, or a trust of which the person is considered the substantial owner under the Internal Revenue Code (26 USC §§ 671-679); or

(3) A corporation of which the person owns, directly or indirectly, more than five percent (5%) of the total value of the stock in the corporation.

4107.10 For the purposes of § 4107.9, if a person has an option to acquire an ownership or equity interest in a business entity, or an option to acquire an ownership or equity interest in a rental unit not including an option to purchase pursuant to the Rental Conversion and Sale Act of 1980, the interest shall be attributed to the person.

4107.11 For the purposes of § 4107.9(b), a business entity's ownership of a second business entity shall be attributed to an individual with an interest in the first business entity. Sequential attributions of ownership shall be in proportion to the percentage of the owner's interest; except, that any interest greater than fifty percent (50%) of the voting or managing rights in a partnership or corporation shall be attributed as one hundred percent (100%) ownership. For example, if Person A owns ten percent (10%) of the general stock in Corporation B, and Corporation B owns twenty five percent (25%) of the general stock in Corporation C, Person A shall be deemed to have a two and a half percent (2.5%) interest in Corporation C. For further example, if Person A owns 10% of the general stock in Corporation B, and Corporation B owns fifty one percent (51%) of "class A" voting shares of Corporation C, regardless of the total outstanding value of "class B" non-voting shares, Person A shall be deemed to have a ten percent (10%) interest in Corporation C.

4107.12 For the purposes of § 4107.9(b)(2), a beneficiary of an estate or trust who cannot under any circumstances receive any part of an interest held, directly or indirectly, by the estate or trust, including the proceeds from the disposition thereof, or the

income therefrom, does not have an actuarial interest in the rental unit. Thus, where an interest held, directly or indirectly, by a decedent's estate has been specifically bequeathed to certain beneficiaries and the remainder of the estate has been specifically bequeathed to other beneficiaries, the interest is attributable only to the beneficiaries to whom it is specifically bequeathed. Similarly, a remainderman of a trust who cannot under any circumstances receive any direct or indirect interest in the rental unit which is a part of the corpus of the trust (including any accumulated income therefrom or the proceeds from a disposition thereof) does not have an actuarial interest in the rental unit. However, an income beneficiary of a trust does have an actuarial interest in the rental unit if he or she has any right to the income from the rental unit, even though under the terms of the trust instrument the direct or indirect interest can never be distributed to him or her.

4107.13 Any rental units listed or required to be listed on a Claim of Exemption Form filed under this section that are part of a building, structure, or housing accommodation owned by a cooperative housing association shall be subject to § 4108.

4107.14 A rental unit shall not be omitted from a Claim of Exemption Form filed under this section by reason that it is vacant, unless the housing provider has permanently discontinued rental use of the unit, and, if applicable, the previous tenant of the unit was evicted in compliance with § 501 of the Act (D.C. Official Code § 42-3505.01).

4107.15 A Claim of Exemption Form filed pursuant to this section shall be amended or refiled whenever required by § 4103. If a change in ownership of any listed rental unit or in the interest(s) of any listed owner would invalidate the claimed exemption, a new Rent Stabilization Registration Form shall be filed for each rental unit that was previously claimed as exempt within thirty (30) days of the change.

4107.16 A housing provider not claim the small landlord exemption for any rental unit or housing accommodation that was covered by the Rent Stabilization Program prior to the current landlord taking ownership, if the landlord took ownership by one of the means listed in § 402(c)(2) of the Tenant Opportunity to Purchase Act of 1980 (D.C. Official Code § 42-3404.02(c)(2)) ("grandfathered unit"). If a housing provider claims the small landlord exemption for any other rental units, any grandfathered units shall be counted towards the aggregate number of rental units in which any owner has an interest in accordance with § 4107.2, but the grandfathered unit shall be separately registered as subject to the Rent Stabilization Program.

4108 COOPERATIVE EXEMPTION

4108.1 A rental unit may be exempt from the Rent Stabilization Program under § 205(a)(5) of the Act (D.C. Official Code § 42-3502.05(a)(5)) (the cooperative exemption) if:

(a) The building, structure, or housing accommodation of which the rental unit is a part is owned by a cooperative housing association ("co-op building"); and

(b) The housing provider claims this exemption by filing a Claim of Exemption Form claiming the small landlord exemption in accordance with § 4107; provided, that this section shall apply to each listed unit on the Form that is part of a co-op building.

4108.2 A unit in a co-op building exclusively offered for lease or occupancy to shareholders or members in a cooperative housing association ("exclusive unit") does not need to be registered by the association as a rental unit under this chapter.

4108.3 A rental unit in a co-op building shall not be exempt under this section if it is a non-exclusive unit, in which case the rental unit shall be registered by the association in accordance with this chapter, on a Claim of Exemption Form listing all non-exclusive units in the co-op building as part of one (1) housing accommodation.

4108.4 A shareholder's or member's stock ownership or membership in a cooperative housing association shall not constitute an interest in any other rental unit in the co-op building as to which the owner or member does not have a proprietary lease or occupancy agreement; provided, that if a co-op building includes any non-exclusive units, each shareholder or member shall be deemed to have an interest in each non-exclusive unit for the purposes of § 4107.

4109 REGISTRATION FEE

4109.1 Each housing provider required to be registered under this chapter shall pay the registration fee established by § 401 of the Act (D.C. Official Code § 42-3504.01) through the Department of Consumer and Regulatory Affairs ("DCRA") in accordance with § 207.1 of this title at the time its housing business license is issued or renewed or as otherwise directed by DCRA.

4109.2 The registration for any housing accommodation or rental unit for which the registration fee is unpaid shall be deemed to be defective in accordance with § 4104.3. If the registration fee is not paid when a housing provider first files a Rent Stabilization Registration Form or Claim of Exemption Form and the housing provider receives notice from the Rent Administrator of the defect, the housing provider may timely correct the defect in accordance with §§ 4104.2 and

.5. Thereafter, if the registration fee is not paid when required, the housing provider shall be deemed to not have met the registration requirements of this chapter until the fee is paid.

4110 CERTIFICATE OF ASSURANCE

4110.1 The Mayor, at the request of a housing provider, shall issue a Certificate of Assurance pursuant to § 221 of the Act (D.C. Official Code § 42-3502.21), for a housing accommodation exempted under § 205(a)(2) or (4) of the Act (D.C. Official Code §§ 42-3502.05(a)(2) or (4)), for which any building permit has been issued.

4110.2 A housing provider's request for a Certificate of Assurance shall be in writing and shall be accompanied by the following:

(a) A declaration that the housing accommodation is exempt from the Rent Stabilization Program under either §§ 205(a)(2) or (4) of the Act (D.C. Official Code §§ 42-3502.05(a)(2) or (4)); and

(b) A copy of any building permit issued for the housing accommodation after May 1, 1985.

4110.3 Within twenty (20) days after receipt of a properly filed request for a Certificate of Assurance, the Rent Administrator shall forward to the Mayor a determination of preliminary approval and a recommendation for issuance of a Certificate of Assurance.

4110.4 The Rent Administrator shall recommend denial where the Rent Administrator finds that the housing accommodation is not eligible for exemption under § 205(a)(2) or (4) of the Act (D.C. Official Code §§ 42-3502.05(a)(2) or (4)), or that a building permit has not been issued for the subject housing accommodation after May 1, 1985.

4111 DISCLOSURES TO NEW AND CURRENT TENANTS

4111.1 The tenant of any rental unit covered by the Act, as provided by § 4100.3, shall have the right to request, in writing, no more than one time in each calendar year, that the housing provider disclose, within ten (10) business days of the request:

(a) The amount of each rent increase implemented for the rental unit during the preceding three (3) years from the date of the request; and

(b) If the rental unit is subject to the Rent Stabilization Program, for each rent increase disclosed pursuant to paragraph (a):

(1) The type of the rent adjustment that was implemented;

(2) If a vacancy adjustment was implemented pursuant to § 213(a)(2) of the Act (D.C. Official Code § 42-3502.13(a)(2)) prior to the applicability date of the Vacancy Increase Reform Amendment Act of 2018 (D.C. Law 22-223), the identification of the substantially identical rental unit used; and

(3) If prior administrative approval was required for the rent adjustment, the case number of the petition or application and the date on which the approval became final.

4111.2 A housing provider of a rental unit covered by the Act shall maintain records of the following:

(a) The rent charged for the rental unit;

(b) Any tenant petition or any petition or application for a rent adjustment, rent surcharge, or adjustment in related services or facilities affecting the rental unit that has been filed and remains pending;

(c) Any rent surcharges authorized for the rental unit, including conditional rent surcharges currently implemented pursuant to a pending hardship petition under § 212 of the Act (D.C. Official Code § 42-3502.12) and § 4209 of this title, and the expiration date for any rent surcharges currently authorized pursuant to an approved capital improvement petition under § 210 of the Act (D.C. Official Code § 42-3502.10) and § 4210 of this title;

(d) The frequency with which rent increases may be implemented pursuant to any lease or, if the rental unit is subject to the Rent Stabilization Program, § 208(g) of the Act (D.C. Official Code § 42-3502.08(g));

(e) Whether the housing accommodation, or a specific rental unit within the housing accommodation, is subject to the Rent Stabilization Program, including the housing provider's current business license, the current Rent Stabilization Registration Form or Claim of Exemption Form that identifies the rental unit and any amendments to the Form;

(f) Copies of any notices of violations of the Housing Regulations, including the Property Maintenance Code, at the housing accommodation issued by the Department of Consumer and Regulatory Affairs within the past twelve (12) months, or at any time if the violation(s) has not been abated;

(g) A pamphlet published by the Rent Administrator that explains in detail using lay terminology the laws and regulations governing the implementation of rent increases and petitions permitted to be filed by housing providers and by tenants;

(h) The amount of:

(1) Any nonrefundable application fee collected or to be charged for the rental unit; and

(2) Any security deposit held or to be demanded, the interest rate on the deposit, and the means and timing by which the security deposit shall be returned to the tenant, in accordance with §§ 308-311 of this title;

(i) Whether the building of which the rental unit is a part is registered as a condominium or cooperative building or is in the process of converting to condominium or cooperative housing use or to any use that is not a housing accommodation;

(j) The ownership information required on the Rent Stabilization Registration Form or Claim of Exemption Form for the housing accommodation;

(k) Information known or that should have been known about the presence of indoor mold contamination, as defined by § 302(5) of the Air Quality Amendment Act of 2014 (D.C. Official Code § 8-241.01(5)), in the rental unit or common areas of the housing accommodation during the previous three (3) years, unless the mold has been remediated by an indoor mold remediation professional, as defined in § 302(6) of the Air Quality Amendment Act of 2014 (D.C. Official Code § 8-241.01(6)); and

(l) The Tenant Bill of Rights, as published by the Office of the Tenant Advocate.

4111.3 The Rent Administrator shall publish a form that, when properly completed by a housing provider, contains:

(a) A statement that the records described by § 4111.2 are available for inspection by a tenant;

(b) The location of the set of records maintained in accordance with § 4111.4; and

(c) A table of contents enumerating the categories of information contained in the set of records.

4111.4 A housing provider of a rental unit covered by the Act shall maintain a compilation of the records described in § 4111.2 for inspection by the tenant in:

(a) A publicly accessible area of the housing accommodation at which the housing provider or an agent is regularly present;

(b) If an area described in paragraph (a) is not available, the nearest business office maintained by the housing provider to the housing accommodation in the District of Columbia; or

(c) If an area described in neither paragraphs (a) nor (b) is available, in Portable Document Format (".pdf" file type) or other common electronic format for transmission to the tenant by electronic mail upon request and for paper delivery to the tenant by U.S. mail upon request.

4111.5 At the time a prospective tenant files an application to lease any rental unit covered by the Act, or, if no application is required, prior to the execution of, or oral agreement to, a lease or rental agreement, the housing provider shall provide the tenant with:

(a) A completed copy of the form described in § 4111.3; and

(b) A copy of each record or the document listed in § 4111.2; provided, that where petitions, forms, or other applications require supporting documentation such as financial statements, the supporting documentation need not be provided so long as it is made available as required by § 4111.4.

4111.6 The tenant of any rental unit covered by the Act shall have the right to request, no more than once per year, that the housing provider provide, within ten (10) business days of the request and without charge:

(a) A completed copy of the form described in § 4111.3; and

(b) A complete copy of the compilation of the records described in § 4111.2.

4111.7 A housing provider, without regard to whether a rental unit is claimed to be exempt from the Rent Stabilization Program, shall not increase the rent charged for a rental unit if the housing provider:

(a) Willfully fails to comply with any requirement of this section; or

(b) Fails to comply with any requirement of this section within ten (10) days of any written notice that the housing provider has failed to comply with the requirement.

4111.8 For the purposes of this section, the term "willfully" shall have the same meaning as provided in § 4217.8.

4111.9 The prohibition on rent increases provided by § 4111.7 shall last until thirty (30) days after the housing provider corrects the noncompliance.

4199 DEFINITIONS

4199.1 The provisions of § 3899 of Chapter 38 of this title and the definitions set forth in that chapter shall be applicable to this chapter.

4199.2 The provisions of § 3816 of Chapter 38 of this title shall be applicable to the calculation of any time periods provided by this chapter.

CHAPTER 42: RENT STABILIZATION PROGRAM

SECTION

4200 GENERAL OVERVIEW

4200.1 This chapter implements the Rent Stabilization Program, established by Title II of the Rental Housing Act of 1985 ("Act"), by limiting adjustments to the rent charged to a tenant for a covered rental unit.

4200.2 Prior to August 5, 2006, the Rent Stabilization Program regulated rents primarily by establishing a "rent ceiling" for each covered rental unit and further by limiting increases in the rent charged. Pursuant to the Rent Control Reform Amendment Act of 2006 (D.C. Law 16-145; 53 DCR 6688 (June 23, 2006)), rent ceilings are abolished, except that:

(a) A housing provider may increase the rent that is charged for a rental unit by implementing any previously unused adjustment to the rent ceiling of the unit pursuant to a petition or voluntary agreement that was approved by the Rent Administrator prior to, or for which approval was pending on, August 5, 2006; and

(b) Any petition or voluntary agreement for which approval remains pending in any proceeding under the Act shall be decided in accordance with the

provisions of the Act and this chapter in effect at the time the proceeding was initiated.

4200.3 The Rent Stabilization Program covers all rental units in the District of Columbia except those rental units that are:

(a) Exempt from the Rent Stabilization Program by § 205(a) of the Act (D.C. Official Code § 42-3502.05(a)) and § 4106 of this title; or

(b) Excluded from the scope of the Act by § 205(e) of the Act (D.C. Official Code § 42-3502.05(e)) and § 4105 of this title.

4200.4 The initial rent that may be charged for each rental unit covered by the Rent Stabilization Program shall be the amount established in accordance with §§ 4201, 4202, or 4203, as applicable.

4200.5 The rent that is charged to a tenant for a covered rental unit shall be filed by the housing provider with the Rental Accommodations Division, and the amount of rent charged on file shall be updated in accordance with § 4204, including when the amount of rent charged is reduced. No tenant shall be charged more rent than the lawfully calculated amount of rent that has been properly filed for the rental unit, plus any approved and lawfully implemented rent surcharges.

4200.6 As provided in § 4205, the rent that is or that may be charged for a rental unit may be increased no more than once every twelve (12) months, except in the case of a vacancy adjustment, and may be increased by an amount no greater than that allowed by one (1) type of rent adjustment provided by the Rent Stabilization Program.

4200.7 The Rent Stabilization Program provides the following types of rent adjustments, which are described in detail in the corresponding sections of this chapter:

(a) For rent adjustments that do not require prior administrative approval:

(1) The annual adjustment of general applicability published by the Commission, based on the consumer price index or Social Security COLA, in § 4206; and

(2) An adjustment upon a vacancy in a rental unit, in § 4207; and

(b) For rent adjustments that require prior administrative approval by petition or application:

(1) Rent surcharges based on claims of hardship, in § 4209;

(2) Rent surcharges based on the cost of capital improvements, in § 4210;

(3) Adjustments based on changes in related services or facilities, in § 4211;

(4) Rent surcharges based on substantial rehabilitations, in § 4212; and

(5) Adjustments based on voluntary agreements, in § 4213.

4200.8 Each affected tenant shall be notified of and have an opportunity to contest a pending petition or application for a rent adjustment of the types listed in § 4200.7(b), in accordance with § 4208 and the applicable section of this chapter for the type of adjustment requested.

4200.9 A petition or application for a rent adjustment of the types listed in § 4200.7(b), except a substantial rehabilitation surcharge, may be contested on the grounds that an affected rental unit or housing accommodation is not in substantial compliance with the Housing Regulations, as provided in § 4216, and shall not be approved unless the non-compliance has been abated at the time of an evidentiary hearing on the petition.

4200.10 The rent charged for a rental unit shall not be increased pursuant to an otherwise-authorized rent adjustment, including a substantial rehabilitation surcharge, if the unit or the housing accommodation of which it is a part is not in substantial compliance with the Housing Regulations, as provided in § 4216, on the effective date of the rent increase.

4200.11 Notice of all increases in the rent charged for a rental unit shall be served on the affected tenant and filed with the Rent Administrator, in accordance with § 4205.

4200.12 Authorization to adjust the rent that is or that may be charged, including the implementation of a rent surcharge, for a rental unit shall be valid as follows:

(a) Authorization for an adjustment, other than a vacancy adjustment, shall expire twelve (12) months after the date it becomes authorized by either its publication as the annual adjustment of general applicability or by order of the Rent Administrator or Office of Administrative Hearings approving the adjustment, as applicable;

(b) A vacancy adjustment shall be implemented only at the time the vacancy occurs, in accordance with § 4205.6;

(c) Failure to implement a rent adjustment within the time allowed shall result in the forfeiture of the right to the rent adjustment; and

(d) The prohibition on implementation of multiple rent adjustments within a (12) month period, as provided by § 4200.6, shall not excuse the failure, or extend the allowable time, to implement a rent adjustment.

4200.13 A tenant may contest any increase in the rent charged, including the implementation of a rent surcharge, for his or her rental unit, or an unauthorized reduction or elimination of related services or facilities, by filing a petition with the Rent Administrator within three (3) years of the effective date of the increase, or the reduction or elimination of related services or facilities, in accordance with § 4214.

4200.14 If a tenant prevails in a petition filed under § 4214, the tenant may be awarded a refund of rent charged by the housing provider in excess of the lawfully calculated amount of rent that may have been charged for the rental unit, and the housing provider may be ordered to reduce the amount of rent charged (a rent rollback), in accordance with § 4217.

4200.15 When a petition or application before the Rent Administrator requires an evidentiary hearing on the record under this chapter, jurisdiction over the petition or application shall be transferred to the Office of Administrative Hearings.

4201 BASE RENT AND INITIAL RENT CHARGED

4201.1 Pursuant to § 103(4) of the Act (D.C. Official Code § 42-3501.03(4)), the "base rent" for each rental unit covered by the Rent Stabilization Program on July 17, 1985, the effective date of the Act, was the rent ceiling for the unit as of April 30, 1985.

4201.2 Pursuant to the Rent Control Reform Amendment Act of 2006 (D.C. Law 16-145; 53 DCR 4889 (June 23, 2006)), the rent that may be charged for a rental unit covered by the Rent Stabilization Program on August 5, 2006, when rent ceilings were abolished, shall be the amount that was lawfully calculated and on file with the Rental Accommodations Division as the rent charged on August 4, 2006.

4201.3 The initial rent that shall be filed with the Rental Accommodations Division on a Rent Stabilization Registration Form for a newly established rental unit, other than a rental unit described by § 4203.7 (failure to qualify for the new construction exemption), shall be the amount of rent charged by the housing provider for the initial leasing period or the first year of tenancy, whichever is shorter, if the rental unit is:

(a) Not excluded from the coverage of the Act by § 205(e) and § 4105 of this title; and

(b) Not exempt from the Rent Stabilization Program pursuant to § 205(a) of the Act and § 4106 of this title, including by reason of the housing provider's failure to file a valid Claim of Exemption Form.

4201.4 The initial rent that may be charged and shall be filed with the Rental Accommodations Division on a Rent Stabilization Registration Form for an existing rental unit that becomes subject to the Rent Stabilization Program by termination of an exclusion or exemption shall be established as follows:

(a) Upon the termination of the rental unit's exclusion from the coverage of the Act by § 205(e) and § 4105 of this title, as provided by § 4202; or

(b) Upon the termination of the rental unit's exemption from the Rent Stabilization Program pursuant to § 205(a) of the Act and § 4106 of this title, including by reason of the housing provider's failure to file a valid Claim of Exemption Form, as provided by § 4203.

4202 RENT CHARGED UPON TERMINATION OF EXCLUSION

4202.1 For any rental unit previously excluded from coverage under the Act by § 205(e) of the Act and § 4105 of this title, the initial rent that may be charged shall be determined in accordance with this section upon the occurrence of any event that causes the unit to lose its exclusion and come under the provisions of the Act; provided, that the unit is not otherwise exempt from the Rent Stabilization Program pursuant to § 205(a) of the Act and § 4106 of this title.

4202.2 A housing provider of a rental unit previously excluded from coverage of the Act shall file a Rent Stabilization Registration Form in accordance with § 4101 within thirty (30) days of the event that causes the unit to lose its exclusion.

4202.3 The initial rent that shall be filed with the Rental Accommodations Division on a Rent Stabilization Registration Form for a rental unit described in § 4202.1 shall be no greater than the amount of rent charged to a tenant for the rental unit during the first month of the rental period in which the unit is occupied following the event which caused the rental unit to lose its exclusion.

4203 RENT CHARGED UPON TERMINATION OF EXEMPTION

4203.1 For any rental unit previously exempt from the Rent Stabilization Program by § 205(a) of the Act (D.C. Official Code § 42-3502.05(a)) and § 4106 of this title, the initial rent that may be charged shall be determined in accordance with this section upon the occurrence of any event that causes that rental unit to lose its exempt status.

4203.2 A housing provider of a rental unit previously exempt from coverage of the Rent Stabilization Program shall file a Rent Stabilization Registration Form in accordance with § 4101 within thirty (30) days of the event that causes the unit to lose its exemption. The Rent Stabilization Registration Form shall state the rent that may be or is lawfully charged for the unit, as determined in accordance with this section.

4203.3 The initial rent charged for a rental unit previously exempt from the Rent Stabilization Program by §§ 205(a)(1) or (5) (D.C. Official Code §§ 42-3502.05(a)(1), (5)) and §§ 4106.9-.10 or 4108 of this title (the government subsidy exemption or the cooperative housing exemption) shall be no greater than:

(a) If the unit is not vacant when the exemption terminates, the sum of:

(1) The rent charged to the tenant on the date the unit became exempt; plus

(2) Each annual adjustment of general applicability which was authorized during the period in which the unit was exempt; or

(b) If the unit is vacant when the exemption terminates, either:

(1) One hundred ten percent (110%) of the amount allowable under paragraph (a); or

(2) The amount of rent charged for a substantially identical rental unit in the same housing accommodation, but not greater than one hundred thirty percent (130%) of the amount allowable under paragraph (a).

4203.4 For a rental unit covered by § 4203.3, if neither the Rent Administrator nor the housing provider can produce a record or stamped copy of the original filing stating the rent charged on the date the rental unit became exempt, the rent that may be charged shall be no greater than the lowest of:

(a) The amount computed by § 4203.3(a), using most recent rent charged on file with the Rent Administrator before the date the unit became exempt;

(b) The Small Area Fair Market Rent published by the United States Department of Housing and Urban Development for the statistical area that includes the District of Columbia, based on unit size and zip code; or

(c) The average rent demanded or received from a tenant during the last six (6) consecutive months in which the unit was leased to and occupied by a tenant and exempt from the Rent Stabilization Program.

4203.5 The initial rent that may be charged for a rental unit previously exempt from the Rent Stabilization Program by § 205(a)(3) of the Act (D.C. Official Code § 42-3502.05(a)(3)) and § 4107 of this title (the small landlord exemption) shall be no greater than one hundred five percent (105%) of the average rent demanded or received from a tenant during the last six (6) consecutive months in which the unit

was leased to and occupied by a tenant and exempt from the Rent Stabilization Program.

4203.6 For a rental unit covered by §§ 4203.3, .4, or .5, if the rent that will be charged is greater than the last rent charged, or known to have been charged, prior to the date of the exemption or than the average rent demanded or received from a tenant during the last six (6) consecutive months in which the unit was leased to and occupied by a tenant and exempt from the Rent Stabilization Program, the housing provider shall file a Certificate of Notice of Rent Adjustment in accordance with § 4204.10 at the same time the housing provider registers the unit in accordance with § 4101 and shall implement a lawful rent adjustment in accordance with § 4205.

4203.7 For a rental unit that would be exempt from the Rent Stabilization Program pursuant to § 205(a)(2) of the Act (D.C. Official Code § 42-3502.05(a)(2)) and § 4106.12 of this title (the new construction exemption), but is not exempt because it was constructed in place of a demolished housing accommodation that consisted of an equal or greater number of rental units than the new construction and that was subject to the Rent Stabilization Program, the housing provider shall file a Rent Stabilization Registration Form stating the rent charged as the amount of rent charged to a tenant for the initial leasing period or the first year of tenancy, whichever is shorter.

4203.8 The initial rent that may be charged for a rental unit for which the rent was previously regulated by a multi-family assistance program of the Department of Housing and Community Development and exempt from the Rent Stabilization Program pursuant to § 205(a)(7) of the Act (D.C. Official Code § 42-3502.05(a)(7)) and § 4106.16 of this title, upon the termination of the assistance program shall be no greater than the amount of rent charged to the tenant pursuant to the assistance program.

4204 AUTHORIZATION AND FILING OF RENT ADJUSTMENTS GENERALLY

4204.1 The rent charged for a rental unit may be adjusted no more than once every twelve (12) months by the dollar amount authorized or required by one (1) type of rent adjustment pursuant to the provisions of the Rent Stabilization Program.

4204.2 The rent charged for a rental unit may be adjusted by a housing provider by the following types of rent adjustments without prior administrative approval:

(a) By adjustment of general applicability authorized by § 206(b) of the Act (D.C. Official Code § 42-3502.06(b)) and § 4206 of this chapter; or

(b) By vacancy adjustment authorized by § 213 of the Act (D.C. Official Code § 42-3502.13) and § 4207 of this chapter.

4204.3 The rent charged for a rental unit may be adjusted by a housing provider with prior administrative approval, pursuant to a petition filed with the Rent Administrator by the housing provider in accordance with § 4208, and approved by a final order of the Office of Administrative Hearings, where required, for the following types of rent adjustments:

(a) For hardship surcharges authorized by §§ 206(c) and 212 of the Act (D.C. Official Code §§ 42-3502.06(c) & 42-3502.12) and § 4209 of this chapter;

(b) For capital improvement surcharges authorized by § 210 of the Act (D.C. Official Code § 42-3502.10) and § 4210 of this chapter;

(c) For adjustments of related services and facilities authorized by § 211 of the Act (D.C. Official Code § 42-3502.11) and § 4211 of this chapter; or

(d) For substantial rehabilitation surcharges authorized by § 214 of the Act (D.C. Official Code § 42-3502.14) and § 4212 of this chapter.

4204.4 The rent charged for a rental unit may be adjusted pursuant to a seventy percent (70%) Voluntary Agreement authorized by § 215 of the Act (D.C. Official Code § 42-3502.15), with the prior approval of the Rent Administrator or Office of Administrative Hearings pursuant to an application filed in accordance with § 4213 of this chapter.

4204.5 The rent charged for a rental unit may be adjusted by order of the Office of Administrative Hearings pursuant to a petition filed by one (1) or more tenants under § 216 of the Act (D.C. Official Code § 42-3502.16), for any of the reasons provided in § 4214 of this chapter.

4204.6 An order of the Rent Administrator or Office of Administrative Hearings authorizing, requiring, or denying a rent adjustment may be appealed to the Commission, pursuant to §§ 202(a)(2) and 216(h) of the Act (D.C. Official Code §§ 42-3502.02(a)(2), 42-3502.16(h)) and § 19(b) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.16(b)), and appeals shall be decided in accordance with Chapter 38 of this title.

4204.7 The rent charged for a rental unit may be adjusted by or pursuant to an order of any court of competent jurisdiction.

4204.8 In calculating the amount of a rent adjustment:

(a) Any fraction of a dollar of forty-nine cents (49¢) or less shall be rounded down to the nearest dollar, and any fraction of fifty cents (50¢) or more shall be rounded up to the nearest dollar; and

(b) Where the Act and this chapter provide that the amount of a rent adjustment shall be calculated as or limited to a percentage of the rent charged for a rental unit, the amount of rent lawfully calculated and properly filed with the Rental Accommodations Division, not including any approved or implemented rent surcharges, shall be used as the basis of the calculation or limit of the rent adjustment.

4204.9 An authorized rent adjustment, other than a rent ceiling adjustment preserved by § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)), shall be implemented, in compliance with § 4205, in accordance with the following time limits:

(a) Authorization for an adjustment, other than a vacancy adjustment, shall expire twelve (12) months after the date it first becomes authorized by either its publication as the annual adjustment of general applicability or by order of the Rent Administrator or Office of Administrative Hearings approving the adjustment, as applicable;

(b) For the purposes of paragraph (a), a rent surcharge that may not be implemented under § 4215 shall not be deemed first-authorized with respect to a rental unit occupied by a tenant protected under that section unless and until:

(1) The tenant waives his or her rights pursuant to § 224(c) of the Act (D.C. Official Code § 42-3502.24(c)) and § 4215.3 of this chapter;

(2) The rental unit is no longer leased to and occupied by a tenant protected by § 4215; or

(3) The Chief Financial Officer of the District of Columbia determines that funds are not available for the tax credit provided by § 224(g) of the Act (D.C. Official Code §42-3502.24(g));

(c) A vacancy adjustment shall be implemented only at the time the housing provider takes possession of the rental unit from the prior tenant, in accordance with § 4205.6(b);

(d) Failure to implement a rent adjustment within the time allowed shall result in the forfeiture of the right to the rent adjustment; and

(e) The prohibition on implementation of multiple rent adjustments within a (12) month period, as provided by §§ 4205.8 and 4205.9, shall not excuse the failure, or extend the time, to implement a rent adjustment.

4204.10 A housing provider shall file a Certificate of Notice of Adjustment in Rent Charged at least thirty (30) days before the effective date of any increase in the rent that is charged or that may be charged for a rental unit, including the

implementation of a rent surcharge, except when implementing a vacancy adjustment under § 4207, in which case the certificate shall be filed no later than thirty (30) days after the effective date of the adjustment, as provided in § 4205.6. Each certificate shall set forth:

(a) Each rental unit to which the adjustment applies;

(b) The type of rent adjustment being implemented and:

(1) For an adjustment of general applicability, the effective date as published by the Commission;

(2) For a vacancy adjustment, the date on which the housing provider regained possession of the rental unit; or

(3) For any rent adjustment that requires prior administrative approval, the date on which approval was obtained, or, for a conditional hardship increase, the date on which the hardship petition was filed, and the case number of the administrative proceeding;

(c) The dollar amount of the rent adjustment and its percentage of the prior rent charged;

(d) The new rent charged for the rental unit and the date on which it will be effective; and

(e) The dollar amount of any other rent surcharge currently applied to the rental unit or from which the current tenant is exempt pursuant to § 224(b) or (i) of the Act (D.C. Official Code § 42-3502.24(b) or (i)) and the case number of the administrative proceeding in which each surcharge was approved.

4204.11 If a housing provider does or is required to decrease the rent charged for a rental unit for any reason, including that an elderly tenant or tenant with a disability is protected under § 224 of the Act (D.C. Official Code § 42-3502.24) and § 4215 of this chapter and any termination of a rent surcharge, the housing provider shall file a Certificate of Notice of Adjustment in Rent Charged with the Rental Accommodations Division within thirty (30) days of the effective date of the reduction.

4204.12 Authorization for a rent adjustment for any reason under this chapter shall not permit a housing provider to charge any rent to a tenant in excess of any amount that is fixed by a valid, written lease or rental agreement for the term of the lease or rental agreement.

4205 NOTICE AND IMPLEMENTATION OF ADJUSTMENTS TO RENT CHARGED

4205.1 If at any time the rent charged to a tenant for a rental unit subject to the Rent Stabilization Program exceeds the amount of rent that has been lawfully calculated and filed with the Rental Accommodations Division for the rental unit, or if a rent rollback is ordered by the Rent Administrator, Office of Administrative Hearings, the Commission, or a court, the housing provider shall reduce the amount of rent charged to an amount equal to, or less than, the lawful amount of rent by providing a written notice to the tenant before the next date on which rent is due.

4205.2 The amount of rent charged for a rental unit shall not be increased prior to the effective date stated on the corresponding Certificate of Notice of Adjustment in Rent Charged, as filed with the Rental Accommodations Division in accordance with § 4204.10.

4205.3 The rent charged for a rental unit shall not be increased pursuant to an authorized rent adjustment after the time provided by § 4204.9.

4205.4 In addition to the filing requirements provided in §§ 4204.10, a housing provider shall only increase the rent charged for a rental unit, other than a vacancy adjustment under § 4207, by taking the following actions:

(a) The housing provider shall provide the tenant of the rental unit not less than thirty (30) days written notice of the rent increase, by service in accordance with § 904 of the Act (D.C. Official Code § 42-3509.04), on a Notice to Tenant of Adjustment of Rent Charged form published by the Rent Administrator, in which the following items shall be included:

(1) The type of the adjustment as provided by the Rent Stabilization Program and either:

(A) The effective date of the adjustment of general applicability, as published by the Commission; or

(B) If prior administrative approval is required, the date on which it was obtained and the case number of the administrative proceeding;

(2) The prior rent charged for the rental unit, the amount the rent adjustment and percentage change from the prior rent charged, and the new rent charged;

(3) The date upon which the adjusted rent shall be due;

(4) The dollar amount of any other rent surcharge currently applied to the rental unit or from which the current tenant is exempt pursuant to § 224(b) or (i) of the Act (D.C. Official Code §§ 42-3502.24(b) or (i)); and

(5) Notice of:

(A) The maximum percentage increase in rent charged that may be used to calculate a rent adjustment of general applicability in the current year for an elderly tenant or a tenant with a disability ("protected tenant") in accordance with § 4206.7, which shall be set forth in bold, twelve (12)-point font;

(B) The other benefits and protections that apply to protected tenants; and

(C) The standards, including the current qualifying income for exemption from rent surcharges, and procedures by which a tenant may establish protected tenant status as set forth in § 224(d) of the Act (D.C. Official Code § 42-3502.24(d)) and any rules and requirements implemented by the Mayor pursuant to that section.

(b) The housing provider shall certify to the tenant, with the notice of rent adjustment, that the rental unit and the common elements of the housing accommodations are in substantial compliance with the Housing Regulations or, if not in substantial compliance, that any noncompliance is the result of tenant neglect or misconduct;

(c) The housing provider shall advise the tenant with the notice of rent adjustment of the location and availability for inspection of the documents required to be maintained by § 222(b) of the Act (D.C. Official Code § 42-3502.22(b)) and § 4111 of this title; and

(d) The housing provider, simultaneously with the filing of the information required by § 4204.10, shall file with the Rental Accommodations Division a sample copy of the Notice to Tenant of Adjustment in Rent Charged along with an affidavit containing the names, unit numbers, date, and type of service provided, certifying that the notice was served on all affected tenants in the housing accommodation.

4205.5 Notwithstanding any authorization for a rent adjustment under the Rent Stabilization Program, a housing provider shall not increase the rent charged for a rental unit unless all of the following conditions are met:

(a) The rental unit and the common elements of the housing accommodation are in substantial compliance with the Housing Regulations, or any substantial noncompliance is the result of tenant neglect or misconduct;

(b) The housing provider has met the registration requirements of Chapter 41 with respect to the housing accommodation and rental unit; and

(c) At least twelve (12) months shall have elapsed since the effective date of any prior increase in the rent charged, in accordance with § 4205.8 and except as provided by § 4205.9.

4205.6 The effective date of an adjustment in the rent charged for a rental unit, or that may be charged upon the commencement of a new tenancy if the unit is vacant, shall be deemed to be:

(a) The date upon which the new rent is due, as stated on the Certificate of Notice of Adjustment in Rent Charged filed with the Rental Accommodations Division and the Notice to Tenant of Adjustment of Rent Charged served on the tenant; or

(b) If the rental unit is vacant:

(1) For a vacancy adjustment, the date the housing provider takes possession of the rental unit from the prior tenant; provided that the housing provider files a Notice of Adjustment of Rent Charged within thirty (30) days, in accordance with § 4207.4; or

(2) For any other authorized rent adjustment, on any date elected by the housing provider that is:

(A) More than twelve (12) months after the effective date of a vacancy adjustment, if one was implemented;

(B) Within twelve (12) months of the order approving the rent adjustment; and

(C) Prior to the commencement of a new tenancy in the rental unit.

4205.7 The rent charged for a rental unit shall not be increased, and a rent surcharge shall not be implemented, more than twelve (12) months after the basis for the rent adjustment first becomes authorized, in accordance with § 4204.9, and, in the case of a capital improvement surcharge pursuant to § 4210, after the expiration of the surcharge.

4205.8 A housing provider shall not increase the rent charged for a rental unit if the rent charged for the rental unit has been increased for any reason during the immediately preceding twelve (12) months, except as provided for a vacancy adjustment under § 4205.9.

4205.9 A housing provider may implement a vacancy adjustment pursuant to § 4207 at any time a vacancy occurs, unless the rent that may be charged for the rental unit has been increased pursuant to another vacancy adjustment, or pursuant to an approved or pending hardship petition under to § 4209, within the preceding twelve (12) months.

4206 RENT ADJUSTMENTS OF GENERAL APPLICABILITY

4206.1 A rent adjustment of general applicability, authorized by § 206(b) of the Act (D.C. Official Code § 42-3502.06(b)), is an increase, based on the annual inflation rate, in the rent charged for a rental unit that is subject to the Rent Stabilization Program that may be implemented in accordance with this section at the election of the housing provider without prior administrative approval.

4206.2 A housing provider may implement an adjustment of general applicability only if twelve (12) months have elapsed since any previous increase in the rent charged for the affected rental unit, in accordance with § 4205.8.

4206.3 Prior to March 1 of each year, to be effective on May 1 of the same year, the Commission shall certify and publish in the *D.C. Register*:

(a) The percent of the increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W") for all items for the Washington-Arlington-Alexandria, D.C.-Md.-Va.-W.Va., Core Based Statistical Area, during the previous calendar year and the effective date after which the CPI-W increase may be used to calculate an adjustment of general applicability;

(b) The most recent annual Social Security COLA; and

(c) The maximum percentage increase in rent charged that may be used to calculate a rent adjustment of general applicability for an elderly tenant or a tenant with a disability ("protected tenant") in accordance with § 4206.7.

4206.4 A housing provider electing to increase the rent charged for a rental unit pursuant to an adjustment of general applicability shall do so by serving notice on a tenant in accordance with § 4205.4 and filing notice with the Rental Accommodations Division in accordance with § 4204.10.

4206.5 Each notice of a rent adjustment of general applicability shall be served on a tenant in accordance with § 4205.4(a).

4206.6 Except as provided in § 4206.7 the maximum amount of a rent adjustment of general applicability that a housing provider may be authorized to implement as an increase in the rent charged shall be the lesser of:

(a) The current, effective percent of the CPI-W increase, published by the Commission in accordance with § 4206.3, plus two percent (2%), of the current rent charged; or

(b) Ten percent (10%) of the current rent charged.

4206.7 If a rental unit is leased to and occupied by a protected tenant who has registered for protected status and whose application has not been denied in accordance with §§ 4215.10 – 4215.15, the amount of a rent adjustment of general applicability that a housing provider may be authorized to implement as an increase in the rent charged shall be the least of:

(a) The current, effective percent of the CPI-W increase, published by the Commission in accordance with § 4206.3, of the current rent charged

(b) The current, effective percent of the Social Security COLA, published by the Commission in accordance with § 4206.3, of the current rent charged; or

(c) Five percent (5%) of the current rent charged.

4206.8 If a tenant's protected status becomes effective, as provided by § 4215.12, within twelve (12) months of an adjustment of general applicability being implemented for the tenant's rental unit, the housing provider shall, by the effective date of the tenant's protected status, implement a rent rollback to the amount that would be permitted if the prior adjustment of general applicability had been limited by § 4206.7.

4207 VACANCY RENT ADJUSTMENTS

4207.1 A vacancy rent adjustment, authorized by § 213 of the Act (D.C. Official Code § 42-3502.13), is an increase in the rent that may be charged to a new tenant for a rental unit that may be implemented when the unit becomes vacant.

4207.2 A vacancy adjustment shall be authorized only if a tenant vacates a rental unit:

(a) On the tenant's own initiative; or

(b) Pursuant to a notice to vacate lawfully served on the tenant pursuant to § 501 of the Act (D.C. Official Code § 42-3505.01) and Chapter 43 of this title due to:

(1) Nonpayment of rent;

(2) A violation of an obligation of tenancy; or

(3) Use of the rental unit for an illegal purpose, as determined by a court of competent jurisdiction.

4207.3 Notwithstanding § 4205.8, a housing provider may implement an increase in the rent that may be charged for a rental unit pursuant to a vacancy adjustment at any time a vacancy occurs, unless the rent charged for the rental unit was increased by a vacancy adjustment or conditional or final hardship rent surcharge has been authorized within the preceding twelve (12) months.

4207.4 A vacancy adjustment shall become authorized and shall be deemed implemented on the day on which a housing provider retakes possession of the rental unit in accordance with § 4207.2; provided, that the housing provider shall file a Certificate of Notice of Adjustment in Rent Charged with the Rental Accommodations Division within thirty (30) days, in accordance with § 4204.10.

4207.5 The amount of a vacancy adjustment shall be no greater than, at the election of the housing provider, either:

(a) Ten percent (10%) of the rent charged to the previous tenant for the vacated rental unit; or

(b) If the previous tenant occupied the vacated rental unit for more than ten (10) years, twenty percent (20%) of the rent charged to the previous tenant.

4207.6 A housing provider that does not properly and timely file notice of a vacancy adjustment pursuant to § 4207.4 shall forfeit the vacancy adjustment, and the amount of the adjustment shall not be included in the rent charged to any subsequent tenant for the rental unit.

4207.7 Prior to or simultaneously with a new tenant entering a lease or other rental agreement for a rental unit for which a vacancy adjustment was implemented upon the housing provider's repossession of the rental unit from the prior tenant, the housing provider shall disclose to the new tenant, on a form published by the Rent Administrator:

(a) The rent charged for the rental unit at the commencement of the tenancy;

(b) The amount of each adjustment to the rent charged for the rental unit during the preceding three (3) years, including the type of rent adjustment and, if implemented prior to the applicability date of the Vacancy Increase Reform Amendment Act of 2018 (D.C. Law 22-223), the identification of

any substantially identical rental unit on which a vacancy adjustment was based; and

(c) The amount and percentage of increase in the rent that is being charged to the new tenant pursuant to the vacancy adjustment implemented prior to the commencement of the new tenancy.

4208 RENT ADJUSTMENTS BY HOUSING PROVIDER PETITION

4208.1 The rent charged for a rental unit shall not be adjusted under § 210 (capital improvement), § 211 (services or facilities), § 212 (hardship), or § 214 (substantial rehabilitation) of the Act (D.C. Official Code §§ 42-3502.10, -.11, -.12, or -.14) without prior, written approval following an administrative disposition.

4208.2 A housing provider who seeks approval of a rent adjustment under any section of the Act referenced in § 4208.1 shall file a petition with the Rent Administrator in accordance with § 3901.

4208.3 Each petition filed by a housing provider shall be on a form published by the Rent Administrator and contain all information required by § 4209 (hardship), § 4210 (capital improvement), § 4211 (services or facilities), or § 4212 (substantial rehabilitation), as applicable.

4208.4 Each housing provider petition form published by the Rent Administrator shall include a brief explanation of the purpose of the petition and that the tenant(s) have the opportunity to contest the petition.

4208.5 Within five (5) days of the receipt of a petition for a rent adjustment, the Rent Administrator shall make a preliminary determination that the petition complies with all applicable filing requirements for the type of petition.

4208.6 If the Rent Administrator determines that a petition filed by a housing provider does not comply with all applicable filing requirements, the Rent Administrator, in his or her discretion, shall either:

(a) Dismiss the petition without prejudice; or

(b) Grant the housing provider leave to amend the petition, in which case the petition shall be deemed filed on the date it is amended.

4208.7 If the Rent Administrator determines that a petition has been properly filed by a housing provider, he or she shall:

(a) Transmit the petition and all other documents related to the petition to the Office of Administrative Hearings within ten (10) business days;

(b) If it is a hardship petition, prepare an audit report and proposed order in accordance with §§ 4209.32 – 4209.38, and if exceptions and objections are filed to the audit report or proposed order, transmit the petition, the audit report, the proposed order, and all other documents related to the petition to the Office of Administrative Hearings; or

(c) If it is a substantial rehabilitation petition and all affected units are vacant, review the petition and supporting documentation in accordance with §§ 4212.21 – 4212.22 and issue a final order approving or disapproving the petition.

4208.8 The Rent Administrator shall transmit the Rent Stabilization Registration Form for the affected housing accommodation and a copy of each registration form for status as an elderly tenant or a tenant with a disability, whether or not a claim of qualifying income is made, that has been filed and not administratively denied, for any current tenant of the housing accommodation to the Office of Administrative Hearings at the same time he or she transmits a housing provider's petition.

4208.9 Notice that a case has been opened at the Office of Administrative Hearings on a housing provider's petition shall be provided in accordance with 1 DCMR § 2923 and shall include a form, published by the Rent Administrator, notifying tenants of the opportunity to establish an exemption from a rent surcharge pursuant to § 224(b) of the Act (D.C. Official Code § 42-3502.24(b)) and the standards, including the current qualifying income for exemption from rent surcharges, and procedures by which a tenant may establish protected tenant status as set forth in § 224(d) of the Act (D.C. Official Code § 42-3502.24(d)) and any rules and requirements implemented by the Mayor pursuant to that section.

4208.10 The tenant of each rental unit affected by a housing provider's petition, or a tenant association representing an affected tenant, shall have the opportunity to appear before the Office of Administrative Hearings to contest the petition on any relevant issues.

4208.11 If no tenant or tenant association appears before the Office of Administrative Hearings to contest a housing provider's petition, the petition shall be adjudicated by an Administrative Law Judge on the merits based on evidence produced by the housing provider.

4208.12 Notwithstanding §§ 4208.10 and 4208.11, a tenant or tenant association shall have the opportunity to contest a hardship petition only if the tenant or tenant association files exceptions and objections to the proposed order issued by the Rent Administrator, in accordance with § 4209.35, and no adjudication by the Office of Administrative Hearings shall be required for a hardship petition to which no exceptions and objections have been filed.

4208.13 A petition shall be adjudicated before the Office of Administrative Hearings in accordance with 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941, and the housing provider shall bear the burden of proving its entitlement to the rent adjustment for which it has filed a petition with regard to each issue.

4208.14 A final order of the Office of Administrative Hearings approving or denying a petition, in whole or in part, may, within ten (10) business days of its service, be appealed to the Commission in accordance with § 3802 by any person that appeared personally or otherwise as a party in the case and that is aggrieved by the final order. In accordance with § 3805, a housing provider shall not implement a rent adjustment authorized by a final order while an appeal of that order is pending before the Commission.

4208.15 A rent adjustment authorized by a final order approving, a petition filed under this section, in whole or in part, shall be implemented in accordance with § 4205 and the applicable section of this chapter for the type of the approved petition.

4208.16 A tenant of an affected rental unit who receives notice of a petition under § 4208.9 and who fails to contest the housing provider's petition shall not at a later date contest or challenge, by tenant petition under § 4214, an order of the Office of Administrative Hearings approving the housing provider's petition, except as provided in § 4214.6; provided, that the tenant may challenge the implementation of the adjustment to the rent charged under § 4214.4.

4209 PETITIONS BASED ON CLAIM OF HARDSHIP

4209.1 A housing provider that elects not to implement the rent adjustment of general applicability under § 206(b) of the Act in a particular year may petition the Rent Administrator once during the year for a rent adjustment authorized by §§ 206(c) and 212 of the Act (D.C. Official Code §§ 42-3502.06(c) & 42-3502.12), which shall be in the form of a rent surcharge to increase the housing provider's rate of return ("hardship petition").

4209.2 The total dollar amount of all rent surcharges requested in or allowed by a hardship petition shall be no more than the amount necessary to increase the housing provider's rate of return for the housing accommodation to twelve percent (12%), as computed in accordance with § 4209.11.

4209.3 A housing provider shall be eligible to file a hardship petition if:

(a) Twelve (12) months have elapsed since the filing of any prior hardship petition for the housing accommodation; and

(b) Nine (9) months have elapsed since the implementation of any increase in the rent charged, including a conditional surcharge under this section, for any rental unit in the housing accommodation.

4209.4 The owner of a housing accommodation situated on property that has been determined to be abandoned or a continuing nuisance to the immediate surrounding area shall not be eligible to file a hardship petition for that housing accommodation.

4209.5 A housing provider shall file a hardship petition on a form approved by the Rent Administrator ("Hardship Petition Form") and the financial information required to be submitted shall be in the same form as the financial information requested on Form FP-308 of the Office of Tax and Revenue.

4209.6 The Hardship Petition Form shall contain instructions for computing the following:

(a) The net income of the housing accommodation;

(b) The housing provider's equity in the housing accommodation;

(c) The rate of return the housing accommodation is yielding on the housing provider's equity; and

(d) The dollar amount of the rent surcharge that will be added to the rent charged for each rental unit in the housing accommodation.

4209.7 The accounting method used to calculate the rate of return in a hardship petition shall be either the accrual method or the cash basis method and shall be the same method used by the housing provider to file income taxes with the D.C. Office of Tax and Revenue.

4209.8 Under the accrual method of accounting, income and expenses in a hardship petition shall be recognized upon the vesting of an unconditional legal right to receive or obligation to pay a certain amount.

4209.9 When a hardship petition is filed using the accrual method of accounting, the Rent Administrator or the Administrative Law Judge may require, as proof of any accrued income or expense item, evidence of actual receipt or payment of the claimed amount, without respect to the timing of receipt or payment.

4209.10 Under the cash basis method of accounting, only those income items actually received or expense items actually paid during the reporting period may be included in the petition.

4209.11 The rate of return for a housing accommodation shall be the quotient, expressed as a percentage, of:

(a) The net income of the housing accommodation, in accordance with § 4209.12; divided by

(b) The housing provider's equity in the housing accommodation, in accordance with § 4209.23.

4209.12 The net income of a housing accommodation shall be computed for a period of twelve (12) consecutive months within the fifteen (15) months immediately preceding the filing of a hardship petition ("Reporting Period") and shall be the difference between:

(a) The sum of:

(1) The maximum possible rental income for the housing accommodation, in accordance with § 4209.13; plus

(2) The maximum amount of other income which can be derived from the housing accommodation, in accordance with § 4209.14; minus

(b) The sum of:

(1) The operating expenses, in accordance with §§ 4209.15 and .16;

(2) The management fee, if applicable, in accordance with § 4209.17;

(3) Property taxes, in accordance with § 4209.18;

(4) Depreciation expenses, in accordance with § 4209.19;

(5) Vacancy losses, in accordance with § 4209.20;

(6) Uncollected rent, in accordance with § 4209.21; plus

(7) Interest payments, in accordance with § 4209.22.

4209.13 The maximum possible rental income for a housing accommodation shall be the sum of the following for all rental units for each month in the Reporting Period:

(a) The rents that may be charged during the reporting period, as lawfully calculated and properly filed with the Rental Accommodations Division, including the total amount of any authorized rent surcharges, whether or not actually demanded or received for any reason, including:

(1) Vacancies;

(2) Exemptions for elderly tenants or tenants with a disability under § 4215; or

(3) Non-payment of rents; and

(b) The unimplemented amount of any rent ceiling adjustments preserved by § 206(a) of the Act.

4209.14 The maximum amount of other income which can be derived from a housing accommodation during the Reporting Period shall be the sum of all income other than rent that:

(a) Is actually derived from the housing provider's interest in the housing accommodation, including, but not limited to, fees, commissions, income from vending machines, income from laundry facilities, and income from parking and recreational facilities; and

(b) Can be derived from the housing provider's interest in the housing accommodation, if such amounts can be reasonably determined, including, for example, fees for unused parking spaces and recreational facilities.

4209.15 Except as provided by § 4209.16, the operating expenses of a housing accommodation shall be the expenses required for the operation of the housing accommodation for the Reporting Period, including, but not limited to, expenses for salaries of on-site personnel, supplies, painting, maintenance and repairs, utilities, professional fees, on-site offices, and insurance; provided, that any expense that is extraordinary or capital in nature shall be amortized or depreciated using the straight-line method over the useful life of the expensed asset.

4209.16 The operating expenses of a housing accommodation shall not include:

(a) Membership fees in organizations established to influence legislation and regulation;

(b) Contributions to lobbying efforts;

(c) Contributions for legal fees in the prosecution of class action cases;

(d) Political contributions to candidates for office;

(e) Mortgage principal payments;

(f) Maintenance expenses for which the housing provider has been reimbursed by any security deposit, insurance settlement, judgment for damages, agreed-upon payments, or any other method;

(g) Attorney's fees charged for services connected with counseling litigation related to actions brought by the District of Columbia government due to the housing provider's repeated failure to comply with this Act or

applicable provisions of the Housing Regulations as evidenced by violation notices issued by the Department of Consumer and Regulatory Affairs; or

(h) Any expenses for which a tenant has lawfully paid directly.

4209.17 The management fee of a housing accommodation shall be the amount paid to a managing agent and any pro-rated salaries of off-site administrative personnel paid by the housing provider during the Reporting Period, to the extent the duties of the administrative personnel are connected with the operation of the housing accommodation, but shall not be more than six percent (6%) of the maximum possible rental income, in accordance with § 4209.13, unless the housing provider shows that of all or part of the excess over six percent (6%) is reasonable in the circumstances.

4209.18 The property taxes for a housing accommodation shall be the amount levied by the District government for real property tax on the housing accommodation during the Reporting Period or, if the Reporting Period includes multiple tax years, the pro-rated portion of the real property tax for each tax year within the Reporting Period.

4209.19 The depreciation expenses for a housing accommodation shall be any depreciation expenses reflected in decreased real property tax assessments for the housing accommodation, in accordance with § 4209.18.

4209.20 The vacancy losses for a housing accommodation shall be the total of the rents that may be charged for each vacant rental in the housing accommodation, as lawfully calculated and properly filed with the Rental Accommodations Division, during the Reporting Period; provided, that:

(a) No amount shall be included as a vacancy loss for units occupied by a housing provider or his or her employees or otherwise not offered for rent; and

(b) The total amount of the vacancy losses shall not be more than six percent (6%) of the maximum possible rental income of the housing accommodation, in accordance with § 4209.13, except for good cause shown.

4209.21 The uncollected rent for a housing accommodation shall be any amount of rent or other income which can be derived from the housing accommodation that has been lawfully demanded from a tenant thirty (30) days or more prior to the filing of a hardship petition but not received; provided that a housing provider shall file notice with the Rent Administrator or Office of Administrative Hearings if, at any time prior to the issuance of a final order on the hardship petition, any amount claimed as uncollected rent is received.

4209.22 The interest payments for a housing accommodation shall be the amount of interest paid during the Reporting Period on a mortgage or deed of trust on the housing accommodation.

4209.23 A housing provider's equity in a housing accommodation shall be the difference between:

(a) The assessed value of the housing accommodation, in accordance with § 4209.24; minus

(b) The total value of all encumbrances on the housing accommodation, in accordance with § 4209.25.

4209.24 The assessed value of a housing accommodation shall be the official assessment of the property by the District government during the Reporting Period or if the Reporting Period includes multiple tax years, the weighted average of the assessed value for each tax year within the Reporting Period.

4209.25 The total value of all encumbrances on a housing accommodation shall include all mortgages, liens, and secured claims, whether incurred or directly related to the purchase, the capital improvement, or the substantial rehabilitation of the housing accommodation, or any other claim or liability that is attached to the real property.

4209.26 The Hardship Petition Form shall require a housing provider to list and value all current encumbrances and certify that the status of the property, as presented, is correct and that no encumbrance has been removed temporarily or refinanced, shifted, or otherwise concealed so as to increase the housing provider's apparent equity in the housing accommodation and thereby lower the apparent rate of return on the housing accommodation.

4209.27 The Rent Administrator or the Office of Administrative Hearings may require the housing provider to submit verification of the present or historical status of encumbrances on the property, and shall require verification of the status of encumbrances if there has been any change in the ownership of the housing accommodation, or the ownership of any business entity with an ownership interest in the housing accommodation, within the three (3) years preceding the filing of the hardship petition.

4209.28 A Hardship Petition Form, as filed with Rent Administrator, shall be accompanied by external financial documents to substantiate the income and operating expense schedule of the housing accommodation. The documents shall include the following:

(a) Copies of bills received for the housing accommodation during the Reporting Period;

(b) Copies of cancelled checks and bank statements for the housing accommodation during the Reporting Period; and

(c) Copies of ledgers, journals, or other internally generated records on the financial transactions of the housing accommodation during the Reporting Period.

4209.29 Any expense or other deduction listed in § 4209.12(b) shall be disallowed from the calculation of a housing provider's net income and rate of return if the housing provider does not prove its entitlement to the deduction by a preponderance of the evidence on the record.

4209.30 At the time a hardship petition is filed, the housing provider shall submit the following with the Rent Administrator:

(a) Two (2) copies of the Hardship Petition Form and the financial information required by § 4209.28;

(b) Envelopes addressed to the tenant(s) of each rental unit by name for each affected rental unit in the housing accommodation with pre-paid first class postage;

(c) Copies of the certificate of occupancy and housing business license (where applicable), and proof of payment of the annual registration fee; and

(d) A copy of the rent roll.

4209.31 After determining, in accordance with § 4208.5, that a hardship petition has been properly filed, the Rent Administrator shall mail notice to each affected rental unit that the petition is under review and:

(a) Notice that the tenants will have the right to contest or oppose the petition by filing exceptions and objections, individually or through a tenant association, and that the housing provider shall have the right to support or defend the petition before the Office of Administrative Hearings as provided by §§ 4208.10 – 4208.16;

(b) A copy of the form published by the Rent Administrator regarding exemptions from surcharges as described in § 4208.10;

(c) A statement that a conditional rent surcharge may be implemented in accordance with § 4209.38.

4209.32 Within thirty (30) days of the filing of the hardship petition, the Rent Administrator shall issue an audit report on the hardship petition and the supporting documentation filed in accordance with § 4209.28 ("Audit Report") and a proposed order that shall state whether the Audit Report supports the approval of the hardship petition, in whole or in part, and the amount of the rent surcharge for each affected rental unit that would be authorized ("Proposed Order").

4209.33 Prior to the issuance of an Audit Report and Proposed Order, the Rent Administrator shall issue an order staying or extending the time before a conditional rent surcharge may be implemented in accordance with § 4209.38 if the Rent Administrator determines that:

(a) The housing provider has failed to comply with the requirements of this section regarding notice to tenants, the completion of the Hardship Petition Form, or submission of supporting documentation; or

(b) Further supporting documentation is necessary to review the validity of the rate of return claimed in the hardship petition.

4209.34 If the Rent Administrator has issued a stay or extension order pursuant to § 4209.33 and the housing provider continuously fails to comply with the requirements of that order, the Rent Administrator may dismiss the hardship petition.

4209.35 The Rent Administrator shall serve the housing provider and each affected tenant with the Audit Report and Proposed Order in the same manner provided by § 4209.31, and the housing provider and each affected tenant, or a tenant association representing affected tenants, shall have thirty (30) days to file exceptions and objections to the Audit Report or Proposed Order.

4209.36 If no party files exceptions and objections to the Audit Report or Proposed Order within the time provided by § 4209.35, the Proposed Order shall become final. If exceptions and objections are filed, the housing provider and each tenant or tenant association that has filed exceptions and objections, shall have the right to a hearing before the Office of Administrative Hearings on the contested issues.

4209.37 Exceptions and objections filed pursuant to § 4209.35 may contest whether a hardship petition should be approved or denied, in whole or in part, based on the following issues:

(a) The accuracy and verifiability of the income and expense/deduction data used to calculate the net income of the housing accommodation;

(b) The accuracy and verifiability of the financial information used to show the assessed value and encumbrances of the housing accommodation;

(c) The accuracy of the calculations made by the housing provider in completing the Hardship Petition Form or the Rent Administrator in completing the Audit Report;

(d) Whether any operating expense is extraordinary or capital in nature and should therefore be amortized or depreciated over its useful life;

(e) If the hardship petition requests to implement rent surcharges for any rental units by different percentages of the current rent charged, whether good cause exists for the different treatment;

(f) The existence of a valid registration statement or business license for the housing accommodation;

(g) Whether, as provided by § 4216.4, substantial violations of the Housing Regulations existed on the date the hardship petition was filed and have not been abated on the date of a hearing on the hardship petition; or

(h) Any other violation of the requirements provided by §§ 206(c) or 212 of the Act (D.C. Official Code §§ 42-3502.06(c) or 42-3502.12) or this section.

4209.38 After exceptions and objections have been filed and a hardship petition transferred to the Office of Administrative Hearings, the Administrative Law Judge may issue an order containing findings of fact or conclusions of law as to any issue of error identified by the parties or Administrative Law Judge with respect to the Audit Report and remanding the hardship petition to the Rent Administrator for a revised Audit Report.

4209.39 Within ninety (90) days of the filing of a hardship petition that claims a negative net income in accordance with § 4209.12, if the Office of Administrative Hearings has not issued a final order approving or denying the hardship petition, in whole or in part, or if such an order is stayed by an appeal to the Commission or the District of Columbia Court of Appeals, the housing provider may implement a conditional rent surcharge for each affected rental unit; provided, that any extension of time ordered pursuant to § 4209.33 shall be added to the number of days after which the housing provider may implement the conditional adjustment in rent charged.

4209.40 A conditional rent surcharge authorized by § 4209.39 shall be no greater than the lesser of:

(a) Five percent (5%) of the rent charged for an affected rental unit; or

(b) The amount authorized by a provisional order issued under § 4209.41.

4209.41 If a hearing has been held on a hardship petition by the Office of Administrative Hearings, the Administrative Law Judge may issue a provisional order approving or denying the petition, in whole or in part, no less than ten (10) days before the expiration of time under § 4209.39; provided, that the Administrative Law Judge may issue an order extending the time provided by § 4209.39 if he or she determines that the housing provider is responsible for any unreasonable delay in holding a hearing.

4209.42 A conditional rent surcharge pursuant § 4209.39 shall be implemented in accordance with §§ 4205.4 and 4205.5, and copies of the sample notice of rent increase and affidavit of service required by § 4205.4(d) shall be transmitted by the Rental Accommodations Division to the Office of Administrative Hearings and entered into the record of the pending hardship petition.

4209.43 A tenant may contest the implementation of a conditional rent surcharge under § 4209.39, but not the merits of the related, pending hardship petition, by filing a separate tenant petition with the Rent Administrator pursuant to § 4214. In the discretion of the Office of Administrative Hearings, a tenant petition on a conditional surcharge and the related, pending hardship petition may be consolidated or separately adjudicated in order to provide expedited resolution regarding the current rents charged in the housing accommodation.

4209.44 If a conditional rent surcharge has been implemented pursuant to § 4209.39, and a final order of the Rent Administrator, the Office of Administrative Hearings, or a decision by the Commission in an appeal approves only in part or denies the related hardship petition, the housing provider shall immediately implement a rent rollback in the amount by which the conditional surcharge exceeds the approved amount, if any, of the hardship petition, and the housing provider shall, within twenty one (21) days, refund to each affected tenant any excess rent that has been charged while the hardship petition has been pending, unless a tenant elects in writing within fourteen (14) days to receive the balance owed as a rent credit. A final order approving in part or denying a hardship petition shall constitute a final order to pay any rent refund and implement any rent rollback required by this section.

4209.45 Any rent surcharge that is authorized by a final order approving a hardship petition shall be implemented in accordance with § 4205 within twelve (12) months of the date on which the order becomes final, including the exhaustion of any rights of appeal, but no earlier than twelve (12) months following any prior increase in the rent that may be charged for that rental unit. Failure to implement the adjustment within twelve (12) months will result in the adjustment being forfeited in accordance with § 4204.9(d).

4210 PETITIONS BASED ON CAPITAL IMPROVEMENTS

4210.1 A housing provider may petition the Rent Administrator for a rent adjustment under § 210 of the Act (D.C. Official Code § 42-3502.10), which shall be in the form of a temporary rent surcharge, to recover the cost of a capital improvement made to a housing accommodation ("capital improvement petition").

4210.2 The cost of a capital improvement may be recovered through a rent surcharge if the improvement is:

(a) Made to enhance the quality of the housing accommodation ("quality improvement") by:

(1) Protecting or enhancing the health, safety, and security of the tenants or the habitability of the housing accommodation or affected rental units; or

(2) Producing a net saving in the use of energy by the housing accommodation or complying with applicable environmental protection regulations; provided, that any savings in energy costs are passed on to the tenants; or

(b) Required by any federal or local statute or regulation becoming effective after October 30, 1980 ("mandatory improvement").

4210.3 The cost of a capital improvement may not be recovered through a rent surcharge under this section if the improvement is not depreciable under the Internal Revenue Code (26 USC).

4210.4 Except as provided in § 4210.5, the cost of a capital improvement shall not be recoverable through a rent surcharge under this section if a housing provider makes, or begins construction or other work to make, the improvement to a rental unit or a housing accommodation prior to the approval of a capital improvement petition.

4210.5 A housing provider that makes, or begins construction or other work to make, a capital improvement without prior approval of a capital improvement petition may recover the cost of the improvement under this section, following the approval of the petition, if:

(a) The Office of Administrative Hearings has not issued a final order approving or denying the capital improvement petition, in whole or in part, or such an order is stayed pending an appeal to the Commission or the District of Columbia Court of Appeals, within sixty (60) days of the filing of petition; or

(b) The capital improvement is immediately necessary to maintain the health or safety of the tenants or is a mandatory improvement in accordance with § 4210.2(b); provided, that the petition shall be filed no later than thirty (30) days after the completion of all work to make the capital improvement.

4210.6 The cost of a capital improvement shall not be recoverable through a rent surcharge under this section if a tenant is displaced by construction or other work to make the improvement and the housing provider does not comply with § 501(f) of the Act (D.C. Official Code § 42-3505.01(f)) or Chapter 43 of this title.

4210.7 A housing provider shall file a capital improvement petition on a form approved by the Rent Administrator ("Capital Improvement Form"), which shall set forth the following:

(a) Whether, in accordance with § 4210.2, the improvement is a quality improvement to protect or enhance health, safety, and security or to produce a net savings in energy, or a mandatory improvement;

(b) If the improvement is a mandatory improvement, the provision of federal or District law, and its effective date, that requires the improvement;

(c) That the required governmental permits that have been requested or obtained, copies of which shall accompany the Capital Improvement Form;

(d) The basis under the Internal Revenue Code (26 USC) for considering the improvement to be depreciable; and

(e) The dollar amounts, percentages, and time periods computed by following the instructions listed in § 4210.8.

4210.8 The Capital Improvement Form shall contain instructions for computing the following in accordance with in this section:

(a) The total cost of a capital improvement;

(b) The dollar amount of the rent surcharge for each rental unit in the housing accommodation and the percentage increase above the current rents charged;

(c) The tax credits allowed in lieu of rent surcharges on elderly tenants and tenants with a disability and any reduced rent surcharges that may be allowed on those tenants; and

(d) The duration of the rent surcharge and its pro-rated amount in the month of the expiration of the surcharge.

4210.9 The total cost of a capital improvement shall be the sum of:

(a) Any costs actually incurred, to be incurred, or estimated to be incurred to make the improvement, in accordance with § 4210.11;

(b) Any interest that shall accrue on a loan taken by the housing provider to make the improvement, in accordance with § 4210.12; plus

(c) Any service charges incurred or to be incurred by the housing provider in connection with a loan taken by the housing provider to make the improvement, in accordance with § 4210.13.

4210.10 For the purposes of calculating interest and service charges, "a loan taken by the housing provider to make the improvement or renovation" shall mean only the portion of any loan that is specifically attributable to the costs incurred to make the improvement or renovation, in accordance with § 4210.11, and the dollar amount of that portion shall not exceed the amount of those costs.

4210.11 The costs incurred to make a capital improvement shall be determined based on invoices, receipts, bids, quotes, work orders, loan documents or a commitment to make a loan, or other evidence of costs as the Administrative Law Judge may find probative.

4210.12 The interest on a loan taken to make a capital improvement shall mean all compensation paid by the housing provider to a lender for the use or detention of money used to make a capital improvement, in the amount of either:

(a) The interest payable by the housing provider at a fixed or variable rate of interest on a loan of money used to make the capital improvement or on that portion of a multi-purpose loan of money used to make the capital improvement as documented by the housing provider by means of the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of interest as the Administrative Law Judge may find probative; or

(b) In the absence of any loan commitment, agreement, or other evidence of interest, the amount of interest shall be calculated at the following rate:

(1) The rate for seven (7) year United States Treasury constant maturities as published by the Federal Reserve Board in Publication H.15 (519) during the thirty (30) days immediately preceding the filing of the capital improvement petition; plus

(2) Four percentage (4%) points or four hundred (400) basis points.

4210.13 The service charges in connection with a loan taken to make a capital improvement shall include points, loan origination and loan processing fees, trustee's fees, escrow set up fees, loan closing fees, charges, and costs, title insurance fees, survey fees, lender's counsel fees, borrower's counsel fees, appraisal fees, environmental inspection fees, lender's inspection fees (however any of the foregoing may be designated or described), and other charges (other than interest) required by a lender, as supported by the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of service charges as the Administrative Law Judge may find probative.

4210.14 The dollar amount of a rent surcharge on a rental unit that a housing provider may implement pursuant to a final order approving a capital improvement petition shall be no more per month than the following:

(a) If a quality improvement affects all rental units in the housing accommodation, the lesser of the amount computed in accordance with § 4210.15 or twenty percent (20%) of the rent that may be charged, as lawfully calculated and properly filed with the Rental Accommodations Division, for each affected rental unit on the date the petition is filed;

(b) If a quality improvement affects fewer than all rental units in the housing accommodation, the lesser of the amount computed in § 4210.16 or fifteen percent (15%) of the rent that may be charged, as lawfully calculated and properly filed with the Rental Accommodations Division, for each affected rental unit on the date the petition is filed; or

(c) If an improvement is a mandatory improvement, the amount computed in accordance with § 4210.17.

4210.15 Except where the amount of a rent surcharge on a rental unit is limited to the percentage specified by § 4210.14(a), the monthly amount of a rent surcharge for a quality improvement that affects all rental units in a housing accommodation shall be the quotient of:

(a) The total cost of the capital improvement, in accordance with § 4210.9, divided by ninety-six (96) months; divided by

(b) The number of rental units in the housing accommodation.

4210.16 Except where the amount of a rent surcharge on a rental unit is limited to the percentage specified by § 4210.14(b), the monthly amount of a rent surcharge for a quality improvement that affects fewer than all rental units in a housing accommodation shall be the quotient of:

(a) The total cost of the capital improvement, in accordance with § 4210.9, divided by sixty-four (64) months; divided by

(b) The number of rental units affected by the improvement.

4210.17 The monthly amount of a rent surcharge for a mandatory improvement shall be the quotient of:

(a) The total cost of the capital improvement, in accordance with § 4210.9, divided by the number of months in the useful life of the improvement; divided by

(b) The number of rental units affected by the improvement.

4210.18 The monthly amount of a rent surcharge requested or allowed by a capital improvement petition shall be an equal amount for each affected rental unit, except where the amount of a rent surcharge on a rental unit is limited to the percentage specified by § 4210.14(a) or (b) or where the implementation of a rent surcharge is prohibited by § 224(b) of the Act (D.C. Official Code § 42-3502.24(b)) and § 4215 of this chapter.

4210.19 Except as provided by § 4210.27, the duration of a rent surcharge requested or allowed by a capital improvement petition shall be the quotient, rounded to the next whole number of months, of:

(a) The total cost of the capital improvement, in accordance with § 4210.9; divided by

(b) The sum of the monthly rent surcharges permitted by § 4210.14 on each affected rental unit, without regard to whether implementation of the surcharge is prohibited by § 4215.

4210.20 A rent surcharge in the final month of its duration shall be no greater than the remainder of the calculation in § 4210.19, prior to rounding.

4210.21 A Capital Improvement Form, as filed with the Rent Administrator, shall be accompanied by external documents to substantiate the total cost of a capital improvement. A housing provider that has filed a capital improvement petition shall have a continuing obligation to supplement the record of the administrative proceedings on the petition with any new documentation reflecting the actual total cost of the improvement, until a final order approves or denies the petition or the evidentiary record of a hearing closes.

4210.22 A Capital Improvement Form, as filed with the Rent Administrator, shall be accompanied by a listing of each rental unit in the housing accommodation, which shall identify:

(a) Which rental units are to be affected by the capital improvement;

(b) The rent that may be charged for each affected rental unit, as lawfully calculated and properly filed with the Rental Accommodations Division; and

(c) The dollar amount of the proposed rent surcharge for each rental unit and the percentage increase above the current rents that may be charged.

4210.23 After determining, in accordance with § 4208.5, that a capital improvement petition has been properly filed, the Rent Administrator shall transmit the petition to the Office of Administrative Hearings within ten (10) business days.

4210.24 A tenant or tenant association that appears pursuant to § 4208.10 may contest whether the capital improvement petition should be approved or denied, in whole or in part, based on the following issues:

(a) Whether the improvement qualifies as a quality or mandatory improvement or is depreciable under the Internal Revenue Code (26 USC);

(b) Whether the improvement affects all or fewer than all rental units in the housing accommodation;

(c) If the improvement affects fewer than all rental units in the housing accommodation, whether the interests of the affected tenants are being protected;

(d) Whether the housing provider has obtained all required District government permits by the time of an evidentiary hearing; provided, that the grounds for any agency's issuance or denial of a required permit shall not be contested;

(e) The accuracy of the financial documentation or if the documentation substantiates the total cost of the capital improvement;

(f) The calculations made by the housing provider or the Rent Administrator in determining the amount and duration of the surcharge;

(g) Whether the housing accommodation is properly registered and the housing provider has all required business licenses;

(h) Whether, as provided by § 4216.4, substantial violations of the Housing Regulations existed on the date the capital improvement petition was filed

and have not been abated on the date of a hearing on the capital improvement petition; or

(i) Any other violation of § 210 of the Act (D.C. Official Code § 42-3502.10) or this section.

4210.25 Failure of the Rent Administrator to take action or the Office of Administrative Hearings to issue a final order within sixty (60) days of the filing of a capital improvement petition shall not authorize the implementation of any rent surcharge under this section, notwithstanding the authorization to begin work to make the improvement in accordance with § 4210.5(a).

4210.26 Any rent surcharge that is authorized by a final order approving a capital improvement petition shall be implemented in accordance with § 4205 within twelve (12) months of the date on which the order becomes final, including the exhaustion of any rights of appeal, but no earlier than twelve (12) months following any prior increase in the rent that may be charged for that rental unit; provided, that if the work to make the capital improvement renders the unit uninhabitable beyond the expiration of time, the rent surcharge may be implemented when the unit is reoccupied. Failure to implement the adjustment within twelve (12) months will result in the adjustment being forfeited in accordance with § 4204.9(d).

4210.27 Not less than sixty (60) days before the expiration of a rent surcharge implemented pursuant to an approved capital improvement petition, a housing provider may request to extend the duration of the rent surcharge by filing, and serving notice on each affected rental unit that the housing provider requires an extension to recover the total cost of the capital improvement by filing an application with the Rent Administrator ("Certificate of Continuation").

4210.28 A Certificate of Continuation shall be executed under oath and shall set forth:

(a) The total cost of the capital improvement as approved by the capital improvement petition;

(b) The dollar amount actually received, including any tax credits taken pursuant to § 224(g) of the Act (D.C. Official Code § 42-3502.24(g)), by the implementation of the rent surcharge within its approved duration, including any amount estimated to be collected before the expiration of its approved duration;

(c) An accounting of and reason(s) for the difference between the amounts stated in paragraphs (a) and (b); and

(d) A calculation of the additional number of months required, under currently known conditions, for the housing provider to recover the total cost of the capital improvement by extension of the duration of the rent surcharge.

4210.29 A Certificate of Continuation that is properly filed shall be transmitted within ten (10) business days by the Rent Administrator to the Office of Administrative Hearings under the same case number of the underlying capital improvement petition.

4210.30 A tenant of a rental unit affected by a Certificate of Continuation may file exceptions and objections with the Office of Administrative Hearings within fifteen (15) days of the service of the Certificate of Continuation, setting forth reasons why the requested extension should not be granted pursuant to § 4210.31.

4210.31 A Certificate of Continuation shall be approved if the housing provider demonstrates good cause for the difference between the amounts stated in § 4210.28(a) and (b).

4210.32 If an order approving or denying a Certificate of Continuation is not issued prior to the expiration of the surcharge, the housing provider may continue the implementation of the rent surcharge for no more than the number of months requested in the Certificate of Continuation. If a Certificate of Continuation is subsequently denied, the order of denial shall constitute an order to the housing provider to pay a rent refund to each affected tenant in the amount of the surcharge that has been demanded or received beyond its original, approved duration in which it was implemented, and, if the rent surcharge remains in effect, to discontinue the surcharge.

4210.33 A rent surcharge implemented pursuant to an approved capital improvement petition may be extended by Certificate of Continuation no more than once.

4211 PETITIONS FOR CHANGES IN RELATED SERVICES OR FACILITIES

4211.1 A housing provider who has changed or proposes to change any related service or facility provided to a rental unit or housing accommodation may petition the Rent Administrator for a rent adjustment under § 211 of the Act (D.C. Official Code § 42-3502.11) to reflect the monthly value of the change ("services or facilities petition").

4211.2 A housing provider may add or increase related services or facilities at any time without an increase in the rent charged for a rental unit without waiving the right to file a corresponding services or facilities petition for a rent adjustment at a later date, and may reduce or eliminate the service or facility if no corresponding rent adjustment has been implemented; provided, that if a related service or facility has been provided for three (3) or more years without a corresponding petition for a rent adjustment, the service or facility shall be deemed to be included in the rent charged.

4211.3 A housing provider shall not eliminate or substantially reduce related services or facilities provided without prior approval of a services or facilities petition or reduce or eliminate a related service or facility that is required by law, including by the Housing Regulations. If related services or facilities decrease by accident, inadvertence, or neglect by a housing provider and are not promptly restored, the housing provider shall promptly reduce the rent for an affected rental unit by an amount which reflects the monthly value of the change in related services or facilities.

4211.4 A tenant may file a petition, in accordance with § 4214, if a housing provider fails to comply with § 4211.3 and does not promptly restore the related service or facility to the previous level or implement a corresponding reduction in the rent charged. The tenant may be awarded a rent refund, or rent rollback if the violation is ongoing, if the tenant proves:

(a) That the reduction or elimination of the related service or facility was substantial, which includes substantial violations of the Housing Regulations provided in § 4216.2;

(b) The dates on which the related service or facility was first reduced or eliminated and the duration of the reduction or elimination; and

(c) The date on which the housing provider had notice of the reduction or elimination of the related service or facility.

4211.5 A housing provider shall file a related services or facilities petition on a form approved by the Rent Administrator ("Services or Facilities Form"), which shall include the following information:

(a) The address of the housing accommodation;

(b) The housing provider's registration number;

(c) A brief description of the changes in related services or facilities;

(d) An estimate of the monthly value of any increase in related services or facilities;

(e) An estimate of the monthly value to the tenants of any decrease in related services or facilities;

(f) A statement giving the reason for changing the related services or facilities;

(g) The rent charged for each affected rental unit at the time the petition is filed; and

(h) The proposed rents to be charged for each affected rental unit that would reflect the change in the related services or facilities.

4211.6 A services or facilities petition shall only be approved if:

(a) The change does not adversely affect the health, safety, and security of the tenants;

(b) The change does not directly result in a substantial violation of the Housing Regulations;

(c) The change is not required by law or intended to correct an ongoing or recurring violation of the Housing Regulations or other legal requirement;

(d) The change is not a retaliatory action, as defined in § 502 of the Act (D.C. Official Code § 42-3505.02) and § 4303 of this title; and

(e) The change is not intended to cause displacement of tenants from the housing accommodation.

4211.7 The monthly value of changes in related services or facilities shall be determined as an adjustment to the rent that may be charged for a rental unit in consideration of the following:

(a) The probable cost to a tenant of obtaining alternate services or facilities comparable to those reduced by the housing provider;

(b) The actual or foreseeable operating cost to the housing provider of the related services or facilities proposed to be changed; or

(c) The fair market value of comparable related services or facilities.

4211.8 The monthly value of changes in related services or facilities shall not include or reflect the cost to the housing provider to make any related capital improvements, whether or not the housing provider could or does file a petition pursuant to § 4210 to recover those costs.

4211.9 After determining, in accordance with § 4208.5, that a services or facilities petition has been properly filed, the Rent Administrator shall transmit the petition to the Office of Administrative Hearings within ten (10) business days.

4211.10 A tenant or tenant association that appears pursuant to § 4208.10 may contest whether the services or facilities petition should be approved or denied, in whole or in part, based on the following issues:

(a) Whether the petition must be denied for any reason provided in § 4211.6;

(b) Whether the proposed monthly value of the change is fair or reasonable based on the factors provided in § 4211.7;

(c) Whether the housing accommodation is properly registered and the housing provider has all required business licenses;

(d) Whether, pursuant to § 4216.4, substantial violations of the Housing Regulations existed on the date the services or facilities petition was filed and have not been abated at the time of a hearing on the services or facilities petition; or

(e) Any other violation of § 211 of the Act (D.C. Official Code § 42-3502.11) or this section.

4211.11 Any rent increase that is authorized by a final order approving a services or facilities petition shall be implemented in accordance with § 4205 within twelve (12) months of the date on which the order becomes final, including the exhaustion of any rights of appeal, but no earlier than twelve (12) months following any prior increase in the rent that may be charged for that rental unit; provided, that the change in related services or facilities shall be implemented prior to the increase in the rent charged for an affected rental unit. Failure to implement the adjustment within twelve (12) months will result in the adjustment being forfeited in accordance with § 4204.9(d).

4211.12 A reduction or elimination of related services or facilities that is authorized by a final order approving a services or facilities petition may be implemented at any time after its approval; provided, that if the final order provides for a corresponding reduction in the rent that may be charged for an affected rental unit rent, the reduction in the rent charged shall be implemented prior to the change in related services or facilities.

4211.13 Within thirty (30) days following the date an order approving a services or facilities petition becomes final, the housing provider shall file an amendment to the Rent Stabilization Registration Form in accordance with § 4103.1.

4212 PETITIONS BASED ON SUBSTANTIAL REHABILITATION

4212.1 A housing provider who proposes to substantially rehabilitate a housing accommodation may petition the Rent Administrator for a rent adjustment under § 214 of the Act (D.C. Official Code § 42-3502.14), which shall be in the form of

a rent surcharge, based on the cost of the rehabilitation ("substantial rehabilitation petition").

4212.2 A housing provider shall not file a substantial rehabilitation petition until all required building permits have been requested or obtained for the proposed improvements or renovations that may constitute a substantial rehabilitation.

4212.3 A housing provider shall not begin any improvement or renovation of a housing accommodation for which it seeks a rent adjustment under this section, or initiate proceedings to evict a tenant in order to substantially rehabilitate any part of a housing accommodation, without the prior approval of the Office of Administrative Hearings, or of the Rent Administrator if all affected units are vacant at the time of filing.

4212.4 A housing provider shall file a substantial rehabilitation petition on a form published by the Rent Administrator ("Substantial Rehabilitation Form") and shall include with the petition the following information:

(a) Detailed plans, specifications, and the projected total cost of the proposed improvements or renovations, in accordance with § 4212.6;

(b) Copies of all applications filed for required building permits for the proposed improvements or renovations, or copies of all required permits if they have been issued;

(c) Documentation of the assessed value of the housing accommodation as determined by the D.C. Office of Tax and Revenue, in accordance with § 4212.13;

(d) A schedule showing all rental units in the housing accommodation to be rehabilitated showing whether the rental unit is vacant or occupied and, if vacant, the first date and cause of its vacancy;

(e) A schedule showing the current rent that may be charged, as lawfully calculated and properly filed with the Rental Accommodations Division, and the proposed rent surcharge for each rental unit; and

(f) If any tenants will be displaced by the substantial rehabilitation, the information required by § 4212.16.

4212.5 An improvement to or renovation of a housing accommodation shall only be deemed a substantial rehabilitation if the total cost for the improvement or renovation, as determined in accordance with § 4212.6, exceeds fifty percent (50%) of the assessed value of the housing accommodation, as determined in accordance with § 4212.13.

4212.6 The total cost of an improvement or renovation shall be the sum of:

(a) Any costs actually incurred, to be incurred, or estimated to be incurred to make the improvement or renovation, in accordance with § 4212.8;

(b) Any interest that shall accrue on a loan taken by the housing provider to make the improvement or renovation, in accordance with § 4212.9; plus

(c) Any service charges incurred or to be incurred by the housing provider in connection with a loan taken by the housing provider to make the improvement or renovation, in accordance with § 4210.13.

4212.7 For the purposes of calculating interest and service charges, "a loan taken by the housing provider to make the improvement or renovation" shall mean only the portion of any loan that is specifically attributable to the costs incurred to make the improvement or renovation, in accordance with § 4212.8, and the dollar amount of that portion shall not exceed the amount of those costs.

4212.8 The costs incurred to make an improvement or renovation shall be determined based on invoices, receipts, bids, quotes, work orders, loan documents or a commitment to make a loan, or other evidence of expenses as the Administrative Law Judge may find probative.

4212.9 The interest on a loan taken to make an improvement or renovation shall mean all compensation paid by the housing provider to a lender for the use, forbearance, or detention of money used to make the improvement or renovation, in the amount of either:

(a) The interest payable by the housing provider at a fixed rate of interest on a loan of money used to make the improvement or renovation on that portion of a multi-purpose loan of money used to make the improvement or renovation as documented by the housing provider by means of the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of interest as the Administrative Law Judge may find probative; or

(b) In the absence of any loan commitment, agreement, or other evidence of interest, the amount of interest shall be calculated at the following rate:

(1) The average monthly bank prime loan rate established by the Federal Reserve Board in Publication H-15, Selected Interest Rates, for the week in which the substantial rehabilitation petition is filed; plus

(2) Two percentage (2%) points or two hundred (200) basis points.

4212.10 The service charges in connection with a loan taken to make an improvement or renovation shall include points, loan origination and loan processing fees, trustee's fees, escrow set up fees, loan closing fees, charges, and costs, title insurance fees, survey fees, lender's counsel fees, borrower's counsel fees, appraisal fees, environmental inspection fees, lender's inspection fees (however any of the foregoing may be designated or described), and such other charges (other than interest) required by a lender, as supported by the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of service charges as the Administrative Law Judge may find probative.

4212.11 Any costs, and any interest or fees attributable to those costs, for any specific aspect or component of a proposed improvement or renovation that is not in the interest of the tenants, as provided by § 4212.12, shall be excluded from the calculation of the total cost of the improvement or renovation.

4212.12 Whether a proposed substantial rehabilitation, or any specific aspect or component of the improvement or renovation, is in the interest of the tenants shall be determined by balancing the following factors:

(a) The existing physical condition of the rental units or housing accommodation, as shown by reports or testimony of D.C. housing inspectors, licensed engineers, architects and contractors, or other qualified experts;

(b) Whether the existing physical condition impairs or tends to impair the health, safety, or welfare of any tenant;

(c) Whether deficiencies in the existing physical conditions could instead be corrected by improved maintenance, repair, or capital improvement;

(d) Whether the proposed improvements or renovations are optional or cosmetic changes; and

(e) The impact of the proposed rehabilitation on the tenants in terms of any inconvenience due to construction or relocation and the proposed financial costs, including whether tenants have or will have a rent burden greater than thirty percent (30%) of their monthly household incomes.

4212.13 The assessed value of a housing accommodation shall be the official assessment of the property by the D.C. Office of Tax and Revenue for real estate taxation purposes for the current tax year on the date a substantial rehabilitation petition is filed; provided, that if a new tax year begins sixty (60) days or less after the date on which a substantial rehabilitation petition is filed and the assessed value shall be the value determined for the new tax year.

4212.14 The amount of a rent surcharge authorized by a substantial rehabilitation petition for each individual rental unit in a housing accommodation shall be the lesser of:

(a) The generally permissible amount calculated in accordance with § 4212.15; or

(b) One hundred twenty-five percent (125%) of the rent that may be charged, as lawfully calculated and properly filed with the Rental Accommodations Division, for the rental unit at the time the substantial rehabilitation petition is filed.

4212.15 The generally permissible amount of a rent adjustment to a rental unit pursuant to a substantial rehabilitation petition shall be the quotient of:

(a) The total cost of the improvements or renovations, as provided in § 4212.6, that are in the interest of the tenants; divided by

(b) The amortization period of the loan taken to make an improvement or renovation, as documented by the housing provider by means of the relevant portion of a bona fide loan commitment or agreement with a lender, or, in the absence of a loan commitment or agreement, a period of two hundred forty (240) months; divided by

(c) The number of rental units in the housing accommodation.

4212.16 A housing provider that seeks authorization, pursuant to § 501(h) of the Act (D.C. Official Code § 42-3505.01(h)), to issue notices to vacate for the purposes of performing construction or other work to substantially rehabilitate a housing accommodation shall file, with the substantial rehabilitation petition, the following information:

(a) A draft of the notice to vacate to be issued to the tenant if the petition is approved, in accordance with § 4302 of this title;

(b) A timetable for all aspects of the plan for substantial rehabilitation, including:

(1) The relocation of each tenant from the rental unit and back into the rental unit;

(2) The commencement of the work; and

(3) The completion of the work; and

(c) A relocation plan for each tenant that provides:

(1) The amount of the relocation assistance payment for the rental unit, in accordance with title VII of the Act (D.C. Official Code §§ 42-3507.01 *et seq.*);

(2) A specific plan for relocating the tenant to another rental unit in the housing accommodation, or, if the housing provider states that relocation within the same building or complex is not practicable, the reasons for the statement;

(3) If relocation to another rental unit in the housing accommodation is not practicable, a list of units within the housing provider's portfolio of rental accommodations made available to each dispossessed tenant, or, where the housing provider asserts that relocation within the housing provider's portfolio of rental accommodations is not practicable, the justification for such assertion;

(4) If relocation to a rental unit pursuant to subparagraph (2) or (3) is not practicable, a list for each tenant affected by the relocation plan of at least three (3) other rental units available to rent in a housing accommodation in the District of Columbia, each of which shall be comparable to the rental unit in which the tenant currently lives; and

(5) A list of tenants with their current addresses and telephone numbers.

4212.17 Authorization to issue a notice to vacate for the purposes of performing construction or other work to substantially rehabilitate a housing accommodation shall be approved pursuant to a substantial rehabilitation petition only if the rehabilitation is in the interest of each tenant proposed to be displaced, in accordance with § 4212.12, taking into consideration the relocation plan for the tenant and any relocation assistance to which the tenant is entitled.

4212.18 A Substantial Rehabilitation Form, as filed with the Rent Administrator, shall be accompanied by external documents to substantiate the total cost of the improvement or renovation. A housing provider that has filed a substantial rehabilitation petition shall have a continuing obligation to supplement the record of the adjudication of the petition with any new documentation reflecting the actual total cost of the improvement or renovation, until a final order approves or denies the petition or the evidentiary record of a hearing closes.

4212.19 A Substantial Rehabilitation Form, as filed with the Rent Administrator, shall include a statement of whether any tenant will be displaced by the substantial rehabilitation, the unit numbers in which the tenant resides, a proposed timetable

and relocation plan for each tenant to be displaced, and that relocation assistance is available.

4212.20 After determining, in accordance with § 4208.5, that a substantial rehabilitation petition has been properly filed, the Rent Administrator shall transmit the petition to the Office of Administrative Hearings within ten (10) business days.

4212.21 Notwithstanding § 4212.20, if all rental units proposed to be affected by a substantial rehabilitation petition is claimed to be vacant, the Rent Administrator shall mail notice to each unit that a petition has been filed claiming the unit is vacant and affording any tenant a reasonable opportunity to respond. If the Rent Administrator is satisfied that each affected rental unit is vacant, the Rent Administrator shall review the petition and supporting materials in accordance with this section and issue a final order or granting or denying the petition, in whole or in part.

4212.22 If the Rent Administrator issues a final order denying a vacant-unit petition in whole or in part in accordance with § 4212.21, the housing provider may appeal to the Commission in accordance with § 3802. If the Commission determines that an evidentiary hearing is necessary to decide the petition, the Commission shall remand the matter to the Office of Administrative Hearings.

4212.23 A tenant or tenant association that appears pursuant to § 4208.10 may contest whether the substantial rehabilitation petition should be approved or denied, in whole or in part, based on the following issues:

(a) The validity or accuracy of the calculation of the total cost of the improvement or renovation and the assessed value of the housing accommodation;

(b) Whether any improvement or renovation is in the interest of the tenants or affects a specific rental unit;

(c) Whether the housing provider has obtained all required District government permits by the time of an evidentiary hearing; provided, that the grounds for any agency's issuance or denial of a required permit shall not be contested;

(d) The validity or accuracy of the amount of a rent surcharge authorized for an individual rental unit in a housing accommodation;

(e) The completeness and accuracy of any information provided to support the issuance of notices to vacate;

(f) Whether the displacement of tenants, if any, is warranted because the improvements or renovations cannot safely or reasonably be made while a rental unit is occupied;

(g) Whether the relocation plan, if any, is in the interest of the tenants;

(h) Whether the housing accommodation is properly registered and the housing provider has all required business licenses;

(i) Whether, as provided by § 4216.4, substantial violations of the Housing Regulations existed on the date the substantial rehabilitation petition was filed and have not been abated on the date of a hearing on the substantial rehabilitation petition, except as provided by § 4212.24; or

(j) Any other violation of § 214 of the Act (D.C. Official Code § 42-3502.14) or this section.

4212.24 Notwithstanding any other provision of this chapter, a substantial rehabilitation petition may be approved if the housing accommodation is not in substantial compliance with the Housing Regulations if the improvements or renovations will correct each identified violation.

4212.25 Failure of the Rent Administrator to take any action or the Office of Administrative Hearings to issue a final order on a substantial rehabilitation petition in a timely manner shall not authorize a housing provider to initiate any alterations or renovations for which a rent surcharge is sought in the petition or to initiate proceedings to evict a tenant in order to substantially rehabilitate any part of a housing accommodation.

4212.26 A notice to vacate pursuant to § 501(h) of the Act (D.C. Official Code § 42-3505.01(h)) authorized by a substantial rehabilitation petition shall be served no later than one hundred twenty (120) days before the housing provider intends to or actually takes action to recover possession of the rental unit and shall comply with all applicable provisions of § 4302 of this title.

4212.27 A housing provider that has issued notices to vacate in accordance with § 4212.26 shall obtain interim contact information for each tenant displaced by the rehabilitation and shall file the information with the Rent Administrator. The housing provider shall file a notice with the Rent Administrator when each displaced tenant retakes possession of his or her original rental unit.

4212.28 Within thirty (30) days of the completion of a substantial rehabilitation and the return of each displaced tenant, if any, to his or her original rental unit, a housing provider shall file an affidavit attesting to the completion with the Rent Administrator. For the purposes of § 4204.9, the date of filing of an affidavit of completion shall be deemed the date on which the rent surcharge becomes

authorized, and the adjustment shall be implemented, in accordance with § 4205, within twelve (12) months of the filing of a certification of completion.

4212.29 A rent surcharge authorized by a final order approving an application under this section shall be implemented as an adjustment to the rent charged for an affected rental unit in accordance with § 4205 within twelve (12) months of the date of the order, including the exhaustion of any rights of appeal, but no earlier than twelve (12) months following any prior increase in the rent that may be charged for that rental unit; provided, that if the rehabilitation of a unit renders it uninhabitable beyond the expiration of time, the rent surcharge may be implemented when the unit is reoccupied. Failure to implement the adjustment within twelve (12) months will result in the adjustment being forfeited in accordance with § 4204.9(d).

4213 RENT ADJUSTMENTS BY VOLUNTARY AGREEMENT

4213.1 Seventy percent (70%) or more of the tenants of a housing accommodation, not including tenants of units exempt from the Rent Stabilization Program for any reason under § 4106, may enter into a voluntary agreement with the housing provider with the prior approval of the Rent Administrator to:

(a) Establish the rents to be charged for rental units in the housing accommodation;

(b) Alter levels of related services or facilities; or

(c) Provide for capital improvements or the performance of deferred, ordinary maintenance or repairs.

4213.2 A housing provider, a tenant, or a tenant association shall initiate an application for approval of a voluntary agreement by filing a proposed voluntary agreement with the Rent Administrator ("Proposed Voluntary Agreement").

4213.3 A Proposed Voluntary Agreement, when filed and served in accordance with §§ 4213.4 and .5, shall include:

(a) The current rent that may be charged, as lawfully calculated and properly filed with the Rental Accommodations Division and the proposed rent to be charged for each rental unit, including the proposed dollar amount and percentage of each rent adjustment;

(b) The current and proposed levels of related services or facilities;

(c) Any provisions for capital improvements or performance of deferred, ordinary maintenance or repairs, including the scope and costs of the work to be performed;

(d) All other conditions by which the tenants and housing provider agree to be bound, including any consideration or promises exchanged to induce the approval of any party and copies of any written agreements to those conditions;

(e) Documentation reflecting current rents charged for comparable rental units in housing accommodations proximate to the subject housing accommodation;

(f) A list of all rental units, including vacant units, noting whether the rental unit is subject to the Rent Stabilization Program or exempt, and all tenants in the housing accommodation by name and rental unit number or identifying letter, and, for covered rental units, a space for each tenant's signature and telephone number and a space for each tenant to approve or disapprove of the agreement;

(g) A list of any rental units for which the housing provider has notice that the unit is leased to and occupied by an elderly tenant or tenant with a disability, the name of each tenant in the unit, and the current rent charged for the unit;

(h) A timeline of any work to be performed through voluntary agreement; and

(i) A copy of D.C. Official Code § 42-3502.15 and 14 DCMR § 4213.

4213.4 Prior to or simultaneously with the filing of a Proposed Voluntary Agreement with the Rent Administrator, the party initiating an application shall:

(a) Serve a copy of the Proposed Voluntary Agreement upon each tenant in the affected housing accommodation, and the housing provider if the initiating party is not the housing provider, accompanied by a letter briefly explaining the purpose of the application, stating the amount of the proposed rent adjustment for the recipient unit, if any, and notifying the tenant of the opportunity to contest the application provided by this section; and

(b) Transmit a copy of the Proposed Voluntary Agreement to the Office of the Tenant Advocate and the Housing Provider Ombudsman.

4213.5 Within five (5) days of the receipt of a Proposed Voluntary Agreement, the Rent Administrator shall make a preliminary determination that the application complies with the filing requirements of § 4213.3 and the service requirements of § 4213.4 and, if so, serve notice on the tenant of each affected rental unit, and the housing provider if the initiating party is not the housing provider, in accordance with § 4213.8.

4213.6 If the Rent Administrator determines that an application for approval of a voluntary agreement was not initiated in compliance with the filing requirements of § 4213.3, the Rent Administrator, in his or her discretion, shall either:

(a) Dismiss the application without prejudice; or

(b) Grant the initiating party leave to amend the application, in which case the Proposed Voluntary Agreement shall be deemed filed on the date it is amended.

4213.7 If the Rent Administrator determines that an initiating party has not complied with the service requirements of § 4213.4, the Rent Administrator, in his or her discretion, shall either:

(a) Dismiss the application without prejudice; or

(b) Deem the Proposed Voluntary Agreement to be filed on the date the initiating party demonstrates compliance with the service requirements.

4213.8 A tenant of a rental unit proposed to be affected by a Proposed Voluntary Agreement, or the housing provider if the initiating party is not the housing provider, if the application complies with the filing requirements of § 4213.3 and the service requirements of § 4213.4, shall receive from the Rent Administrator notice of the following:

(a) The filing and subject matter of the application;

(b) The negotiation, revision, and signing procedures under this section;

(c) The hearing or other administrative procedures for deciding the application; and

(d) The tenant or housing provider's right under § 10 of the D.C. Administrative Procedure Act (D.C. Official Code § 2-509), and this section to contest or oppose the application.

4213.9 The housing provider and each tenant shall have a minimum of thirty (30) days from the date a Proposed Voluntary Agreement is filed and served to consider the agreement and confer with other parties before any revised terms may be filed with the Rent Administrator; provided, that this time may be extended, within the discretion of the Rent Administrator, if any party was not properly served with a copy of the Proposed Voluntary Agreement or if the Rent Administrator determines that such time is appropriate for further negotiations ("Negotiation Period"). Housing providers and tenants are encouraged to enter into face-to-face negotiations to discuss the terms of a voluntary agreement during this time.

4213.10 All notices and responses regarding a Proposed Voluntary Agreement shall be in writing with a copy filed with the Rent Administrator and shall include the name, street address (not including mailbox services or post office box addresses) and telephone number of the person(s) providing the notice or response.

4213.11 Any counter-proposal to a Proposed Voluntary Agreement may provide alternatives regarding the proposed rents to be charged, changes in related services or facilities, provisions for capital improvements or deferred maintenance, or any other proposed conditions incident to a voluntary agreement.

4213.12 If the housing provider and tenants find there are difficulties and obstacles to negotiating a Proposed Voluntary Agreement and are desirous of achieving a successful agreement, the housing provider or any tenant may seek the assistance of the Conciliation Service of the Rental Accommodations Division, as established under § 503 of the Act (D.C. Official Code § 42-3505.03) and § 3913 of this title, when a dispute arises in the course of attempting to reach an agreement on the cost and terms of the Proposed Voluntary Agreement.

4213.13 The Rent Administrator, in his or her discretion, and upon his or her own initiative or upon the request of a party, may call for a meeting to discuss the terms of a Proposed Voluntary Agreement, including but not limited to the criteria for approval or disapproval of a voluntary agreement, so long as the Rent Administrator determines that the meeting should not be conducted as a mediation or conciliation pursuant to § 4213.12.

4213.14 After the expiration of the Negotiation Period, the initiating party may begin collecting signatures of tenants to approve or reject the Proposed Voluntary Agreement, including any modifications made during the negotiation period. If the version circulated for signatures is different from the Proposed Voluntary Agreement, the initiating party shall also file a copy with the Rent Administrator.

4213.15 A signature given to approve a Proposed Voluntary Agreement shall only be valid if it is given subsequent to and no more than sixty (60) days after the end of the Negotiation Period ("Signature Collection Period"). Before the end of the Signature Collection Period, the initiating party may request, no more than once, that Rent Administrator extend the time, by no more than thirty (30) days, for good cause shown.

4213.16 Agents or employees of the housing provider residing in the housing accommodation shall not be eligible to sign a voluntary agreement and shall not be considered in determining whether seventy percent (70%) of the tenants approve of the Proposed Voluntary Agreement.

4213.17 No more than three (3) business days after the end of the Signature Collection Period, the initiating party shall file with the Rent Administrator a copy of the

Proposed Voluntary Agreement accompanied by all signatures that have been obtained ("Final Voluntary Agreement").

4213.18 A Final Voluntary Agreement, when filed with the Rent Administrator, shall include:

(a) All the terms and information required by § 4213.3, other than paragraph (g);

(b) A certification that the agreement was entered into voluntarily and that no form of duress, harassment, intimidation, coercion, fraud, deceit, or misrepresentation of material fact or law was employed by any party involved in securing any signature;

(c) A certification that the agreement is complete and includes all terms and conditions by which the housing provider and or any tenant is bound, and that no further consideration or promises have been exchanged for or offered to induce any party to sign the Proposed Voluntary Agreement; and

(d) The signatures of:

(1) The housing provider;

(2) Each tenant agreeing to the terms of the voluntary agreement, which shall be not less than seventy percent (70%) of the eligible tenants; and

(3) Each tenant electing to sign to indicate his or her disapproval of the terms of the voluntary agreement;

(e) A certification that the filing party made a good faith effort to obtain the signature, whether agreeing to or disapproving of the Proposed Voluntary Agreement, of each tenant for whom a signature is not filed.

4213.19 After the filing of a Final Voluntary Agreement, the Rent Administrator shall deny, without a hearing, any application for approval of a voluntary agreement that has not complied with the requirements of §§ 4213.2-.18.

4213.20 Pursuant to § 215(c) of the Act (D.C. Official Code § 42-3502.15(c)), if a Final Voluntary Agreement is filed with the Rent Administrator that is not denied under § 4213.19, and the only terms of the agreement are to adjust the rents charged for each rental unit within a housing accommodation by the same, specified percentage, notwithstanding any exemption provided by § 224(i) of the Act (D.C. Official Code § 42-3502.24(i)), the Rent Administrator shall issue a final order approving the voluntary agreement and serve the order upon the housing provider

and each affected tenant. If the Final Voluntary Agreement contains terms to any other effect, the Rent Administrator shall proceed to review the agreement in accordance with this section.

4213.21 An application under this section shall be denied if:

(a) All or part of any tenant's approval on a Final Voluntary Agreement has been induced by coercion, including duress, harassment, intimidation, fraud, deceit, or misrepresentation of material facts, of the tenant's legal rights or obligations, or of the housing provider's legal rights or obligations;

(b) The Final Voluntary Agreement contradicts the purposes of the Act as stated in § 102 of the Act (D.C. Official Code § 42-3501.02); or

(c) The Final Voluntary Agreement results in unreasonable adjustments to the rent charged for any rental unit or inequitable treatment of the tenants or rental units.

4213.22 Pursuant to § 4213.21(c), the reasonableness of any proposed adjustments to the rent charged for a rental unit in a Final Voluntary Agreement shall be determined in consideration of the following factors:

(a) The cost, scope, and nature of any alterations in the levels of related services or facilities in proportion to the amount of the adjustments and to the rents charged for comparable rental units;

(b) Provisions, if any, for capital improvements, the performance of deferred, ordinary maintenance or repairs, and the status or establishment of any replacement reserve fund maintained by the housing provider;

(c) The housing provider's rate of return on the housing accommodation;

(d) Other costs stated in the Final Voluntary Agreement; and

(e) The justification for any proposed disparities between rental units in the percentage by which the rents charged will be adjusted.

4213.23 For the purposes of § 4213.22(e), reduced rent adjustments for rental units occupied by elderly tenants and tenants with disabilities, whether or not the tenants qualify for an exemption pursuant to § 224(i) of the Act (D.C. Official Code § 42-3502.24(i)) and § 4215.2 of this chapter or have previously filed an application to register for protected status under § 4215, shall not be deemed inequitable or unjustified disparities in rent adjustments.

4213.24 Within thirty (30) days of the filing of a Final Voluntary Agreement, the Rent Administrator shall issue a provisional order proposing that the application should be approved or denied and serve it on the housing provider, the tenant of each affected rental unit, the Office of the Tenant Advocate, and the Housing Provider Ombudsman. The provisional order shall contain a statement of the tenants' and housing provider's opportunity to file exceptions and objections in accordance with § 4213.25.

4213.25 Within thirty (30) days of the issuance of a provisional order pursuant to § 4213.24, the housing provider and the tenant of any affected rental unit may file with the Rent Administrator a clear and concise statement of exceptions and objections to the provisional order.

4213.26 Exceptions and objections filed pursuant to § 4213.25 may contest whether the application should be approved or denied based on the following issues:

(a) Whether the initiating party complied with all requirements of §§ 4213.2 – 4213.18 and whether any failure of compliance was remedied;

(b) Whether the application must be denied for any reason provided in § 4213.21;

(c) Whether the housing accommodation is properly registered and the housing provider has all required business licenses;

(d) Whether, pursuant to § 4216.4, substantial violations of the Housing Regulations existed on the date that the application for approval of the voluntary agreement was initiated and have not yet been abated; or

(e) Any other violation of § 215 of the Act (D.C. Official Code § 42-3502.15) or this section.

4213.27 If no exceptions and objections to a provisional order are filed within thirty (30) days in accordance with § 4213.25, the Rent Administrator, within five (5) business days of the expiration of that time, shall reissue the provisional order as a final order and serve the final order upon the housing provider and each affected tenant in the housing accommodation.

4213.28 If exceptions and objections to a provisional order are filed within thirty (30) days in accordance with § 4213.25, the Rent Administrator, within fifteen (15) days of the expiration of that time, shall transfer the record of the voluntary agreement application to the Office of Administrative Hearings for a hearing and decision on each issue raised in the exceptions and objections.

4213.29 A hearing before the Office of Administrative Hearings on a contested voluntary agreement application, shall be conducted in accordance with 1 DCMR Chapter

28 and 1 DCMR §§ 2920-2941, and the initiating party shall have the burden of proving its entitlement to approval of the application with regard to each contested issue.

4213.30 No voluntary agreement shall be deemed approved or disapproved at any time except pursuant to the issuance of a final order by the Rent Administrator or, if a hearing on the application is held, by the Office of Administrative Hearings.

4213.31 If a voluntary agreement is approved by the Rent Administrator or the Office of Administrative Hearings, the final order approving the application shall be binding on the housing provider and all rental units in the housing accommodation and shall state:

(a) The new rent charged for each rental unit;

(b) Any new levels of related services or facilities;

(c) Any provisions for capital improvements;

(d) Any provisions for the performance of deferred maintenance and repairs;

(e) Any other conditions by which the parties are bound; and

(f) The rights of the parties to appeal the final order.

4213.32 A final order of the Rent Administrator or the Office of Administrative Hearings approving or denying an application under this section may, within ten (10) business days of its issuance, be appealed to the Commission in accordance with § 3802 by any party to the case that is aggrieved by the final order. In accordance with § 3805, a housing provider shall not implement a rent adjustment authorized by a final order while an appeal of that order is pending before the Commission.

4213.33 A rent adjustment authorized by a final order approving an application under this section shall be implemented as an adjustment to the rent charged for an affected rental unit in accordance with § 4205 within twelve (12) months of the date of the order, including the exhaustion of any rights of appeal, but no earlier than twelve (12) months following any prior increase in the rent that may be charged for that rental unit. Failure to implement the adjustment within twelve (12) months will result in the adjustment being forfeited in accordance with § 4204.9(d).

4213.34 If a Final Voluntary Agreement contains any terms to alter the levels of related services or facilities at a housing accommodation, within thirty (30) days following the date an order approving the voluntary agreement application becomes final, the housing provider shall file an amendment to the Rent Stabilization Registration Form in accordance with § 4103.1.

4213.35 A tenant of an affected rental unit who receives notice of a provisional order under § 4213.24 and who fails to contest the application shall not at a later date contest or challenge, by tenant petition under § 4214, an order of the Rent Administrator or the Office of Administrative Hearings approving the voluntary agreement, except as provided in § 4214.6; provided, that the tenant may challenge the implementation of the adjustment to the rent charged under § 4214.4.

4213.36 If a housing provider fails to comply with any term of an approved voluntary agreement, a tenant or tenant association may file a tenant petition challenging the rent adjustment implemented or related service or facility levels provided pursuant to the voluntary agreement, in accordance with § 4214.6(g).

4214 TENANT PETITIONS

4214.1 The tenant of a rental unit covered by the Rent Stabilization Program, as provided in § 4200.3, or a tenant association at a covered housing accommodation may, by filing a petition with the Rent Administrator, contest the rent charged, including the implementation of a rent surcharge, for a rental unit on one or more of the grounds provided in § 4214.2 through .8; provided, that:

(a) A tenant shall file a petition only with regard to the rent charged for that tenant's rental unit;

(b) A tenant association shall file a petition only with regard to the rent charged for the rental unit(s) of a tenant or tenants who has or have agreed in writing to be represented by the tenant association; and

(c) A reduction or elimination of related services or facilities, including the existence of substantial violations of the Housing Regulations, shall only be deemed to affect the rent that may be charged for a rental unit if the reduction or elimination is in or to the tenant or tenants' rental unit(s) or a common element of the housing accommodation.

4214.2 A tenant or tenant association may, by filing a petition with the Rent Administrator, contest:

(a) The initial rent charged for a newly established rental unit or housing accommodation established under § 4201;

(b) The initial rent charged for a rental unit established under § 4202 upon termination of exclusion from coverage by the Act; or

(c) The initial rent charged for a rental unit established under § 4203 upon termination of exemption from coverage of the Rent Stabilization Program.

4214.3 A tenant or tenant association may, by filing a petition with the Rent Administrator, contest the rent charged for a rental unit on the grounds that:

(a) The amount of rent charged to the tenant exceeds the amount of rent that may be charged, as lawfully calculated and properly filed with the Rental Accommodations Division, for the rental unit in accordance with § 4204;

(b) The housing provider has failed to reduce the rent charged or remove any rent surcharge as required by § 224 of the Act (D.C. Official Code § 42-3502.24) and § 4215 of this chapter; or

(c) An adjustment in the amount of rent charged was unlawful on one or more of the grounds provided in §§ 4214.4, 4214.5, or 4214.6.

4214.4 A tenant or tenant association may, by filing a petition with the Rent Administrator, contest any adjustment in the rent charged for a rental unit on the grounds that:

(a) An increase in the rent charged was implemented while the housing provider had not met the registration requirements of Chapter 41 for the rental unit or housing accommodation;

(b) An increase in the rent charged was implemented while the housing provider lacked a housing business license, as required by 14 DCMR § 200, or any other license to do business as a housing provider or operate the housing accommodation under District law;

(c) An increase in the rent charged was implemented while the rental unit or the common elements of the housing accommodation were not in substantial compliance with the Housing Regulations, in violation of § 4216;

(d) An increase in the rent charged was implemented by a notice that did not state the type of rent adjustment, in violation of § 4205.4(a)(1), or the increase was pursuant to more than one (1) type of rent adjustment, in violation of § 4204.1;

(e) An increase in the rent charged was implemented more than twelve (12) months after the rent adjustment became authorized, in violation of §§ 4204.9 and 4205.7, or a vacancy adjustment was filed more than thirty (30) days after the vacancy occurred, in violation of §§ 4205.6(b)(1) and 4207;

(f) An increase in the rent charged was implemented within twelve (12) months of a prior increase in the rent charged, in violation of §§ 4205.8 or 4205.9 of this chapter;

(g) An increase in the rent charged was implemented without or with less than thirty (30) days' notice of the increase to the Tenant, or the notice was otherwise not in compliance with § 4205.4; or

(h) An increase in the rent charged was not properly filed with the Rental Accommodations Division thirty (30) days prior to its effective date, or the filing was otherwise not in compliance with § 4204.10.

4214.5 A tenant or a tenant association may, by filing a petition with the Rent Administrator, contest the implementation of any rent adjustment for which prior administrative approval is not required, in accordance with § 4204.2, on the grounds that:

(a) An adjustment of general applicability is in an amount greater than the effective amount published by the Commission or allowed pursuant to §§ 208(h)(2) or 224(a) of the Act (D.C. Official Code §§ 42-3502.08(h)(2) or 42-3502.24(a)) and § 4206 of this chapter;

(b) A vacancy adjustment was implemented that:

(1) Did not follow a vacancy that occurred as required by § 4207.2;

(2) Exceeds the percentage of the rent lawfully charged to the prior tenant allowed by §§ 213(a)(1) or (2) of the Act (D.C. Official Code § 42-3502.13(a)(1), (2)) and § 4207.5 of this chapter;

(3) If implemented before the applicability date of the Vacancy Increase Reform Amendment Act of 2018 (D.C. Law 22-223), was not based on a substantially identical rental unit, as previously defined in § 213(b) of the Act (D.C. Official Code § 42-3502.13(b)), if the adjustment was based on § 213(a)(2) of the Act (D.C. Official Code § 42-3502.13(a)(2));

(4) Was implemented within twelve (12) months of a prior vacancy adjustment, in violation of § 208(g)(3) of the Act (D.C. Official Code § 42-3502.08(g)(3)) and § 4205.9 of this chapter, or of the implementation of a hardship surcharge, in violation of § 213(c) of the Act (D.C. Official Code § 42-3502.13(c)) and § 4205.9 of this chapter; or

(5) Was implemented and the required disclosures were not timely provided to the new tenant, in violation of § 213(d) of the Act (D.C. Official Code § 42-3502.13(d)) and § 4207.7 of this chapter; or

(c) For any reason provided in § 4214.4.

4214.6 A tenant or a tenant association may, by filing a petition with the Rent Administrator, challenge or contest the implementation of any rent adjustment or rent surcharge for which prior administrative approval is required, in accordance with § 4204.3 or .4, including a rent ceiling adjustment preserved by § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)), on the grounds that:

(a) An increase in the rent charged was implemented without obtaining prior approval, or while an order authorizing a rent adjustment was stayed pending appeal;

(b) An increase in the rent charged was implemented in an amount greater than the approved rent adjustment;

(c) A rent ceiling adjustment preserved by § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)) was not taken and perfected in accordance with the provisions of the Act and Chapters 41 and 42 of this title in effect at the time the adjustment became authorized;

(d) The administrative approval for a rent adjustment was obtained by fraud, deceit, or concealment or misrepresentation of material fact, and the existence of such wrongdoing was not known to the tenant while the petition or application was or could have been contested;

(e) The tenant or a tenant represented by the tenant association was entitled to and did not receive lawful service or have actual notice of the pending petition or application for the rent adjustment, as required by §§ 4208 or 4213;

(f) The housing provider, subsequent to the approval of a rent adjustment, has failed to perform an obligation under a capital improvement, services and facilities, or substantial rehabilitation petition or under a voluntary agreement; or

(g) For any reason provided in § 4214.4.

4214.7 A tenant or tenant association may contest, by filing a petition with the Rent Administrator, the rent charged for a rental unit on the grounds that related services or facilities have been reduced without prior administrative approval, or that a related service or facility that is required by law was reduced or eliminated, and the service or facility was not promptly restored, as required by §§ 4211.3 and 4211.4.

4214.8 A tenant or tenant association may contest, by filing a petition with the Rent Administrator, the rent charged for a rental unit on the grounds that there have

been excessive and prolonged substantial violations of the Housing Regulations, in accordance with § 4216.8.

4214.9 The tenant of any rental unit or a tenant association in any housing accommodation covered by the Act, without regard to the coverage of the Rent Stabilization Program, may, by filing a petition with the Rent Administrator, complain of and request appropriate relief for any other violation of the Act arising under Titles II, V, VI, or XI of the Act (D.C. Official Code Title 42, Chapter 35, subchapters 2, 5, 6, or 9) or Chapters 43 or 44 of this title, including, but not limited to:

(a) Any violation of the notice requirements of § 501 of the Act (D.C. Official Code § 42-3505.01) and §§ 4300-4302 of this title, including, but not limited to, allegations that:

(1) The notice does not contain a statement detailing the reasons for and the appropriate time period within which the tenant shall either vacate or correct pursuant to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b)) and § 4301 of this title, if applicable;

(2) The notice is given for a rental unit that is subject to registration and is not properly registered;

(3) The notice fails to state that a claim of exemption is on file with the Rent Administrator, if applicable;

(4) The notice fails to inform the tenant of the right to relocation assistance pursuant to § 701 of the Act (D.C. Official Code § 42-3507.01) and § 4401 of this title, if applicable;

(5) The notice fails to inform the tenant of the right to re-rent the rental unit, if applicable; or

(6) The notice, if issued pursuant to § 501(b) or (c) of the Act (D.C. Official Code § 42-3505.01(b) or (c)), fails to inform the tenant that a victim of an intra-family offense may be protected from eviction under § 501(c-1) of the Act (D.C. Official Code § 42-3505.01(c-1)).

(b) Any proposed retaliatory eviction or other retaliatory act in violation of § 502 of the Act (D.C. Official Code § 42-3505.02) and § 4303 of this title;

(c) Any demand for or failure to refund a security deposit in violation of § 217 of the Act (D.C. Official Code § 42-3502.17) and §§ 308-311 of this title;

(d) Any interference with the organizing activities listed in § 506(d) of the Act (D.C. Official Code § 42-3505.06(d)) and § 4304 of this title;

(e) Any rent charged in excess of that permitted when a tenant is required to be released from the obligations of a lease by § 507 of the Act (D.C. Official Code § 42-3505.07) and § 4305 of this title; or

(f) Any demand for or receipt of a late fee in violation of, or in excess of the amount allowable under, § 531 of the Act (D.C. Official Code § 42-3505.31) and § 4306 of this title.

4214.10 A tenant petition filed under this section shall be filed within three (3) years of the effective date of the adjustment to the rent charged, or the date on which any other violation of the Act occurred, including a reduction or elimination of related services or facilities. For the purposes of this section, the effective date of an adjustment shall be:

(a) The later of the date on which a demand for increased rent is first due, in accordance with § 4205.6(a), or, following a vacancy adjustment, first paid by a new tenant, notwithstanding § 4205.6(b);

(b) If the basis for a rent adjustment is a rent ceiling adjustment preserved by § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)), the date on which the corresponding adjustment to the rent charged is implemented;

(c) If related services or facilities are substantially reduced or eliminated without being promptly restored, either:

(1) The first date on which the tenant had actual or chargeable knowledge of the reduction or elimination; or

(2) If the reduction or elimination is a substantial violation of the Housing Regulations, any date on which the violation existed, regardless of the date the tenant first had actual notice of the violation; or

(d) For a failure to comply with any obligation under a capital improvement petition, services or facilities petition, substantial rehabilitation petition, or voluntary agreement:

(1) The stated date, if any, in an approved petition or voluntary agreement by which the obligation was due or was required to be completed by the Act or this chapter;

(2) The date by which the obligation reasonably should have been completed, if no date is otherwise stated; or

(3) The date on which the tenant had actual notice that the housing provider repudiated the obligation.

4214.11 A tenant or tenant association shall file a petition under this section in accordance with § 3901 on a form published by the Rent Administrator and shall include the following:

(a) Proof of tenancy by rent receipt, cancelled check, or copy of lease agreement;

(b) If a tenant association is filing the petition, proof of the authority of the tenant association to appear in a representative capacity on behalf of any tenant;

(c) A copy of a notice to quit or vacate, if applicable; and

(d) A copy of any other notice or document applicable to the petition.

4214.12 The Rent Administrator, within five (5) days of the receipt of a tenant petition, shall determine that the petition complies with the requirements listed § 4214.11 and, if so, shall transmit the petition, accompanied by the Rent Stabilization Registration Form or Claim of Exemption Form for the subject housing accommodation, to the Office of Administrative Hearings within ten (10) business days. If the Rent Administrator determines that the petition raises issues that may be resolved through the Conciliation and Arbitration Service established by § 3913, the Rent Administrator may delay the transmittal of the petition for a reasonable period of time to attempt a settlement of the petition.

4214.13 Notice that a case has been opened at the Office of Administrative Hearings on a tenant petition shall be provided in accordance with 1 DCMR § 2923.

4214.14 A tenant petition shall be adjudicated before the Office of Administrative Hearings in accordance with 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941, and the party filing the petition shall bear the burden of proving its claims, except claims or defenses for which the burden is shifted as provided by the Act, Chapters 41-44 of this title, or 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941.

4214.15 The Office of Administrative Hearings may order a housing provider to provide relief to a tenant pursuant to § 901 of the Act (D.C. Official Code § 42-3509.01) and § 4217 of this chapter; except, that relief based on petitions filed pursuant to § 4214.9(c) relating to security deposits shall be provided in accordance with §§ 308-311 of this title.

4214.16 An appeal of a final order of the Office of Administrative Hearings on a tenant petition may be filed with the Commission in accordance with Chapter 38 of this title.

4215 PROHIBITED RENT ADJUSTMENTS FOR ELDERLY TENANTS AND TENANTS WITH A DISABILITY

4215.1 An approved rent surcharge for which petition was filed after October 1, 2018, shall not be implemented on and shall be removed from a rental unit while the unit is leased to and occupied by an elderly tenant or a tenant with a disability with a qualifying income, as published annually by the Commission ("protected tenant").

4215.2 For the purposes of this section, any part of the rent charged for a rental unit shall be deemed a rent surcharge if the unit is or becomes leased to and occupied by a protected tenant and the rent adjustment corresponding to that part of the rent charged was approved or implemented pursuant to:

(a) A related services or facilities petition under § 211 of the Act (D.C. Official Code § 42-3502.11) and § 4211 of this chapter that is filed and approved after October 1, 2018; or

(b) A voluntary agreement under § 215 of the Act (D.C. Official Code § 42-3502.15) and § 4213 of this chapter filed after April 7, 2017.

4215.3 A rent surcharge listed in § 4215.2 may be implemented for a rental unit leased to and occupied by a protected tenant if the protected tenant waives his or her rights under that subsection in a written document that states that the waiver is made voluntarily, without coercion, and with full knowledge of the ramifications of a waiver of their rights.

4215.4 Notwithstanding § 4215.1, a rent surcharge, not including a rent surcharge based on a voluntary agreement, may be implemented for a rental unit leased to and occupied by a protected tenant if the Chief Financial Officer of the District of Columbia determines that funds are not available for the housing provider to receive the tax credit established by § 224(g) of the Act (D.C. Official Code § 42-3502.24(g)).

4215.5 A rent surcharge authorized under § 4215.4 may be implemented by filing and serving a notice of rent adjustment in accordance with §§ 4204 and 4205, which shall include a copy of the Chief Financial Officer's written determination on the availability of funds.

4215.6 Authorization to implement a rent surcharge under § 4215.4 shall not permit a housing provider to implement a rent adjustment less than twelve (12) months after any prior increase in the rent charged for the rental unit, as provided by

§ 4204.1, or during the term of a valid, written lease that establishes the rent charged, as provided by § 4204.14.

4215.7 Authorization to implement a rent surcharge under § 4215.4 shall not permit a housing provider to implement more than one (1) rent adjustment at a time, as provided by § 4204.1, except for any approved and previously implemented rent surcharges for which tax credits have become unavailable.

4215.8 Notwithstanding § 4204.1, after a protected tenant vacates a rental unit, if the unit has become entirely vacant, a housing provider may re-implement any approved and previously implemented rent surcharges for the rental unit in addition to implementing a vacancy adjustment under § 4207.

4215.9 The Commission shall publish before March 1 of each year, in addition to the certifications required by § 4206.3, the maximum annual household income that qualifies for status as a protected tenant. The revised income qualification shall take effect on the same day the annual adjustment of general applicability for the year.

4215.10 A tenant may apply for protected tenant status, for the purposes of this section or for the purposes of § 4206.7 without regard to income, by completing a registration form published by the Rent Administrator and filing it with the Rental Accommodations Division, along with the necessary documentation, as determined by the Mayor in accordance with § 224(d) of the Act (D.C. Official Code § 42-3502.24(d)), to support the claim.

4215.11 The Rent Administrator shall immediately mail notice to the housing provider of a tenant who files a completed application in accordance with § 4215.10, stating the date of the filing and whether the tenant claims to be an elderly tenant, tenant with a disability, or to have a qualifying income.

4215.12 A tenant's protected status shall be effective on the first day of the first month that begins at least five (5) days after the filing of a completed application in accordance with § 4215.10. The protected status shall be and shall remain effective unless and until:

(a) The Rent Administrator issues an order determining that the tenant failed to demonstrate that he or she is an elderly tenant, is a tenant with a disability, or, if required, has a qualifying income; or

(b) The term of the tenant's certification expires as may be determined by the Mayor pursuant to § 224(j) of the Act (D.C. Official Code § 42-3502.24(j)).

4215.13 The housing provider of tenant claiming protected status may file a request that the Rent Administrator deny the tenant's application if:

(a) Thirty (30) days or less has elapsed since the completed application was filed;

(b) The housing provider has substantial grounds to believe that the tenant does not qualify for protected status or that relevant is fraudulent or has been falsified;

(c) The housing provider has contacted and conferred with the tenant in a good faith effort to resolve the dispute; and

(d) The housing provider serves a copy of the request on the tenant prior to or simultaneously with filing the request with the Rent Administrator.

4215.14 The Rent Administrator shall issue an order denying a tenant's completed application for protected status only if:

(a) Thirty (30) days or less has elapsed since the completed application was filed;

(b) The tenant has been given notice that the Rent Administrator has substantial grounds to believe that the tenant does not qualify for protected status and that relevant documentation is fraudulent or has been falsified, and the tenant has been given an opportunity to respond; and

(c) The Rent Administrator finds clear and convincing evidence of error, fraud, falsification, or misrepresentation in the completed application or relevant documentation.

4215.15 If the Rent Administrator finds that an application for protected status should be denied with regard to income but does not find clear and convincing evidence of error, fraud, falsification, or misrepresentation with regard to age or disability, the Rent Administrator shall issue an order denying the application for protected status only for the purposes of rent surcharges as provided in this section but not for the purposes of adjustments of general applicability as provided in § 4206.7.

4215.16 By the effective date of a tenant's protected status without regard to income, a housing provider shall implement a rent rollback as required by § 4206.8.

4215.17 If a housing provider has implemented a rent rollback in accordance with § 4215.16 by the effective date of a tenant's protected status, and the Rent Administrator has subsequently denied the tenant's application, and if the Rent Administrator finds that the tenant acted in bad faith, as defined in § 4217.7, then within twenty-one (21) days of the denial, the Rent Administrator may order the tenant to pay to the housing provider double the difference between the amount of

the rolled-back rent and the rent that otherwise may have been charged for the rental unit.

4215.18 By the effective date of a tenant's protected status with regard to income, a housing provider shall implement a rent rollback of all surcharges prohibited by this section.

4216 REQUIREMENT TO MAINTAIN SUBSTANTIAL COMPLIANCE WITH HOUSING REGULATIONS

4216.1 Any petition or application for a rent adjustment under §§ 4208 or 4213 shall be filed, and any rent adjustment under §§ 4204 and 4205 shall be implemented, only if each affected rental unit and the common elements of the housing accommodation are in substantial compliance with the Housing Regulations.

4216.2 For purposes of this chapter, "substantial compliance with the Housing Regulations" means the absence of any substantial violations of the Housing Regulations, including the applicable provisions of the Property Maintenance Code. A violation is substantial if its existence may endanger or materially impair the health and safety of any tenant or person occupying the property. Substantial violations shall include, but not be limited to, the following:

(a) Frequent lack of sufficient water supply, in violation of § 505.3 of the Property Maintenance Code;

(b) Frequent lack of hot water, in violation of § 505.4 of the Property Maintenance Code;

(c) Frequent lack of sufficient heat between October 1 and May 1 in violation of § 602.3 of the Property Maintenance Code;

(d) Hazardous electrical systems, including wiring, outlets, and fixtures, in violation of § 604.3 of the Property Maintenance Code;

(e) Exposed electrical wiring or outlets not properly covered, in violation of §§ 605.1 or .2 of the Property Maintenance Code;

(f) Leaks in the roof or walls in violation of §§ 304.6 or .7 of the Property Maintenance Code;

(g) Defective sinks, showers or bathtubs, toilets, drains, or sewage systems, in violation of §§ 504.1 or 506.2 of the Property Maintenance Code;

(h) Infestation of insects or rodents, in violation of § 309 of the Property Maintenance Code;

(i) Actual or presumed lead-based paint on the interior or exterior of the structure or building that is peeling, flaking, or chipped, in violation of §§ 304.2.1 or 305.3.1 of the Property Maintenance Code, including the incorporated regulations of the District of Columbia Department of Energy and the Environment and the U.S. Environmental Protection Agency;

(j) Insufficient number of emergency escape openings or improper arrangement of exits from a dwelling, in violation of § 702.4 or .5 of the Property Maintenance Code;

(k) Obstructed means of egress, in violation of § 702.1, .2, or .3 of the Property Maintenance Code;

(l) Accumulation of garbage or rubbish in common areas, in violation of § 308.1 of the Property Maintenance Code;

(m) Failure to provide approved garbage facilities or containers, in violation § 308.3 of the Property Maintenance Code;

(n) Cracked or loose plaster, decayed wood, or water damage to interior surfaces, in violation of § 305.3 of the Property Maintenance Code;

(o) Hazardous porches, decks, balconies, stairs, ramps, landings, or railings, handrails, or guards to such facilities, in violation of §§ 304.10, 305.4, or 307.1 of the Property Maintenance Code;

(p) Floors, walls between dwelling units, or ceilings with any holes or interior walls of dwelling units with holes equal to or greater than one half inch (1/2”) in width, in violation of § 305.4 of the Property Maintenance Code;

(q) Windows, skylights, doors, and frames insufficiently tight to maintain the required temperature or to prevent excessive heat loss, in violation of § 304.13 of the Property Maintenance Code;

(r) Doors lacking required, operative locks, in violation of § 304.15 of the Property Maintenance Code;

(s) Absence of required, operable fire protection systems, including fire extinguishers, in violation of § 704.1 of the Property Maintenance Code;

(t) Violation of any provision of the Property Maintenance Code where such condition constitutes a fire hazard;

(u) Inadequate ventilation of interior bathrooms or toilet rooms, in violation of § 403.2 of the Property Maintenance Code;

(v) Elevators not in operation, in violation of § 606.6 of the Property Maintenance Code; and

(w) A large number of Housing Regulations violations, each of which may be either substantial or non-substantial, the aggregate of which is substantial because of the number of violations.

4216.3 In reviewing a housing provider's petition or application for a rent adjustment for which prior administrative approval is required, there shall be a rebuttable presumption of substantial compliance with the Housing Regulations for each rental unit and the common elements of a housing accommodation, if:

(a) All rental units in the housing accommodation have been inspected at the housing provider's request by the Department of Consumer and Regulatory Affairs ("DCRA") within thirty (30) days immediately preceding the date of filing of the petition or application; and

(b) If the inspection performed in accordance with paragraph (a), or any subsequent inspection while the petition or application is pending, results in a citation by DCRA for a substantial violation of the Housing Regulations in a rental unit proposed to be affected by the petition or in the common areas of the housing accommodation, abatement of each substantial violation:

(1) Has occurred within forty-five (45) days of issuance of the citation, or such other time period as DCRA may have required in the citation;

(2) Has been certified by DCRA, or by the housing provider or by each tenant affected by the violation and supporting evidence has been presented to substantiate the certification; and

(3) Each tenant proposed to be affected by the rent adjustment has been given notice of the certification and ten (10) days, from the date the housing provider submits certification of abatement to the Office of Administrative Hearings, in which to submit objections to the certification of abatement.

4216.4 Where a petition or application for a rent adjustment for which prior administrative approval is required is contested on the grounds that it has been filed while an affected rental unit or housing accommodation is not in substantial compliance with the Housing Regulations, in violation of § 4216.1, the rent adjustment shall not be approved unless the non-compliance has been abated at the time of an evidentiary hearing on the petition.

4216.5 Evidence of substantial violations of the Housing Regulations may be presented at a hearing by notices of violations issued by DCRA or by the testimony of witnesses, except that no testimony of substantial violations shall be received in evidence in any hearing if the conditions giving rise to the complaint occurred and were abated more than twelve (12) months prior to the date of the hearing.

4216.6 Witness testimony may be supported by photographs or other documentary evidence, written DCRA violation notice(s), or the testimony of a DCRA official who has personally inspected the rental property.

4216.7 Testimony and other supporting evidence of violations of the Housing Regulations shall be as detailed as necessary so that the Administrative Law Judge can make findings of fact that identify:

(a) The specific violation and that it is substantial;

(b) The location and duration of the condition alleged to be a violation, and whether it has been abated; and

(c) Whether and when the housing provider had notice of the specific condition alleged to be a violation.

4216.8 A finding of excessive and prolonged Housing Regulations violations pursuant to § 208(a)(2) of the Act (D.C. Official Code § 42-3502.08(a)(2)) shall be based upon findings as provided in § 4216.7; provided, that a rent rollback authorized by § 208(a)(2) shall not be ordered if the violations have been abated.

4216.9 Unsuccessful efforts by a housing provider to abate a substantial violation of the Housing Regulations shall not constitute a defense to a claim based on the existence of the violation.

4216.10 In addition to § 4216.1, a housing provider's failure to promptly abate a substantial violation of the Housing Regulations, where the violation is not the result of tenant neglect or misconduct, shall also constitute a reduction in related services under § 211 of the Act (D.C. Official Code § 42-3502.11) and § 4211 of this chapter.

4217 ENFORCEMENT, REMEDIES, AND PENALTIES

4217.1 Where it has been determined, pursuant to a tenant petition filed in accordance with § 4214, that a housing provider knowingly charged rent for a rental unit greater than the amount lawfully calculated and filed with the Rental Accommodations Division, or required to be filed in accordance with this chapter, or substantially reduced or eliminated related services or facilities required by law or without prior administrative approval, the Rent Administrator, Office of Administrative Hearings, Commission, or a court of competent jurisdiction shall order the housing provider to:

(a) Pay to the tenant a rent refund in the amount of:

(1) The rent charged in excess of the lawfully calculated and properly filed amount of rent that may be charged for the rental unit; or

(2) The monthly value of the related service or facility that has been substantially reduced or eliminated, over the duration of the reduction or elimination; or

(b) Implement a rent rollback in the amount of:

(1) Any unlawful rent adjustment, until an authorized rent adjustment is implemented in accordance with this chapter; or

(2) The value of the related service or facility that has been substantially reduced or eliminated, until the service or facility is restored.

4217.2 A rent refund under § 4217.1(a) shall be trebled if detailed findings of fact are made that the housing provider acted in bad faith.

4217.3 Interest may be imposed on a rent refund or trebled refund ordered pursuant to §§ 4217.1(a) or 4217.2 by the Office of Administrative Hearings, or the Commission on appeal, and shall be calculated in accordance with § 3826.

4217.4 Where it has been determined that any person has committed any violation of the Act, Chapters 41 through 44 of this title, or any order of the Rent Administrator, Office of Administrative Hearings, or the Commission, or has made a false statement in any document filed pursuant to the Act or Chapters 38 through 44 of this title, civil fines of not more than $5,000 per violation may be imposed by the Rent Administrator, Office of Administrative Hearings, or the Commission the person acted willfully.

4217.5 Where a party has failed to comply with an order of the Rent Administrator, the Office of Administrative Hearings, or the Commission, the Rent Administrator, the Commission, or any adversely affected tenant or housing provider is authorized to commence a civil action in the Superior Court of the District of Columbia for enforcement pursuant to § 218 of the Act (D.C. Official Code § 42-3502.18), or a tenant may file an application for entry of the final order as a judgment in accordance with Superior Court Civil Rule 12-I(b)(1)(G).

4217.6 A housing provider shall be found to have acted knowingly where the housing provider had knowledge of the essential facts that bring the conduct within the purview of the Act.

4217.7 A housing provider shall be found to have engaged in sufficiently egregious conduct to warrant a finding of bad faith where the housing provider deliberately failed to perform a duty without a reasonable excuse, heedlessly disregarded a duty, or had a dishonest intent or sinister motive in the performance of an act or the failure to perform a duty.

4217.8 A person shall be found to have acted willfully where specific findings of fact are made that the person intended to violate the legal obligations enumerated in § 4217.4 or was at least aware of the resulting legal consequences of the conduct.

4217.9 Rent refunds ordered pursuant to § 4217.1(a) may be awarded for unlawful rents charged or reductions in services or facilities that continue past the date the tenant petition is filed, where evidence on the record shows that the tenant continues to reside in the rental unit and that the violation continues, through no later than the date the evidentiary record in a tenant petition closes.

4217.10 An order to implement a rent rollback pursuant to § 4217.1(b) shall be effective ten (10) business days after the date it is issued, plus five (5) days if served on the housing provider by U.S. mail, or if the order is stayed by the filing of an appeal in accordance with § 3805, the same number of days from the date the order is affirmed by the Commission.

4217.11 Appeals of fines imposed in accordance with § 901(f) of the Act (D.C. Official Code § 42-3509.01(f)) and the DCRA Civil Infractions Act of 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.*) ("Civil Infractions Act") shall be reviewed by the Commission pursuant to § 301 of the Civil Infractions Act (D.C. Official Code § 2-1803.01) and in accordance with Chapter 38 of this title.

4299 DEFINITIONS

4299.1 The provisions of § 3899 of Chapter 38 of this title and the definitions set forth in that chapter shall be applicable to this chapter.

4299.2 The provisions of § 3816 of Chapter 38 of this title shall be applicable to the calculation of any time periods provided by this chapter.

CHAPTER 43: EVICTIONS, RETALIATION, AND TENANT RIGHTS

SECTION

4300 GROUNDS FOR EVICTION

4300.1 A tenant of a rental unit covered by the Act, as provided in § 4100.3, shall not be evicted from the rental unit except:

(a) For nonpayment of rent; or

(b) After the service of a notice that complies with §§ 4301 or 4302, for the following reasons as described in § 501 of the Act (D.C. Official Code § 42-3505.01) and this section:

(1) For violation of an obligation of tenancy, pursuant to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b));

(2) For performance of an illegal act on the premises, pursuant to § 501(c) of the Act (D.C. Official Code § 42-3505.01(c));

(3) For personal use and occupancy by the owner of the rental unit, pursuant to § 501(d) of the Act (D.C. Official Code § 42-3505.01(e));

(4) For personal use and occupancy of a purchaser of the rental unit, pursuant to § 501(e) of the Act (D.C. Official Code § 42-3505.01(e));

(5) For unsafe alterations or renovations, pursuant to § 501(f) of the Act (D.C. Official Code § 42-3505.01(f));

(6) For demolition of the housing accommodation, pursuant to § 501(g) of the Act (D.C. Official Code § 42-3505.01(g));

(7) For substantial rehabilitation, pursuant to §§ 214 and 501(h) of the Act (D.C. Official Code §§ 42-3502.14 & 42-3505.01(h))

(8) For discontinuation of housing use and occupancy, pursuant to § 501(i) of the Act (D.C. Official Code § 42-3505.01(i)); or

(9) For closure of a building by order of the Department of Consumer and Regulatory Affairs, pursuant to § 501(n) of the Act (D.C. Official Code § 42-3505.01(n)) and § 103 of this title or § 108 of the District of Columbia Property Maintenance Code (12-G DCMR § 108).

4300.2 Nothing in this section or §§ 4301 or 4302 shall apply to the eviction of a tenant:

(a) For the nonpayment of rent, which is subject to the requirements of D.C. Official Code §§ 42-3201 *et seq.*;

(b) In an action brought in accordance with the Residential Drug-related Evictions Re-enactment Act of 2000 (D.C. Law 13-172; D.C. Official Code §§ 42-3601 *et seq.*); or

(c) For the purpose of converting the rental unit or housing accommodation to condominium or cooperative housing use, which is subject to the requirements of the Conversion of Rental Housing to Condominium or Cooperative Status Act of 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3402.01 *et seq.*) and § 4705 of this title.

4300.3 The expiration of the term of a lease for a rental unit covered by the Act shall not, by itself, entitle a housing provider to evict a tenant from the rental unit.

4300.4 No action or proceeding to evict a tenant shall be filed by a housing provider until the expiration of the time required for the type of eviction being sought by the applicable subsections of § 501(b) through (i) of the Act (D.C. Official Code § 42-3505.01(b)-(i)) and stated in a notice served in accordance with §§ 4301 or 4302.

4300.5 Any notice served on a tenant pursuant to § 501(b) through (i) of the Act (D.C. Official Code §42-3505.01(b)-(i)) shall also be filed with the Rent Administrator, in accordance with § 3901 of this title, no later than five (5) days after service on the tenant. The Rent Administrator may issue a show cause order in accordance with § 3926 if he or she finds substantial grounds to believe that possible violations of the Act or this chapter have occurred.

4300.6 A tenant may be evicted pursuant to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b)) for the reason that the tenant is violating an obligation of tenancy, as defined in § 4301.2, if the tenant is notified in writing of and is given the opportunity to correct the violation, in accordance with § 4301 of this chapter.

4300.7 A tenant may be evicted pursuant to § 501(c) through (i) of the Act (D.C. Official Code § 42-3505.01(c)-(i)) for one of the reasons provided in those subsections if the tenant is served with a written notice that meets each requirement listed in § 4302 of this chapter that applies to type of eviction being sought.

4300.8 A housing provider shall not serve a notice pursuant to § 501(c) of the Act (D.C. Official Code § 42-3505.01(c)) (illegal act within premises) until a court of competent jurisdiction has made a final determination that a tenant has performed an illegal act within the rental unit or housing accommodation occupied by the tenant, no appeal is pending, and the time for appeal has expired.

4300.9 Any notice that seeks to evict a tenant pursuant to § 501(d) or (e) of the Act (D.C. Official Code § 42-3505.01(d) or (e)) (housing provider's or purchaser's personal use and occupancy), when filed with the Rent Administrator, shall be accompanied by an affidavit stating that the housing provider or the purchaser will not demand or receive rent for the repossessed rental unit from any person during the twelve (12) month period beginning on the date the housing provider recovers possession of the rental unit, and that possession is sought only for the immediate and personal use and occupancy of the rental unit. Separate affidavits shall be filed containing the statements of both the housing provider and purchaser for any notice filed pursuant to § 501(e) (D.C. Official Code § 42-3505.01(e)).

4300.10 A housing provider shall not serve a notice pursuant to § 501(e) of the Act (D.C. Official Code § 42-3505.01(e)) (purchaser's personal use and occupancy) until the housing provider has given the tenant the opportunity to purchase provided by the Tenant Opportunity to Purchase Act of 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3404.01 *et seq.*) ("TOPA"), if required.

4300.11 A housing provider shall not serve a notice pursuant to §§ 501(f), (g), (h) or (i) of the Act ((D.C. Official Code § 42-3505.01(f), (g), (h), or (i)) based on the plans or intent of a purchaser, or other future housing provider, of a rental unit or housing accommodation to alter or renovate, demolish, substantially rehabilitate, or discontinue rental housing use of the rental unit or housing accommodation. For example, a housing provider shall not evict tenants because the housing provider has initiated the sale of a housing accommodation to another housing provider who intends to demolish the accommodation.

4300.12 A housing provider shall not serve a notice pursuant to § 501(f) of the Act (D.C. Official Code § 42-3505.01(f)) (unsafe alterations or renovations) without the prior approval of the Rent Administrator, granted through an approved application filed in accordance with that subsection.

4300.13 Any notice that seeks to evict a tenant pursuant to § 501(g) of the Act (D.C. Official Code § 42-3505.01(g)) (demolition), when filed with the Rent Administrator, shall be accompanied by a copy of the demolition permit issued by

the Department of Consumer and Regulatory Affairs and a certification that the tenant has been given the opportunity to purchase provided by TOPA, if required.

4300.14 A housing provider shall not serve a notice pursuant to § 501(h) of the Act (D.C. Official Code § 42-3505.01(h)) (substantial rehabilitation) without the prior approval of the Office of Administrative Hearings granted through a substantial rehabilitation petition, filed in accordance with § 4212 of this title.

4300.15 Any notice that seeks to evict a tenant pursuant to § 501(i) of the Act (D.C. Official Code § 42-3505.01(i)) (discontinuance of use), when filed with the Rent Administrator, shall be accompanied by a certification that the tenant has been given the opportunity to purchase provided by TOPA, if required, and a statement, on a form published by the Rent Administrator, that includes general information about the housing accommodation, including the address and number of rental units, the reason for the discontinuance of use, and any future plans for the property.

4300.16 The displacement of a tenant by administrative order due to unsafe premises shall not be deemed an eviction by a housing provider, shall not terminate a lawful tenancy until the unit has been offered for reoccupation to the tenant and the tenant has waived that right, and shall be carried out in accordance with § 103 of this title, § 108 of the District of Columbia Property Maintenance Code (12-G DCMR § 108), and § 501(n) of the Act (D.C. Official Code § 42-3505.01(n)).

4300.17 In addition to any other remedies provided by law, a tenant may file a tenant petition in accordance with § 4214.9(a) to complain of and seek relief for any violation of this section, including compliance with the requirements of §§ 4301 or 4302.

4301 NOTICES TO CORRECT VIOLATION OF TENANCY OR TO VACATE

4301.1 If a housing provider seeks to evict a tenant from a rental unit pursuant to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b)) because the tenant is violating an obligation of tenancy, the housing provider shall first serve the tenant with a written notice directing the tenant to correct the violation or vacate the rental unit within thirty (30) days of service ("Notice to Correct or Vacate").

4301.2 For the purposes of this chapter, an "obligation of tenancy" means only a substantial obligation that is contained in a valid lease, not including the obligation to pay the amount of rent specified in the lease, or that is imposed on a tenant by the Housing Regulations.

4301.3 A housing provider shall not serve a Notice to Correct or Vacate based on a violation of an obligation of tenancy that has occurred more than six (6) months earlier than the date of service.

4301.4 A Notice to Correct or Vacate shall state:

(a) The factual basis for the housing provider's belief that the tenant is violating an obligation of tenancy, including specific reference to the provision of the lease or Housing Regulations that create the obligation and to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b));

(b) The specific action(s) the tenant needs to take to correct the violation;

(c) That the housing provider may file an action in court to evict the tenant if the violation has not been corrected thirty (30) days after the service of the Notice to Correct or Vacate;

(d) The registration or exemption number for the rental unit or housing accommodation, as provided by the Rent Administrator in accordance with § 4102 of this title and, if the rental unit or housing accommodation is exempt from the Rent Stabilization Program, the basis for the exemption; and

(e) That a copy of the Notice to Correct or Vacate is being filed with the Rent Administrator, including the address and telephone number of the Rental Accommodations Division.

4301.5 A Notice to Correct or Vacate shall also state that:

(a) If the violation of the obligation of tenancy set forth pursuant to § 4301.4(a) is related to a criminal offense committed or threatened against the tenant or the tenant's child by a current or former family member, intimate partner, or resident of the unit, the tenant may not have to vacate the unit; and

(b) The D.C. Office of Human Rights may be able to assist a tenant described in paragraph (a), and shall include contact information for that agency.

4301.6 A Notice to Correct or Vacate shall be signed by the housing provider or the housing provider's agent. If the Notice is signed by an agent, service on the agent of any complaints, orders, or other documents with respect to the Notice shall be deemed service on the housing provider.

4301.7 A Notice to Correct or Vacate shall be served on a tenant of a rental unit in accordance with D.C. Official Code § 42-3206.

4302 NOTICES TO VACATE FOR OTHER REASONS

4302.1 In order to be valid, a notice to vacate for any reason listed in §§ 501(c) through (i) of the Act (D.C. Official Code § 42-3505.01(c)-(i)) ("Notice to Vacate") shall state:

(a) The factual basis the housing provider relies on and the specific subsection of § 501 of the Act (D.C. Official Code § 42-3505.01) that the eviction is based on;

(b) That the housing provider may file an action in court to evict the tenant if the tenant does not vacate within the time provided by § 4302.2 after the service of the notice;

(c) The registration or exemption number for the housing accommodation, as provided by the Rent Administrator in accordance with § 4102 of this title and, if the rental unit or housing accommodation is exempt from the Rent Stabilization Program, the basis for the exemption; and

(d) That a copy of the Notice to Vacate is being filed with the Rent Administrator, including the address and telephone number of the Rental Accommodations Division.

4302.2 A housing provider shall not file an action in court to evict a tenant until the expiration of the following time periods, counted from the date of service of a Notice to Vacate:

(a) If the Notice to Vacate is served pursuant to § 501(c) of the Act (D.C. Official Code § 42-3505.01(c)) (illegal act within premises), no less than thirty (30) days;

(b) If the Notice to Vacate is served pursuant to § 501(d) of the Act (D.C. Official Code § 42-3505.01(d)) (housing provider's personal use and occupancy), no less than ninety (90) days;

(c) If the Notice to Vacate is served pursuant to § 501(e) of the Act (D.C. Official Code § 42-3505.01(e)) (purchaser's personal use and occupancy), no less than ninety (90) days;

(d) If the Notice to Vacate is served pursuant to an approved application under § 501(f) of the Act (D.C. Official Code § 42-3505.01(f) (unsafe alterations or renovations), no less than one hundred twenty (120) days; provided, that the expiration of this time shall be no earlier than the time set forth in the timetable approved by the Rent Administrator;

(e) If the Notice to Vacate is served pursuant to § 501(g) of the Act (D.C. Official Code § 42-3505.01(g)) (demolition), no less than one hundred eighty (180) days;

(f) If the Notice to Vacate is served pursuant to an approved application under § 501(h) of the Act (D.C. Official Code § 42-3505.01(h)) and § 4212 of this title (substantial rehabilitation), no less than one hundred twenty (120)

days; provided, that the expiration of this time shall be no earlier than the time set forth in the timetable approved by the Office of Administrative Hearings; or

(g) If the Notice to Vacate is served pursuant to § 501(i) of the Act (D.C. Official Code § 42-3505.01(i)) (discontinuance of use), no less than one hundred eighty (180) days.

4302.3 If a Notice to Vacate is served pursuant to § 501(c) of the Act (D.C. Official Code § 42-3505.01(c)) (illegal act within premises), it shall also contain the following:

(a) The name of the court of competent jurisdiction that determined an illegal act was committed;

(b) The date of the order in which the determination was made;

(c) The case number of the proceeding in which the order was issued;

(d) That the court's determination shows that the tenant knew or should have known that the illegal act was committed; and

(e) Statements that:

(1) If the illegal act set forth pursuant to § 4201.1(a) is related to a criminal offense committed or threatened against the tenant or the tenant's child by a current or former family member, intimate partner, or resident of the unit, the tenant may not have to vacate the unit; and

(2) The D.C. Office of Human Rights may be able to assist a tenant described in subparagraph (1) and shall include contact information for that agency.

4302.4 If a Notice to Vacate is served pursuant to §§ 501(f) (unsafe alterations or renovations), (g) (demolition), (h) (substantial rehabilitation), or (i) (discontinuance of use) (D.C. Official Code §§ 42-3505.01(f), (g), (h), or (i)), it shall also contain the following statements:

(a) That the law requires the housing provider to pay the tenant relocation assistance, and the amount of relocation assistance due in accordance with §§ 703(a) or (b) of the Act (D.C. Official Code §§ 42-3507.03(a) or (b)) and § 4401.6 of this title;

(b) That, in accordance with § 703(c) of the Act (D.C. Official Code § 42-3507.03(c)) and § 4401.7 of this title, if the tenant gives the housing provider at least ten (10) business days advance, written notice of the date

on which the tenant will vacate the rental unit, the tenant will be paid relocation assistance no later than twenty-four (24) hours before the date the tenant will vacate the rental unit, or, if notice is not provided, within thirty (30) days after the tenant vacates the rental unit; and

(c) That if the tenant fails to pay rent between the date of the service of the Notice to Vacate and expiration of the applicable time period stated in the Notice to Vacate, the tenant may be evicted in a shorter time period or may lose all or a part of the relocation assistance due.

4302.5 If a Notice to Vacate is served pursuant to § 501(f) of the Act (D.C. Official Code § 42-3505.01(f)) (unsafe alterations or renovations), it shall be in the languages as required for a vital document by § 4 of the Language Access Act of 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933), and shall also include the following:

(a) A statement that the tenant has an absolute right to re-rent the rental unit immediately after the alteration or renovation is completed, and what the rent will be if that right is exercised;

(b) A list of sources of technical assistance, as published in the D.C. Register; and

(c) The notice issued by the Office of the Tenant Advocate pursuant to § 501(f)(1)(C)(iii)(II) of the Act (D.C. Official Code § 42-3505.01(f)(1)(C)(iii)(II)) upon approval of the application by the Rent Administrator that includes the address and telephone number of the Office of the Tenant Advocate, an explanation of the right to maintain his or her tenancy, and an explanation of the need to keep the Office of the Tenant Advocate informed of the tenant's interim addresses.

4302.6 If a Notice to Vacate is served pursuant to § 501(h) of the Act (D.C. Official Code § 42-3505.01(h)) and § 4212 of this title (substantial rehabilitation), it shall also contain the following information:

(a) A statement that the tenant has an absolute right to re-rent the rental unit immediately after the substantial rehabilitation is completed, and what the rent will be if the right to re-rent is exercised;

(b) The petition number and date of the final order by which approval for the Notice to Vacate and any rent adjustment was approved; and

(c) The address and telephone number of the Office of the Tenant Advocate and an explanation of the need to keep the Office of the Tenant Advocate informed of the tenant's interim address.

4302.7 A Notice to Vacate shall be signed by the housing provider or the housing provider's agent. If the Notice is signed by an agent, service on the agent of any complaints, orders, or other documents with respect to the Notice shall be deemed service on the housing provider.

4302.8 A Notice to Vacate shall be served on a tenant of a rental unit in accordance with D.C. Official Code § 42-3206.

4303 RETALIATION

4303.1 A housing provider shall not take an action against a tenant, as provided in § 4303.2, with the intent to injure a tenant in response to the tenant's exercise of any right conferred upon the tenant by law ("retaliatory intent").

4303.2 Actions against a tenant that may be prohibited by § 4303.1 include, but are not limited to:

(a) Any action or proceeding not otherwise permitted by law which seeks to recover possession of a rental unit;

(b) Action which would unlawfully:

(1) Increase rent;

(2) Decrease or reduce the quality or quantity of related services or facilities;

(3) Increase the obligations of the tenant or constitute undue or unavoidable inconvenience in meeting an obligation;

(4) Violate the privacy of the tenant; or

(5) Harass the tenant;

(c) Any refusal to honor a lease or rental agreement or any provision of a lease or rental agreement;

(d) Refusal to renew a lease or rental agreement;

(e) Termination of a tenancy without cause; or

(f) Any other form of threat or coercion.

4303.3 There shall be a rebuttable presumption that an action against a tenant by a housing provider is taken with retaliatory intent if the action is taken within six (6) months following the tenant's exercise of his or her legal rights in the following ways:

(a) Making a request to the housing provider, either orally in the presence of a witness or in writing, to make repairs that are necessary to bring the housing accommodation or the rental unit the tenant occupies into compliance with the Housing Regulations;

(b) Contacting appropriate officials of the District government, either orally in the presence of a witness or in writing, concerning existing violations of the Housing Regulations in the rental unit the tenant occupies or pertaining to the housing accommodation in which the rental unit is located, or reporting to the officials the suspected violations which, if confirmed, would render the rental unit or housing accommodation in noncompliance with the Housing Regulations;

(c) Legally withholding all or part of the tenant's rent after having given a reasonable notice to the housing provider, either orally in the presence of a witness or in writing, of a violation of the Housing Regulations;

(d) Organizing, being a member of, or being involved in any lawful activities pertaining to a tenant organization, as provided in § 4304;

(e) Making an effort to secure or enforce any of the tenant's rights under the tenant's lease or contract with the housing provider; or

(f) Bringing legal action against the housing provider.

4303.4 A presumption of retaliatory intent pursuant to § 4303.3 shall be rebutted only by the production of clear and convincing evidence by the housing provider that the action was taken without retaliatory intent.

4303.5 Where a housing provider is found to have violated § 4303.1, the Office of Administrative Hearings may order the housing provider, in addition to any other penalty prescribed by law, to cease and desist from taking such action, under such terms and conditions as the Office of Administrative Hearings may prescribe.

4304 TENANT RIGHTS TO ORGANIZE

4304.1 In accordance with § 506 of the Act (D.C. Official Code § 42-3505.06), every tenant in a housing accommodation covered by the Act, as provided by § 4100.3, shall have the right to:

(a) Self-organize;

(b) Form, join, meet, or assist one another within and without tenant organizations;

(c) Meet and confer through representatives of their own choosing with a housing provider;

(d) Engage in other concerted activities for the purpose of mutual aid and protection; and

(e) Refrain from such activity.

4304.2 A tenant organizer who is not a tenant shall have the privilege and right of access to a multifamily housing accommodation as follows:

(a) If the multifamily housing accommodation has a written policy that permits canvassing by uninvited, outside parties in the normal course of operations, or if the multifamily housing accommodation lacks a written and consistently enforced policy regarding canvassing, the tenant organizer shall be afforded the same privileges and rights afforded to other uninvited, outside parties; or

(b) If the multifamily housing accommodation has a written and consistently enforced policy that prohibits canvassing by uninvited, outside parties in the normal course of operations, the tenant organizer, when accompanied by a tenant, shall be afforded the same privileges and rights afforded generally to invited, outside parties in the normal course of operations.

4304.3 A housing provider of a multifamily housing accommodation shall not interfere with any of the following activities by a tenant or tenant organizer because the activity relates to the rights enumerated in § 4304.1:

(a) Distributing literature in common areas, including lobby areas;

(b) Placing literature at or under tenants' doors;

(c) Posting information on all building bulletin boards;

(d) Assisting tenants to participate in tenant organization activities;

(e) Convening tenant or tenant organization meetings at any reasonable time and in any appropriate space that would reasonably be interpreted as areas that the tenant had access to under the terms of his or her lease, including any tenant's unit, a community room, a common area including a lobby, or other available space; provided, that an owner or agent of owner shall not attend or make audio recordings of such meetings unless permitted to do so by the tenant organization, if one exists, or by a majority of tenants in attendance, if a tenant organization does not exist;

(f) Formulating responses to housing provider actions, including:

(1) Rent increases, requests or demands for rent increases, or the implementation of, or petitions or applications for administrative approval of, increases in the Registered Rent Charged under the Rent Stabilization Program;

(2) Proposed increases, decreases, or other changes in the housing accommodation's facilities and services; and

(3) Conversion of residential units to nonresidential use, cooperative housing, or condominiums;

(g) Proposing that the housing provider modify the housing accommodation's facilities and services; and

(h) Any other activity reasonably related to the establishment or operation of a tenant organization.

4304.4 This section may be enforced by the filing of a tenant petition in accordance with § 4214, by the issuance of a show cause order in accordance with § 3926, or by order of a court of competent jurisdiction.

4304.5 Without limitation to any additional remedy as may be provided by a court of competent jurisdiction, if, after a hearing before the Office of Administrative Hearings on a tenant petition or show cause order, it is determined that a housing provider knowingly violated § 506 of the Act (D.C. Official Code § 42-3505.06) or this section, the housing provider may be ordered to:

(a) Pay a civil fine, in accordance with § 4304.6 of this section;

(b) Implement a rent rollback and pay a rent refund to a tenant if the provisions of the Rent Stabilization Program have been violated, including as provided by § 4304.7, in accordance with § 4217 of this title;

(c) Pay reasonable attorney's fees, in accordance with § 3825 of this title; or

(d) Cease and desist from the violation.

4304.6 A civil fine imposed pursuant to § 4304.5(a) shall not exceed the product of:

(a) Ten thousand dollars ($10,000); multiplied by

(b) The quotient of:

(1) The CPI-U for the year preceding the violation; divided by

(2) CPI-U for the year 2006, which was two hundred and nine (209.0).

4304.7 If, after a hearing before the Office of Administrative Hearings on a tenant petition or show cause order, it is determined that a housing provider knowingly violated § 506 of the Act (D.C. Official Code § 42-3505.06) or this section, the Office of Administrative Hearings may deem the registration requirements of Chapter 41 of this title to be unmet for the subject housing accommodation during any period of time for which the violation was ongoing or recurring. A rent rollback and refund may be ordered pursuant to § 4304.5(b) for any resulting violations of the Rent Stabilization Program during that period.

4304.8 For the purposes of this section, the term "knowingly" shall have the same meaning ascribed in § 4217.6.

4305 TERMINATION OF LEASE BY VICTIM OF INTRAFAMILY OFFENSE

4305.1 Pursuant to § 507 of the Act (D.C. Official Code § 42-3505.07), a housing provider shall release a tenant from the obligations of the tenant's lease or rental agreement if the tenant gives written notice, in any form, to the housing provider that the tenant is a victim or the parent or guardian of a victim of an intrafamily offense or actions related to an intrafamily offense.

4305.2 Written notice to a housing provider of the termination of a lease or rental agreement in accordance with § 4305.1 shall be accompanied by either:

(a) A copy of a protection order issued by a court pursuant to D.C. Official Code § 16-1005; or

(b) Signed documentation by a qualified third party, showing that the tenant reported the intrafamily offense to the qualified third party in his or her official capacity.

4305.3 The release of a tenant from a lease or rental agreement as required by § 4305.1 shall be effective upon the earlier of:

(a) Fourteen (14) days from the receipt of the written notice and documentation described in § 4305.2; or

(b) The commencement of a new tenancy for the tenant's rental unit.

4305.4 A housing provider shall not demand or receive, and a tenant shall not be liable for:

(a) Any amount of rent in excess of the rent due under the lease or rental agreement, pro-rated to the effective date of the release in accordance with § 4305.3; or

(b) Any penalty provided by the lease or rental agreement.

4305.5 A housing provider shall be deemed to have demanded rent in violation of § 4305.4(a) if the housing provider:

(a) Communicates at any time to the tenant that the housing provider will not release the tenant from the rental agreement as required by § 4305.1; or

(b) Does not respond to the written notice of the lease termination as described in § 4305.2 within the time provided by § 4305.3(a).

4305.6 A communication under § 4305.5(a) shall be deemed to be a unlawful demand for the entire, outstanding amount of rent due for the duration of the lease or rental agreement; provided, that a housing provider may mitigate the damages arising from the demand by proving, in a proceeding under § 4305.8, that the tenant has been released from the rental agreement prior to its expiration.

4305.7 The release of a tenant from a lease or rental agreement as required by § 4305.1 shall not relieve the tenant of liability for any amount of unpaid rent or other sums owed to the housing provider that became due before the effective date of the release as provided by § 4305.3.

4305.8 A tenant may file a tenant petition in accordance with § 4214.9 to contest the demand for or receipt of rent in violation of § 4305.4 and may obtain a rent refund based on the amount by which the rent demanded or received by the housing provider exceeded the amount permitted by § 4305.7.

4305.9 A housing provider shall have the burden of proof in any proceeding under § 4305.8 as to the amount of rent or other sums owed, if any, by a tenant under § 4305.7.

4305.10 Nothing in this section shall affect the regulation of security deposits as provided by §§ 308-311 of this title.

4306 LATE FEES

4306.1 No late fee shall be charged to a tenant of a rental unit covered by the Act unless a valid, written lease for the tenant's rental unit explicitly states:

(a) The grace period after the regular due date of the rent by which the rent due must be paid to avoid a late fee, in accordance with § 4306.2; and

(b) The maximum amount the late fee that may be charged, in accordance with § 4306.3.

4306.2 No late fee shall be charged to a tenant if full payment of the rent charged is made within five (5) days of the date on which it is due, or any longer grace period as may be provided in the lease for the rental unit.

4306.3 No lease shall provide for a late fee in excess of five percent (5%) of the rent that is due on a particular date.

4306.4 No late fee shall be charged to a tenant for the late payment or nonpayment of any portion of the rent charged for a rental unit that a rent subsidy provider, rather than the tenant, is responsible for paying.

4306.5 If a late fee is charged to a tenant, the housing provider shall not:

(a) Charge the tenant interest on the late fee;

(b) Deduct any amount from a subsequent rent payment as payment of the late fee;

(c) Charge more than one late fee for a particular overdue rent payment; or

(d) Evict the tenant on the basis of the nonpayment of the late fee.

4306.6 If a housing provider serves a tenant notice to vacate a rental unit or otherwise initiates proceedings to evict the tenant based, in whole or in part, on the nonpayment of a late fee, the late fee shall be deemed invalid, effective on the date it was charged; provided, that nothing in this subsection shall prevent a housing provider from joining an action for possession based on unpaid rent with an action on a debt based on unpaid late fees.

4306.7 A housing provider may deduct an allowable, unpaid late fee from the tenant's security deposit at the end of a tenancy, in accordance with § 309 of this title, if the housing provider, after the grace period provided by § 4306.2, issues an invoice to the tenant providing thirty (30) days for the payment of the late fee and the late fee is not received within that time.

4306.8 If a housing provider knowingly or willfully charges a late fee in excess of the amount stated in the tenant's lease or the amount allowed by this section, or knowingly or willfully charges a late fee that is not allowed by this section, the housing provider shall be liable to the tenant for the amount by which the late fee exceeds the allowable fee.

4306.9 A housing provider's liability under § 4306.8 shall be trebled if detailed findings of fact are made that the housing provider acted in bad faith.

4306.10 A housing provider that is found liable under § 4306.8 shall, in addition, be subject to a civil fine of not less than one hundred dollars ($100) and not more than five thousand dollars ($5,000) for each late fee unlawfully charged.

4306.11 For the purposes of this section, the terms "knowingly," "bad faith," and "willfully" shall have the same meaning as provided in §§ 4217.6, 4217.7, and 4217.8, respectively.

4306.12 This section may be enforced by the filing of a tenant petition in accordance with § 4214, by the issuance of a show cause order in accordance with § 3926, or by order of a court of competent jurisdiction.

4399 DEFINITIONS

4399.1 The provisions of § 3899 of Chapter 38 of this title and the definitions set forth in that section shall be applicable to this chapter.

4399.2 In addition to § 4399.1, the following terms shall have the meanings set forth below:

CPI-U – the average of the bi-monthly publications of the Consumer Price Index for All Urban Consumers for All Items for the Washington-Arlington-Alexandria, DC-MD-VA-WV, Core Based Statistical Area during the twelve (12) month period ending on November 30 of a given year, as published by the United States Department of Labor, Bureau of Labor Statistics.

Multifamily housing accommodation – a housing accommodation covered by the Act, as provided in § 4100.3 of Chapter 41 of this title, consisting of two (2) or more rental units that is owned or operated by a single housing provider.

Tenant organization – a tenant association, the tenants of a housing accommodation acting jointly as provided by § 410 of the Tenant Opportunity to Purchase Act of 1980 (D.C. Law 3-86; D.C. Official Code § 42-3404.10) ("TOPA"), a tenant organization as provided in § 411 of TOPA (D.C. Official Code § 42-3404.11), or any other continuing agreement between the tenants of two (2) or more rental units covered by the Act to support the exercise of any legal rights as tenants.

Tenant organizer – a person, who may or may not be a tenant, who assists tenants of a multifamily housing accommodation in establishing and operating a tenant organization, and who is not an employee, representative, or other agent of the housing provider, or of a prospective housing provider or owner of the property.

Qualified third party – any of the following persons acting in their official capacity:

(1) A sworn officer of the Metropolitan Police Department of the District of Columbia, in accordance with D.C. Official Code § 4-1301.02(15);

(2) A sworn officer of the District of Columbia Housing Authority Office of Public Safety;

(3) A health professional licensed under or permitted by District of Columbia law to practice a health occupation in the District of Columbia in accordance with D.C. Official Code § 3-1201.01(8); or

(4) A domestic violence counselor who is an employee, contractor, or volunteer of a domestic violence program, in accordance with D.C. Official Code § 14-310(2).

CHAPTER 44: DEMOLITION, CONVERSION, AND RELOCATION ASSISTANCE

SECTION

4400 DEMOLITION AND CONVERSION

4400.1 If a housing provider requests a permit to demolish a housing accommodation by filing an application with the Department of Consumer and Regulatory Affairs, a copy of the application shall be filed with the Rent Administrator.

4400.2 The housing provider shall file with the Rent Administrator, along with the copy of a permit application, a certification that, in accordance with § 602 of the Act (D.C. Official Code § 42-3506.02), the demolition is not for the purpose of constructing or expanding a hotel, motel, inn, or other structure used primarily for transient residential occupancy.

4400.3 The Rent Administrator shall determine whether the demolition is prohibited by § 602 of the Act (D.C. Official Code § 42-3506.02) and shall notify the Department of Consumer and Regulatory Affairs of the determination.

4400.4 If the housing provider fails to comply with the requirements of this section, or if a demolition is prohibited by § 602 of the Act (D.C. Official Code § 42-3506.02), the Rent Administrator shall request that the demolition permit be denied or revoked by the District.

4400.5 Pursuant to § 601 of the Act (D.C. Official Code § 42-3506.01), no housing provider shall convert any housing accommodation or rental unit into a hotel, motel, inn, or other transient residential occupancy unit or accommodation.

4400.6 The Rent Administrator may issue a notice of non-compliance pursuant to § 3927 of this title or take all other necessary and appropriate measures to ensure compliance with § 601 of the Act (D.C. Official Code § 42-3506.01) and § 4400.5 of this section.

4401 RELOCATION ASSISTANCE

4401.1 Each tenant displaced by actions taken under §§ 501(f), (g), (h), or (i) of the Act (D.C. Official Code §§ 42-3505.01(f), (g), (h), or (i)) shall receive a monetary payment of relocation assistance from the housing provider pursuant to the provisions of Title VII of the Act (D.C. Official Code §§ 42-3507.01 *et seq.*).

4401.2 A tenant to be displaced under one of the provisions listed in § 4401.1 shall receive notice of the right to relocation assistance and of the amount to be paid at the time a notice to vacate is served in accordance with § 4302.

4401.3 If more than one (1) tenant leases a rental unit, any relocation assistance due under this section shall be paid in equal portions to each tenant, unless the tenants request in writing, signed by each tenant, that the payment be divided in some other way.

4401.4 If a tenant is displaced under one of the provisions listed in § 4401.1 from a housing accommodation in which more than one owner, manager, or other person qualifies as a housing provider under the Act at the time the notice described in § 4401.2 is served, not including a sub-lessor, each housing provider shall be jointly and severally liable for the payment of relocation assistance.

4401.5 Payment of relocation assistance to a tenant shall be in the form of cash, money order, or certified check payable to the tenant.

4401.6 The amount of relocation assistance due to a tenant who is displaced under one of the provisions listed in § 4401.1 shall be determined in accordance with § 703(a) of the Act (D.C. Official Code § 42-3507.03(a)) or rules promulgated by the Mayor pursuant to § 703(b) (D.C. Official Code § 42-3507.03(b)).

4401.7 Relocation assistance due to a tenant who is displaced under one of the provisions listed in § 4401.1 shall be paid to the tenant as follows:

(a) If the housing provider has received at least ten (10) business days advance, written notice of the date upon which the tenant will vacate the rental unit, not later than twenty-four (24) hours before the date the tenant will vacate the rental unit; or

(b) If the tenant does not provide the housing provider with at least ten (10) business days advance, written notice of the date upon which the tenant will vacate the rental unit, not later than thirty (30) days after the tenant has vacated the rental unit.

4401.8 Except as provided by § 4401.9, payment of relocation assistance shall not be required with respect to any rental unit that is the subject of an outstanding judgment for possession for any reason obtained by the housing provider, or the housing provider's predecessor in interest, against a tenant.

4401.9 If an outstanding judgment for possession of a rental unit is based upon non-payment of rent and the non-payment arose after the service of a notice described in § 4401.2, the amount of relocation assistance determined in accordance with § 4401.6 shall be reduced by the amount determined by the court rendering the judgment for possession to be due and owing from the tenant to the housing provider.

4401.10 For the purposes of this section, a subtenant or sub-lessee shall be treated as a direct tenant of a housing provider that takes action under one of the provisions listed in § 4401.1, and the original tenant or sub-lessor shall not be responsible for the payment of relocation assistance to the subtenant or sub-lessee.

4499 DEFINITIONS

4499.1 The provisions and definitions of § 3899 of Chapter 38 of this title shall be applicable to this chapter.

All persons desiring to comment on these proposed regulations should submit comments in writing to Daniel Mayer, Attorney-Advisor, Rental Housing Commission, 441 Fourth Street, N.W., Suite 1140-B North, Washington, D.C. 20001, or via e-mail at daniel.mayer@dc.gov, not later than ninety (90) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-8949.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF SECOND PROPOSED RULEMAKING
Z.C. Case No. 04-33I
(Text Amendment – 11 DCMR)
(To correct errors and omissions, make technical changes, reorganize certain sections, and clarify language in provisions governing Inclusionary Zoning (IZ) requirements)

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 (2018 Rep1.)), hereby gives notice of its intent to amend the first Notice of Proposed Rulemaking, published in the *D.C. Register* on April 12, 2019 (66 DCR 4814), with changes proposed to Subtitles C (General Rules), D (Residential House (R) Zones), G (Mixed-Use (MU) Zones), H (Neighborhood Mixed-Use (NC) Zones), and K (Special Purpose Zones) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

Substantively, the Zoning Commission proposes to amend the first Notice of Proposed Rulemaking in the following sections:

- Subtitle C § 1005.7 to clarify that the prohibition on locating IZ units in the cellar space applies only to apartment houses, as proposed by the Office of Planning in its September 10 Hearing Report and November 9, 2018 Supplemental Report (Exhibits 6, p. 10 and 15, p. 4);
- Subtitle D § 302.2 to clarify that in the R-1-A and R-1-B zones, and in the portion of the R-3 Anacostia Historic District, (i) new penthouse habitable space is subject to IZ, as is currently established in Subtitle C §§ 1001.5(a)(1) and (3), and (ii) voluntary IZ compliance does not authorize the use of modifications of Subtitle C § 1002, as is currently established in Subtitle C § 1001.2(e)(2);
- Subtitle G §§ 104.1, 403.1, 404.1, 504.3, and 804.2 to clarify that for the MU-13 and MU-27 zones (i) new penthouse habitable space in the MU is subject to IZ, as is currently established in Subtitle C §§ 1001.5(a)(2) and (4), and (ii) voluntary IZ compliance does not authorize the use of modifications of Subtitle C § 1002, as is currently established in Subtitle C § 1001.2(e)(2); and to include the new MU-3A and MU-3B zones established by Z.C. Order No. 18-06;
- Subtitle H §§ 103.1 and 702.2 to clarify that in the NC-6 zone (i) new penthouse habitable space is subject to IZ, as is currently established in Subtitle C § 1001.5(a)(8), and (ii) voluntary IZ compliance does not authorize the use of modifications of Subtitle C § 1002, as is currently established in Subtitle C § 1001.2(e)(2); and
- Subtitle K § 200.12 to clarify in the SEFC zones that (i) IZ applies to the SEFC zones except for properties with LDA, and (ii) new penthouse habitable space is subject to IZ except for residential rental buildings.

These changes were not included in the first Notice of Proposed Rulemaking inadvertently, either despite (i) being specifically included in Office of Planning's proposed text adopted by the Commission, or (ii) reflecting the current provisions of the Zoning Regulations that were

inadvertently dropped of the relevant sections that were brought to the attention of the Commission, which during reorganization approved correcting these omissions. Although these changes were intended to be included in the first Notice of Proposed Rulemaking, in the interests of clarity, the Commission is publishing these changes in this Notice of Second Proposed Rulemaking pursuant to 1 DCMR § 309.7.

Final rulemaking action shall be taken not less than seven (7) days from the date of publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are proposed (additions are shown in **bold underlined** text; deletions are shown in ~~strikethrough~~ text; the proposed changes to the first Notice of Proposed Rulemaking text are shown in **bold underlined CAPITALS** text):

Subsection 1005.7 of § 1005, DEVELOPMENT STANDARDS REGARDING INCLUSIONARY UNITS, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to clarify the exclusion on IZ units in cellars applies only to apartment houses, to read as follows:

1005.7 **Inclusionary Units IN APARTMENT HOUSES shall not be located in cellar space.**

Subsection 302.2 of § 302, DENSITY – LOT DIMENSIONS, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended to clarify that new penthouse habitable space is subject to IZ, to read as follows:

302.2 **EXCEPT FOR NEW PENTHOUSE HABITABLE SPACE AS DESCRIBED IN SUBTITLE C § 1500.11, The Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the R-1-A and R-1-B zones, or to that portion of the Anacostia Historic District within the R-3 zone.**

Subsection 104.1 of § 104, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to clarify that new penthouse habitable space is subject to IZ and that voluntary IZ developments are not eligible for IZ bonuses, to read as follows:

104.1 ~~Inclusionary zoning~~ **The Inclusionary Zoning (IZ)** requirements**, and the available IZ modifications and bonus density, shall apply to all** ~~for the~~ MU zones ~~are~~ **except the PORTION OF THE MU-13 and MU-27 zones IN THE GEORGETOWN HISTORIC DISTRICT,** as specified in Subtitle C, Chapter 10**, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that ~~THE IZ BONUS DENSITY OF SUBTITLE C § 1002.3 IS AVAILABLE FOR DEVELOPMENTS IN THE MU-13 AND MU-27 ZONES THAT VOLUNTARILY AGREE TO BECOME INCLUSIONARY DEVELOPMENTS SUBJECT TO IZ REQUIREMENTS~~**

~~**PURSUANT TO SUBTITLE C § 1001.2(D). except for**~~ **new penthouse habitable space as described in** ~~**subtitle c**~~ **Subtitle C § 1500.11** ~~**, iz requirements, modifications, and bonus density shall not apply to**~~ **IN THE PORTIONS OF THE MU-13 AND MU-27 ZONES IN THE Georgetown Historic District** ~~**in the MU-13 zone and in the MU-27 zone**~~ **SHALL BE SUBJECT TO IZ REQUIREMENTS.**

Section 403, HEIGHT, of Chapter 4, MIXED-USE ZONES – MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, MU-10, AND MU-30, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to reflect the new MU-3A and MU-3B zones created by Z.C. Order No. 18-06, to read as follows:

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

TABLE G § 403.1: MAXIMUM PERMITTED BUILDING HEIGHT~~/~~ AND STORIES

Zone	Maximum Height (Feet)	Maximum Stories
MU-3A	40	3
MU-3B	**50**	**4**
MU-4	50	N/A
MU-5-A	65	N/A
	70 (IZ)	
MU-5-B	75	N/A
MU-6	90	N/A
	100 (IZ)	
MU-7	65	N/A
MU-8	70	N/A
MU-9	90	N/A
	100 (IZ)	
MU-10	90	N/A
	100 (IZ)	
MU-30	110	N/A

Section 404, LOT OCCUPANCY, of Chapter 4, MIXED-USE ZONES – MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, MU-10, AND MU-30, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to reflect the new MU-3A and MU-3B zones created by Z.C. Order No. 18-06, to read as follows:

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

TABLE G § 404.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy for Residential Use (Percentage)	
MU-3A	~~60%~~	**60**
	~~60% (IZ)~~	

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

Subsection 504.3 of § 504, LOT OCCUPANCY, of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to clarify that IZ does not apply to the MU-13 zone in the Georgetown Historic District and that voluntary IZ developments are not eligible for IZ bonuses, to read as follows:

504.3 **The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to THE PORTION OF the MU-13 ZONE IN THE GEORGETOWN HISTORIC DISTRICT ~~AND MU-27 ZONES; PROVIDED THAT THE IZ BONUS DENSITY OF SUBTITLE C § 1002.3 IS AVAILABLE FOR DEVELOPMENTS IN THE MU-13 AND MU-27 ZONES THAT VOLUNTARILY AGREE TO BECOME INCLUSIONARY DEVELOPMENTS SUBJECT TO IZ REQUIREMENTS PURSUANT TO SUBTITLE C § 1001.2(D).~~**

A new § 804.2 is proposed to be added to § 804, LOT OCCUPANCY, of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED-USE (MU) ZONES, to clarify that IZ does not apply to the MU-27 zone in the Georgetown Historic District, to read as follows:

804.2 **THE INCLUSIONARY ZONING REQUIREMENTS AND MODIFICATIONS OF SUBTITLE C, CHAPTER 10 SHALL NOT APPLY TO THE PORTION OF THE MU-27 ZONE IN THE GEORGETOWN HISTORIC DISTRICT.**

Subsection 103.1 of § 103, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO NEIGHBORHOOD MIXED-USE (NC) ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to clarify that IZ does not apply to the NC-6 zone and that voluntary IZ developments are not eligible for IZ bonuses, to read as follows:

103.1 ~~Inclusionary zoning~~**The Inclusionary Zoning (IZ)** requirements**, and the available IZ modifications and bonus density, shall apply to** ~~forthe~~ **ALL**NC zones**, except the NC-6 zone,**~~are~~ as specified in Subtitle C, Chapter 10**, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that**~~THE IZ BONUS DENSITY OF SUBTITLE C § 1002.3 IS AVAILABLE FOR DEVELOPMENTS IN THE NC-6 ZONE THAT VOLUNTARILY AGREE TO BECOME INCLUSIONARY DEVELOPMENTS~~ **NEW PENTHOUSE HABITABLE SPACE AS DESCRIBED IN SUBTITLE C § 1500.1 IN THE NC-6 ZONE SHALL BE subject to IZ requirements** ~~PURSUANT TO SUBTITLE C § 1001.2(D).~~

Subsection 702.2 of § 702, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to clarify that voluntary IZ developments are not eligible for IZ bonuses, to read as follows:

702.2 EXCEPT FOR NEW PENTHOUSE HABITABLE SPACE AS DESCRIBED IN SUBTITLE C § 1500.11, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the NC-6 zone; ~~PROVIDED THAT THE IZ BONUS DENSITY OF SUBTITLE C § IS AVAILABLE FOR DEVELOPMENTS IN THE NC-6 ZONE THAT VOLUNTARILY AGREE TO BECOME INCLUSIONARY DEVELOPMENTS SUBJECT TO IZ REQUIREMENTS PURSUANT TO SUBTITLE C § 1001.2(D).~~

Subsection 200.12 of § 200, GENERAL PROVISIONS (SEFC), of Chapter 2, SOUTHEAST FEDERAL CENTER ZONES – SEFC-1 THROUGH SEFC-4, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended (this subsection was not proposed to have changes in the first Notice of Proposed Rulemaking) to clarify that IZ does not apply except for properties with affordable housing agreements with the District, to read as follows:

200.12 **THE INCLUSIONARY ZONING REQUIREMENTS, MODIFICATIONS, AND BONUS DENSITY OF SUBTITLE C, CHAPTER 10 SHALL APPLY TO THE SEFC ZONES EXCEPT FOR:**

(a) PROPERTIES SUBJECT TO A LAND DISPOSITION OR OTHER AGREEMENT WITH THE DISTRICT OF COLUMBIA THAT MANDATES THE PROVISION OF AFFORDABLE HOUSING; PROVIDED THAT THESE PROPERTIES ARE SUBJECT TO IZ

REQUIREMENTS FOR NEW PENTHOUSE HABITABLE SPACE AS DESCRIBED IN SUBTITLE C § 1500.11; AND

(b) **PENTHOUSES IN RESIDENTIAL RENTAL BUILDNGS**~~THE PROVISIONS OF SUBTITLE C § 1500.11 GOVERNING THE APPLICATION OF SUBTITLE C, CHAPTER 10 SHALL APPLY TO PENTHOUSES IN THE SEFC ZONES, EXCEPT THAT THIS PROVISION SHALL NOT APPLY TO RESIDENTIAL RENTAL BUILDINGS~~.

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

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Behavioral Health ("the Department"), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2018 Repl.)), hereby gives notice of the intent to adopt a revised Chapter 63 (Certification Standards for Substance Use Disorder Treatment and Recovery Providers) to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations ("DCMR").

The current Chapter 63 substance use disorder (SUD) regulations were published in 2015. The Department and its SUD provider network identified areas where the regulations could be improved for the benefit of quality of care, accountability, and efficiency. While the emergency and proposed rules include the entire regulations, this is not a wholesale revision to the basic structure of Chapter 63. Some of the significant changes are outlined in the following chart.

Section Number	Description of Change	Reasoning
6303	The Department may grant provisional certification for up to six-months to a new facility or program that (1) has not previously held a certification issued by the Department; and (2) is in the process of securing a facility within the District of Columbia, at the time of application. Upon receipt of a provisional certification, a provider may submit a response to the Department's Request for Qualification for an SUD Human Care Agreement (HCA). If deemed qualified for an HCA, an award is contingent upon obtaining full certification.	These changes will reduce the administrative and financial burdens of leasing a facility before the HCA is awarded.
6318.3	Eliminate specific training requirements and issues a training policy, which will give the Department and providers more flexibility to amend requirements as needed.	This gives more flexibility to providers and the Department.
6327	Decentralize substance use disorder assessment and referral center (ARC) services and allow multiple community-based SUD providers to provide intake, assessment and referrals.	The Department reorganized and rewrote the entire section previously dedicated to Assessment and Referral to now Intake and Assessment. Providers will have the option to be certified as Intake and Assessment sites and will only have to complete one

		comprehensive assessment.
Was 6335.6 *Now 6336.6*	Allow the Recovery Support Services reassessment to occur every 180 days vs. 90 days.	This is a non-clinical service and the Department wants to follow this promising practice. Recovery Support Services is intended to be a longer term service to aid in recovery skills, and this change allows for more time for reassessment.
Was 6336 *Now 6337*	Remove the Brief Assessment from the list of Assessment types. The list now includes Initial Assessment, Comprehensive Assessment, and Ongoing Assessment.	There was often confusion around when it was necessary to use the various types of assessments. The Department has provided more description and clarity for the use of each assessment.
Was 6337.5 *Now 6338.5*	Adjust the Clinical Care Coordination /Client ratio from 1:75 to 1:300.	Clinical Care Coordination is both a service and a service role in Chapter 63. Someone who has been designated a Qualified Practitioner for Clinical Care Coordination can bill the services listed here (case management, assessment, counseling, etc.); they must simply bill for them under the service codes for the respective services. Clinical Care Coordination as a service is appropriately defined and does not limit services to consumers.
6340.5(c) *Now 6341.5(c)*	Adjust the number of people allowed to participate in a single group SUD counseling session from 15 to 16.	This changes the number of people allowed in Group Counseling to the maximum number of beds possible for a non-Institution for Mental Disease (16 currently).
6340 *Now 6341*	Audio-visual aides are already allowed for SUD Counseling Groups. However, the Department has added language from SAMHSA TIP 41 to the definitions of both services (Group & Group Psychoed) in order	This addition of the SAMHSA descriptions of Group & Group Psychoeducation add additional clarification to what is allowable for this service.

	to clarify them.	
6353.4	Eliminate the restriction that a parent can only have one child at a Recovery Support Services – Environmental Stability facility.	This ensures that a parent with more than one child who wants to be a program participant will not have to choose between this service and keeping their children with them, or having to choose only one of their children to stay with them.

Emergency rulemaking is necessary for the immediate promotion of public health. In December 2018, Mayor Bowser released the District's Opioid Strategic Plan entitled "Live. Long. DC." This plan includes current strategies to combat the opioid epidemic, and the District's plan to reduce opioid related deaths by fifty (50) percent by 2020. As part of the plan, the Department has, *inter alia*, been tasked with reducing legislative and regulatory barriers to create a comprehensive surveillance and response that supports sustainable solutions to emerging trends in substance use disorder, opioid-related overdoses, and opioid-related fatalities. Specifically, the Department is to amend regulations to include the option of treatment on demand services and intake/assessments and referrals through multiple points of entry into the system of care for substance use disorder treatment services. To meet the deadline required by this plan, the Department requires the Emergency and Proposed Rules to begin appropriate work immediately.

The emergency rulemaking was adopted and became effective on April 5, 2019. The emergency rules will remain in effect for one hundred twenty (120) days after the date of adoption unless superseded by publication of another rulemaking notice in the *D.C. Register*.

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

Chapter 63, CERTIFICATION STANDARDS FOR SUBSTANCE USE DISORDER TREATMENT AND RECOVERY PROVIDERS, of Title 22-A DCMR, MENTAL HEALTH, is repealed and replaced by a new Chapter 63 to read as follows:

CHAPTER 63 CERTIFICATION STANDARDS FOR SUBSTANCE USE DISORDER TREATMENT AND RECOVERY PROVIDERS

6300 GENERAL PROVISIONS

6300.1 The Department of Behavioral Health ("Department") is the Single State Agency ("SSA") responsible for the development and promulgation of rules, regulations, and certification standards for prevention and treatment services related to the abuse of alcohol, tobacco, and other drugs ("ATOD") in the District of Columbia

("District"). The Department is responsible for the inspection, monitoring, and certification of all District of Columbia substance use disorder ("SUD") treatment and recovery providers.

6300.2 The purpose of these rules is to establish certification requirements for operating a SUD treatment or recovery program in the District of Columbia. These rules also establish additional certification criteria and requirements for SUD programs providing services under the Medicaid Adult Substance Abuse Rehabilitative Services ("ASARS") program and a Human Care Agreement with the Department.

6300.3 Providers seeking certification shall specify the age ranges of the clients they will be serving. Providers with a Human Care Agreement serving youth shall be known as Adolescent Substance Abuse Treatment Expansion Program (ASTEP) providers.

6300.4 The SUD treatment framework in this chapter is based on levels of care established by the American Society for Addiction Medicine ("ASAM").

6300.5 No person or entity shall own or operate a program that offers or proposes to offer non-hospital SUD treatment services without being certified by the Department pursuant to this chapter. This chapter does not apply to Health Maintenance Organizations, physicians, and other licensed behavioral health and medical professionals in individual or group practice.

6300.6 The Department shall issue one (1) certification for each provider that is valid only for the programs, premises, and level(s) of care stated on the certificate. The certificate is the property of the Department and must be returned upon request by the Department.

6300.7 The Department's staff, upon presentation of proper identification, has the authority to enter the premises of an SUD treatment or recovery program during operating hours for the purpose of conducting announced or unannounced inspections and investigations.

6300.8 A certified provider may not deny admission for services to an otherwise qualified individual because that person is receiving Medication-Assisted Treatment (MAT) services, even if the MAT services are provided by a different provider.

6300.9 Providers in Levels 1 - 3, except Short-term Medically Monitored Intensive Withdrawal Management (SMMIWM), may also receive a special designation as a program serving parents with children, subject to Section 6324 of this chapter.

6300.10 Each certified program shall comply with all the provisions of this chapter consistent with the scope of the authorized level of care and program services.

6301 ELIGIBILITY FOR SUBSTANCE USE DISORDER SERVICES

6301.1 Substance Use Disorder ("SUD") is a chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the beneficiary continues using the substance despite significant substance-related problems. A diagnosis of an SUD requires a beneficiary to have had persistent, substance related problem(s) within a twelve (12)-month period in accordance with the requirements of the most recent version of the American Psychiatric Association's Diagnostic and Statistical Manual ("DSM") in use by the Department.

6301.2 To be eligible for SUD treatment, a client must have received a diagnosis of an SUD in accordance with Subsection 6301.1 of this chapter from a qualified practitioner. Eligibility for Medicaid-funded or Department-funded SUD services shall be determined in accordance with Subsection 6301.4.

6301.3 Qualified Practitioners eligible to diagnose a substance use disorder pursuant to this Chapter are Qualified Physicians, Psychologists, Licensed Independent Clinical Social Workers ("LICSWs"), Licensed Professional Counselors ("LPCs"), Licensed Marriage and Family Therapists ("LMFTs"), and Advanced Practice Registered Nurses ("APRNs"). Qualified practitioners eligible to deliver non-diagnostic ASARS services include: Qualified Physicians; Psychologists, LICSWs; Licensed Graduate Social Workers (LGSW); APRNs; Licensed Independent Social Workers (LISWs); Licensed Graduate Professional Counselors (LGPCs) (only for providers not operating under a Human Care Agreement), Licensed Professional Counselors (LPCs); Licensed Marriage and Family Therapists (LMFTs); Physician Assistants (PAs); and Certified Addiction Counselors (CACs I and II).

6301.4 A client shall meet the following eligibility requirements in order to receive Medicaid-funded services:

(a) Be *bona fide* residents of the District, as required in 29 DCMR Subsection 2405.1(a); and

(b) Be referred for SUD services at the level of care determined by an Intake and Assessment provider or other intake center authorized by the Department, unless the clients are only receiving Recovery Support Services.

(c) Be enrolled in Medicaid, or be eligible for enrollment and have an application pending; or

(d) For new enrollees and those enrollees whose Medicaid certification has lapsed:

(1) There is an eligibility grace period of ninety (90) days from the date of first service for new enrollees, or from the date of eligibility expiration for enrollees who have a lapse in coverage, until the date the District's Economic Security Administration makes an eligibility or recertification determination.

(2) In the event the client appeals a denial of eligibility or recertification by the Economic Security Administration, the Director may extend the ninety (90)-day eligibility grace period until the appeal has been exhausted. The ninety (90)-day eligibility grace period may also be extended in the discretion of the Director for other good cause shown.

(3) Upon expiration of the eligibility grace period, SUD services provided to the client are no longer reimbursable by Medicaid. Nothing in this section alters the Department's timely-filing requirements for claim submissions.

6301.5 Clients eligible for locally-funded SUD treatment are those individuals who are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program except the D.C. HealthCare Alliance, or who are enrolled but the insurance program does not cover SUD treatment and who meet the following requirements:

(a) For individuals eighteen (18) years of age and older, live in households with a countable income of less than two hundred percent (200%) of the federal poverty level, and for individuals under eighteen (18) years of age, live in households with a countable income of less than three hundred percent (300%) of the federal poverty level.

(b) A client that does not meet the income limits of Subsection 6301.5(a) above may receive treatment services in accordance with the following requirements:

(1) The client must, within ninety (90) days of enrollment for services, apply to the Department of Human Services Economic Security Administration for certification, which will verify income;

(2) An individual with income over the limits in paragraph (a) above may receive treatment services with payment on a sliding scale; and

(3) The provider shall ensure it develops a sliding scale fee policy, reviewed by the Department, and shall be able to provide documentation to the Department of its collection of fees.

6302 SERVICES FOR PEOPLE WITH CO-OCCURRING MENTAL ILLNESSES

6302.1 All providers shall provide SUD services to eligible individuals with a co-occurring mental illness. A provider shall not decline to provide SUD services because of the person's co-occurring mental illness.

6302.2 All providers shall, at a minimum, screen individuals during the Intake or Comprehensive Assessment to determine if the person may suffer from a mental illness in addition to an SUD.

6302.3 If a person screens positive for a co-occurring mental illness, the provider shall do the following in addition to providing SUD services:

(a) Offer the opportunity for the person to receive mental illness treatment in addition to SUD treatment. If the person declines, the provider shall make the appropriate referrals for the person to receive mental health treatment at another qualified provider;

(b) If the provider does not offer treatment for mental illness ensure the person is referred to an appropriate mental health provider; or

(c) If an individual that screens positive for a co-occurring mental illness receives mental health treatment at another provider, the Clinical Care Coordinator is responsible for ensuring the plan of care and subsequent care and treatment of the person is coordinated with the mental health provider.

6303 PROVIDER CERTIFICATION PROCESS

6303.1 Each applicant seeking certification as a provider shall submit a certification application to the Department. A Department-certified provider seeking renewal of certification shall submit a certification application at least ninety (90) days prior to the termination of its current certification. The certification of an SUD provider that has submitted a timely application for renewal certification shall continue until the Department renews or denies the application.

6303.2 An applicant may apply for certification for Intake and Assessment and one or more of the following Level of Care (LOC):

(a) Level 1: Opioid Treatment Program (OTP);

(b) Level 1: Outpatient;

(c) Level 2.1: Intensive Outpatient Program;

(d) Level 2.5: Day Treatment;

(e) Level 3.1: Clinically Managed Low – Intensity Residential;

(f) Level 3.3: Clinically Managed Population-Specific High-Intensity Residential;

(g) Level 3.5: Clinically Managed High – Intensity Residential Services (Adult Criteria) or Clinically Managed Medium – Intensity Residential Services (Adolescent Criteria);

(h) Level 3.7-WM: Short-term Medically Monitored Intensive Withdrawal Management ("SMMIWM"); and

(i) Level-R: Recovery Support Services.

6303.3 Providers may also be certified to provide one or more of the following specialty services based on their LOC certifications from the Department:

(a) Medication Management;

(b) Adolescent – Community Reinforcement Approach ("ACRA").

6303.4 All certified providers, except those only certified as Level-R, shall provide all of the following core services according to the requirements of this chapter and the individual needs of the client as outlined in the treatment plan:

(a) Assessment/Diagnostic and Treatment Planning Services;

(b) Clinical Care Coordination;

(c) Case Management;

(d) Crisis Intervention;

(e) Substance Use Disorder (SUD) Counseling/Therapy, including the following:

(1) Individual Counseling/Therapy;

(2) Group Counseling/Therapy;

(3) Family Counseling/Therapy;

(4) Group Counseling – Psychoeducation; and

(f) Drug Screening, as follows:

(1) Toxicology Sample Collection; and

(2) Breathalyzer Testing.

6303.5 Certification shall be considered terminated if the SUD provider:

(a) Fails to submit a complete certification application ninety (90) days prior to the expiration date of the current certification;

(b) Voluntarily relinquishes certification;

(c) Terminates operations.

6303.6 Upon receipt of a certification application, the Department shall review the certification application to determine whether it is complete. If a certification application is incomplete, the Department shall return the incomplete application to the applicant. An incomplete certification application shall not be regarded as a certification application. The Department shall not take further action to issue certification unless a complete certification application is submitted within ninety (90) days prior to the expiration of the applicant's current certification.

6303.7 Following the Department's acceptance of the certification application, the Department shall determine whether the applicant's facility services and activities meet the certification standards described in this chapter. The Department shall schedule and conduct an on-site survey of the applicant's services to determine whether the applicant satisfies all the certification standards. The Department shall have access to all records necessary to verify compliance with certification standards and may conduct interviews with staff, others in the community, and clients (with client consent).

6303.8 The Department may conduct an on-site survey at the time of certification application or certification renewal, or at any other time during the period of certification.

6303.9 During an on-site survey, the Department shall have access to the entirety of records the Department deems necessary to verify compliance with certification standards, and may conduct interviews with staff, others in the community, and clients with consumer permission. Applicant or SUD provider interference with the on-site survey, or lack of candor by the provider, shall be grounds for an immediate suspension of any prior certification.

6303.10 An applicant or certified provider that fails to comply with this chapter, fails to comply with a Human Care Agreement, or violates Federal or District law, may receive a Statement of Deficiencies ("SOD") from the Department. Evidence of

violations gathered from an on-site survey, complaint, or other information may lead to the issuance of an SOD. An on-site survey is not required prior to the issuance of an SOD. The SOD shall describe the areas of non-compliance, suggest actions needed to bring operations into compliance with the certification standards, and set forth a timeframe for the provider's submission of a written Corrective Action Plan ("CAP"). The issuance of an SOD is a separate process from the issuance of a Notice of Infraction. The Department is not required to utilize the Corrective Measures Plan (CMP) process and may proceed directly to decertification under Section 6305 when, in the Department's discretion, the nature of the violations is for fraud, waste and abuse or presents a threat to the health or safety of clients.

6303.11 An applicant or Department-certified provider's CAP shall describe the actions to be taken and specify a timeframe for correcting the areas of non-compliance. The CAP shall be submitted to the Department within ten (10) working days after receipt of the SOD from the Department.

6303.12 The Department shall notify the applicant or certified provider whether the provider's CAP is accepted within ten (10) working days after receipt. In addition to utilizing the CMP process in Subsection 3401.6 during the certification and recertification stage, the Director may utilize the same procedures at any other time to address violations of this chapter, a provider's Human Care Agreement, or a violation of Federal or District law. The Department is not required to utilize the CMP process and may proceed directly to decertification under Section 3426 when, in the Director's discretion, the nature of the violations present a threat to the health or safety of clients.

6303.13 The Department may only issue its certification after the Department verifies that the applicant or certified provider has remediated all of the deficiencies identified in the CAP and meets all the certification standards.

6303.14 The Department may grant full or provisional certification status to a SUD applicant after conducting on-site inspections and reviewing application materials, including plans of correction. A determination to grant full certification to a program shall be based on the Department's review and validation of the information provided in the application, as well as facility inspection findings, plans of correction, and the facility or program's compliance with this chapter. Full certification shall not exceed a period of two (2) years from the date of issuance, subject to the SUD provider's continuous compliance with these certification standards. Certification shall remain in effect until it expires, is renewed, changed to provisional, or revoked. The Certificate shall specify the effective dates of the certification.

6303.15 The Department may grant provisional certification to a new facility or program that can demonstrate substantial compliance with these certification requirements and (a) has not previously held a certification issued by the Department; or (b) is

in the process of securing a facility within the District of Columbia at the time of application.

6303.16 Provisional certification shall not exceed a period of six (6) months and may be renewed only once for an additional period not to exceed ninety (90) days.

6303.17 Full Certification as an SUD treatment provider or recovery support services provider shall be for one (1) calendar year for new applicants and two (2) calendar years for existing providers seeking renewal. Certification shall start from the date of issuance of certification by the Department, subject to the provider's continuous compliance with these certification standards. Certification shall remain in effect until it expires, is renewed, or is revoked pursuant to this chapter. The certification shall specify the effective date of the certification, the program(s), level of care(s), and services that the provider is certified to provide.

6303.18 The SUD provider shall notify the Department within forty-eight (48) hours of any changes in its operation that affect the SUD provider's continued compliance with these certification standards, including changes in ownership or control, changes in service, and changes in its affiliation and referral arrangements.

6303.19 The Director may deny certification if the applicant fails to comply with any certification standard. The Director may revoke certification from a provider through the decertification process in accordance with § 6305 of this chapter.

6303.20 Prior to adding an SUD service during the term of certification, the SUD provider shall submit a certification application describing the service. Upon determination by Department that the service is in compliance with certification standards, the Department may certify the SUD provider to provide that service. A provider that applies for certification during an open application period as published in the District of Columbia Register may appeal the denial of certification under this subsection by utilizing the procedures contained in Subsections 6305.4 through 6305.8. The Department shall not accept any applications for which a notice of moratorium is published in the District of Columbia Register.

6303.21 Nothing in these rules shall be interpreted to mean that certification is a right or an entitlement. New certification as an SUD provider depends upon the Director’s assessment of the need for additional providers(s) and availability of funds.

6303.22 Certification shall be limited to the applicant granted the certification and shall be limited to the location and services as indicated on the certificate. Certification is not transferable to any other organization.

6303.23 Written notice of any change in the name or ownership of a program owned by an individual, partnership, or association, or in the legal or beneficial ownership of ten percent (10%) or more of the stock of a corporation that owns or operates

program, shall be given to the Department at least thirty (30) calendar days prior to the change in ownership.

6303.24 The provider shall notify the Department in writing thirty (30) calendar days prior to implementing any of the following operational changes, including all aspects of the operations materially affected by the changes:

(a) A proposed change in the program's geographic location;

(b) The proposed addition or deletion of major service components, which is anything that would alter or disrupt services where the consumer would be impacted by the change, or any change that would affect compliance with this regulation;

(c) A change in the required staff qualifications for employment;

(d) A proposed change in organizational structure;

(e) A proposed change in the population served; and

(f) A proposed change in program capacity and, for residential programs, a proposed change in bed capacity.

6303.25 Providers shall forward to the Department within thirty (30) calendar days all inspection reports conducted by an oversight body and all corresponding corrective actions taken regarding cited deficiencies.

6303.26 Providers shall immediately report to the Department any criminal allegations involving provider staff.

6303.27 The Department may consider a provider’s accreditation by one or more national accrediting bodies as evidence of compliance with one or more certification standards in this chapter.

6304 CERTIFICATION: EXEMPTIONS FROM STANDARDS

6304.1 Upon good cause shown, including but not limited to a conflict between a certification standard and an SUD provider’s third-party contract or agreement, the Department may exempt a provider from a certification standard if the exemption does not jeopardize the health and safety of clients, violates a client’s rights, or otherwise conflict with the purpose and intent of these rules.

6304.2 If the Department approves an exemption, such exemption shall end on the expiration date of the program certification, or at an earlier date if specified by the Department, unless the provider requests renewal of the exemption prior to expiration of its certificate or the earlier date set by the Department.

6304.3 The Department may revoke an exemption that it determines is no longer appropriate.

6304.4 All requests for an exemption from certification standards must be submitted in writing to the Department.

6305 DECERTIFICATION PROCESS

6305.1 Decertification is the revocation of the certification issued by the Director to an organization or entity as an SUD treatment or recovery provider. A decertified SUD provider shall not provide any SUD treatment and shall not be reimbursed for any services as an SUD provider.

6305.2 Grounds for revocation include a provider's failure to comply with the certification requirements contained in this chapter, the provider's breach of its Human Care Agreement (if applicable), violations of Federal or District law, or any other action that constitutes a threat to the health or safety of clients. Nothing in this chapter requires the Director to issue an SOD prior to revoking certification.

6305.3 If the Director finds that there are grounds for revocation, the Director will issue a written notice of revocation setting forth the factual basis for the revocation, the effective date, and right to request an administrative review.

6305.4 The provider may request an administrative review from the Director within fifteen (15) business days of the date on the notice of revocation.

6305.5 Each request for an administrative review shall contain a concise statement of the reason(s) why the provider asserts that it should not have had its certification revoked and include any relevant supporting documentation.

6305.6 Each administrative review shall be conducted by the Director and shall be completed within fifteen (15) business days of the receipt of the provider's request.

6305.7 The Director shall issue a written decision and provide a copy to the provider. If the Director approves the revocation of the provider's certification, the provider may request a hearing under the D.C. Administrative Procedure Act, within fifteen (15) business days of the receipt of the Director's written decision. The administrative hearing shall be limited to the issues raised in the administrative review request. The revocation shall be stayed pending resolution of the hearing.

6305.8 Once certification is revoked, the SUD provider shall not be allowed to reapply for certification for a period of two (2) years following the date of the order of revocation. If a provider reapplies for certification, the provider must reapply in

accordance with the established certification standards for the type of services provided and show evidence that the grounds for the revocation have been corrected.

6306 CLOSURES AND CONTINUITY OF CLIENT CARE

6306.1 A provider shall provide written notification to the Department at least ninety (90) calendar days prior to its impending closure, or immediately upon knowledge of an impending closure less than ninety (90) calendar days in the future. This notification shall include plans for continuity of care and preservation of client records.

6306.2 The Department shall review the continuity of care plan and make recommendations to the provider as needed. The plan should include provision for the referral and transfer of clients, as well as for the provision of relevant treatment information, medications, and information to the new provider. The provider shall incorporate all Department recommendations.

6306.3 Closure of a program does not absolve a provider from its legal responsibilities regarding the preservation and the storage of client records as described in Section 6321, Storage and Retention of Client Records, of these regulations and applicable, federal and District laws and regulations.

6306.4 A provider shall be responsible for the execution of its continuity of care plan in coordination with the Department.

6307 GENERAL MANAGEMENT AND ADMINISTRATION STANDARDS

6307.1 Each provider shall be established as a recognized legal entity in the United States and qualified to conduct business in the District. Evidence of qualification to conduct business includes a certificate of good standing or clean hands, or an equivalent document, issued by the District of Columbia Department of Consumer and Regulatory Affairs. Each provider shall maintain the clinical operations, policies, and procedures described in this section. These operations, policies and procedures shall be, reviewed and approved by the Department during the certification survey process. Providers certified or accredited by a national body, such as the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation, or the Joint Commission may apply for deemed status. To be considered for deemed status, a prospective provider submitting an application for certification must request "Deemed Status" on the certification application. Providers must also provide a current copy of their national accreditation certificate along with their most recent accreditation report. Deemed Status does not waive the requirement of service specific requirements and/or fiscal responsibility requirements.

6307.2 All certified providers shall report to the Department in a form and manner prescribed by the Department's policy on adverse events including abuse or neglect of client or any other event that may compromise the health, safety, and welfare of clients.

6307.3 Each provider shall:

(a) Have a governing body, which shall have overall responsibility for the functioning of the provider;

(b) Comply with all applicable Federal and District laws and regulations;

(c) Hire personnel with the necessary qualifications in order to provide SUD treatment and recovery services and to meet the needs of its enrolled clients; and

(d) For SUD treatment, employ Qualified Practitioners to ensure provision of services as appropriate and in accordance with this chapter.

6307.4 Each treatment and recovery provider shall have a full time program director with authority and responsibility for the administrative direction and day-to-day operation of the program(s).

6307.5 Each treatment provider shall have a clinical director responsible for the full-time clinical direction and day-to-day delivery of clinical services provided to clients of the program(s). The clinical director must be a clinician who is licensed to practice independently in the District of Columbia and supervise other clinical staff.

6307.6 The program director and clinical director shall devote adequate time and authority to perform necessary duties to ensure that service delivery is in compliance with applicable standards set forth in this chapter and in applicable policies issued by the Department.

6307.7 Each provider shall establish and adhere to policies and procedures for selecting and hiring staff (Staff Selection Policy), including but not limited to requiring:

(a) Evidence of licensure, certification, or registration, as applicable and as required by the job being performed;

(b) Evidence of completion of an appropriate degree, training program, or credentials, such as academic transcripts or a copy of degree;

(c) Evidence of all required criminal background checks, and for all unlicensed staff members, application of the criminal background check requirements contained in D.C. Official Code §§ 44-551 *et seq.,*

Unlicensed Personnel Criminal Background Check, as well as child abuse registry checks for children and youth serving providers (for both state of residence and employment);

(d) Evidence, provided at least quarterly, that no individual is excluded from participation in a Federal health care program as listed on the Department of Health and Human Services List of Excluded Individuals/Entities (http://oig.hhs.gov/fraud/exclusion.asp) or the General Services Administration Excluded Parties List System, or any similar succeeding governmental list;

(e) Evidence of completion of communicable disease testing required by the Department; and

(f) Evidence of a mechanism for ongoing monitoring of excluded party listing status, and staff licensure/certification.

6307.8 Each provider shall establish and adhere to written job descriptions for all positions, including, at a minimum, the role, responsibilities, reporting relationships, and minimum qualifications for each position. The minimum qualifications established for each position shall be appropriate for the scope of responsibility and clinical practice (if any) described for each position.

6307.9 Each provider shall establish and adhere to policies and procedures requiring a periodic evaluation of clinical and administrative staff performance (Performance Review Policy) that requires an assessment of clinical competence (if appropriate), general organizational work requirements, and key functions as described in the job description. The periodic evaluation shall also include an annual individual development plan for each staff member.

6307.10 Each provider shall establish and adhere to a supervision policy to ensure that services are provided according to this chapter and Department policies on supervision and service standards.

6307.11 Each provider shall establish and adhere to a training policy in accordance with § 6318 of this chapter.

6307.12 Personnel policies and procedures shall apply to all staff and volunteers working in a program and shall include:

(a) Compliance with Federal and District equal opportunity laws, including the Americans with Disabilities Act and the D.C. Human Rights Act;

(b) A current organizational flow chart reflecting each program position and, where applicable, the relationship to the larger program or provider of which the program is a part;

(c) Written plans for developing, posting, and maintaining files pertaining to work and leave schedules, time logs, and on-call schedules for each functional unit, to ensure adequate coverage during all hours of operation;

(d) A written policy requiring that a designated individual be assigned responsibility for management and oversight of the volunteer program, if volunteers are utilized;

(e) A written policy regarding volunteer recruitment, screening, training, supervision, and dismissal for cause, if volunteers are utilized; and

(f) Provisions through which the program shall make available to staff a copy of the personnel policies and procedures.

6307.13 A program shall develop and implement procedures that prohibit the possession, use, or distribution of controlled substances or alcohol, or any combination of them, by staff during their duty hours, unless medically prescribed and used accordingly. Staff possession, use, or distribution of controlled substances or alcohol, or any combination of them, during off duty hours that affects job performance shall also be prohibited. These policies and procedures shall ensure that the provider:

(a) Provides information about the adverse effects of the non-medical use and abuse of controlled substances and alcohol to all staff;

(b) Initiates disciplinary action for the possession, use, or distribution of controlled substances or alcohol, which occurs during duty hours or which affects job performance; and

(c) Provides information and assistance to any impaired staff member to facilitate his or her recovery.

6307.14 Individual personnel records shall be maintained for each person employed by a provider and shall include, at a minimum, the following:

(a) A current job description for each person, that is revised as needed;

(b) Evidence of a negative result on a tuberculosis test or medical clearance related to a positive result;

(c) Evidence of the education, training, and experience of the individual, and a copy of the current appropriate license, registration, or certification credentials (if any);

(d) Documentation that written personnel policies were distributed to the employee;

(e) Notices of official tour of duty: day, evening, night, or rotating shifts; payroll information; and disciplinary records;

(f) Documentation that the employee has received all health care worker immunizations as recommended by the Centers for Disease Control and Prevention (CDC); and

(g) Criminal background checks as required in § 6307.7.

6307.15 All personnel records shall be maintained during the course of an individual's employment with the program and for three (3) years following the individual's separation from the program.

6308 EMPLOYEE CONDUCT

6308.1 All staff shall adhere to ethical standards of behavior in their relationships with clients as follows:

(a) Staff shall maintain an ethical and professional relationship with clients at all times;

(b) Licensed or certified staff must adhere to their professional codes of conduct, as required by District licensing laws;

(c) Staff shall not enter into dual or conflicting relationships with individuals that might affect professional judgment, therapeutic relationships, or increase the risk of exploitation; and

(d) The provider shall establish written policies and procedures regarding staff relationships with both current and former clients that are consistent with this section.

6308.2 No staff, including licensed professionals and volunteers, shall engage in sexual activities or sexual contact with clients.

6308.3 No clinical staff including licensed professionals and volunteers shall engage in sexual activities or sexual contact with former clients in accordance with their licensing regulations.

6308.4 No staff, including licensed professionals and support personnel, shall engage in sexual activities or sexual contact with clients' relatives or other individuals with whom clients maintain a close personal relationship.

6308.5 No staff, including licensed professionals and support personnel, shall provide services to individuals with whom they have had a prior sexual or other significant relationship.

6308.6 Staff shall only engage in appropriate physical contact with clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries that govern such physical contact.

6308.7 No staff, including licensed professionals and support personnel, shall sexually harass clients. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

6308.8 No provider or employee of a provider shall be a representative payee for any person receiving services from a treatment or recovery program.

6309 QUALITY IMPROVEMENT

6309.1 Each provider shall establish and adhere to policies and procedures governing quality improvement (Quality Improvement Policy).

6309.2 The Quality Improvement Policy shall require the provider to adopt a written quality improvement (QI) plan describing the objectives and scope of its QI program and requiring provider staff, client, and family involvement in the QI program.

6309.3 The Department shall review and approve each provider's QI program at a minimum as part of the certification and recertification process. The QI program shall submit data to the Department, upon request.

6309.4 The QI program shall be operational and shall measure and ensure at least the following:

(a) Easy and timely access and availability of services;

(b) Treatment and prevention of acute and chronic conditions;

(c) Close monitoring of high volume services, clients with high risk conditions, and services for children and youth;

(d) Coordination of care across behavioral health treatment and primary care treatment settings;

(e) Compliance with all certification standards;

(f) Adequacy, appropriateness, and quality of care for clients;

(g) Efficient utilization of resources;

(h) Client and family satisfaction with services;

(i) Quarterly random samplings of client outcomes, including but not limited to biological markers such as drug/alcohol screening results, in a format approved by the Department; and

(j) Any other indicators that are part of the Department QI program for the larger system.

6309.5 When a significant problem or quality of service issue is identified, the program shall notify the Department, act to correct the problem or improve the effectiveness of service delivery, or both, and shall assess corrective or supportive actions through continued monitoring.

6309.6 Providers certified or accredited by nationally-recognized bodies such as the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission, or the Council on Accreditation may submit their QI program accepted by that body to fulfill the requirements in § 6309.4

6310 FISCAL MANAGEMENT STANDARDS

6310.1 The provider shall have adequate financial resources to deliver all required services and shall provide documented evidence at the time of certification and recertification that it has adequate resources to operate a SUD program. Documented evidence shall include a current financial statement reviewed and approved by the governing body.

6310.2 A provider shall have fiscal management policies and procedures and keep financial records in accordance with generally accepted accounting principles (GAAP).

6310.3 A provider shall include adequate internal controls for safeguarding or avoiding misuse of client or organizational funds.

6310.4 A provider shall have a uniform budget of expected revenue and expenses as required by the Department. The budget shall:

(a) Categorize revenue by source;

(b) Categorize expenses by type of service;

(c) Estimate costs by unit of service; and

(d) Be reviewed and approved by the provider's governing authority prior to the beginning of the current fiscal year.

6310.5 A program shall have the capacity to determine direct and indirect costs for each type of service provided.

6310.6 If a program charges for services, the written schedule of rates and charges shall be conspicuously posted and available to staff, clients, and the general public.

6310.7 The current schedule of rates and charges shall be approved by the provider's governing authority.

6310.8 A provider shall maintain a reporting mechanism that provides information to its governing body on the fiscal performance of the provider at least quarterly.

6310.9 Fiscal reports shall provide information on the relationship of the budget to actual spending, including revenues and expenses by category and an explanation of the reasons for any substantial variance.

6310.10 The provider's governing body shall review each fiscal report and document recommendations and actions in its official minutes.

6310.11 Every three (3) years, each provider with a Human Care Agreement shall have an audit by an independent certified public accountant or certified public accounting firm, and the resulting audit report shall be consistent with formats recommended by the American Institute of Certified Public Accountants (AICPA). A copy of the audit report and management letter shall be submitted to the Department within one-hundred-twenty (120) calendar days after the close of the program's fiscal year.

6310.12 Providers shall correct or resolve adverse audit findings.

6310.13 A provider shall have policies and procedures regarding:

(a) Purchase authority, product selection and evaluation, property control and supply, storage, and distribution;

(b) Billing;

(c) Controlling accounts receivable;

(d) Handling cash;

(e) Management of client fund accounts;

(f) Arranging credit; and

(g) Applying discounts and write-offs.

6310.14 All business records pertaining to costs, payments received and made, and services provided to clients shall be maintained for a period of six (6) years or until all audits and ongoing litigations are complete, whichever is longer.

6310.15 All providers must maintain proof of liability insurance coverage, which must include malpractice insurance of at least three million dollars ($3,000,000) aggregate and one million dollars ($1,000,000) per incident and comprehensive general coverage of at least three million dollars ($3,000,000) per incident that covers general liability, vehicular liability, and property damage. The insurance shall include coverage of all personnel, consultants, or volunteers working for the program.

6310.16 If a program handles client funds, financial record keeping shall provide for separate accounting of those client funds.

6310.17 A provider shall ensure that clients employed by the organization are paid in accordance with all applicable laws governing labor and employment.

6310.18 All money earned by a client shall accrue to the sole benefit of that individual and be provided to the client or the client's legal representative upon discharge or sooner.

6311 ADMINISTRATIVE PRACTICE ETHICS

6311.1 All programs shall operate in an ethical manner, including but not limited to complying with the provisions of this section.

6311.2 A program shall not use any advertising that contains false, misleading, or deceptive statements or claims or that contains false or misleading information about fees.

6311.3 A program shall not offer or imply to offer services not authorized on the certification issued by the Department.

6311.4 A program shall not offer or pay any remuneration, directly or indirectly, to encourage a licensed practitioner to refer a client to them.

6311.5 All employees shall be kept informed of policy changes that affect performance of duties.

6311.6 Allegations of ethical violations must be treated as major unusual incidents.

6311.7 Any research must be conducted in accordance with Federal law.

6312 PROGRAM POLICIES AND PROCEDURES

6312.1 Each provider must document the following:

(a) Organization and program mission statement, philosophy, purpose, and values;

(b) Organizational structure;

(c) Leadership structure;

(d) Program relationships;

(e) Staffing;

(f) Relationships with parent organizations, affiliated organizations, and organizational partners;

(g) Treatment philosophy and approach;

(h) Services provided;

(i) Characteristics and needs of the population served;

(j) Performance metrics, including intended outcomes and process methods;

(k) Contract services, if any;

(l) Affiliation agreements, if any;

(m) The scope of volunteer activities and rules governing the use of volunteers, if any;

(n) Location of service sites and specific designation of the geographic area to be served; and

(o) Hours and days of operation of each site.

6312.2 Each program shall establish written policies and procedures to ensure each of the following:

(a) Service provision based on the individual needs of the client;

(b) Consideration of special needs of the individual and the program's population of focus;

(c) Placement of clients in the least restrictive setting necessary to address the severity of the individual's presenting illness and circumstances; and

(d) Facilitation of access to other more appropriate services for individuals who do not meet the criteria for admission into a program offered by the provider.

6312.3 Each program shall develop and document policies and procedures subject to review by the Department related to each of the following:

(a) Program admission and exclusion criteria;

(b) Termination of treatment and discharge or transition criteria;

(c) Outreach;

(d) Infection control procedures and use of universal precautions, addressing at least those infections that may be spread through contact with bodily fluids and routine tuberculosis screening for staff;

(e) Volunteer utilization, recruitment, and oversight;

(f) Crisis intervention and medical emergency procedures;

(g) Safety precautions and procedures for participant volunteers, employees, and others;

(h) Record management procedures in accordance with "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 CFR, Part 2, this chapter, and any other District laws and regulations regarding the confidentiality of client records;

(i) The on-site limitations on use of tobacco, alcohol, and other substances;

(j) Clients' rules of conduct and commitment to treatment regimen, including restrictions on carrying weapons and specifics of appropriate behavior while in or around the program;

(k) Clients' rights;

(1) Addressing and investigating major unusual incidents;

(m) Addressing client grievances;

(n) Addressing issues of client non-compliance with established treatment regimen and/or violation of program policies and requirements; and

(o) The purchasing, receipt, storage, distribution, return, and destruction of medication, including accountability for and security of medications located at any of its service site(s) (a Medication Policy).

6312.4 Gender-specific programs shall ensure that staff of that specific gender is in attendance at all times when clients are present.

6313 EMERGENCY PREPAREDNESS PLAN

6313.1 Each provider shall establish and adhere to a written disaster evacuation and continuity of operations plan in accordance with the Department policy on Disaster Evacuation/Continuity of Operations Plans.

6313.2 A provider shall immediately notify the Department and implement its continuity of operations plan if an imminent health hazard exists because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, gross unsanitary conditions, or other circumstances that may endanger the health, safety, or welfare of its clients.

6314 FACILITIES MANAGEMENT

6314.1 A provider shall establish and maintain a safe environment for its operation, including adhering to the following provisions:

(a) Each provider's service site(s) shall be located and designed to provide adequate and appropriate facilities for private, confidential individual and group counseling/therapy sessions;

(b) Each provider's service site(s) shall have appropriate space for group activities and educational programs;

(c) In-office waiting time shall be less than one (1) hour from the scheduled appointment time. Each program shall also demonstrate that it can document the time period for in-office waiting;

(d) Each provider shall comply with applicable provisions of the Americans with Disabilities Act in all business locations;

(e) Each service site shall be located within reasonable walking distance of public transportation;

(f) Providers shall maintain fire safety equipment and establish practices to protect all occupants. This shall include clearly visible fire extinguishers, with a charge, that are inspected annually by a qualified service company or trained staff member; and

(g) Each provider shall annually obtain a written certificate of compliance from the District of Columbia Department of Fire and Emergency Medical Services indicating that all applicable fire and safety code requirements have been satisfied for each facility.

6314.2 Each window that opens shall have a screen.

6314.3 Each rug or carpet in a facility shall be securely fastened to the floor or shall have a non-skid pad.

6314.4 Each hallway, porch, stairway, stairwell, and basement shall be kept free from any obstruction at all times.

6314.5 Each ramp or stairway used by a client shall be equipped with a firmly secured handrail or banister.

6314.6 Each provider shall maintain a clean environment free of infestation and in good physical condition, and each facility shall be appropriately equipped and furnished for the services delivered.

6314.7 Each provider shall properly maintain the outside and yard areas of the premises in a clean and safe condition.

6314.8 Each exterior stairway, landing, and sidewalk used by clients shall be kept free of snow and ice.

6314.9 Each facility shall be located in an area reasonably free from noxious odors, hazardous smoke and fumes, and where interior sounds may be maintained at reasonably comfortable levels.

6314.10 A provider shall take necessary measures to ensure pest control, including:

(a) Refuse shall be stored in covered containers that do not create a nuisance or health hazard; and

(b) Recycling, composting, and garbage disposal shall not create a nuisance, permit transmission of disease, or create a breeding place for insects or rodents.

6314.11 A provider shall ensure that medical waste is stored, collected, transported, and disposed of in accordance with applicable District and Federal laws and guidelines from the CDC.

6314.12 Each provider shall ensure that its facilities have comfortable lighting, proper ventilation, and moisture and temperature control. Rooms shall be dry and the

temperature shall be maintained within a normal comfort range, including bedrooms and activity rooms below ground level.

6314.13 Each facility shall have potable water available for each client.

6314.14 No smoking shall be allowed inside a program's facility.

6314.15 Providers' physical design and structure shall be sufficient to accommodate staff, participants, and functions of the program(s), and shall make available the following:

(a) A reception area;

(b) Private areas for individual treatment services;

(c) A private area(s) for group counseling/therapy and other group activities;

(d) An area(s) for dining, if applicable; and

(e) Separate bathrooms and/or toilet facilities in accordance with District law where the:

(1) Required path of travel to the bathroom shall not be through another bedroom;

(2) Windows and doors provide privacy; and

(3) Showers and toilets not intended for individual use provide privacy.

6314.16 If activity space is used for purposes not related to the program's mission, the program shall ensure that:

(a) The quality of services is not reduced;

(b) Activity space in use by other programs shall not be counted as part of the required activity space; and

(c) Client confidentiality is protected, as required by 42 CFR part 2 and other applicable Federal and District laws and regulations.

6314.17 The use of appliances such as televisions, radios, CD players, recorders and other electronic devices shall not interfere with the therapeutic program.

6314.18 Each facility shall maintain an adequately supplied first-aid kit which:

(a) Shall be maintained in a place known and readily accessible to clients and employees; and

(b) Shall be adequate for the number of persons in the facility.

6314.19 Each provider shall post emergency numbers near its telephones for fire, police, and poison control, along with contact information and directions to the nearest hospital.

6314.20 A provider shall have an interim plan addressing safety and continued service delivery during construction.

6314.21 Residential treatment and recovery programs shall comply with all applicable construction codes and housing codes and zoning requirements applicable to the facility, including all Certificate of Occupancy, Basic Business License (BBL) and Construction Permit requirements.

6314.22 Each newly established Residential treatment and recovery program shall provide proof of a satisfactory pre-certification inspection by DCRA for initial certification, dated not more than forty-five (45) days prior to the date of submission to Department, for District of Columbia Property Maintenance Code (12-G DCMR) and Housing Code (14 DCMR) compliance, including documentation of the inspection date and findings and proof of abatement certified by DCRA of all deficiencies identified during the inspection. This requirement can be met by submission of a Certificate of Occupancy or a BBL dated within the past six (6) months, provided that that applicant can demonstrate that DCRA performed an onsite inspection of the premises.

6314.23 For existing residential treatment and recovery programs that are applying for re-certification, the applicants shall also provide proof of current BBLs.

6314.24 For both initial certification and re-certification, if the facility has had work done requiring a DCRA building permit or other related permits such as plumbing or electrical within the twelve (12) months prior to application for initial certification or re-certification, the applicant shall also submit copies of the DCRA permits and post-work inspection approvals.

6315 MEDICATION STORAGE AND ADMINISTRATION STANDARDS

6315.1 Controlled substances shall be maintained in accordance with applicable District and Federal laws and regulations.

6315.2 An SUD treatment program shall implement written policies and procedures to govern the acquisition, safe storage, prescribing, dispensing, labeling, administration, and the self-administration of medication, including medications clients may bring into the program shall have a record of the prescribing

physician's order or approval prior to the administration or self-administration of medication.

6315.3 Any prescribed medication brought into a facility by a client shall not be administered or self-administered until the medication is identified and the attending practitioner's written order or approval is documented in the client record.

6315.4 Verbal orders may only be given by the attending practitioner to another practitioner, physician assistant, nurse, or pharmacist. Verbal orders shall be noted in the client's record as such and countersigned and dated by the prescribing practitioner within twenty-four (24) hours.

6315.5 Verbal orders may only be given by the attending practitioner to another practitioner, physician assistant, registered nurse, or pharmacist for the administration of controlled substances. Verbal orders shall be noted in the client's record as such and countersigned and dated by the prescribing practitioner within twenty-four (24) hours.

6315.6 Medication, both prescription and over-the-counter, brought into a facility must be packaged and labeled in accordance with District and Federal laws and regulations.

6315.7 Medication, both prescription and over-the-counter, brought into a facility by a client that is not approved by the attending practitioner shall be packaged, sealed, stored, and returned to the client upon discharge.

6315.8 The administration of medications, excluding self-administration, shall be permitted only by licensed individuals pursuant to applicable District laws and regulations.

6315.9 Medications shall be administered only in accordance with the prescribing practitioner's order.

6315.10 Only a registered nurse, practitioner, or physician assistant shall administer controlled substances or injectable drugs, excluding insulin.

6315.11 Program staff responsible for supervision of the self-administration of medication shall document consultations with a practitioner, pharmacist, registered nurse, or referral to appropriate reference material regarding the action and possible side effects or adverse reactions of each medication under their supervision.

6315.12 As applicable, a program shall provide training to the staff designated to supervise the self-administration of medication. The training shall include but not be limited to the expected action of and adverse reaction to the self-administered medication.

6315.13 Only trained staff shall be responsible for observing the self-administration of medication.

6315.14 A program shall ensure that medication is available to clients as prescribed.

6315.15 A program shall maintain records that track and account for all medication, ensuring the following:

(a) That each client receiving medication shall have a medication administration record, which includes the individual's name, the name of medication, the type of medication (classification), the amount of medication, the dose and frequency of administration/self-administration, and the name of staff who administered or observed the self-administration of the medication;

(b) That documentation shall include omission and refusal of medication administration;

(c) That the medication administration record shall note the amount of medication originally present and the amount remaining;

(d) That documentation of medication administration shall include over-the-counter drugs administered or self-administered; and

(e) That SUD treatment programs administering controlled substances, including but not limited to methadone, shall follow the requirements of applicable Federal and District laws and regulations.

6315.16 An attending practitioner shall be notified immediately of any medication error or adverse reaction. The staff responsible for the medication error shall complete an incident report, and the practitioner’s recommendations and subsequent actions taken by the program shall be documented in the client record.

6315.17 A program shall have written policies and procedures on how medications are obtained and stored.

6315.18 A program shall ensure that all medications, including those that are self-administered, are secured in locked storage areas.

6315.19 The locked medication area shall provide for separation of internal and external medications.

6315.20 A program shall maintain a list of personnel who have access to the locked medication area and, where applicable, are qualified to administer medication.

6315.21 A program shall comply with all District and Federal laws concerning the

acquisition and storage of pharmaceuticals.

6315.22 Each client's medication shall be properly labeled as required by District and Federal laws and regulations, shall be stored in its original container, and shall not be transferred to another container or taken by persons other than the person for whom it was originally prescribed.

6315.23 Medications requiring refrigeration shall be maintained in a separate and secure refrigerator, labeled "FOR MEDICATION ONLY" and shall be maintained at a temperature between thirty-six degrees Fahrenheit (36°F) and forty-six degrees Fahrenheit (46°F). All refrigerators shall have thermometers, which are easily readable, in proper working condition, and accurate within a range of plus or minus two (2) degrees.

6315.24 A program shall conspicuously post in the drug storage area the following information:

(a) Telephone numbers for the regional Poison Control Center; and

(b) Metric-apothecaries weight and conversion measure charts.

6315.25 A program shall conduct monthly inspections of all drug storage areas to ensure that medications are stored in compliance with District and Federal regulations. The program shall maintain records of these inspections for verification.

6315.26 Where applicable, the program shall implement written policies and procedures for the control of stock pharmaceuticals.

6315.27 The receipt and disposition of stock pharmaceuticals must be accurately documented as follows:

(a) Invoices from companies or pharmacies shall be maintained to document the receipt of stock pharmaceuticals;

(b) A log shall be maintained for each stock pharmaceutical that documents receipt and disposition; and

(c) At least quarterly, each stock pharmaceutical shall be reconciled as to the amount received and the amount dispensed.

6315.28 A program shall implement written procedures and policies for the disposal of medication.

6315.29 Any medication left by the client at discharge shall be destroyed within thirty (30) calendar days after the client has been discharged, with the exception of Methadone and other controlled substances which must be returned to the point of

issue or destroyed in accordance with Federal regulations.

6315.30 The disposal of all medications shall be witnessed and documented by two (2) staff members.

6315.31 Medication administration training shall be facilitated by the following Qualified Practitioners, as led by signature and date on the training certificate and in accordance with

(a) Qualified Physicians;

(b) APRNs; or

(c) RNs.

6316 VEHICLE ENVIRONMENTAL AND SAFETY STANDARDS

6316.1 A provider shall implement measures to ensure the safe operation of its transportation service, if applicable. These measures shall include, but are not limited to:

(a) Automobile insurance with adequate liability coverage;

(b) Regular inspection and maintenance of vehicles, as required by law;

(c) Adequate first aid supplies and fire suppression equipment secured in the vehicles;

(d) Training of vehicle operators in emergency procedures and in the handling of accidents and road emergencies; and

(e) Verification to ensure that vehicles are operated by properly licensed drivers with driving records that are absent of serious moving violations, including but not limited to “Driving under the Influence” (DUI).

6317 FOOD AND NUTRITION STANDARDS

6317.1 The provisions of this section apply to any provider that prepares or serves food.

6317.2 All programs that prepare food shall have a current Certified Food Protection Manager (CFPM) certification from the Department of Health, and the CFPM must be present whenever food is prepared and served.

6317.3 The provider shall require each CFPM to monitor any staff members who are not certified as CFPMs in the storage, handling, and serving of food and in the

cleaning and care of equipment used in food preparation in order to maintain sanitary conditions at all times.

6317.4 The kitchen, dining, and food storage areas shall be kept clean, orderly, and protected from contamination.

6317.5 A program providing meals shall maintain a fully equipped and supplied code-compliant kitchen area unless meals are catered by an organization licensed by the District to serve food.

6317.6 A program may share kitchen space with other programs if the accommodations are adequate to perform required meal preparation for all programs using the kitchen.

6317.7 Each food and drink item procured, stored, prepared, or served by the facility shall be clean, free from spoilage, prepared in a manner that is safe for human consumption, and protected from contamination.

6317.8 Dishes, cooking utensils, and eating utensils shall be cleaned after each meal and stored to maintain their sanitary condition.

6317.9 Hot and cold water, soap, and disposable towels shall be provided for hand washing in or adjacent to food preparation areas.

6317.10 Each facility shall maintain adequate dishes, utensils, and cookware in good condition and in sufficient quantity for the facility.

6318 PERSONNEL TRAINING STANDARDS

6318.1 SUD provider staff shall have annual training that meets the Occupational Safety & Health Administration (OSHA) regulations that govern behavioral health facilities and any other applicable infection control guidelines, including use of universal precaution and avoiding exposure to hepatitis, tuberculosis, and HIV.

6318.2 A treatment program shall have at least two (2) staff persons, trained and certified by a nationally recognized authority that meets OSHA guidelines for basic first aid and cardiopulmonary resuscitation (CPR), present at all times during the hours of operation of the program. An SUD recovery program shall have at least one (1) staff person trained and certified by a recognized authority that meets OSHA guidelines in basic first aid and CPR present at all times during the hours of operation of the program.

6318.3 A program shall have a current written plan for staff development and organizational onboarding, approved by the Department which reflects the training and performance improvement needs of all employees working in that program. The plan should address the steps the organization will take to ensure

the recruitment and retention of highly qualified employees and the reinforcement of staff development through training, supervision, the performance management process, and activities such as shadowing, mentoring, skill testing and coaching. The plan should minimally include training and onboarding activities in the following core areas:

(a) The program's approach to addressing treatment or recovery services (as appropriate to its certification), including philosophy, goals and methods;

(b) The staff member's specific job description and role in relationship to other staff;

(c) The emergency preparedness plan and all safety-related policies and procedures;

(d) The proper documentation of services in individual consumer records, as applicable;

(e) Policies and procedures governing infection control, protection against exposure to communicable diseases, and the use of universal precautions;

(f) Laws and policies governing confidentiality, of client information and release of information, including 42 CFR part 2;

(g) Laws and policies governing reporting abuse and neglect;

(h) Client rights; and

(i) Other trainings directed by the Department.

6319 CLIENT RIGHTS AND PRIVILEGES, INCLUDING GRIEVANCES

6319.1 A program shall protect the following rights and privileges of each client:

(a) Right to be admitted and receive services in accordance with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code §§ 2501 *et seq*.);

(b) Right to make choices regarding provider, treatment, medication, and advance directives, when necessary;

(c) Right to receive prompt evaluation, care, and treatment, in accordance with the highest quality standards;

(d) Right to receive services and live in healthy, safe, and clean place;

(e) Right to be evaluated and cared for in the least restrictive and most integrated environment appropriate to an individual's needs;

(f) Right to participate in the treatment planning process, including decisions concerning treatment, care, and other servicers, and to receive a copy of the treatment plan;

(g) Right to have records kept confidential;

(h) Right to privacy;

(i) Right to be treated with respect and dignity in a humane treatment environment;

(j) Right to be safe from harm and from verbal, physical, or psychological abuse;

(k) Right to be free of discrimination;

(l) Right to be paid commensurate wages for work performed in compliance with applicable District or Federal requirements;

(m) Right to own personal belongings;

(n) Right to refuse treatment and/or medication;

(o) Right to give, not give, or revoke already-given consent to treatment, supports and/or release of information;

(p) Right to give, not give, or revoke informed, voluntary, written consent to participate in experimentation of the client or a person legally authorized to act on behalf of the client; the right to protection associated with such participation; and the right and opportunity to revoke such consent;

(q) Right to be informed, in advance, of charges for services;

(r) Right to be afforded the same legal rights and responsibilities as any other citizen, unless otherwise stated by law;

(s) Right to request and receive documentation on the performance track record of a program with regard to treatment outcomes and success rates;

(t) Right to provide feedback on services and supports, including evaluation of providers;

(u) Right to assert grievances with respect to infringement of these rights,

including the right to have such grievances considered in a fair, timely, and impartial manner;

(v) Right to receive written and oral information on client rights, privileges, program rules, and grievance procedures in a language understandable to the client;

(w) Right to access services that are culturally appropriate, including the use of adaptive equipment, sign language, interpreter, or translation servers, as appropriate; and

(x) Right to vote.

6319.2 As soon as clinically feasible, the limitation of a client's rights shall be terminated and all rights restored.

6319.3 A program shall post conspicuously a statement of client rights, program rules, and grievance procedures. The grievance procedures must inform clients that they may report any violations of their rights to the Department and shall include the telephone numbers of the Department and any other relevant agencies for the purpose of filing complaints.

6319.4 At the time of admission to a program, staff shall explain program rules, client rights, and grievance procedures. Program staff shall document this explanation by including a form, signed by the client and witnessed by the staff person, within the client’s record.

6319.5 A program shall develop and implement written grievance procedures to ensure a prompt, impartial review of any alleged or apparent incident of violation of rights or confidentiality. The procedures shall be consistent with the principles of due process and Department requirements and shall include but not be limited to:

(a) Reporting the allegation or incident to the Department within twenty-four (24) hours of it coming to the attention of program staff;

(b) The completion of the investigation of any allegation or incident within thirty (30) calendar days;

(c) Providing a copy of the investigation report to the Department within twenty-four (24) hours of completing the investigation of any complaint; and

(d) Cooperating with the Department in completion of any inquiries related to clients’ rights conducted by Department staff.

6319.6 Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to

Section 2508 of Title 29 DCMR in cases of intended adverse action such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded SUD services.

6320 CLIENT RECORDS MANAGEMENT AND CONFIDENTIALITY

6320.1 A program shall create and maintain an organized record for each person receiving service at the agency or its extended service sites.

6320.2 All records must be secured in a manner that provides protection from unauthorized disclosure, access, use, or damage in accordance with both District and Federal law.

6320.3 All client records shall be kept confidential and shall be handled in compliance with "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 CFR part 2, and both Federal and District laws and regulations regarding the confidentiality of client records.

6320.4 Each provider shall have a designated privacy officer responsible for ensuring compliance with privacy requirements.

6320.5 A program shall ensure that all staff and clients, as part of their orientation, are made aware of the privacy requirements.

6320.6 A decision to disclose protected health information (PHI), under any provisions of District or Federal rules that permit such disclosure, shall be made only by the Privacy Officer or his/her designee with appropriately administered consent procedures.

6320.7 A program shall implement policies and procedures for the release of identifying information consistent with Federal and District laws and regulations regarding the confidentiality of client records including "Confidentiality of Alcohol and Drug Abuse Patient Records" 42 CFR part 2, the District of Columbia Mental Health Information Act, and the Health Insurance Portability and Accountability Act (HIPAA). A provider with a contract with the Department shall ensure its policies and procedures comply with the Department’s Privacy Policy.

6320.8 The program shall encourage all enrolled clients to authorize the release of information to other certified providers, primary health care providers and other health care organizations engaged in treating the client in order to facilitate treatment and coordination of care.

6320.9 The program director shall designate a staff member to be responsible for the maintenance and administration of records.

6320.10 A program shall arrange and store records according to a uniform system approved by the Department.

6320.11 A program shall maintain records such that they are readily accessible for use and review by authorized staff and other authorized parties.

6320.12 A program shall organize the content of records so that information can be located easily and so that Department surveys and audits can be conducted with reasonable efficiency.

6321 STORAGE AND RETENTION OF CLIENT RECORDS

6321.1 A program shall retain client records (either original or accurate reproductions) until all litigation, adverse audit findings, or both, are resolved. If no such conditions exist, a program shall retain client records for at least six (6) years after discharge.

6321.2 Records of minors shall be kept for at least six (6) years after such minor has reached the age of eighteen (18) years.

6321.3 The provider shall establish a Document Retention Schedule with all medical records retained in accordance with District and Federal law.

6321.4 The client or legal guardian shall be given a written statement concerning client's rights and responsibilities (“Client’s Rights Statement”) in the program. The client or guardian shall sign the statement attesting to his or her understanding of these rights and responsibilities as explained by the staff person who shall witness the client's signature. This document shall be placed in the client's record.

6321.5 If the records of a program are maintained on computer systems, the database shall:

(a) Have a backup system to safeguard the records in the event of operator or equipment failure, natural disasters, power outages, and other emergency situations;

(b) Identify the name of the person making each entry into the record;

(c) Be secure from inadvertent or unauthorized access to records in accordance with 42 CFR part 2 "Confidentiality of Alcohol and Drug Abuse Patient Records," and District laws and regulations regarding the confidentiality of client records;

(d) Limit access to providers who are involved in the care of the client and who have permission from the client to access the record; and

(e) Create an electronic trail when data is released.

6321.6 A program shall maintain records that safeguard confidentiality in the following manner:

(a) Records shall be stored with access controlled and limited to authorized staff and authorized agents of the Department;

(b) Written records that are not in use shall be maintained in either a secured room, locked file cabinet, safe, or other similar container;

(c) The program shall implement policies and procedures that govern client access to their own records;

(d) The policies and procedures of a program shall only restrict a client's access to their record or information in the record after an administrative review with clinical justification has been made and documented;

(e) Clients shall receive copies of their records as permitted under 42 CFR Part 2;

(f) All staff entries into the record shall be clear, complete, accurate, and recorded in a timely fashion;

(g) All entries shall be dated and authenticated by the recorder with full signature and title;

(h) All non-electronic entries shall be typewritten or legibly written in indelible ink that will not deteriorate from photocopying;

(i) Any documentation error shall be marked through with a single line and initialed and dated by the recorder; and

(j) Limited use of symbols and abbreviations shall be pre-approved by the program and accompanied by an explanatory legend.

6321.7 Any records that are retained off-site must be kept in accordance with this chapter. If an outside vendor is used, the provider must submit the vendor’s name, address, and telephone number to the Department.

6322 CLIENT RECORD CONTENTS

6322.1 At a minimum, all client records shall include:

(a) Documentation of the referral and initial screening interview and its findings;

(b) The individual's consent to treatment;

(c) The Client's Rights Statement;

(d) Documentation that the client received:

(1) An orientation to the program's services, rules, confidentiality, and client's rights; and

(2) Notice of privacy practices.

(e) Confidentiality forms and releases signed to permit the facility to obtain and/or release information;

(f) Diagnostic interview and assessment record, including any Department-approved screening and assessment tools;

(g) Evaluation of medical needs and, as applicable, medication intake sheets and special diets which shall include:

(1) Documentation of physician's orders for medication and treatment, change of orders, and/or special treatment evaluation; and

(2) For drugs prescribed following admissions, any prescribed drug product by name, dosage, and strength, as well as date(s) medication was administered, discontinued, or changed;

(3) For any prescribed over-the-counter (OTC) medications following admissions, any OTCs by product name, dosage, and strength, as well as date(s) medication was administered, discontinued, or changed;

(h) Assessments and individual treatment plans pursuant to the level of care and the client's needs, including recovery plans, if applicable;

(i) Encounter notes, which provide sufficient written documentation to support each therapy, service, activity, or session for which billing is made that, at a minimum, consists of:

(1) The specific service type rendered;

(2) Dated and authenticated entries with their authors identified, that include the duration, and actual time (beginning and ending as well as a.m. or p.m.), during which the services were rendered;

(3) Name, title, and credentials (if applicable) of the person providing the services;

(4) The setting in which the services were rendered;

(5) Confirmation that the services delivered are contained in the client's treatment or recovery plan and are identified in the encounter note;

(6) A description of each encounter or intervention provided to the client, which is sufficient to document that the service was provided in accordance with this chapter;

(7) A description of the client's response to the intervention sufficient to show, particularly in the case of group interventions, their unique participation in the service; and

(8) Provider's observations.

(j) Documentation of all services provided to the client as well as activities directly related to the individual treatment or recovery plan that are not included in encounter notes;

(k) Documentation of missed appointments and efforts to contact and reengage the client;

(1) Emergency contact information of individuals to contact in case of a client emergency with appropriate consent to share information;

(m) Documentation of all referrals to other agencies and the outcome of such referrals;

(n) Documentation establishing all attempts to acquire necessary and relevant information from other sources;

(o) Pertinent information reported by the client, family members, or significant others regarding a change in the individual's condition and/or an unusual or unexpected occurrence in the client's life;

(p) Drug test results and incidents of drug use;

(q) Discharge summary and aftercare plan;

(r) Outcomes of care and follow-up data concerning outcomes of care;

(s) Documentation of correspondence with other medical, community providers, social service, and criminal justice entities as it pertains to a client's treatment and/or recovery; and

(t) Documentation of a client's representative payee or legal guardian, as applicable.

6323 RESIDENTIAL TREATMENT AND RECOVERY PROGRAMS

6323.1 The provisions of this section apply only to residential treatment programs and residential recovery support service (environmental stability) programs, as defined by this chapter.

6323.2 Each residential provider must obtain a Certificate of Need (CON), from the District of Columbia of Columbia State Health Planning and Development Agency (SHPDA).

6323.3 The CON must be submitted as part of the Certification application packet.

6323.4 Each residential treatment programs serving children and youth under eighteen (18) must obtain written approval from Office of the State Superintendent of Education (OSSE).

6323.5 Residential facilities' physical design and structure shall be sufficient to accommodate staff, clients, and functions of the program and shall make available an area(s) for indoor social and recreational activities.

6323.6 A program that provides overnight accommodations shall not operate more beds than the number for which it is authorized by the Department.

6323.7 Other than routine household duties, no client shall be required to perform unpaid work.

6323.8 Upon admission to a residential program, each client shall be provided a copy of the program's house rules.

6323.9 Each residential program shall have house rules consistent with this chapter and that include, at a minimum, rules concerning:

(a) The use of tobacco;

(b) The use of the telephone;

(c) Viewing or listening to television, radio, computer usage, CDs, DVDs, or other media such as social media;

(d) Movement of clients in and out of the facility, including a requirement for escorted movements by program staff or another agency approved escort and a search policy and drug testing upon return to the facility; and

(e) The prohibition of sexual relations between staff and clients.

6323.10 Each residential program shall be equipped, furnished, and maintained to provide a functional, safe, and comfortable home-like setting.

6323.11 The dining area shall have a sufficient number of tables and chairs to seat all individuals residing in the facility at the same time. Dining chairs shall be sturdy, non-folding, without rollers unless retractable, and designed to minimize tilting.

6323.12 Each residential program shall permit each client to bring reasonable personal possessions, including clothing and personal articles, to the facility unless the provider can demonstrate that it is not practical, feasible, or safe.

6323.13 Each residential facility shall provide clients with access to reasonable individual storage space for private use.

6323.14 Upon each client's discharge from a residential program, the provider shall return to the client, or the client's representative, any personal articles of the client held by the provider for safekeeping. The provider shall also ensure that the client is permitted to take all of his or her personal possessions from the facility. The provider may require the client or client's representative to sign a statement acknowledging receipt of the property. A copy of that receipt shall be placed in the client's record.

6323.15 Each residential program shall maintain a separate and accurate record of all funds that the client or the client's representative or representative payee deposits with the provider for safekeeping. This record shall include the signature of the client for each withdrawal and the signature of facility staff for each deposit and disbursement made on behalf of a client.

6323.16 Each residential facility shall be equipped with a functioning landline or mobile telephone for use by clients. The telephone numbers shall be provided to residents and to the Department.

6323.17 Staff bedrooms shall be separate from resident bedrooms and all common living areas.

6323.18 Each facility housing a residential program shall have a functioning doorbell or knocker.

6323.19 Each bedroom shall comply with the space and occupancy requirements for habitable rooms in 14 DCMR § 402.

6323.20 The provider shall ensure each client has the following items:

(a) A bed, which shall not be a cot;

(b) A mattress that was new when purchased by the provider, has a manufacturer's tag or label attached to it, and is in good, intact condition with unbroken springs and clean surface fabric;

(c) A bedside table or cabinet and an individual reading lamp with at least a seventy-five (75) watt, or its LED light bulb equivalent, rate of capacity;

(d) Storage space in a stationary cabinet, chest, or closet that provides at least one (1) cubic foot of space for each client for valuables and personal items;

(e) Sufficient suitable storage space, including a dresser and closet space, for personal clothing, shoes, accessories, and other personal items; and

(f) A waste receptacle and clothes hamper with lid.

6323.21 Each bed shall be placed at least three (3) feet from any other bed and from any uncovered radiator.

6323.22 Each bedroom shall have direct access to a major corridor and at least one window to the outside, unless the Department of Consumer and Regulatory Affairs, or a successor agency responsible for enforcement of the D.C. Housing Code, has determined that it otherwise meets the lighting and ventilation requirements of the D.C. Housing Code for habitable rooms.

6323.23 Each facility housing a residential program shall provide one or more bathrooms for clients that are equipped with the following fixtures, properly installed and maintained in good working condition:

(a) Toilet (water closet);

(b) Sink (lavatory);

(c) Shower or bathtub with shower, including a handheld shower; and

(d) Grab bars in showers and bathtubs.

6323.24 Each residential facility shall provide at least one (1) bathroom for each six (6) occupants in compliance with 14 DCMR § 602.

6323.25 Each bathroom shall be adequately equipped with the following:

(a) Toilet paper holder and toilet paper;

(b) Paper towel holder and paper towels or clean hand towels;

(c) Soap;

(d) Mirror;

(e) Adequate lighting;

(f) Waste receptacle;

(g) Floor mat;

(h) Non-skid tub mat or decals; and

(i) Shower curtain or shower door.

6323.26 Each residential provider shall ensure that properly anchored grab bars or handrails are provided near the toilet or other areas of the bathroom, if needed by any resident in the facility.

6323.27 Adequate provision shall be made to ensure each client's privacy and safety in the bathroom.

6323.28 Each residential program shall promote each client's participation and skill development in menu planning, shopping, food storage, and kitchen maintenance, if appropriate.

6323.29 Each residential program shall provide appropriate equipment (including a washing machine and dryer) and supplies on the premises or through a laundry service to ensure sufficient clean linen and the proper sanitary washing and handling of linen and clients' personal clothing.

6323.30 Each program shall ensure that every client has at least three (3) washcloths, two (2) towels, two (2) sheet sets that include pillow cases, a bedspread, a pillow, a blanket, and a mattress cover in good and clean condition.

6323.31 Each blanket, bedspread, and mattress cover shall be cleaned regularly, whenever soiled, and before being transferred from one resident to another.

6323.32 Providers shall ensure that clients are allowed access to all scheduled or emergency medical and dental appointments.

6323.33 Providers serving parents and children must take precautions to ensure child safety, including but not limited to protection for windows, outlets, and stairways.

6323.34 Each facility housing a program that provides services for parents with children shall have extra supplies for babies to include diapers and powdered milk.

6323.35 The following provisions apply only to residential treatment programs, as defined by this chapter. These provisions do not apply to residential recovery support services programs *(i.e.*, environmental stability services):

(a) A program that provides overnight accommodations shall ensure that evening and overnight shifts have at least two (2) staff members on duty;

(b) Children and youth under eighteen (18) may not reside at an adult residential treatment facility or visit overnight at a facility not certified to serve parents and children. This information must be included in the house rules;

(c) Each provider shall maintain a current inventory of each client's personal property and shall provide a copy of the inventory, signed by the client and staff, to the client;

(d) Each provider shall take appropriate measures to safeguard and account for personal property brought into the facility by a resident;

(e) Each provider shall provide the client, or the client's representative, with a receipt for any personal articles to be held by the provider for safekeeping that includes and the date it was deposited with the provider and maintain a record of all articles held for safekeeping;

(f) Each residential treatment program shall have a licensed dietitian or nutritionist available, a copy of whose current license shall be maintained on file, to provide the following services:

(1) Review and approval of menus;

(2) Education for individuals with nutrition deficiencies or special needs;

(3) Coordination with medical personnel, as appropriate; and

(4) A nutritional assessment for each client within three (3) calendar days of admission unless the client has a current assessment or doctor's order for dietary guidelines;

(g) The provider shall provide at least three (3) meals per day and between meal snacks that:

(1) Provide a nourishing, well-balanced diet in accordance with dietary guidelines established by the United States Department of Agriculture;

(2) Are suited to the special needs of each client; and

(3) Are adjusted for seasonal changes, particularly to allow for the use of fresh fruits and vegetables.

(h) The provider shall ensure that menus are written on a weekly basis, that the menus provide for a variety of foods at each meal, and that menus are varied from week to week and adjusted for seasonal changes. Menus shall be posted for the clients' review;

(i) The provider shall ensure that a copy of each weekly menu is retained for a period of six (6) months. The menus retained shall include special diets and reflect meals as planned and as actually served, including handwritten notations of any substitutions. The provider shall also retain receipts and invoices for food purchases for six (6) months. The records required to be retained by this subsection are subject to review by the Department;

(j) Each meal shall be scheduled so that the maximum interval between each meal is no more than six (6) hours, with no more than fourteen (14) hours between a substantial evening meal and breakfast the following day;

(k) If a client refuses food or misses a scheduled meal, appropriate food substitutions of comparable nutritional value shall be offered;

(1) If a client will be away from the program during mealtime for necessary medical care, work, or other scheduled appointments, program shall provide an appropriate meal and in-between-meal snack for the client to carry with him or her and shall ensure that the meal is nutritious as required by these rules and suited to the special needs of the client;

(m) Each piece of bed linen, towel, and washcloth shall be changed and cleaned as often as necessary to maintain cleanliness, provided that all towels and bed linen shall be changed at least once each week;

(n) No person who is not a client, staff member, or child of a client (only in the case of programs for parents and children) may reside at a facility that houses a residential treatment program;

(o) A residential treatment program providing meals shall implement a written Nutritional Standards Policy that outlines their procedures to meet the dietary needs of its clients, ensuring access to nourishing, well-balanced,

and healthy meals. The policy shall identify the methods and parties responsible for food procurement, storage, inventory, and preparation;

(p) The Nutritional Standards Policy shall include procedures for individuals unable to have a regular diet as follows:

(1) Providing clinical diets for medical reasons, when necessary;

(2) Recording clinical diets in the client's record;

(3) Providing special diets for clients' religious needs; and

(4) Maintaining menus of special diets or a written plan stating how special diets will be developed or obtained when needed.

(q) A residential treatment program shall make reasonable efforts to prepare meals that consider the cultural background and personal preferences of the clients;

(r) Meals shall be served in a pleasant, relaxed dining area that accommodates families and children; and

(s) Under the supervision of a Qualified Practitioner, all Level 3 programs except MMIWM programs shall:

(1) Provide training in activities of daily living;

(2) Provide therapeutic recreational activities designed to help the client learn ways to use leisure time constructively, develop new personal interests and skills, and increase social adjustment; and

(3) Ensure that staff providing activities listed in subparagraphs (1) and (2) above have a high school degree or a GED and at least twenty (20) hours of in-service training per year regarding issues of substance abuse.

6324 PROGRAMS SERVING PARENTS AND CHILDREN

6324.1 In addition to core requirements and other standards described in this chapter, a program providing SUD treatment services to parents and their children shall comply with the provisions of this section.

6324.2 The provider shall specify in its certification application the age range of the children that will be accepted in the program of parents with children, and ensure that it satisfies all applicable laws and regulations governing care for children including those listed in this section.

6324.3 The Department will include in the program certification a designation as a program serving parents with children, and specify the age range of children that may be accepted when the parents are admitted into the program and ensure that children shall be supervised at all times.

6324.4 Programs shall ensure that parents designate an alternate caretaker who is not in the program to care for the children in case of emergency.

6324.5 Programs serving parents and young children (ages zero [0] to five [5]) shall also serve pregnant women.

6324.6 Programs shall ensure all parents and children are connected to a primary care provider and any other needed specialized medical provider and shall facilitate medical appointments and treatment for parents and children in the program.

6324.7 Programs shall ensure that childcare/daycare is available for children, provided while the parent participates in treatment services either directly or through contractual or other affiliation.

6324.8 A program that directly operates a child development facility shall be licensed in accordance with the District laws and regulations.

6324.9 Programs that serve parents with children shall ensure that school-age children are in regular attendance at a public, independent, private, or parochial school, or in private instruction in accordance with the District law and regulation, and support the parent's engagement with the child's school.

6324.10 Programs that serve parents with children shall ensure that children have access to tutoring programs.

6324.11 Before a parent and child can be admitted to a program serving parents and children, the program shall ensure that it has a copy of the child's current immunization records, which must be up to date. A sixty (60) day grace period will be provided to a parent(s) or child experiencing homelessness.

6324.12 Programs that serve parents with children shall record information about the children residing in or attending the program who are not formally admitted for treatment, including but not limited to the following, as applicable:

(a) Individualized education plans (IEPs);

(b) Report cards;

(c) Health records; and

(d) Information linking the child to the course of treatment for the parent, as clinically indicated.

6324.13 Programs shall develop policies and procedures for determining the need to formally admit or refer a child.

6324.14 A program that is also certified to treat children and youth shall establish a separate record for each child when a clinical determination is made to formally admit the child.

6324.15 An individualized plan of care shall be developed for any child who is formally admitted to the program.

6324.16 The program shall obtain informed consent prior to rendering services.

6324.17 Service delivery and program administration staff shall demonstrate experience and training in addressing the needs of parents and children.

6324.18 All services delivery staff shall receive periodic training regarding therapeutic issues relevant to parents and children. At least two (2) times per year, the program shall provide or arrange training on each of the following topics:

(a) Child development; and

(b) The appropriate care and stimulation of infants, including drug-affected newborn infants.

6324.19 Service delivery staff shall maintain current training in first aid and CPR for infants and children.

6324.20 Programs shall ensure that an annual medical evaluation is performed for each parent and child.

6324.21 Programs shall ensure that recommendations by a physician, or licensed APRN, are followed.

6325 PROVIDER REQUIREMENTS FOR MEDICATION ASSISTED TREATMENT

6325.1 In accordance with 42 CFR part 8, Certification of Opioid Treatment Programs, Medication Assisted Treatment (MAT) providers must also be certified by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA), Drug Enforcement Agency, and accredited by a national accreditation body that has been approved by SAMHSA.

6325.2 SUD treatment programs providing MAT with opioid replacement therapy shall comply with Federal requirements for opioid treatment, as specified in 42 CFR part 8, and shall comply with District and Federal regulations for maintaining controlled substances as specified in Chapter 10, Title 22 DCMR and 21 CFR part 1300, respectively.

6325.3 Each MAT program, whether providing inpatient or outpatient services, shall submit applications to the Department and to the U.S. Food and Drug Administration (FDA), respectively, and shall require the approval of both agencies prior to its initial operation.

6325.4 MAT programs shall submit to the Department photocopies of all applications, reports, and notifications required by Federal laws and regulations.

6325.5 MAT programs shall ensure the following:

(a) That access to electronic alarm areas where drug stock is maintained shall be limited to a minimum number of authorized, licensed personnel;

(b) That each employee shall have his or her own individual code to access alarmed stock areas, which shall be erased upon separation from the provider;

(c) That all stored drugs (liquid, powder, solid, and reconstituted), including controlled substances, shall be clearly labeled with the following information:

(1) Name of substance;

(2) Strength of substance;

(3) Date of reconstitution or preparation;

(4) Manufacturer and lot number;

(5) Manufacturer’s expiration date, if applicable; and

(6) If applicable, reconstituted/prepared drug’s expiration date according to the manufacturer’s expiration date or one (1) year from the date of reconstitution or preparation, whichever is shorter;

(d) Take-home medications shall be labeled and packaged in accordance with Federal and District laws and regulations and shall include the following information:

(1) Treatment program’s name, address, and telephone number;

(2) Physician's name;

(3) Client's name;

(4) Directions for ingestion;

(5) Name of medication;

(6) Dosage in milligrams;

(7) Date issued; and

(8) Cautionary labels, as appropriate.

6325.6 Containers of drugs shall be kept covered and stored in the appropriate locked safe, with access limited by an electronic alarm system that conforms to the U.S. Drug Enforcement Administration (DEA) and District requirements.

6325.7 The Department shall be notified of any theft, suspected theft, or any significant loss of controlled substances, including spillage. Photocopies of DEA forms 106 and 41 shall be submitted to the Department.

6326 LEVELS OF CARE: GENERAL REQUIREMENTS

6326.1 All individuals seeking SUD treatment must be assessed and referred to a particular LOC in accordance with the Department-approved assessment tool(s) and the ASAM criteria. Any limitation on services or authorization requirements identified throughout this chapter shall only apply to SUD services provided under the Department's Human Care Agreement. No limitation on service or pre-authorization requirement shall be applied to a Medicaid managed care beneficiary receiving SUD services under the ASARS program if the limitation or pre-authorization violates Federal or District parity requirements.

6326.2 Each provider is responsible for ensuring that the client receives treatment in accordance with ASAM LOC requirements and this chapter.

6326.3 All treatment shall be:

(a) Person-centered;

(b) Provided only if determined to be medically necessary in accordance with the plan of care; and

(c) Provided as part of organized or structured treatment services.

6326.4 Prior to transitioning to a new LOC, at a minimum, an Ongoing Assessment must be performed to ensure that the client is appropriate for the new LOC.

6326.5 The Clinical Care Coordinator is responsible for ensuring appropriate referral, authorization, and transition to new LOCs.

6327 INTAKE AND ASSESSMENT

6327.1 Intake and Assessment providers shall be able to provide an initial health screening and assessment "on demand" in accordance with federal and District laws and regulations or ASAM criteria:

(a) Presenting problem;

(b) Substance use history;

(c) Immediate risks related to serious intoxication or withdrawal;

(d) Immediate risks for self-harm, suicide and violence;

(e) Past and present mental disorders, including posttraumatic stress disorder (PTSD) and other anxiety disorders, mood disorders, and eating disorders;

(f) Past and present history of violence and trauma, including sexual victimization and interpersonal violence;

(g) Legal history, including information that a person is or is not court-ordered to treatment or under the supervision of the department of corrections;

(h) Employment and housing status;

(i) Health screenings/testing including:

(1) HIV

(2) Hepatitis

(3) Tuberculosis (if referred for residential and detox); and

(4) Pregnancy (If applicable).

6327.2 Once assessed, clients shall be referred to the appropriate level of care as outlined in ASAM. The client has a choice about which provider will provide services at that LOC. If the provider that conducted the initial assessment is not chosen by the client as the place to receive services, the provider is responsible for making a

referral, authorizing services, and arranging transportation to the chosen provider if same day services are requested. The provider shall have a policy and procedure that clearly outlines: an intake process and an emergency intake process, including a procedure to refer individuals who are not clinically appropriate for its program.

6327.3 Department-certified Intake and Assessment providers shall have the ability to provide the following services:

(a) Initial Assessment (if the client does not remain with assessing provider);

(b) Case Management (HIV);

(c) Crisis Intervention;

(d) Comprehensive Assessment (if the client remains at assessing provider);

(e) Urinalysis Collection; and

(f) Clinical Care Coordination.

6327.4 Intake and Assessment providers shall ensure appropriate medical staff is on duty to assess clients for acute withdrawal symptoms in addition to physical examinations as outlined in ASAM criteria (*e.g.*, HIV, pregnancy). Providers should have proper infrastructure to conduct testing and screening and proper storage for testing kits.

6327.5 All clients seeking intake and assessment services shall be screened for Recovery Support Services.

6327.6 Clients shall consent to treatment per 42 CFR Part 2, unless clinically inappropriate or client refuses treatment services.

6327.7 Intake and Assessment providers shall refer to Section 6337: Core Service: Assessment/Diagnostic and Plan of Care regarding initial assessment process. See Subsection 6337.6 for outline of qualified practitioners allowed to complete the initial assessment.

6327.8 All Intake and Assessment providers with an HCA shall adhere to all required Federal data reporting guidelines.

6328 LEVEL OF CARE 1: OPIOID TREATMENT PROGRAM (OTP)

6328.1 Medication Assisted Treatment (MAT) is the use of pharmacotherapy long-term treatment for opiate or other forms of dependence. A client who receives MAT must also receive SUD Counseling/Therapy. Use of this service should be in

accordance with ASAM service guidelines and practice guidelines issued by the Department.

6328.2 Individuals appropriate for MAT must have an SUD that is appropriately treated with MAT in accordance with Federal regulations.

6328.3 MAT providers must ensure that individuals receiving MAT understand and provide written informed consent to the specific medication administered. No person under eighteen (18) years of age may be admitted to MAT unless a parent or legal guardian consents in writing to such treatment.

6328.4 MAT may be administered on an in-office basis or as take-home regimen. Both MAT administrations include the unit of medication and therapeutic guidance. For clients receiving a take-home regimen, therapeutic guidance must include additional guidance related to storage and self-administration. MAT providers must comply with all Department policies and Federal regulations concerning MAT.

6328.5 Therapeutic guidance provided during MAT shall include:

(a) Safeguarding medications;

(b) Possible side-effects and interaction with other medications;

(c) Impact of missing doses;

(d) Monitoring for withdrawal symptoms and other adverse reactions; and

(e) Appearance of medication and method of ingestion.

6328.6 The provision of MAT must be accompanied by a clinically appropriate array of SUD treatment services that include SUD Counseling/Therapy.

6328.7 For providers with a Human Care Agreement with the Department:

(a) MAT medication is billed on a per-dose basis;

(b) A single fifteen (15)-minute administration session may be billed when an individual is receiving take-home doses in accordance with ASAM criteria and Department policy;

(c) A client can be prescribed a maximum of one dose/unit per day;

(d) An initial and second authorization is for a maximum of ninety (90) days each; subsequent authorizations cannot exceed one hundred and eighty (180) days each; and

(e) Prior authorization from the Department is required for more than two-hundred fifty (250) units of medication in one calendar year. The maximum number of MAT services over a twelve (12)-month period is three hundred and sixty five (365) units of medication and administration

6328.8 Providers shall have medical staff (MD, PA, APRN, or RN) on duty during all clinic hours. A physician shall be available on-call during all clinic hours, if not present on site.

6328.9 A member of the medical staff must be available on call twenty-four (24) hours a day, seven (7) days a week.

6328.10 A physician must evaluate the client a minimum of once per month for the first year that a client receives MAT and a minimum of every six (6) months thereafter, in coordination with the plan of care and as needed.

6328.11 A provider must review the results of a client's physical, which has been completed within the past twelve (12) months, prior to prescribing or renewing a prescription for MAT.

6328.12 Documentation for this service must include medication log updates and an encounter note for each visit, which captures the therapeutic guidance provided.

6328.13 MAT may be provided by the following:

(a) Qualified Physicians;

(b) APRNs;

(c) Physicians Assistants (PAs) (supervised by Qualified Physicians);

(d) RNs; or

(e) LPNs (supervised by an MD, RN, or APRN).

6329 LEVEL OF CARE 1: OUTPATIENT

6329.1 Level 1 Outpatient providers shall have the capacity to provide up to eight (8) hours of substance use disorder treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria. Level 1 Outpatient is the appropriate level of care for individuals who are assessed as meeting the ASAM criteria for Level 1 and:

(a) Recognize their SUD and are committed to recovery;

(b) Are transitioning from a higher LOC;

(c) Are in the early stages of change and not yet ready to commit to full recovery;

(d) Have a co-occurring condition that is stable; or

(e) Have achieved stability in recovery and can benefit from ongoing monitoring and disease management.

6329.2 Level I Outpatient providers may also be certified in the specialty service of Adolescent-Community Reinforcement Approach (ACRA) in accordance with § 6345 of this chapter for services to youth and young adults with co-occurring substance use and mental health disorders ages twelve (12) to twenty-one (21) for youth providers and twenty-two (22) to twenty-four (24) for adult providers.

6329.3 Level 1 Outpatient treatment duration varies with the severity of the patient's illness and his/her response to treatment but generally lasts up to one hundred eighty (180) days for an initial authorization. Level 1 treatment can continue long-term in accordance with the plan of care, for individuals needing long-term disease management.

6329.4 Level 1 Outpatient services are determined by a Diagnostic Comprehensive Assessment, performed in accordance with § 6337 of this chapter.

6329.5 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this level of care.

6329.6 Level 1 Outpatient shall include the following mix of services in accordance with the client's plan of care and this chapter (unless the client is receiving ACRA services in which case SUD Counseling/Therapy, Case Management and Clinical Care Coordination shall be provided in accordance with § 6345):

(a) Assessment/Diagnostic and Plan of Care in accordance with § 6337 of this chapter:

(1) Diagnostic Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional for a new provider if the client has been transferred from another LOC;

(2) Ongoing Behavioral Health Assessment: Is performed at a 90-day interval or as medically necessary, required within seven (7) calendar days of admission if no comprehensive assessment was performed at intake into Level 1, cannot be billed more than twice within a sixty (60)-day period, cannot occur on the same day as a comprehensive assessment, and an ongoing assessment with a

corresponding plan of care update must occur prior to a planned discharge from the LOC.

(b) SUD Counseling/Therapy (in accordance with § 6341 of this chapter): Counseling/Therapy shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling/Therapy according to the client's assessed needs and enhanced with Group Counseling-Psychoeducation (in accordance with § 6340.6 of this chapter).

(c) Clinical Care Coordination (CCC) (in accordance with § 6338 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and must ensure the plan of care is updated a minimum of every ninety (90) days or as clinically appropriate.

(d) Case Management (in accordance with § 6339 of this chapter)

(e) Drug Screening through breathalyzer collection or urinalysis collection (in accordance with § 6342 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6340 of this chapter.

6329.7 Level 1 providers may provide Medication Assisted Treatment (MAT) per § 6344 of this chapter, if so certified.

6330 LEVEL OF CARE 2.1: INTENSIVE OUTPATIENT PROGRAM (IOP)

6330.1 Level 2.1 Intensive Outpatient Program (IOP) providers shall have the capacity to provide a minimum of nine (9) hours of a mixture of substance use disorder treatment services per week for adults and at least six (6) hours of treatment services per week for youth under the age of twenty-one (21) in accordance with this section and medical necessity based on ASAM criteria. IOP is the appropriate level of care for individuals who are assessed as meeting the ASAM criteria for Level 2.1 and

(a) Recognize their SUD and are committed to recovery;

(b) Are transitioning from a different LOC; or

(c) Have stable medical or psychiatric co-occurring conditions per ASAM.

6330.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this level of care.

6330.3 Level 2.1 IOP includes the following mix of core services, in accordance with the client's individual plan of care:

(a) Assessment/Diagnostic and Plan of Care (§ 6337):

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional for a new provider if the client has been transferred from another LOC;

(2) Ongoing Assessment: Required within seven (7) calendar days of admission if no comprehensive was performed at intake into Level 2.1. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding plan of care update must occur prior to a planned discharge from the LOC.

(b) SUD Counseling/Therapy (in accordance with § 6341 of this chapter): Counseling/Therapy shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling/Therapy, according to the client's assessed needs and enhanced with Group Counseling-Psychoeducation (in accordance with § 6341.6 of this chapter).

(c) Clinical Care Coordination (CCC) (in accordance with § 6338 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the plan of care.

(d) Case Management (in accordance with § 6339 of this chapter) should be provided according to the Plan of Care.

(e) Case Management-HIV (in accordance with § 6339 of this chapter): For providers with a Human Care Agreement, Case Management-HIV is required for the duration of the LOC if he or she is HIV positive.

(f) Drug Screening (in accordance with § 6342 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(g) Crisis Intervention: As required and in accordance with § 6340 of this chapter.

6330.4 Level 2.1 providers may provide Medication Assisted Treatment (MAT) per § 6344 of this chapter, if so certified.

6331 LEVEL OF CARE 2.5: DAY TREATMENT

6331.1 Level 2.5 Day Treatment providers shall have the capacity to provide a minimum of twenty (20) or more hours of a mixture of substance use disorder treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria and section § 6341 of this chapter. Day Treatment is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 2.5 and:

(a) Have unstable medical or psychiatric co-occurring conditions; or

(b) Have issues that require daily management or monitoring but can be addressed on an outpatient basis.

6331.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this level of care.

6331.3 Level 2.5 Day Treatment includes the following mix of core services as indicated on the plan of care and in accordance with this chapter:

(a) Assessment/Diagnostic and Plan of Care (in accordance with § 6337 of this chapter):

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;

(2) Ongoing Assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 2.5. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding plan of care update must occur prior to a planned discharge from the LOC.

(b) SUD Counseling/Therapy (in accordance with § 6341 of this chapter): Counseling/Therapy shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling/Therapy and enhanced with Group Counseling-Psychoeducation (in accordance with § 6341.6 of this chapter).

(c) Clinical Care Coordination (CCC) (in accordance with § 6338 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the plan of care. CCC shall be provided as clinically appropriate.

(d) Case Management (in accordance with § 6339 of this chapter) should be provided in accordance with the Plan of Care.

(e) Case Management-HIV (in accordance with § 6339 of this chapter): For providers with a Human Care Agreement, Case Management-HIV is required for the duration of the LOC if he or she is HIV-positive.

(f) Drug Screening (in accordance with § 6342 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(g) Crisis Intervention: As required and in accordance with § 6340 of this chapter.

6331.4 Level 2.5 providers may provide Medication Assisted Treatment (MAT) per § 6344 of this chapter, if so certified.

6332 LEVEL OF CARE 3.1: CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL

6332.1 Level 3.1 Clinically Managed Low-Intensity Residential providers shall have the capacity to provide a minimum of five (5) hours of a mixture of substance use disorder treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria and § 6341 of this chapter. Level 3.1 Clinically Managed Low-Intensity Residential is the appropriate level of care for individuals who are assessed as meeting the ASAM criteria for Level 3.1 and:

(a) Are employed, in school, in pre-vocational programs, actively seeking employment, or involved in structured day program;

(b) Recognize their SUD and are committed to recovery or are in the early stages of change and not yet ready to commit to full recovery but need a stable supportive living environment to support their treatment or recovery, which is in accordance with ASAM

(c) May have a stable co-occurring physical or mental illness.

(d) Who meet the ASAM Patient Placement Criteria for level 3.1, or its equivalent, as approved by the Department;

(e) Who are capable of self-care but are not ready to return to family or independent living

6332.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.

6332.3 Level 3.1 Clinically Managed Low-Intensity Residential includes the following mix of core services, as indicated on the plan of care and in accordance with this chapter:

(a) Assessment/Diagnostic and Plan of Care in accordance with § 6337 of this chapter:

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC);

(2) Ongoing Assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.1. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a comprehensive assessment. An ongoing assessment with a corresponding plan of care update must occur prior to a planned discharge from the LOC.

(b) SUD Counseling/Therapy (in accordance with § 6341 of this chapter): Counseling/Therapy shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling/Therapy and enhanced with Group Counseling-Psychoeducation (in accordance with § 6341.6 of this chapter).

(c) CCC (in accordance with § 6338 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the plan of care a minimum of every ninety (90) days or as clinically appropriate. CCC shall be provided as clinically appropriate.

(d) Case Management (in accordance with § 6339 of this chapter) should be provided according to the Plan of Care.

(e) Case Management-HIV (in accordance with § 6339 of this chapter): For providers with a Human Care Agreement, Case Management-HIV is required for the duration of the LOC if he or she is HIV positive.

(f) Drug Screening (in accordance with § 6342 of this chapter): Required at admission and as clinically indicated throughout the course of treatment. Crisis Intervention: As required and in accordance with § 6340 of this chapter.

(g) Medication Management: As required and in accordance with § 6343 of this chapter.

6332.4 Level 3.1 providers may provide Medication Assisted Treatment (MAT) per § 6344 of this chapter, if so certified.

6333 LEVEL OF CARE 3.3: CLINICALLY MANAGED POPULATION-SPECIFIC HIGH-INTENSITY RESIDENTIAL

6333.1 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential providers shall have the capacity to provide a minimum of twenty (20) hours of mixture of substance use disorder treatment services per week in accordance with this section and based in medical necessity on ASAM criteria. Level 3.3 Clinically Managed Population-Specific High-Intensity Residential, also referred to as Extended or Long-term Care, is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria Level 3.3;

(a) Need a stable supportive living environment to support their treatment or recovery and:

(b) Have co-occurring or other issues that have led to temporary or permanent cognitive impairments and would benefit from slower-paced repetitive treatment; or

(c) Have unstable medical or psychiatric co-occurring conditions.

6333.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.

6333.3 Case Management alone does not satisfy the minimum service hour requirements. Case Management shall be provided as clinically appropriate, in accordance with the client's plan of care, and in accordance with § 6333.5 of this chapter.

6333.4 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential includes the following mix of services, as indicated on the plan of care and in accordance with this chapter:

(a) Assessment/Diagnostic and Plan of Care in accordance with § 6337 of this chapter:

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;

(2) Ongoing assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.3. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a Comprehensive

Assessment. An ongoing assessment with a corresponding plan of care update must occur prior to a planned discharge from the LOC.

(b) SUD Counseling/Therapy (in accordance with § 6341 of this chapter): Counseling/Therapy shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling/Therapy and enhanced with Group Counseling-Psychoeducation (in accordance with § 6341.6 of this chapter).

(c) CCC (in accordance with § 6338 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the plan of care a minimum of ninety (90) days or as clinically appropriate. CCC shall be provided as clinically appropriate.

(d) Case Management (in accordance with § 6339 of this chapter) should be provided according to the Plan of Care.

(e) Case Management-HIV (in accordance with § 6339 of this chapter): For providers with a Human Care Agreement, Case Management-HIV is required for the duration of the LOC if he or she is HIV-positive.

(f) Drug Screening (in accordance with § 6342 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(g) Crisis Intervention: As required and in accordance with § 6340 of this chapter.

(h) Medication Management: As required and in accordance with § 6342 of this chapter.

6333.5 Level 3.3 providers may provide Medication Assisted Treatment (MAT) per § 6344 of this chapter, if so certified.

6334 LEVEL OF CARE 3.5: CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL (ADULT)/ CLINICALLY MANAGED MEDIUM-INTENSITY RESIDENTIAL (YOUTH)

6334.1 Level 3.5 Clinically Managed High-Intensity Residential/ Clinically Managed Medium-Intensity Residential providers shall have the capacity to provide a minimum of twenty-five (25) hours of a mixture of substance use disorder treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria and § 6341 of this chapter this chapter. Level 3.5 is the appropriate level of care for individuals who are assessed as meeting the ASAM placement criteria for Level 3.5, need a 24-hour supportive treatment environment to initiate or continue their recovery process and:

(a) Have co-occurring or severe social/interpersonal impairments due to substance use; or

(b) Significant interaction with the criminal justice system due to substance use.

6334.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.

6334.3 Case Management alone does not satisfy the minimum service hour requirements. Case managed shall be provided as clinically appropriate, in accordance with the client's plan of care, and in accordance with Subsection 6332.6.

6334.4 Level 3.5 includes the following mix of services, as indicated on the plan of care and in accordance with this chapter:

(a) Assessment/Diagnostic and Plan of Care in accordance with § 6337 of this chapter:

(1) Comprehensive Assessment: Required if this is the individual's first LOC in a single course of treatment; optional if the client has been transferred from another LOC;

(2) Ongoing assessment: Required within seven (7) days of admission if no comprehensive was performed at intake into Level 3.5. Cannot be billed more than twice within a sixty (60)-day period and cannot occur on the same day as a Comprehensive Assessment. An ongoing assessment with a corresponding plan of care update must occur prior to a planned discharge from the LOC.

(b) SUD Counseling/Therapy (in accordance with § 6341 of this chapter): Counseling/Therapy shall be provided as a clinically appropriate combination of Individual, Family, and Group Counseling/Therapy and enhanced with Group Counseling-Psychoeducation (in accordance with § 6341.6 of this chapter).

(c) Clinical Care Coordination (CCC) (in accordance with § 6338 of this chapter): The Clinical Care Coordinator is responsible for establishing the frequency of the ongoing assessments and updates to the plan of care.

(d) Case Management (in accordance with § 6339 of this chapter) should be provided according to the Plan of Care.

(e) Case Management-HIV (in accordance with § 6339 of this chapter): For providers with a Human Care Agreement, Case Management-HIV is required for the duration of the LOC if HIV positive.

(e) Drug Screening (in accordance with § 6342 of this chapter): Required at admission and as clinically indicated throughout the course of treatment.

(f) Crisis Intervention: As required and in accordance with § 6340 of this chapter.

(g) Medication Management: As required and in accordance with § 6343 of this chapter.

6334.5 Level 3.5 providers may provide Medication Assisted Treatment (MAT) per § 6344 of this chapter, if so certified.

6335 LEVEL OF CARE 3.7-WM: SHORT-TERM MEDICALLY MONITORED INTENSIVE WITHDRAWAL MANAGEMENT (SMMIWM)

6335.1 SMMIWM is 24-hour, medically directed evaluation and withdrawal management service. The service is for clients with sufficiently severe signs and symptoms of withdrawal from psychoactive substances such that medical monitoring and nursing care are necessary but hospitalization is not indicated.

6335.2 For providers with a Human Care Agreement, clients discharged from SMMIWM treatment shall be directly admitted into a residential SUD treatment program (Level 3.1 — 3.5) through a "bed-to-bed" transfer unless the Department previously authorized an exception or the client refuses admission to a residential program.

6335.3 For services provided under the Department's Human Care Agreement, SMMIWM shall not exceed five (5) days unless prior authorization for a longer stay is authorized by the Department.

6335.4 SMMIWM shall include the following services in accordance with ASAM guidelines, as clinically appropriate:

(a) Medication Management;

(b) Clinical Care Coordination;

(c) Medication Assisted Treatment;

(d) Crisis Intervention;

(e) Case Management, which must be billed separately

(f) SUD Counseling/Therapy, which may be billed separately; and

(g) Comprehensive Assessment/Diagnostic, which may be billed separately.

6335.5 SMMIWM providers shall have a physician on staff that is able to respond within one (1) hour of notification.

6335.6 SMMIWM providers shall have medical staff (MD, PA, APRN, or RN) on duty twenty-four (24) hours per day, seven (7) days per week providing directed evaluation, care, and treatment in an inpatient setting. Medical staff shall have a client-to-staff ratio of 12-to-1 during daytime operating hours, a 17-to-1 ratio during evening hours, and a 25-to-1 ratio during the night shift.

(a) A withdrawal management service level 3.7 provider shall offer 24-hour medically supervised evaluation and withdrawal management.

(b) SMMIWM should have psychiatric services available on-site, through consultation or referral as medically necessary according the client's needs for treatment and recovery.

(c) SMMIWM should have biomedical enhanced services delivered by appropriately credentialed medical staff in accordance to § 6340.4, who can administer detoxification services to an intoxicated patient by: (1) monitoring the decreasing amount of alcohol and toxic agents in the body; (2) managing the withdrawal symptoms; and (3) motivating the individual to participate in an appropriate treatment program for alcohol or other drug dependence.

(d) Qualified practitioners of this service include Licensed Physicians; or Psychologists, PAs, RNs, LICSWs, LISWs, LGSWs, APRNs, LPCs, LMFTs, or CACs I and II under the direction and supervision of a Qualified Physician and in accordance with applicable District professional licensing laws.

6336 LEVEL OF CARE-R: RECOVERY SUPPORT SERVICES

6336.1 Level-R Recovery Support Services (RSS) covers the provision of non-clinical services for individuals in treatment or in need of supportive services to maintain their recovery.

6336.2 Level-R Recovery Support Service providers shall provide the following core recovery support services:

(a) Recovery Support Evaluation

(b) Recovery Support Management;

(c) Recovery Mentoring;

(d) Life Skills Support Services;

(e) Education Support Services; and

(f) Recovery Social Activities;

6336.3 RSS providers may provide the following specialty services, in accordance with their certification:

(a) Spiritual Support Services; and

(b) Environmental Stability.

6336.4 Level-R Recovery Support Services are for individuals who have an identified need for recovery support services and:

(a) Are actively participating in the Department treatment system;

(b) Have completed treatment; or

(c) Have a self-identified substance use issue that is not assessed as needing active treatment.

6336.5 If a recovery client is assessed as needing active treatment and not currently enrolled in treatment, he or she must be referred to an Assessment and Referral Center for treatment and begin receiving treatment services before enrolling in RSS.

6336.6 The duration of Level-R Recovery Support Services varies but lasts as long as needed, with a reassessment every one hundred eighty (180) days according to the client's recovery goals.

6336.7 Level-R Recovery Support Services are determined by a Recovery Support Evaluation, performed in accordance with Section 6345 of this chapter.

6336.8 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this level of care.

6336.9 RSS may not be provided while a client is in a SMMIWM program.

6336.10 Providers who are certified only as Level-R providers may not provide Level 1 through 3 treatment services.

6336.11 Each recovery program must have a recovery program manager and the recovery program manager is responsible for overseeing all services provided within the recovery program.

6336.12 Each recovery program must have a comprehensive curriculum for its Recovery Support Services that has been approved by the Department.

6337 CORE SERVICE: ASSESSMENT/DIAGNOSTIC AND PLAN OF CARE

6337.1 Assessment/Diagnostic and Plan of Care services include two distinct actions: (1) the assessment and diagnosis of the client, and (2) the development of the plan of care. An Assessment/Diagnostic and Plan of Care Service may be (1) Initial, (2) Comprehensive, or (3) Ongoing.

6337.2 The assessment/diagnostic portion of this service includes the evaluation and ongoing collection of relevant information about a client to determine or confirm an SUD diagnosis and the appropriate LOC. The assessment shall serve as the basis for the formation of the plan of care, which establishes medical necessity and is designed to help the client achieve and sustain recovery. The assessment instrument shall incorporate ASAM client placement criteria.

6337.3 Assessment/Diagnostic is required for a plan of care. This includes the development of a plan of care or a plan of care update and necessary referrals.

6337.4 Providers shall use a tool(s) approved by the Department for both the assessment and plan of care.

6337.5 A plan of care identifies all services considered medically necessary by a qualified practitioner to address the needs of the client as determined by the assessment. All services shall be delivered in accordance with the plan of care as part of organized treatment services. The plan of care shall be person-centered per specifications by the Department and include:

(a) A substance use disorder diagnosis (and any other diagnoses);

(b) Criteria for discharge from the program based on completion of the established course of treatment, and/or transfer to a less intensive/ restrictive level of care;

(c) A list of any agencies currently providing services to the individual and family including the type(s) of service and date(s) of initiation of those services;

(d) A broad, long-term goal statement(s) that captures the individual’s and/or family’s hopes and dreams for the future, ideally written in first-person language.

(e) A list or statement of individual and/or family strengths that support goal accomplishment. These include abilities, talents, accomplishments and resources.

(f) A list or statement of barriers that pose obstacles to the individual's and/or family's ability to accomplish the stated goal(s). These include symptoms, functional impairments, lack of resources, consequences of substance use and other challenges. The identification of barriers helps to substantiate the medical necessity for treatment interventions.

(g) Objective statements that identify the short-term individual and/or family changes in behavior, function or status that overcome the identified barriers and are building blocks toward the eventual accomplishment of the long-term goal(s). Objective statements describe outcomes that are measurable and include individualized target dates to be accomplished within the scope of the plan.

(h) Intervention statements that describe the treatment services intended to reduce and/or eliminate the barriers identified in the plan and support objective and eventual goal accomplishment. Interventions are specific to each objective and the individual's and/or family's stage of change. Intervention statements identify who will deliver the service, what will be delivered, when it will be delivered and the purpose (why) of the intervention. Natural support interventions should also be included in the plan and include those non-billable supports delivered by resources outside of the formal behavioral health service-delivery system.

(i) The name and title of personnel who will provide the services;

(j) The name and title of the client's Clinical Care Coordinator, in tandem with assigned CCC or in the absence of assigned CCC, primary substance abuse counselor, and case manager;

(k) A description of the involvement of family members or significant others, where appropriate;

(l) The identification of specific client responsibilities;

(m) The client's identified ASAM Level of Care (LOC);

(n) The client or legal guardian's signature on the plan (if the client refuses to sign the plan of care, the Clinical Care Coordinator shall document the reason(s) in the plan of care); and

(o) Signatures of all interdisciplinary team members participating in the development of the plan of care. A plan of care is valid when

electronically signed and dated by an independently licensed clinician working within the scope of their license.

6337.6 Initial, Comprehensive, or Ongoing assessments shall be performed by the following Qualified Practitioners, as evidenced by signature and dates on the assessment document and the plan of care and in accordance with additional provisions of this section.

(a) Qualified Physicians;

(b) Psychologists;

(c) LICSWs;

(d) LGPCs (providers not operating under a Human Care Agreement) (under supervision)

(e) LGSWs (under supervision)

(f) LISW (under supervision)

(g) LPCs;

(h) LMFTs;

(i) APRNs;

(j) CAC II (may not diagnose); or

(k) CAC I (may not diagnose).

(l) RNs (may not diagnose)

6337.7 An Initial Assessment/Diagnostic and Plan of Care service (Initial Assessment) is a behavioral health assessment that (1) identifies the individuals need for SUD treatment, (2) determines the appropriate level of care of SUD treatment, and (3) initiates the course of treatment. An Initial Assessment must be provided by a certified Department Intake and Assessment provider. The following provisions apply to an Initial Assessment:

(a) The provider shall use and complete an assessment tool approved by the Department and meets the ASAM biopsychosocial requirements. The assessment should result in identification of the necessary LOC and an appropriate SUD provider referral, documented in the designated electronic record format.

(b) The provider shall record any medications used by the client;

(c) Staff must have an in-person encounter with the client to conduct the initial assessment;

(d) Providers must obtain and document client's understanding and agreement, evidenced by the client's signature, for consent to treatment, assessment, provider choice, the client bill of rights, and release of information;

(e) For those providers with a Human Care Agreement with the Department, a maximum of one Initial Assessment may be billed within a thirty (30)-day period.

(f) An Intake and Assessment provider will complete an Initial Assessment and refer the client to the appropriate level of care or treat the client 1) if the client is found appropriate for the level of care available at that provider, and 2) the client chooses to receive services at that provider.

6337.8 The following provisions apply to the Comprehensive Assessment:

(a) When a client enters his or her first LOC within a treatment episode, the provider shall perform a Comprehensive Assessment to determine his or her treatment and recovery needs. A Comprehensive Assessment consists of a biopsychosocial assessment and the development of a plan of care. ASAM biopsychosocial elements include, but are not limited to:

(1) History of the presenting episode;

(2) Family history;

(3) Developmental history;

(4) Alcohol, tobacco, other drug use, addictive behavior history

(5) Personal/social history;

(6) Legal history;

(7) Psychiatric history;

(8) Medical history;

(9) Spiritual history;

(10) Review of systems;

(11) Mental status examination;

(12) Physical examination;

(13) Formulation and diagnosis;

(14) Survey of assets, vulnerabilities, and supports; and

(15) Treatment recommendations.

(b) A Comprehensive Assessment shall include the use of a Department-approved assessment tool and a detailed diagnostic formulation. The comprehensive assessment will document the client's strengths, resources, mental status, identified problems, current symptoms as outlined in the DSM, and RSS needs. The Comprehensive Assessment will also confirm the client's scores on the ASAM criteria and confirm that the assigned LOC is most applicable to the client's needs. The diagnostic formulation shall include presenting symptoms for the previous twelve (12) months, including mental and physical health symptoms, degree of severity, functional status, and differential diagnosis. This information forms the basis for the development of the individualized person-centered plan of care as defined in § 6337.5 of this chapter.

(c) A Comprehensive Assessment must be performed in-person by an interdisciplinary team consisting of the client and at least one Qualified Practitioner with the license and capability to develop a diagnosis.

(d) The approval of the Plan on Care is demonstrated by the electronic signature and date stamp of an independently licensed qualified practitioner. A completed plan of care is required to establish medical necessity.

(e) A Comprehensive Assessment and plan of care must be completed within seven (7) calendar days of admission to a provider. Providers at Level 3.7-SMMIWM must complete a Comprehensive Assessment within forty-eight (48) hours, or prior to discharge or transfer to another LOC, whichever comes first.

(f) Within twenty-four (24) hours of admission at a new LOC, during the period prior to the completion of the Comprehensive Assessment, the provider shall review the Department-approved client's prior Assessment to assist with developing a Plan of Care.

(g) The Plan of Care (valid for seven (7) calendar days) will validate treatment until the Comprehensive Assessment is completed. A Qualified Practitioner as listed in § 6337.6 shall develop the Plan of Care. The Plan of Care is

considered part of the Comprehensive Assessment and Plan of Care service. A Comprehensive Assessment and Plan of Care shall include client understanding and agreement, documented by the client's signature, for consent to treatment, assessment, provider choice, client bill of rights, and release of information.

(h) For those SUD providers with a Human Care Agreement with the Department, no more than one (1) Comprehensive Assessment and Plan of Care shall be billed per LOC, and a Comprehensive Assessment cannot be billed on the same day as an Ongoing Assessment.

6337.9 Ongoing Assessment and Plan of Care occurs at regularly scheduled intervals depending on the LOC. The following provisions apply to ongoing assessments:

(a) An Ongoing Assessment and Plan of Care, conducted using a tool(s) approved by the Department, provides a review of the client's strengths, resources, mental status, identified problems, and current symptoms as outlined in the DSM.

(b) An Ongoing Assessment will confirm the appropriateness of the existing diagnosis and revise the diagnosis, as warranted. The Ongoing Assessment will also revise the client's scores on all dimensions of the ASAM criteria, as appropriate, to determine if a change in LOC is needed and make recommendations for changes to the Plan of Care.

(c) An Ongoing Assessment includes a review and update of the Plan of Care with the client to reflect the client's progress, growth, and ongoing areas of need.

(d) The Ongoing Assessment and Plan of Care is also used prior to a planned transfer to a different LOC and for discharge from a course of service.

(e) The Ongoing Assessment can be used for a review and documentation of a client's physical and mental status for acute changes that require an immediate response, such as a determination of a need for immediate hospitalization.

(f) The clinical care coordinator shall determine the frequency of Ongoing Assessments and Plan of Care services.

(g) An Ongoing Assessment and Plan of Care must be completed in-person with the client by an interdisciplinary team, which includes at least one Qualified Practitioner with the license and capability to develop a diagnosis. The client's clinical care coordinator and primary counselor shall participate in the interdisciplinary team.

(h) The Ongoing Assessment requires documentation of the assessment tools, updated diagnostic formulation, and the Plan of Care update. The diagnostic formulation shall include presenting symptoms since previous assessment (including mental and physical health symptoms), degree of severity, functional status, and differential diagnosis. The Plan of Care update shall address current progress toward goals for all problematic areas identified in the assessment and adjust interventions and recovery support services as appropriate.

(i) For providers with a Human Care Agreement with the Department, an Ongoing Assessment cannot be billed on the same day as a Comprehensive Assessment. These providers may bill a maximum of two (2) occurrences per sixty (60) days.

6338 CORE SERVICE: CLINICAL CARE COORDINATION (CCC)

6338.1 CCC is a billable service, and the clinical care coordinator serves an important function on a client's treatment team. The CCC service is the initial and ongoing process of identifying, planning, coordinating, implementing, monitoring, and evaluating options and services to best meet a client's care needs.

6338.2 The Clinical Care Coordinator role is responsible for ensuring that the client is at the appropriate level of care. If the client fails to make progress or has met all of his or her treatment goals, it is the Coordinator's responsibility to ensure timely assessment and transfer to a more appropriate level of care.

6338.3 CCC focuses on linking clients as they transition through the levels of care, ensuring that the plan of care is formulated with the overarching goal of recovery regardless of the client's current status. The Clinical Care Coordinator is responsible for facilitating specified outcomes through recovery that will restore a client's functional status in the community. The Clinical Care Coordinator has the overall responsibility for the development and implementation of the client's plan of care.

6338.4 CCC also includes oversight of linkages to off-site services to meet additional needs related to a co-occurring medical and/or psychiatric condition, as documented in the plan of care.

6338.5 The assigned clinical care coordinator in each case will monitor the compliance with, and effectiveness of, services over the treatment period and make a determination of the frequency of ongoing assessments. The clinical care coordinator serves as a single point of contact for each assigned client's care. A clinical care coordinator shall have no more than three hundred (300) clients assigned to his or her caseload, and shall ensure that each client receives a clinically appropriate amount of CCC.

6338.6 The CCC service must be provided by a licensed practitioner under Subsection 6338.7 of this chapter and must address the health and behavioral health of the client. CCC shall not include administrative facilitation of the client's service needs, which is the primary purpose of the Case Management service. The CCC service may be billed for phone calls completed in order to coordinate a client's care.

6338.7 The CCC service must be documented in an encounter note that indicates the intended purpose of that particular service, the actions taken, and the result(s) achieved.

6338.8 Qualified Practitioners for CCC are

(a) Qualified Physicians;

(b) Psychologists;

(c) LICSWs;

(d) LGSWs;

(e) APRNs;

(f) RNs;

(g) LISWs;

(h) LPCs; and

(i) LMFTs.

(j) LGPC (only for providers not operating under a Human Care Agreement)

6338.9 For providers with a Human Care Agreement with the Department, the following restrictions apply to CCC:

(a) CCC may not be billed in conjunction with a staff person's clinical supervision or at the same time as any assessment/diagnostic/plan of care service;

(b) CCC may not be billed separately for a person in SMMIWM;

6339 CORE SERVICE: CASE MANAGEMENT

6339.1 Case Management facilitates implementation of the plan of care and administrative facilitation of the client's service needs, including but not limited to

scheduling of appointments, assisting in completing applications, facilitating transportation, tracking appointments, and collecting information about the client's progress.

6339.2 Case Management also encompasses the coordination of linkages such as vocational/educational services, housing services, legal monitoring entities *(e.g.* probation), child care, public assistance, and social services. Case Management also includes training in the development of life skills necessary to achieve and maintain recovery.

6339.3 In addition to the case management activities listed below, Case Management-HIV entails providing access to testing and referrals for HIV and infectious diseases and coordination of services with medical care or specialty services related to an infectious disease (an individual does not need to be diagnosed with an infectious disease to receive this service).

6339.4 All Case Management services must be authorized in the individual's plan of care.

6339.5 Additional key service functions of Case Management in a treatment program include:

(a) Attending interdisciplinary team meetings for assessment/diagnostic services;

(b) Following up on service delivery by providers external to the treatment program and ensuring communication and coordination of services;

(c) Contacting clients who have unexcused absences from program appointments or from other critical off-site service appointments to re-engage them and promote recovery efforts;

(d) Locating and coordinating services and resources to resolve a client's crisis;

(e) Providing training in the development of life skills necessary to achieve and maintain recovery; and

(f) Participating in discharge planning.

6339.6 The assigned case manager for each client shall provide case management services with direct contact either face to face or via telephone or on behalf of a client to maximize the client's adjustment and functioning within the community while achieving sobriety and sustaining recovery. Each client shall have a case manager designated in his or her plan of care. Each case manager shall be assigned no more than one hundred fifty (150) clients and shall ensure that each

client receives clinically appropriate case management in accordance with the plan of care.

6339.7 All case managers shall be supervised by a CAC II or a licensed practitioner. At least weekly, the case manager's supervisor shall review and approve encounter notes to indicate compliance with plan of care. At least monthly, the case manager's supervisor shall provide regular case and chart review and meet in-person with the case manager. Providers with a Human Care Agreement with the Department shall comply with the Department policy on supervision.

6339.8 Case Management shall not be considered a counseling/therapy service or activity. An individual performing both SUD Counseling/Therapy and Case Management as part of his or her normal duties shall maintain records that clearly document separate time spent on each of these functions, such as, work logs, encounter notes, and documentation in the client's record.

6339.9 Case Management services shall be provided by:

(a) A Qualified Practitioner;

(b) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field;

An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationships and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or

(c) Certified Recovery Coach

(d) Certified Peer Specialist

6340 CORE SERVICE: CRISIS INTERVENTION

6340.1 Crisis Intervention is an immediate short-term treatment intervention, which assists a client to resolve an acute personal crisis that significantly jeopardizes the client's treatment, recovery progress, health, or safety. Crisis Intervention does not necessarily lead to a change in LOC or a change to the plan of care; however, if a change is needed, this service may be followed by an Ongoing Assessment.

6340.2 Crisis Intervention is a service available at all levels of care and can be provided to any individual in treatment, even if the service is not included on the plan of care.

6340.3 Crisis Intervention services must be documented using an encounter note that explains the crisis and the response.

6340.4 Qualified Practitioners may perform this service:

(a) Qualified Physicians;

(b) Psychologists;

(c) LICSWs;

(d) LGSWs;

(e) APRNs;

(f) RNs;

(g) LISWs;

(h) LPCs;

(i) LGPCs (only for providers not operating under a Human Care Agreement)

(j) LMFTs; and

(k) CAC Is and CAC IIs.

6340.5 For providers with a Human Care Agreement with the Department, Crisis Intervention shall be billed in increments of fifteen (15)-minute units. The following limits shall apply:

(a) Level 1: 80 Units

(b) Level 1 with MAT: 144 Units

(c) Level 2: 120 Units

(d) Level 3: 160 Units.

6341 CORE SERVICE: SUBSTANCE USE DISORDER COUNSELING/ THERAPY

6341.1 SUD Counseling/Therapy includes Individual, Family, and Group, and enhanced with Group-Psychoeducation Counseling.

6341.2 For providers with a Human Care Agreement with the Department, counseling/therapy shall be billed in increments of fifteen (15)-minute units, and a clinically appropriate combination of Individual, Family, and Group counseling/therapy and Group-Psychoeducation counseling is limited to the following (the Department can approve additional units with justification):

(a) Level 1: Thirty-two (32) Units per week;

(b) Level 2: Eighty (80) Units per week; and

(c) Level 3: One hundred (100) Units per week.

6341.3 Individual Substance Use Disorder Counseling/Therapy is a face-to-face service with an authorized Qualified Practitioner for symptom and behavior management, development, restoration, or enhancement of adaptive behaviors and skills, and enhancement or maintenance of daily living skills to facilitate long-term recovery.

6341.4 Individual SUD Counseling/Therapy addresses the specific issues identified in the plan of care. Individual counseling/therapy:

(a) Shall be documented in an encounter note;

(b) Shall not be conducted within the same or overlapping time period as Medication Management;

(c) Shall not be considered or used as a Case Management service or activity; and

(d) Shall be performed by Qualified Practitioners:

(1) Qualified Physicians;

(2) Psychologists;

(3) ICSWs;

(4) LGSWs;

(5) APRNs;

(6) RNs;

(7) LISWs;

(8) LPCs;

(9) LGPCs (only for providers not operating under a Human Care Agreement);

(10) LMFTs; or

(11) CAC Is and CAC IIs.

6341.5 Group counseling/ therapy includes: Cognitive Behavioral Groups, Support Groups, and Interpersonal Process Groups. Cognitive Behavioral Groups which has a trained facilitator utilizing a specific therapeutic model to alter thoughts and actions that lead to substance abuse. Support Groups which uplift members and provide a forum to share pragmatic information about maintaining abstinence and managing day to day, chemical free life. Interpersonal Process Groups which delve into major developmental issues that contribute to addiction or interfere with recovery.

The following provisions apply to Group SUD Counseling:

(a) Group SUD Counseling/Therapy addresses the specific issues identified in the plan of care;

(b) The focus of the group SUD counseling/therapy session shall be driven by the participant;

(c) The number of individuals in a group SUD Counseling/Therapy session cannot be greater than the number referenced in 42 USC 1396d(i) which under current law is 42 USC 1905;

(d) Group SUD Counseling/Therapy shall not be billed during recreational activities;

(e) Group SUD Counseling/Therapy shall be performed by Qualified Practitioners:

(1) Qualified Physicians

(2) Psychologists;

(3) LICSWs;

(4) LGSWs;

(5) APRNs;

(6) RNs;

(7) LI SWs;

(8) LPCs;

(9) LGPCs (only for providers not operating under a Human Care Agreement);

(9) LMFTs; or

(10) CAC Is and CAC IIs.

6341.6 Group SUD Counseling-Psychoeducation promotes help-seeking and supportive behaviors by working in partnership with clients to impart current information and facilitate group discussion through lecture, audio-visual presentations, handouts, etc. to assist with developing coping skills that support recovery and encourage problem-solving strategies for managing issues posed by SUDs. This service should also address HIV, STDs, and other infectious diseases; clients are not required to have one of these diseases to receive this education.

6341.7 Psychoeducational groups are designed to educate clients about substance abuse, and related behaviors and consequences. This type of group presents structured, group specific content, taught by a trained facilitator often using video, audio or lecture. An experienced group leader will facilitate discussions of the material presented. Psychoeducational groups provide information designed to have a direct application to clients' lives to include but are not limited to: developing self-awareness, to suggest options for growth and change, to identify community resources that can assist clients in recovery, to develop an under-standing of the process of recovery, and to prompt people using substances to take action on their own behalf toward recovery.

6341.8 Group Counseling-Psychoeducation requires the following:

(a) The subject of the counseling must be relevant to the client's needs as identified in his or her plan of care;

(b) This service must include facilitated group discussion of the relevant topic or topics;

(c) An encounter note for each participant shall be completed, which documents the individual's response to the group;

(d) A maximum of thirty (30) clients may participate in a single session; and Qualified Practitioners are authorized to perform the service.

(1) Qualified Physicians;

(2) Psychologists;

(3) LICSWs;

(4) LGSWs;

(5) APRNs;

(6) RNs;

(7) LISWs;

(8) LPCs;

(9) LGPCs (only for providers not operating under a Human Care Agreement)

(10) LMFTs; and

(11) CAC Is and IIs.

6341.9 Family Counseling/Therapy is a planned, goal-oriented therapeutic interaction between a Qualified Practitioner and the client's family, with or without the client present. The aim of Family Counseling/Therapy is to improve the individual's functioning with his or her family and cultivate the awareness, skills, and supports to facilitate long term recovery. Family Counseling/Therapy must address specific issues identified in the plan of care. The following provisions apply to Family Counseling/Therapy:

(a) Family Counseling/Therapy shall be documented using an encounter note; if the client is not present for the service, the note must explain how the session benefits the client;

(b) A service encounter note documenting Family Counseling/Therapy shall clearly state the relationship of the participant(s) to the client;

(c) Family Counseling/Therapy participants other than the client must meet the definition of "family member" in Section 6399; and

(d) Qualified Practitioners authorized to provide Family Counseling/Therapy must be competent to work with families and should include:

(1) Qualified Physicians;

(2) Psychologists;

(4) LICSWs;

(5) LGSWs;

(6) APRNs;

(7) RNs;

(8) LISWs;

(9) LPCs;

(10) LGPCs (only for providers not operating under a Human Care Agreement)

(11) LMFTs; or

(12) CAC Is and IIs.

6342 CORE SERVICE: DRUG SCREENING

6342.1 Drug Screening consists of toxicology sample collection and breathalyzer and urine testing to determine and detect the use of alcohol and other drugs.

6342.2 Providers reimbursed by the District for Drug Screening must comply with the Department policy on drug screening; those providers not reimbursed by the District must have their own drug screening policy.

6342.3 Toxicology sample collection involves the collection of biological specimens for drug analysis. The following provisions apply to toxicology sample collection:

(a) The handling of biological specimens requires a chain of custody in accordance with District guidelines from the point of collection throughout the analysis process to ensure the integrity of the specimen;

(b) Toxicology sample collection shall be conducted to verify abstinence or use of substances to inform treatment;

(c) Toxicology sample collection shall include an in-person encounter with the client;

(d) Documentation of the toxicology sample collection service requires an encounter note, laboratory request, and recorded laboratory results from an approved laboratory;

(e) Chain of custody for the toxicology specimen must be observed and documented in accordance with District guidelines; and

(f) Individuals collecting the samples must be properly trained to do so.

6342.4 Breathalyzer testing is the collection and documentation of valid breath specimens for alcohol analysis in accordance with Department standards. A Breathalyzer is conducted to test for blood alcohol content to inform treatment for an individual. The following provisions apply to Breathalyzer services:

(a) Breathalyzer testing requires an in-person collection of the sample;

(b) Breathalyzer testing must be documented with an encounter note and recorded results;

(c) The chain of custody must be kept in accordance with District guidelines; and

(d) Individuals collecting the samples must be properly trained.

6343 SPECIALTY SERVICE: MEDICATION MANAGEMENT

6343.1 Medication Management shall include the coordination and evaluation of medications consumed by clients, monitoring potential side effects, drug interactions, compliance with doses, and efficacy of medications.

6343.2 Medication Management also includes the evaluation of a client's need for Medication Assisted Treatment (MAT), the provision of prescriptions, and ongoing medical monitoring/evaluation related to the use of psychoactive drugs.

6343.3 Medication Management is used to inform treatment and to assist with withdrawal management, as clinically appropriate.

6343.4 All providers certified as SMMIWM or Level 3 providers must be able to provide Medication Management.

6343.5 Medication Management requires in-person interaction with the client and may not be conducted at the same or overlapping times as any other service.

6343.6 The Qualified Practitioner performing the Medication Management service or the clinical care coordinator, if not the same individual, must coordinate with the client's primary care practitioner unless the client's record documents that the client refused to provide consent for the coordination.

6343.7 Documentation of Medication Management services shall include an encounter note and appropriately completed medication fields in the record, if applicable.

6343.8 Medication Management may be provided by Qualified Practitioners operating within the scope of their license.

(a) Qualified Physicians;

(b) APRN;

(c) RNs;

(d) LPNs; or

(e) PAs.

6343.9 For providers with a Human Care Agreement with the Department, Medication Management shall be billed in increments of fifteen (15)-minute units. No more than ninety-six (96) units may be billed per LOC. Medication Management shall not be billed on the same day as SMMIWM. Medication Management shall not be billed for observing the self-administration of medication.

6344 SPECIALTY SERVICE: MEDICATION ASSISTED TREATMENT (MAT)

6344.1 MAT is the use of pharmacotherapy long-term treatment for opiate or other forms of dependence. A client who receives MAT must also receive SUD Counseling/Therapy. Use of this service should be in accordance with ASAM service guidelines and practice guidelines issued by the Department.

6344.2 Individuals appropriate for MAT must have an SUD that is appropriately treated with MAT in accordance with Federal regulations.

6344.3 MAT providers must ensure that individuals receiving MAT understand and provide written informed consent to the specific medication administered. No person under eighteen (18) years of age may be admitted to MAT unless a parent or legal guardian consents in writing to such treatment.

6344.4 MAT may be administered on an in-office basis or as take-home regimen. Both MAT administrations include the unit of medication and therapeutic guidance. For clients receiving a take-home regimen, therapeutic guidance must include additional guidance related to storage and self-administration. MAT providers must comply with all Department policies and Federal regulations concerning MAT.

6344.5 Therapeutic guidance provided during MAT shall include:

(a) Safeguarding medications;

(b) Possible side-effects and interaction with other medications;

(c) Impact of missing doses;

(d) Monitoring for withdrawal symptoms and other adverse reactions; and

(e) Appearance of medication and method of ingestion.

6344.6 The provision of MAT must be accompanied by a clinically appropriate array of SUD treatment services that include SUD Counseling/Therapy.

6344.7 For providers with a Human Care Agreement with the Department:

(a) MAT medication is billed on a per-dose basis;

(b) A single fifteen (15)-minute administration session may be billed when an individual is receiving take-home doses in accordance with ASAM criteria and Department policy;

(c) A client can be prescribed a maximum of one dose/unit per day;

(d) An initial and second authorization is for a maximum of ninety (90) days each; subsequent authorizations cannot exceed one hundred and eighty (180) days each; and

(e) Prior authorization from the Department is required for more than two-hundred fifty (250) units of medication in one calendar year. The maximum number of MAT services over a twelve (12)-month period is three hundred and sixty five (365) units of medication and administration

6344.8 Providers shall have medical staff (MD, PA, APRN, or RN) on duty during all clinic hours. A physician shall be available on call during all clinic hours, if not present on site.

6344.9 A member of the medical staff must be available on call twenty-four (24) hours a day, seven (7) days a week.

6344.10 A physician must evaluate the client a minimum of once per month for the first year that a client receives MAT and a minimum of every six (6) months thereafter, in coordination with the plan of care and as needed.

6344.11 A provider must review the results of a client's physical, which has been completed within the past twelve (12) months, prior to prescribing or renewing a prescription for MAT.

6344.12 Documentation for this service must include medication log updates and an encounter note for each visit, which captures the therapeutic guidance provided.

6344.13 MAT may be provided by the following:

(a) Qualified Physicians;

(b) APRNs;

(c) PAs (supervised by Qualified Physicians);

(d) RNs; or

(e) LPNs (supervised by an MD, RN, or APRN).

6345 SPECIALTY SERVICE: ADOLESCENT — COMMUNITY REINFORCEMENT APPROACH (ACRA)

6345.1 ACRA is a specialty service that is provided in conjunction with Level I or Level II.1 Outpatient treatment as a more targeted approach to treatment for youth and young adults ages twelve (12) to twenty-four (24) years old with co-occurring mental health and substance use disorders. ACRA services include approximately 10 individual sessions with the adolescent, 2 individualized sessions with the caregiver and 2 sessions with the adolescent and caregiver together in accordance with the procedures outlined in the ACRA evidence-based practice certification model.

6345.2 The provider must have the following ACRA-certified staff for each ACRA team:

(a) A clinical supervisor, with ACRA clinical supervisor certification, who is also a Master's-level qualified practitioner; and

(b) One (1) to four (4) clinicians with ACRA clinician certification who are either Master's-level qualified practitioners or Bachelor's-level qualified practitioners with at least five (5) years' experience working with behaviorally-challenged youth.

6345.3 ACRA practitioners must comply with the supervision, taping, feedback and coaching requirements of the ACRA certification.

6345.4 A minimum of four units (one hour) of ACRA services should be provided once per week. Level 1 or 2.1 services shall be provided as clinically appropriate.

6345.5 ACRA generally lasts up to six (6) months with the first three (3) months of services provided in the office setting and the last three (3) months of service

provided in the home or community setting, based on the client's needs and progress.

6345.6 ACRA may be provided by the following qualified practitioners who satisfy the requirements of Subsection 6344.2 above:

(a) Qualified Physicians;

(b) Psychologists;

(c) LICSWs;

(d) LGSWs;

(e) APRNs;

(f) RNs;

(g) LISWs;

(h) LPCs;

(i) LGPCs (only for providers not operating under a Human Care Agreement);

(j) LMFTs; or

(k) CAC Is and IIs.

6346 RECOVERY SUPPORT – EVALUATION, ALCOHOL OR DRUG ASSESSMENT

6346.1 A Recovery Support Evaluation is a process used to evaluate and document a client's individual recovery support service needs, develop a comprehensive individual recovery support plan, and monitor client progress on achievement of goals and objectives every one hundred eighty (180) days.

6346.2 The purpose of the Recovery Support Evaluation is to identify domains that require support, using a Department-approved recovery support assessment tool, and to develop a recovery support plan.

6346.3 Recovery Support Evaluation requires an in-person encounter with the client and must be performed by staff trained to use the recovery support assessment tool.

6346.4 Required elements of a Recovery Support Evaluation include the completion of a Department-approved recovery support assessment tool and recovery support plan.

6346.5 Providers must document completion and client signatures for: consents, completion of the recovery support assessment tool and recovery support plan, client bill of rights, and release of information.

6346.6 A Recovery Support Evaluation shall take at least forty (40) minutes to complete.

6346.7 A maximum of two (2) occurrences of Recovery Support Evaluation are allowed every six (6) months. Additional Recovery Support Evaluations require approval from the Department.

6346.8 The clinical care coordinator is responsible for ensuring coordination if an individual is receiving treatment and recovery services from different providers. An individual receiving treatment and recovery services from different providers may receive Initial, Comprehensive, or Ongoing Assessment and a separate Recovery Support Evaluation as clinically indicated.

6346.9 An individual receiving treatment and recovery services from the same provider shall receive only the CAT and not a separate Recovery Support Evaluation or recovery support plan. The plan of care developed under the CAT shall include specific recovery goals and identify recovery support services.

6346.10 The following staff may perform this service:

(a) A Certified Recovery Coach;

(b) A Certified Peer Specialist;

(c) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field and training or relevant experience in substance use; or

(d) An individual with at least four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationships and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6347 CASE MANAGEMENT – RECOVERY SUPPORT

6347.1 Case Management, Recovery Support assists clients with the implementation of the recovery support plan, including but not limited to:

(a) Scheduling of appointments, assisting in completing applications, facilitating transportation, tracking appointments, and collecting progress report information;

(b) Helping clients access the District service network and other community resources that help sustain recover and coordinating linkages such as vocational/educational services, housing services, judicial entities, childcare, public assistance, and social services.

6347.2 All Case Management, Recovery Support services must be authorized in the individual's recovery support plan or plan of care (if applicable).

6347.3 Additional key service functions of Case Management, Recovery Support include:

(a) Monitoring service delivery by providers external to the RSS program and ensuring communication and coordination of services;

(b) Contacting individuals who have unexcused absences from program appointments or from other critical off-site service appointments to reengage the person and promote recovery efforts; and

(c) Locating and coordinating services and resources to resolve a client's crisis.

6347.4 If the client is also in active treatment, the treatment provider's staff shall provide these services through Case Management and Clinical Care Coordination. Case Management, Recovery Support shall not be billed while the client is in active treatment.

6347.5 Each client not in active treatment shall have a designated Recovery Support Manager. One (1) FTE is required for every fifty (50) clients.

6347.6 The recovery support manager's supervisor shall provide regular case and chart review, meet in-person with the case manager, and co-sign chart entries at least monthly to indicate compliance with the recovery support plan.

6347.7 RSS providers with a Human Care Agreement with the Department must comply with the Department policy on supervision.

6347.8 An encounter note is required at each provision of Case Management, Recovery Support.

6347.9 SUD Counseling/Therapy shall not be considered a Case Management, Recovery Support service or activity. An individual performing both SUD Counseling/Therapy and Recovery Support Management as part of his or her normal duties shall maintain records that clearly document separate time spent on

each of these functions, such as work logs, encounter notes, and documentation in the patients' records.

6347.10 Case Management, Recovery Support services shall be provided by one of the following:

(a) A Certified Recovery Coach;

(b) A Certified Peer Specialist;

(c) An individual with a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; or

(d) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6348 PREVENTION EDUCATION SERVICE, RECOVERY MENTORING

6348.1 Recovery Mentoring assists clients in reviewing the recovery support plan and reviewing strategies to achieve the identified goals and support abstinence, and assists the client to overcome barriers that may inhibit their recovery process and develop a network of supportive relationships.

6348.2 Recovery Mentoring provides ongoing support to a client in accordance with the recovery support plan.

6348.3 Recovery Mentoring requires an in-person or electronic encounter with a client in accordance with all documentation requirements as required in § 6322 of this chapter.

6348.4 Staff eligible to perform this service may be:

(a) A Certified Recovery Coach;

(b) A Certified Peer Specialist;

(c) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field and training or relevant experience in substance use; or

(d) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service

delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6349 TRAINING AND SKILLS DEVELOPMENT, LIFE SKILLS - ADULT

6349.1 Life Skills Support Services help clients develop appropriate psychosocial skills needed to succeed in day-to-day life without the use of alcohol and drugs, including how to plan for and incorporate drug-free social activities into their recovery.

6349.2 The purpose of the Life Skills Support Services is to provide peer-to-peer support in a group or individual setting to promote individual and community change through lived experiences.

6349.3 Life Skills Support Services requires in-person group encounters with clients. A maximum of fifteen (15) clients may participate in a group session.

6349.4 A Life Skills Support Services session must be guided by a curriculum approved by the Department.

6349.5 Life Skills Support Services sessions must be documented using an encounter note.

6349.6 The following staff may perform Life Skills Support Services:

(a) A Certified Recovery Coach;

(b) A Certified Peer Specialist;

(c) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field and training or relevant experience in substance use; or

(d) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6350 RECOVERY SUPPORT SERVICES, SPIRITUAL SUPPORT

6350.1 Spiritual Support Services shall provide spiritual support, which incorporates faith and religion in the recovery process based on spiritual practices and principles.

6350.2 The purpose of Spiritual Support Services is to provide strategies on how a client can incorporate spirituality into their recovery process.

6350.3 The following provisions apply to Spiritual Support Services:

(a) Provision of the service requires an in-person encounter with the client in a group setting;

(b) Only RSS clients may attend a Spiritual Support Services group session;

(c) The Spiritual Support Services group may not prohibit clients from participation based on spiritual or religious beliefs;

(d) A maximum of thirty (30) clients may participate in a Spiritual Support Services group.

6350.4 Spiritual Support Services include ongoing support services through persons with lived experiences and similar spiritual beliefs.

6350.5 Spiritual Support Services group sessions must be documented using an encounter note.

6350.6 Staff that performs this service should have a background of study in the spiritual support being provided.

6350.7 The following staff may perform this service:

(a) A Certified Recovery Coach;

(b) A Certified Peer Specialist;

(c) An individual with a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; or

(d) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6350.8 Providers of spiritual support services are prohibited from proselytizing with District funds or other government funds. Further, any providers of such support services may not coerce participants explicitly or implicitly into participating in any religious activity or service made available to participants, and any such religious activities must be separate in time and location from government-funded spiritual support services.

6351 RECOVERY SUPPORT SERVICE, EDUCATION SERVICES

6351.1 Educational Support Services provide individual instruction and tools to expand a client's knowledge in specific recovery topics, including relapse prevention, employment preparation, money management, health and wellness, and family reunification, targeted to improve the client's functioning for substance-free living.

6351.2 The purpose of Education Support Services is to increase the client's ability to sustain long-term recovery.

6351.3 Education Support Services require an in-person encounter with the client.

6351.4 Educational Support Services must be documented using an encounter note.

6351.5 Educational Support Services maybe be provided on an individual or group basis.

6351.6 For individual Educational Support Services, a one-on-one interaction with the client is required.

6351.7 For group Educational Support Services, providers must use a curriculum approved for use in a group setting. Education Support Services groups may serve no more than thirty (30) clients.

6351.8 The following staff may perform this service:

(a) A Certified Recovery Coach;

(b) A Certified Peer Specialist;

(c) An individual with a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; or

(d) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship, and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6352 RECOVERY SUPPORT SERVICE, RECOVERY SOCIAL ACTIVITIES – GROUP

6352.1 Recovery Social Activities provide group drug-free social activities for persons in recovery in order to demonstrate to the client how to maintain their recovery in drug-free environments.

6352.2 Recovery Social Activities require an in-person encounter with the client.

6352.3 Encounter note must demonstrate, not only the activity, but how the social activity is related to the client's recovery plan.

6352.4 The following staff may perform this service:

(a) A Certified Recovery Coach;

(b) A Certified Peer Specialist;

(c) An individual with at least a GED or high school diploma, four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

6353 ENVIRONMENTAL STABILITY, SUPPORTED HOUSING

6353.1 The Environmental Stability service provides a structured and stable living environment and recovery support system that includes recovery housing for up to six (6) months. The objective of Environmental Stability is to prepare the client for independent living upon completion of the Environmental Stability Service.

6353.2 Eligible persons for this service must:

(a) Be drug- and alcohol-free (with the exception of prescribed medication) or thirty (30) days prior to admission;

(b) Maintain sobriety throughout the program;

(c) Be in recovery from a diagnosed SUD;

(d) Be employed or participating in a structured training class or workforce-development program or a combination of both training and employment as deemed clinically appropriate;

(e) Deposit fifty percent (50%) of net income into the client's escrow account for the purposes of post-environmental-stability independent living;

(f) Be enrolled and active in other Department-certified recovery support services; and

(g) Be prior authorized by the Department.

6353.3 The Environmental Stability provider shall comply with the Department's drug testing policy.

6353.4 Each Environmental Stability facility shall be for a single parent with a child or children.

6353.5 Environmental Stability providers must comply with the applicable of provisions of Section 6323 of this chapter governing residential recovery programs.

6353.6 No Environmental Stability program shall use a name on the exterior of the building or display any logo that distinguishes the facility from any other residence in the neighborhood.

6399 DEFINITIONS

6399.1 Definitions should read as follows:

Admission – Entry into the SUD treatment or recovery program after completion of intake and initial assessment and a determination that an individual is eligible for the program.

Advance Practice Registered Nurse (APRN) – A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*. (2016 Repl. & 2018 Supp.)), and who has particular training and expertise in treating clients with SUD. An APRN is a Qualified Practitioner.

Affiliation Agreement – A legal agreement between a provider and another entity that describes how they will work together to benefit clients.

Applicant – A program that has applied to the Department for certification as an SUD treatment or recovery program.

Assessment – Gathers information and engages in a process with the client that enables the provider to establish (or rule out) the presence or absence of a co-occurring disorder. Determines the client's readiness for change, identifies client strengths or problem areas that may affect the processes of treatment and recovery, and engages the client in the development of an appropriate treatment relationship.

Case Manager – Program staff who coordinate plans of cares and are especially designated to provide Case Management services with or on behalf of a client to maximize the client's adjustment and functioning within the community while achieving sobriety and sustaining recovery.

Case Management – Refers to a collaborative process of assessment, planning, facilitation and advocacy for options and services to meet the client's behavioral health needs through communication and available resources to promote quality cost-effective outcomes.

Certification – The process of establishing that the standards of care described in this chapter are met; or approval from the Department indicating that an applicant has successfully complied with all requirements for the operation of a substance use disorder treatment or recovery program in the District.

Certified Addiction Counselor (CAC) – A person who is certified to provide SUD counseling services in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)). A CAC may be certified as a CAC I or CAC II and must be supervised in accordance with Title 17 DCMR § 8715. A CAC is a Qualified Practitioner.

Certified Peer Specialist – An individual who has completed the Peer Specialists Certification Program requirements and is approved to deliver Peer Support Services within the District's public behavioral health network.

Certified Recovery Coach – A Certified Recovery Coach is an individual with any DBH-approved recovery coach certification.

Child Development Facility – A center, home, or other structure that provides care and other services, supervision, and guidance for children up to fifteen (15) years of age on a regular basis, regardless of its designated name, but does not include a public or private elementary or secondary school engaged in legally required educational and related functions.

Client – A person admitted to an SUD treatment or recovery program and is assessed to need SUD treatment services or recovery services.

Clinical Care Coordination – The Agency for Health Care Research and Quality (AHRQ) defines clinical care coordination as activities that bridge gaps along the care pathway (*i.e.*, care coordination activities or broad approaches hypothesized to improve coordination of care). For a given client at a given point in time.

Clinical Care Coordinator – A licensed or certified Qualified Practitioner who has the overall responsibility for the development and implementation of the client's plan of care, is responsible for identification, coordination, and monitoring of non-SUD-treatment clinical services, and is identified in the client's plan of care. This qualified practitioner utilizes the case manager's

role in the clinical and evaluative activities that identify the client's needs for substance abuse and other treatment services, community needs and other resources to achieve the goals and objectives identified in the plan of care. While the case manager establishes a framework of action to enable the client to achieve specified goals, the care coordinator collaborates with client and significant others in the coordination of treatment and referral services, liaison activities with community resources and managed care systems, client advocacy, and ongoing evaluation of treatment progress and client needs to be reported to the case manager. In essence, the Clinical Care Coordinator acts as a team leader for the various care providers serving a particular client.

Clinical Staff – Staff who are licensed, certified, or registered by the District Department of Health, Health Regulation and Licensing Administration (HRLA).

Communicable Disease – Any disease as defined in Title 22-B, § 201 of the District of Columbia Municipal Regulations (DCMR).

Continuity of Care Plan – A plan that provides for the ongoing care of clients in the event that a certified provider is no longer able to provide adequate care.

Co-Occurring Disorders – The presence of concurrent diagnoses of substance use disorder and a mental disease or disorder.

Crisis – An event that significantly jeopardizes the client's treatment, recovery progress, health or safety.

Department – The District of Columbia Department of Behavioral Health.

Director – The Director of the District of Columbia Department of Behavioral Health.

Discharge – The time when a client's active involvement with a program is terminated.

Discharge Planning – Activities with or on behalf of an individual to arrange for appropriate follow-up care to sustain recovery after being discharged from a program, including educating the individual on how to access or reinitiate additional services, as needed.

Discrete Clients – Children accompanied by a parent into a treatment environment that are clinically determined to require admission as a client with their own separate and distinct assessment, plan of care, course of

treatment, and record. Discrete Client does not apply to children who receive services primarily to support a parent's recovery.

District – The District of Columbia.

Drug – Substances that have the likelihood or potential to be misused or abused, including alcohol, prescription drugs, and nicotine.

Facility – Any physical premises which houses one or more SUD treatment or recovery programs.

Family Counseling/Therapy – A planned, goal-oriented therapeutic interaction between a Qualified Practitioner and the client's family, with or without the client present.

Family Member – Individual identified by the client as a person with whom the client has a significant relationship and whose participation is important to the client's recovery.

Group SUD Counseling/Therapy – A therapeutic service that facilitates disclosure of issues that permit generalization to a larger group; promotes help-seeking and supportive behaviors; encourages productive and positive interpersonal communication; and develops motivation through peer support, structured confrontation, and constructive feedback.

Individual Substance Use Disorder Counseling/Therapy – A face-to-face service with an authorized Qualified Practitioner for symptom and behavior management, development, restoration, or enhancement of adaptive behaviors and skills, and enhancement or maintenance of daily living skills to facilitate long-term recovery.

Initial Plan of Care – The plan of care that is developed in conjunction with the first (non-comprehensive) diagnostic assessment conducted upon entry to a client's first LOC.

In-service Training – Activities undertaken to achieve or improve employees' competency to perform present jobs or to prepare for other jobs or promotions.

Interdisciplinary Team – Members of the SUD provider staff who provide services to the client, including the client, the client's CCC, a CAC, the client's case manager, and at least one QP with the license and ability to diagnose.

Licensed Graduate Professional Counselor (LGPC) – A person licensed as a graduate professional counselor in accordance with Health Occupations

Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)) applicable District laws and regulations. An LGPC is a Qualified Practitioner only for providers not providing services pursuant to a Human Care Agreement with the Department and must be appropriately supervised.

Licensed Graduate Social Worker (LGSW) – A person licensed as a graduate social worker in accordance with applicable District laws and regulations.

Licensed Independent Clinical Social Worker (LICSW) – A person licensed as an independent clinical social worker in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)).

Licensed Independent Social Worker (LISW) – A person licensed as a licensed independent social worker in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)).

Licensed Marriage and Family Therapist (LMFT) – A person licensed as a marriage and family therapist in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)).

Licensed Practical Nurse (LPN) – A person licensed as practical nurse in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)).

Licensed Professional Counselor (LPC) - A professional counselor licensed in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)).

Major Investigations – Refers to the detailed inquiry or systematic examination of deaths related to suicide, unexpected deaths at a facility, death of a child or youth, and any other incident that the Department determines requires a major investigation.

Major Unusual Incidents – Adverse events that can compromise the health, safety, and welfare of persons; employee misconduct; fraud; and actions that are violations of law and policy.

Medicaid – The program described in the District of Columbia State Medicaid Plan, approved by CMS, and administered by the Department of Health

Care (DHCF) to enable the District of Columbia to receive Federal financial assistance for a medical assistance program and other purposes as permitted by law.

Medical Necessity (or Medically Necessary) – Health care services or products that a prudent provider would provide to a client for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is: (a) in accordance with generally accepted standards of health care practice; (b) clinically appropriate in terms of type, frequency, extent, site, and duration; and (c) not primarily for the economic benefit of the health plans and purchasers or for the convenience of the client or treating provider.

Medical Waste – Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or in the testing of biologicals, including but not limited to: soiled or blood-soaked bandages, needles used to give shots or draw blood, and lancets.

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-IV or its ICD-9-CM equivalent (and subsequent revisions) with the exception of DSM-IV "V" codes, substance abuse disorders, mental retardation, and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness.

Notice of Infraction – An action taken by agencies to enforce alleged violations of regulatory provisions.

Opioid – A psychoactive substance in the narcotic class derived from opium, including natural and synthetic compounds. Substances in this class may produce pharmacological effects such as physical withdrawal symptoms when used for non-medicinal purposes.

Organizational onboarding – the mechanism through which new employees acquire the necessary knowledge, skills, and behaviors to become effective performers. It begins with recruitment and includes a series of events, one of which is employee orientation, which helps new employees understand performance expectations and contribute to the success of the organization.

Organized Treatment Services – Treatment that consists of a scheduled series of structured, face-to-face or group therapeutic sessions organized at various levels of intensity and frequency in order to assist the clients served in

achieving the goals identified in the person-centered plans of care. Also may be called structured treatment services.

Outcomes of Care – The results of a course of treatment, including abstinence or reduction of abuse of substances, elimination or reduction of criminal activity, reduction of antisocial activity associated with SUD, reduction in need for medical or mental health services, reduction of need for SUD treatment, increase in pro-social involvement, and increase in productivity and employment.

Outpatient Services – Therapeutic services that are medically or psychologically necessary, provided to a client according to an individualized plan of care, and do not require the client's admission to a hospital or a non-hospital residential facility. The term "outpatient services" refers to services that may be provided (on an ambulatory basis) in a hospital; a non-hospital residential facility; an outpatient treatment facility; or the office of a person licensed to provide SUD treatment services.

Outreach - Efforts to inform and facilitate access to a program's services.

Parent – A person who has custody of a child as a natural parent, stepparent, adopted parent, or has been appointed as a guardian for the child by a court of competent jurisdiction.

Plan of Care Development – Developing a comprehensive set of staged, integrated program placements and treatment interventions for each disorder that is adjusted as needed to take into account issues related to the other disorder. The plan is matched to the individual needs, readiness, preferences, and personal goals of the client.

Plan of Care – The individualized plan of care for children and youth or adults, which is the result of the Diagnostic/Assessment. All services must be guided by a valid Plan of Care. The Plan of Care includes the client’s treatment goals, strengths, challenges, objectives, and interventions. The Plan of Care is based on the client’s identified needs as reflected by the Diagnostic/Assessment, the client’s expressed needs, and referral information.

Postpartum – A period of time for up to twenty-four (24) months after birth of an infant.

Privacy Officer – A person designated by an organization that routinely handles protected health information, to develop, implement, and oversee the organization's compliance with the U.S. Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 42 CFR part 2, and D.C. Mental Health Information Act.

Program – An SUD Treatment or Recovery Program certified by the Department at a specific Level of Care to provide substance use treatment or recovery services.

Program Director – An individual having authority and responsibility for the day-to-day operation of an SUD treatment or recovery program.

Protected Health Information (PHI) – Any written, recorded, electronic (ePHI), or oral information which either (1) identifies, or could be used to identify, a client; or (2) relates to the physical or mental health or condition of a client, provision of health care to a client, or payment for health care provided to a client. PHI does not include information in the records listed in 45 CFR § 160.103.

Provider – An entity certified by the Department to provide either SUD treatment or recovery support services or both.

Psychiatrist – A physician who has completed all training in a program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, approved by the American Board of Psychiatry and Neurology, Inc., or is board certified in psychiatry. A psychiatrist is a qualified practitioner.

Psychologist – A person licensed to practice psychology in accordance with applicable District laws and regulations. A psychologist is a Qualified Practitioner.

Qualified Physician – A person who is licensed or authorized to practice medicine pursuant to Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)) and eligible for a waiver pursuant to the federal Drug Addiction Treatment Act of 2000 or subsequent amendments.

Qualified Practitioner (QP) – Clinical staff authorized to provide treatment and other services based on their license and the definition of the service.

Recovery Support Plan – A document developed during a Recovery Support Evaluation that outlines the client's needs, goals, and recovery services to be utilized to achieve those goals. The Recovery Support plan assists a person in recovery to develop goals and objectives to maintain their sobriety in the community with supports from family, community and recovery support programs.

Recovery Support Services – Non-clinical services provided to a client by a certified RSS provider to assist him or her in achieving or sustaining recovery from an SUD.

Registered Nurse (RN) – A person licensed as a registered nurse in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*. (2016 Repl. & 2018 Supp.)). An RN is a Qualified Practitioner.

Representative Payee – An individual or organization appointed by the Social Security Administration to receive Social Security or Supplemental Security Income (SSI) benefits for someone who cannot manage or direct someone else to manage his or her money.

Research – Experiments including new interventions of unknown efficacy applied to clients whether behavioral, psychological, biomedical, or pharmacological.

Residential Program – Any treatment or recovery program which houses clients overnight, including Level III treatment programs and environmental stability programs.

Screening – Determines the likelihood that a client has co-occurring substance use and mental disorders or that his or her presenting signs, symptoms, or behaviors may be influenced by co-occurring issues. The purpose is not to establish the presence or specific type of such a disorder, but to establish the need for an in-depth assessment. Screening is a formal process that typically is brief and occurs soon after the client presents for services.

Substance Use Disorder (SUD) – A chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the beneficiary continues using a substance despite significant substance-related problems. A diagnosis of a SUD requires a beneficiary to have had persistent, substance related problem(s) within a twelve (12)-month period.

Treatment – A therapeutic effort to improve a client's cognitive or emotional conditions or the behavior of a client, consistent with generally recognized principles or standards in the SUD treatment field, provided or supervised by a Qualified Practitioner.

Trained medication employee (TME) – an individual employed to work in a program who has successfully completed a training program approved by the Board of Nursing and is certified to administer medication to program participants.

Withdrawal Management – A program designed to achieve systematic reduction in the degree of physical dependence on alcohol or drugs.

Comments on these rules should be submitted in writing to James Wotring, Senior Deputy Director, Department of Behavioral Health, Government of the District of Columbia, 64 New York Ave, N.W., Third Floor, Washington D.C. 20002, via telephone at (202) 673-2200, via email at DBHpubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-068
July 24, 2019

SUBJECT: Appointments — Green Finance Authority Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), in accordance with section 203 of the Green Finance Authority Establishment Act of 2018, effective August 22, 2018, D.C. Law 22-155; D.C. Official Code § 8-173.23 (65 DCR 7159), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142; D.C. Official Code § 1-523.01 (2016 Repl. and 2018 Supp.), it is hereby **ORDERED** that:

1. **BRANDI COLANDER**, pursuant to the Green Finance Authority Board Brandi Colander Confirmation Resolution of 2019, effective June 4, 2019, Resolution 23-0118, is appointed as a financial, project development, or legal expertise in clean energy, clean infrastructure, clean transportation, stormwater management, or green infrastructure member of the Green Finance Authority Board, for a term to end April 1, 2022.

2. **BRUNO FERNANDES** is appointed to the Green Finance Authority Board, as the designee for the Director of the Office of the Chief Financial Officer, and shall serve in that capacity at the pleasure of the Mayor.

3. **EDWARD HUBBARD**, pursuant to the Green Finance Authority Board Edward Hubbard Confirmation Resolution of 2019, effective June 4, 2019, Resolution 23-0120, is appointed as a financial, project development, or legal expertise in clean energy, clean infrastructure, clean transportation, stormwater management, or green infrastructure member of the Green Finance Authority Board, for a term to end April 1, 2022.

4. **HANNAH HAWKINS**, pursuant to the Green Finance Authority Board Hannah Hawkins Confirmation Resolution of 2019, effective June 4, 2019, Resolution 23-0119, is appointed as a financial, project development, or legal expertise in clean energy, clean infrastructure, clean transportation, stormwater management, or green infrastructure member of the Green Finance Authority Board, for a term to end April 1, 2021.

5. **PRIYA JAYACHANDRAN**, pursuant to the Green Finance Authority Board Priya Jayachandran Confirmation Resolution of 2019, effective July 9, 2019, Resolution 23-0170, is appointed as a member with experience in affordable housing or community development member of the Green Finance Authority Board, for a term to end April 1, 2020.

6. **JONATHAN KAYNE** is appointed to the Green Finance Authority Board, as the Director of the Office of Public and Private Partnerships, and shall serve in that capacity at the pleasure of the Mayor.

7. **TODD MONASH**, pursuant to the Green Finance Authority Board Todd Monash Confirmation Resolution of 2019, effective July 9, 2019, Resolution 23-0171, is appointed as a member with experience at a financial institution operating within the District member of the Green Finance Authority Board, for a term to end April 1, 2021.

8. **RICARDO NOGUEIRA**, pursuant to the Green Finance Authority Board Ricardo Nogueira Confirmation Resolution of 2019, effective July 9, 2019, Resolution 23-0172, is appointed as a member with experience at a financial institution operating within the District member of the Green Finance Authority Board, for a term to end April 1, 2021.

9. **TOMMY WELLS** is appointed to the Green Finance Authority Board, as the Director of the Department of Energy and the Environment, and shall serve in that capacity at the pleasure of the Mayor.

10. **KARIMA WOODS** is appointed to the Green Finance Authority Board, as the designee for the Deputy Mayor for Planning and Economic Development, and shall serve in that capacity at the pleasure of the Mayor.

11. **BRANDI COLANDER**, is appointed as chair of the Green Finance Authority Board of Directors.

12. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to the date of confirmation.

MURIEL BOWSER
MAYOR

ATTEST: _____
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-069
July 26, 2019

SUBJECT: Reappointments — District of Columbia Workforce Investment Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2016-086, dated June 2, 2016, it is hereby **ORDERED** that:

1. The following persons are reappointed to the Workforce Investment Council (**WIC**), for a term to end June 23, 2022:

   a. **STEVEN BONEY** as an at-large representative from District industry sectors member.
   b. **ANGELA FRANCO** as a representative of the business organization sector member.
   c. **MICHAEL MAXWELL** as a representative of owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policy-making or hiring authority member.

2. The following persons are reappointed as a representative of the information technology sector members to the WIC, for a term to end June 23, 2022:

   a. **LATARA HARRIS**
   b. **ANTWANYE FORD**
   c. **DARRYL WIGGINS**

3. **EFFECTIVE DATE:** This order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: _____
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-070
July 29, 2019

SUBJECT: Delegation – Authority to the Director of the Mayor's Office on Volunteerism - Serve DC to Announce and Support the 2nd National Maternal and Infant Health Summit

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to sections 422(6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) (2016 Repl.), and 6B DCMR § 1805.10, it is hereby **ORDERED** that:

1. The Director of The Mayor's Office on Volunteerism - Serve DC ("**Director**") is delegated the authority of the Mayor to announce and support the upcoming 2nd National Maternal and Infant Health Summit, including the authority to solicit donations to the Congressional Black Caucus Foundation to support the event.

2. The Director may further delegate this authority.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST:
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, AUGUST 7, 2019
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members: Mike Silverstein,
James Short, Bobby Cato, Rema Wahabzadah, Rafi A. Crockett

Protest Hearing (Status) **9:30 AM**
Case # 19-PRO-00078; District Soul Food Restaurant & Lounge, LLC, t/a District Soul Food & Lounge, 500 8th Street SE, License #112072, Retailer CR ANC 6B
Application to Renew the License
This hearing is continued to September 18, 2019 at 9:30 am., at the request of the ANC; the Licensee consents.

Protest Hearing (Status) **9:30 AM**
Case # 19-PRO-00033; GF, LLC, t/a Il Canale, 1063 31st Street NW, License #83707, Retailer CR, ANC 2E
Application to Renew the License

Protest Hearing (Status) **9:30 AM**
Case # 19-PRO-00082; Union Kitchen, LLC, t/a Union Kitchen Grocery, 1924 8th Street NW, License #112898, Retailer DR, ANC 1B
Application for a New License

Fact Finding Hearing **9:30 AM**
Case # 19-CMP-00085; John, LLC, t/a Toni's Market, 5319 East Capitol Street SE, License #102043, Retailer B, ANC 7E
Multiple Violations of the Settlement Agreement

Show Cause Hearing* **10:00 AM**
Case # 18-251-00219 and # 18-CMP-00208; 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 Maintain Ownership and Control of the Establishment, Failed to Follow Security Plan (Two Counts), Allowed a Patron to leave the

Board's Calendar
August 7, 2019
Establishment with an Alcoholic Beverage in an Open Container, Violation of Settlement Agreement

BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA
1:00 PM

Show Cause Hearing* **1:30 PM**
Case # 19-251-00032; Kiss, LLC, t/a Kiss Tavern, 637 T Street NW, License #104710, Retailer CT, ANC 1B
Operating After Hours, Failed to Carry or Refused to show Valid Identification, The Licensee or ABC Manager was under the Influence of Alcohol, Interfered with an Investigation, Violation of Settlement Agreement, Security Plan or Board Order No. (2017-169)

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, AUGUST 7, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On Wednesday, August 7, 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".

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1. Case# 19-AUD-00054, Absolute Noodle, 772 5th N.W., Retailer CR, License # ABRA-090241

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2. Case# 19-AUD-00056, Lavagna, 539 8th Street S.E., Retailer CR, License # ABRA-086529

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3. Case# 19-CC-00085, Hyatt Regency Washington, 400 New Jersey Avenue N.W., Retailer CH, License # ABRA-075037

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4. Case# 19-CMP-000104, Kitty O'Shea's DC, 4624 Wisconsin Avenue N.W., Retailer CR, License # ABRA-090464

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5. Case# 19-CC-00090, Mackey's, 1310 G Street N.W., Retailer CT, License # ABRA-079786

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6. Case# 19-CC-00087, Hard Rock Café, 999E Street N.W., Retailer, CR, License # ABRA-014130

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7. Case# 19-CMP-00094, 1942 DC, 1942 9th Street N.W., Retailer, License # ABRA-070728

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8. Case# 19-AUD-00057, Golden Paradise Restaurant, 3903 14th Street N.W., Retailer CR, License # ABRA-098205

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9. Case# 19-CMP-00098, Best 1 Liquor, 322 Florida Avenue, Retailer A, License # ABRA-109545

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10. Case# 19-CMP-00099, Seven Seas Restaurant, 5915 Georgia Avenue N.W., Retailer CR, License # ABRA-000654

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11. Case# 19-CMP-00101, Giant Barbecue Battle, 555 Pennsylvania Avenue N.W., One Temporary License Class F, License # ABRA-113678

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12. Case# 19-CC-00095, Kovak's Liquors, 1237 Mount Olivet Road N.E., Retailer A, License # ABRA-106551

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13. Case# 19-251-00107, My Canton Restaurant, 1772 Columbia Road N.W., Retailer CR, License # ABRA-075479

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14. Case# 19-251-00115, Lucy Bar and Restaurant/Déjà vu Lounge, 900 Florida Avenue N.W., Retailer CR, License # ABRA-110186

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15. Case# 19-251-00105, The Fireplace, 2161 P Street N.W., Retailer CT, License # ABRA-014419

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, AUGUST 7, 2019 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 1A. SMD 1A06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Meridian Pint***, 3400 11th Street NW, Retailer CT, License No. 080606.

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2. Review Application for Safekeeping of License – Original Request. ANC 1A. SMD 1A06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Joint Chiefs,*** 3400 11th Street NW, Retailer CT, License No. 083926.

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3. Review Application for Safekeeping of License – Original Request. ANC 1B. SMD 1B01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Columbia Lodge #85 I.B.P.O.E. of W,*** 1844 3rd Street NW, Retailer C Club, License No. 000237.

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4. Review Application for Safekeeping of License – Original Request. ANC 6C. SMD 6C02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***La Loma***, 316 Massachusetts Avenue NE, Retailer CR, License No. 026051.

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5. Review Application for Transfer to a New Location. The application was previously dismissed and reinstatement was denied. ANC 6A. SMD 6A02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Smokin' Pig (Formerly ToucheLive)***, 1123 H Street NE, Retailer CT, License No. 104866.

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6. Review Application to Transfer license currently in Safekeeping status. ANC 8C. SMD 8C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***TBD (Zenebe Shewayene)/Smily Mart***, 3109 Martin Luther King Jr Avenue SE, Retailer B, License No.100620/114578.

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7. Review Application for Change of Hours of operation, alcoholic beverage sales, and entertainment. ***Approved Hours of Operation:*** Sunday-Thursday 8am to 1am, Friday-Saturday 8am to 2am. ***Approved Hours of Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 11am to 1am, Friday-Saturday 11am to 2am. ***Approved Hours of Live Entertainment:*** Sunday-Thursday 4pm to 1am, Friday-Saturday 4pm to 2am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ***Proposed Hours of Live Entertainment:*** Sunday-Thursday 4pm to 2am, Friday-Saturday 4pm to 3am. ANC 1B. SMD 1B01. The Establishment has a pending Show Cause Hearing. No conflict with Settlement Agreement. ***Kiss Tavern***, 637 T Street NW, Retailer CT, License No. 104710.

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8. Review Application for Change of Hours to open earlier indoors and outdoors. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption Inside Premises:*** Sunday-Thursday 9am to 2am, Friday-Saturday 9am to 3am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption Inside Premises:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption For Sidewalk Café:*** Sunday-Saturday 11am to 12am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption For Sidewalk Café:*** Sunday-Saturday 8am to 12am. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Mackey's***, 1310 G Street NW, Retailer CT, License No. 079786.

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9. Review Application for Change of Hours for Entertainment Endorsement. ***Approved Hours of Live Entertainment:*** Sunday-Saturday 7pm to 12am. ***Proposed Hours of Live Entertainment:*** Sunday-Saturday 7pm to 3am. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Spin***, 1332 F Street NW, Retailer CT, License No. 107858.

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10. Review request to add Cover Charge and Dancing to existing Entertainment Endorsement. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Spin***, 1332 F Street NW, Retailer CT, License No. 107858.

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11. Review Application for Tasting Permit. ANC 5D. SMD 5D02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Kovak Liquors***, 1237 Mount Olivet Road NE, Retailer A Liquor Store, License No. 106551.

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12. Review request for approval to provide a gift of a kettle grill UBUL00195 that does not exceed $500 in value to various licensed DC Retailers. ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Breakthru Beverage,*** 2800 V Street NE, Wholesaler A, License No. 060518.

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13. Review request for approval to provide a gift of 6 Tito's patio umbrellas that does not exceed $500 in value to The Brighton (ABRA-105932) and The Brig (ABRA-085710). ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Breakthru Beverage,*** 2800 V Street NE, Wholesaler A, License No. 060518.

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14. Review request for approval to provide a gift of one bottle presenter that does not exceed $500 in value to various licensed DC Retailers. ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Breakthru Beverage,*** 2800 V Street NE, Wholesaler A, License No. 060518.

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15. Review request for approval to provide a gift of one lit bucket that does not exceed $500 in value to various licensed DC Retailers. ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Breakthru Beverage,*** 2800 V Street NE, Wholesaler A, License No. 060518.

***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.**

BASIS DC PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Special Education Instructional & Related Services
BDC-2019/2020

Basis DC, A public Charter School is advertising the opportunity to submit proposals for Special Education Instructional & Related Services for children enrolled at the school for the 2019-2020 school year with a possible extension of (4) one year renewals. Proposals will be accepted at 410 8th Street NW, Washington, DC 20004 on August 30, 2019, no later than 3:00pm.

Proposals received after 3pm on posted date will not be considered.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FUNDING AVAILABILITY
RFA No. RM0 DCOR 071219

Amended July 22, 2019: Eligibility Requirements, Competition #2, Line a.

District of Columbia Opioid Response (DCOR) Grant Opportunities

Purpose/Description of Project

As a part of the District's opioid response strategy, LIVE. LONG. DC., which has an overarching goal to reduce opioid-related deaths 50% by 2020, the DC Department of Behavioral Health (DBH) is seeking to use District of Columbia Opioid Response (DCOR) grant funds to build a comprehensive system of care for residents with opioid use disorder (OUD) throughout the District. The forthcoming request for applications (RFA) will identify a range of opportunities across the continuum of care from prevention through treatment and recovery. DBH is requesting applications from eligible organizations for three (3) different competitions funded under the DCOR initiative.

Eligibility Requirements

Applicable for all competitions:

A not-for profit organization located in the District of Columbia (DC) and licensed by the DC Department of Consumer and Regulatory Affairs (DCRA) to conduct business.

Specific eligibility requirements by competition outlined below:

1. **Competition #1**: Integrated Medication-Assisted Treatment (MAT) for Co-occurring Conditions (**Integrated MAT**)
    a. At least two years working with individuals with human immunodeficiency virus (HIV), hepatitis C virus (HCV) and/or OUD.
    b. If the applicant currently provides HIV and HCV services, a partnership with an internal or external clinician providing MAT is also required. Or, if the applicant is a MAT provider, a partnership with an internal or external provider for HIV/HCV services is required. If an external partnership is part of your application, a letter of commitment from the partner organization(s) is required.

2. **Competition #2:** Certified Addiction Counselor (CAC) Workforce Development Program (**CAC Program**)
    a. At least two years of experience working with populations with OUD in DC **as a behavioral health or SUD provider**.
    b. Have supervisors for interns on staff who hold at least one of the following licenses: advanced practice addiction counselor, licensed professional counselor, licensed clinical psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed medical doctor, and/or registered nurse.

3. **Competition #3**: DC Peer Organized Activities Supporting Individuals with OUD and Providing Awareness about Opioid Misuse (**Peer Activities**)
    a. Have a leadership team with lived experience in the behavioral health system.

Implementation Requirements
Each competition has specific implementation requirements. Please reference the forthcoming RFA for details.

Length of Award
The length of award for all competitions included in the forthcoming RFA will be October 1, 2019 – September 29, 2020.

Available Funding
Total available funding: $1,020,000
Funding by competition:

1. **Competition #1**: Integrated MAT – Approximately $390,000 is available to fund up to three (3) grant awards. Each grant award is a minimum of $130,000.

2. **Competition #2**: CAC Program – Approximately $480,000 is available to fund up to four (4) grant awards. Each grant award is $120,000.00.

3. **Competition #3**: Peer Activities – Approximately $150,000 is available to fund up to five (5) grant awards. Interested parties can apply for only one award. Each award is $30,000.

Anticipated Number of Awards
Total anticipated number of awards: 12

1. **Competition #1**: Integrated MAT – three (3) awards

2. **Competition #2**: CAC Program – four (4) awards

3. **Competition #3**: Peer Activities – five (5) awards

APPLYING TO MULTIPLE COMPETITIONS: An organization applying to multiple competitions must submit a separate application for each competition. Applications may not be combined.

DBH anticipates announcing award recipients in September 2019.

Request for Application (RFA) Release Date
The RFA was released Friday, July 12, 2019. The RFA is posted on the DBH website, www.dbh.dc.gov under Opportunities, Request for Applications, and on the website of the Office of Partnerships and Grants, www.opgs.dc.gov, under the District Grants Clearinghouse. A copy of the RFA may be obtained at DBH from Daijon Wilburn or Jacqueline Murphy, 64 New York Avenue, NE, 3rd Floor, Washington, DC 20002; (202) 671-2792 or (202)

727-9479

Pre-Application Conference Information
Date and Time: Wednesday, July 17, 2019, 1:00 p.m. – 4:00 p.m. *

1. **Competition #1**: Integrated MAT – 1:00 p.m. – 2:00 p.m.

2. **Competition #2**: CAC Program – 2:00 p.m. – 3:00 p.m.

3. **Competition #3**: Peer Activities – 3:00 p.m. – 4:00 p.m.

Location:
64 New York Avenue, NE
DBH Training Room – Room 242
Washington, DC 20002

*If you are interested in attending the meeting via conference call or webinar, please email Kelly Murphy at kelly.murphy@dc.gov.

Deadline for Applications
Monday, August 5, 2019 at 4:45 p.m. ET

All applications must be submitted no later than 4:45 p.m. Eastern Time (ET) by the deadline date of Monday, August 5, 2019, to DBH c/o Daijon Wilburn or Jacqueline Murphy, 64 New York Avenue, NE, 3rd Floor, Washington, DC 20002; (202) 671-2792 or (202) 727-9479.

Applications received at or after 4:46 p.m. ET on Monday, August 5, 2019 will not be forwarded to the Review Panel for review and funding recommendation.

Points of Contact
For inquiries, please contact:
- Kelly Murphy, Project Director, State Opioid Response at kelly.murphy@dc.gov
- Orlando Barker, Project Coordinator, State Opioid Response at orlando.barker@dc.gov

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FUNDING AVAILABILITY
RFA No. RM0 DCOR 080219

District of Columbia Opioid Response (DCOR) Grant Opportunities, Part 2

Purpose/Description of Project

As a part of the District's opioid response strategy, LIVE. LONG. DC., which has an overarching goal to reduce opioid-related deaths 50% by 2020, the DC Department of Behavioral Health (DBH) is seeking to use District of Columbia Opioid Response (DCOR) grant funds to build a comprehensive system of care for residents with opioid use disorder (OUD) throughout the District. The forthcoming request for applications (RFA) will identify a range of opportunities across the continuum of care from prevention through treatment and recovery. DBH is requesting applications from eligible organizations for five (5) different competitions funded under the DCOR initiative.

Eligibility Requirements

Applicable for all competitions:

a. A not-for profit organization located in the District of Columbia (DC) and licensed by the DC Department of Consumer and Regulatory Affairs (DCRA) to conduct business.
b. Ability to enter into an agreement with DBH requiring compliance with all District of Columbia laws and regulations governing Substance Use Disorders and Mental Health Grants (including, but not limited to, 22-A DCMR Chapter 44).

Specific eligibility requirements by competition outlined below:

1. **Competition #1**: Hospital Crisis Stabilization for Individuals with OUD (**Hospital OUD Crisis Beds**)
    a. Not-for-profit hospitals in the District of Columbia.

2. **Competition #2**: Hospital Inpatient Peer Services and Supports for Individuals with Opioid Use Disorder (**Hospital Inpatient Peer Support**)
    a. At least two (2) years demonstrated experience in implementing OUD treatment or recovery support services;
    b. Provide proof (i.e., letter of commitment or memorandum of understanding) that the organization has a formal affiliation with seven (7) local hospitals.

3. **Competition #3**: Peer Follow Up for Non-Overdose Patients Discharged from Emergency Departments or Hospital Inpatient Units (**Peer Follow Up for OUD Discharges**)
    a. At least two (2) years demonstrated experience in implementing OUD treatment or recovery support services;
    b. Provide proof (i.e., letter of commitment or memorandum of understanding) that the organization has a formal affiliation with seven (7) local hospitals.

4. **Competition #4:** Outreach and Care Management for Individuals with an Opioid Use Disorder who are Experiencing Homelessness (**OUD Street Outreach**)
    a. At least two (2) years of experience working with individuals experiencing homelessness in the District of Columbia.
    b. At least two (2) years of experience working with the Homeless Management Information System (HMIS) in the District of Columbia.

5. **Competition #5:** DC Opioid Response Prevention Grant for Ward 3 (**DCOR Prevention**)
    a. Has two (2) years demonstrated experience implementing evidence-based prevention activities.
    b. Has not received another DC Opioid Response Prevention Grant.

Implementation Requirements
Each competition has specific implementation requirements. Please reference the forthcoming RFA for details.

Length of Award
The length of award for all competitions included in the forthcoming RFA will be October 1, 2019 – September 29, 2020.

Available Funding
Total available funding: $3,343,940
Funding by competition:

1. **Competition #1**: OUD Crisis Beds – Approximately $480,000 is available to fund up to three (3) grant awards. Each grant award is a minimum of $160,000.

2. **Competition #2**: Hospital Inpatient Peer Support – Approximately $872,625 is available to fund up to one (1) grant award.

3. **Competition #3**: Peer Follow Up for OUD Discharges – Approximately $436,315 is available to fund up to one (1) grant award.

4. **Competition #4**: OUD Street Outreach – Approximately $1,455,000 is available to fund up to three (3) grant awards with the goal of covering all eight Wards in the District. Each grant award will be a minimum of $485,000.

5. **Competition #5**: DCOR Prevention Ward 3– Approximately $100,000 is available to fund up to one (1) grant award.

Anticipated Number of Awards
Total anticipated number of awards: 9

1. **Competition #1:** Hospital OUD Crisis Beds – 3 awards
2. **Competition #2:** Hospital Inpatient Peer Support – 1 award
3. **Competition #3:** Peer Follow-Up for OUD Discharges – 1 award
4. **Competition #4:** OUD Street Outreach – 3 awards

5. **Competition #5:** DCOR Prevention Ward 3 – 1 award

APPLYING TO MULTIPLE COMPETITIONS: An organization applying to multiple competitions must submit a separate application for each competition. Applications may not be combined.

DBH anticipates announcing award recipients in September 2019.

Request for Application (RFA) Release Date
The RFA will be released Friday, August 2, 2019. The RFA will be posted on the DBH website, www.dbh.dc.gov under Opportunities, Request for Applications, and on the website of the Office of Partnerships and Grants, www.opgs.dc.gov, under the District Grants Clearinghouse. A copy of the RFA may be obtained at DBH from Daijon Wilburn or Jacqueline Murphy, 64 New York Avenue, NE, 3rd Floor, Washington, DC 20002; (202) 671-2792 or (202) 727-9479.

Pre-Application Conference Information
Date and Time: Friday, August 9, 2019, 12:00 p.m. – 5:00 p.m. *

1. **Competition #1:** Hospital OUD Crisis Beds – 12:00 p.m.
2. **Competition #2:** Hospital Inpatient Care – 1:00 p.m.
3. **Competition #3:** Peer Follow-Up for OUD Discharges – 2:00 p.m.
4. **Competition #4:** OUD Street Outreach – 3:00 p.m**.**
5. **Competition #5:** DCOR Prevention Ward 3 – 4:00 p.m.

Location:
64 New York Avenue, NE
DBH Training Room – Room 242
Washington, DC 20002

*If you are interested in attending the meeting via conference call or webinar, please email Orlando Barker at orlando.barker@dc.gov.

Deadline for Applications
Friday, August 30, 2019 at 4:00 p.m. ET

All applications must be submitted no later than 4:00 p.m. Eastern Time (ET) by the deadline date of Friday, August 30, 2019, to DBH c/o Daijon Wilburn or Jacqueline Murphy, 64 New York Avenue, NE, 3rd Floor, Washington, DC 20002; (202) 671-2792 or (202) 727-9479.

Applications received at or after 4:01 p.m. ET on Friday, August 30, 2019 will not be forwarded to the Review Panel for review and funding recommendation.

Points of Contact
For inquiries, please contact:
- Orlando Barker, Project Coordinator, State Opioid Response at orlando.barker@dc.gov
- Arielle Brock, Prevention Specialist, State Opioid Response at arielle.brock@dc.gov

CEDAR TREE ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

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

1. **Copiers**
2. **Payroll, Time & Attendance Services**

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

Cedar Tree Academy will receive bids until Friday, August 16, 2019, no later than 4:00PM.

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING
COMMISSION ON OUT OF SCHOOL TIME GRANTS AND YOUTH OUTCOMES

Commission on Out of School Time Grants and Youth Outcomes (OST Commission) Public Meeting
Washington, DC – The OST Commission will hold a public meeting on Thursday, August 8, 2019 from 6:30 pm to 8:00 pm at One Judiciary Square, 441 4th Street NW, Room 1107 South. The OST Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes (OST Office) and present the OST Strategic Plan for a Public Vote. Finally, the Commission will hear updates from the OST Commission's standing committees.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 481-3932 or by email at learn24@dc.gov. Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Tuesday, August 6th at 5:00 pm.

Below is the draft agenda for the meeting.

I. Call to Order
II. Public Comment
III. Announcement of a Quorum
IV. Approval of the Agenda
V. Approval of Minutes
VI. Updates: Office of Out of School Time Grants and Youth Outcomes
VII. Public Vote on Strategic Plan
VIII. Needs Assessment Committee Update
IX. Adjournment

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

Date: August 8, 2019
Time: 6:30 p.m. – 8:00 p.m.
Location: One Judiciary Square
Room 1107 South
441 4th Street, NW
Washington, DC 20001
Contact: Debra Eichenbaum
Grants Management Specialist
Office of Out of School Time Grants and Youth Outcomes
Office of the Deputy Mayor for Education
(202) 478-5913
Debra.eichenbaum@dc.gov

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there are vacancies in four (4) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1B07, 3F07, 4A05 and 7F07

Petition Circulation Period: **Monday, August 5, 2019 thru Monday, August 26, 2019**
Petition Challenge Period: **Thursday, August 29, 2019 thru Wednesday, September 4, 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, Suite 750
Washington, DC 20003

For more information, the public may call **727-2525**.

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue permits (Nos. 6344-R1 and 6345-R1) to the National Archives and Records Administration to operate two 75 kWe natural gas-fired generators at 700 Pennsylvania Avenue NW, Washington, DC, and located in the south basement boiler room of the facility. The units are to be operated as part of a combined heat and power system that also includes six (6) permit-exempt natural gas-fired boilers rated at 2 MMBtu/hr heat input. The contact person for the facility is Timothy Edwards, Facility Manager, at (202) 357-5315.

The following generators are to be permitted:

Equipment Location Address	Equipment Name	Unit Identification	Engine Serial Number	Generator Output (kWe)	Permit Number
South Basement Boiler Room 700 Pennsylvania Ave. NW Washington, DC	AEG #138	Cogen #1	00069483	75	6344-R1
South Basement Boiler Room 700 Pennsylvania Ave. NW Washington, DC	AEG #139	Cogen #2	00076280	75	6345-R1

The proposed emission limits are as follows:

a. Emissions from this unit shall not exceed those in the following table [40 CFR 60.4233(e) and Subpart JJJJ, Table 1]:

Pollutant Emission Limits[1]					
(g/HP-hr)			ppmvd at 15% O_2		
NOx	CO	VOC[2]	NOx	CO	VOC[2]
2.0	4.0	1.0	160	540	86

[1]The Permittee may choose to comply with the emission standards in this table in units of either g/HP-hr or ppmvd at 15 percent O_2.
[2]For purposes of this requirement, when calculating emissions of VOCs, emissions of formaldehyde should not be included.

b. Visible emissions shall not be emitted into the outdoor atmosphere from the generators, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the

public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions from each of the two units are as follows:

Pollutant	**Maximum Annual Emissions (tons/yr)**
PM (Total)	0.00032
SO_x	0.00024
NO_x	0.49
VOC	0.07
CO	1.28

The applications to operate the generators and the draft renewal permits and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permits.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after September 3, 2019 will be accepted.

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

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Social Work ("Board") hereby gives notice of a cancellation of a regular meeting and a special meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

The Board will take a recess in August and will therefore not meet on Monday, August 26, 2019. The monthly meeting will resume on Monday, September 23, 2019, from 10:00 AM to 1:00 PM. The meeting will be open to the public from 10:00 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 10:30 AM to 1:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The Board regularly meet monthly on the fourth Monday of each month.

The meetings will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at http://doh.dc.gov/events for additional information.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

Consolidated Request for Proposals

The Department of Housing and Community Development (DHCD), announced a Notice of Funding Availability (NOFA) for awards of housing tax credits under the 9% Low Income Housing Tax Credit (LIHTC) program, funding under the Housing Production Trust Fund (HPTF) program, the Community Development Block Grant (CDBG) program, HOME Investment Partnerships (HOME) program, the National Housing Trust Fund (NHTF) program, the Department of Behavioral Health (DBH) funds administered by DHCD, the District of Columbia Housing Authority (DCHA) Local Rent Supplement Program (LRSP) and Annual Contributions Contract Program (ACC), and the Department of Human Services (DHS) supportive services funds for Permanent Supportive Housing.

On June 28, 2019, DHCD issued a Consolidated Request for Proposals (RFP) for real estate development projects that produce or preserve affordable housing in the District of Columbia and that require gap financing.

AFFORDABLE HOUSING CAPITAL SUBSIDY (DHCD and DBH)
DHCD is accepting requests for competitive 9% LIHTC and gap financing (multiple federal and local funding sources available) for projects that produce or preserve affordable housing, as described in detail in the RFP.

OPERATING SUBSIDY (DCHA)
The District of Columbia Housing Authority will accept requests for LRSP and ACC funds to provide project-based rental subsidies to housing units for qualified persons or households.

SUPPORTIVE SERVICES (DHS)
The Department of Human Services is accepting funding requests from community based organizations to deliver intensive supportive services to single adult and family participants (who are chronically homeless, vulnerable, and face significant barriers to achieving self-sufficiency) in permanent supportive housing programs/projects funded through this NOFA.

The Consolidated Request for Proposals (RFP) was released on Friday June 28, 2019 and applications responding to the RFP are due at 11:59am on Wednesday, September 18, 2019.

Application materials, further instructions, application fee information, and information about the RFP orientation session are available online at www.dhcd.dc.gov, as well as the entire application and submission process. No hard copy submissions will be required or accepted.

Muriel Bowser, Mayor of the District of Columbia
John Falcicchio, Interim Deputy Mayor for Planning and Economic Development
Polly Donaldson, Director, Department of Housing and Community Development

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

HOUSING PRESERVATION FUND

Polly Donaldson, Director, DC Department of Housing and Community Development (DHCD) announces a Notice of Funding Availability (NOFA). The funds for this NOFA are being released based on the availability of FY 2020 budget funds.

DHCD invites applications from fund managers capable of structuring, administering, funding and managing a public-private fund in Washington, D.C. to receive and leverage the available Preservation Fund resources of the District and use them to increase the preservation of affordable housing in Washington, DC. Grant funding will be provided to one or more organizations to serve as fund manager of the Housing Preservation Fund FY 2020 funds.

The Grantee duties include but are not limited to 1) leverage public funds with private and or philanthropic funds to provide loans to borrowers for eligible activities; 2) market, underwrite, originate and service the preservation loans; 3) ensure compliance with the terms of the Housing Preservation Fund; and 4) coordinate monthly with DCHD on the use of the Housing Preservation Fund. The goal of the Housing Preservation Fund is to preserve 100% of the federally and city-assisted affordable rental properties in the District.

The competitive Request for Applications (RFA) under this NOFA will be released on the DHCD website, www.dhcd.dc.gov, on or about August 2, 2019. Completed applications for the Housing Preservation Fund must be submitted electronically on or before October 1st, 2019.

No applications will be accepted after the submission deadline.

For more information on this announcement, please contact the Housing Preservation Officer at ana.vanbalen@dc.gov or by calling 202-442-8392.

RICHARD WRIGHT PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS (RFP)

Richard Wright Public Charter School seeks bids for SY19-20 these following areas:

- **Instructional Coach (Contractor)**
- **Commercial Cleaning Supplies**

For questions and a copy of the full RFP please email aroberts@richardwrightpcs.org.

Bids must be received by 3pm Friday, August 16, 2019 via email to Alisha Roberts at aroberts@richardwrghtpcs.org or mailed to the following address:

Richard Wright PCS
ATTN: Alisha Roberts
770 M Street SE
Washington, DC 20003

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after September 1, 2019.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on August 2, 2019. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

Acors-Pierce	Deborah Karen	United States Postal Service 475 L'Enfant Plaza, SW, Room 6307	20260
Allen	Brittney M.	Schagrin Associates 900 7th Street, NW, Suite 500	20001
Allen	Vikki Ann	Department of Behavioral Health/Saint Elizabeths Hospital 1100 Alabama Avenue, SE	20032
Arthur	Sophia I.	Akridge 601 13th Street, NW, Suite 300 North	20005
Banks	Bryant E.	SunTrust Bank 100 M Street, NW	20003
Beattie	John D.	Bradley 1615 L Street, NW, #1350	20036
Bishop	Claire Garland	Picard Kentz & Rowe, LLP 1750 K Street, NW	20006
Brathwaite	Kimi	Alignstaffing 111 K Street, NE	20002
Brown	Sharon L.	Williams & Connolly 725 12th Street, NW	20005
Brown-Curtis	Amye	Consumer Financial Protection Bureau 1700 G Street, NW	20552
Bulcha	Ebenezer	The Carlyle Group 1001 Pennsylvania Avenue, NW	20004
Clark-Smith	Wanda	Spectrum Science Communications 2001 Pennsylvania Avenue, NW, Suite 200	20006
Clarke	Kellye Curtis	RGS Title 4400 Jenifer Street, NW, Suite 260	20015

Contee	Beverly Smith	AFSCME 1101 17th Street, NW, Suite 900	20036
Costa	Nicolas Emanuel	JP Morgan Chase Bank 601 Pennsylvania Avenue, NW	20004
Cumberbatch	Rainea	Self 2719 Fort Baker Drive, SE, #2	20020
Cunningham	Cindy L.	Department of Energy 1000 Independence Avenue, SW	20585
Davenport	Karen	Institute of International Finance, Inc 1333 H Street, NW, Suite 800E	20005
Davis	Alexis L.	DYRS 1000 Mt. Olivet Road, NE	20002
Davis	Marquita J.	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Dixon	Geneva	Latham and Watkins, LLP 555 11th Street, NW, Suite 1000	20004
Doan	Lisa A.	Slover & Loftus, LLP 1224 17th Street, NW	20036
Dogra	Sukanya Roy	Accelerated Development and Support 1000 Independence Avenue, SW	20585
Fagan	Detrick D.	Suntrust Bank 6422 Georgia Avenue, NW	20012
Farkas	Michael	Veritext 1250 I Street, NW, Suite 350	20005
Francis	Eboni Barbara	United States Postal Service 475 L'Enfant Plaza, SW	20260
Gantt	Marsha Delois	Architect of the Capitol 2nd & D Street, SW, Room H2-265A	20515

Garner	Takeya	Sibley Memorial Hospital 5255 Loughboro Road, NW	20016
Gessesse	Haddesa Belay	Bank of America 3500 Georgia Avenue, NW	20010
Gleaton	Renita	US Department of Housing and Urban Development 451 7th Street, SW, Room 10258	20410
Gonzalez	Jose M.	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Gordon	Jeffrey K.	Tobin, O'Connor & Ewing 5335 Wisconsin Avenue, NW, #700	20015
Gray	Jade	HUD Federal Credit Union 451 7th Street, SW, Suite 3241	20410
Gueory	Rhonda Olean	Perry Street Prep Public Charter School 1800 Perry Street, NE	20018
Gundberg	Eric	Primary Residential Mortgage, Inc. 1140 3rd Street, NE, Suite 2156	20002
Haynes	Javonne	Self 5710 5th Street, NW	20011
Henderson	Okeemah S.	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Hennessy	Pamela Jo	Finnegan, Henderson, Farabow, Garrett & Dunner, LLP 901 New York Avenue, NW	20001
Howell	Steven Edward	Self 501 60th Street, SE, #304	20019
Hughes	Ida	A.Wash & Associates, Inc. 4649 Nannie Helen Burroughs Avenue, NE	20019

Hunter	Alicia L.	Kelley Drye & Warren LP 3050 K Street, NW, Suite 400	20007
Hutson	Octavia	Kutak Rock LLP 1625 I Street, NW, Suite 800	20006
Jackson	Christopher	Northridge Capital 1101 30th Street, NW, Suite 150	20007
Jenkins	Monica R.	Self 1223 Jackson Street, NE	20017
Jenter	Justin Jones	Tempus, Inc. 1201 New York Avenue, NW, #300	20005
John	Tammy	Federal Trade Commission 600 Pennsylvania Avenue, NW	20580
Johnson	Aisha Jamilla	Uber 1717 Rhode Island Avenue, NW	20036
Johnson	Arlene	Self 1803 3rd Street, NE	20002
Judy	Rosado-Diaz	Lowenstein Sandler LLP 2200 Pennsylvania Avenue, NW	20037
Kelly-Bryant	Sheila	Self (Dual) 4370 Southern Avenue, SE	20019
Kennedy	R. Terri	BCW LLC 1801 K Street, NW	20006
Kim	Jeong Hoon	Destination DC 901 7th Street, NW, Suite 400	20001
Kirby	Khadijah	City First Bank 1432 U Street, NW	20009
Knight	Tanya I.	Jill Grant & Associates 1319 F Street, NW, Suite 300	20004

Lewis	Grace J	Self 4945 Sargent Road, NE	20017
Lizama	Monica A.	Reed Smith, LLP 1301 K Street, NW, Suite 1000--East Tower	20015
Luceri	Mary R.	George Washington University 1922 F Street, NW	20052
Lundy	Jennifer	International Republican Institute 1225 Eye Street, Northwest, Suite 800	20005
Macy	Gabrielle	Tahzoo 1015 7th Street, NW	20001
McDonald	Bryan Shea	Bank-Fund Staff Federal Credit Union 1725 I Street, NW	20006
Meering	Jacqueline Wells	The Atlantic Monthly Group, LLC 600 New Hampshire Avenue, NW	20037
Mejia	Maritza	Bank Fund Staff Federal Credit Union 1725 I Street, NW	20006
Miley	Catherine E.	United States Postal Service 475 L'Enfant Plaza, SW	20260
Mize	Stephen Andrew	United States Holocaust Memorial Museum 100 Raoul Wallenberg Place, SW	20024
Mojica	Karen G.	Three Crowns, LLP 3000 K Street, NW, Suite 101	20007
Mushaw	Garrett	Office of Finance and Resource Management (OFRM) 441 4th Street, NW, Suite 890	20001
Ngwira	Tumpale	The Mandy & David Team 1313 14th Street, NW	20005
Nodem Douanla	Ornelle Jacky	Citibank 5001 Wisconsin Avenue, NW	20016

Nolan	Stephanie	ST Paul's @Rock Creek 201 Allison Street, NW	20011
Ojo	Olugbemiga Iyanuoluwa	Lankingerg, LLC 601 Pennsylvania Avenue , NW, Suite 900	20004
Paschoal	Celia	National Geographic Channel 1145 17th Street NW	20016
Pearson	Gwendolyn M.	Georgetown University 2115 Wisconsin Avenue, NW, Suite 601	20007
Pittman	Maellen E.	Alderson Court Reporting 1111 14th Street, NW, Suite 1050	20005
Presbury	Pamela Boney	Self (Dual) 1331 Ridge Place, SE	20020
Price	Brian K.	Self 437 New York Avenue, NW, #319	20001
Robertson	Jalyn Tyee	JP Morgan Chase Bank 3900 Minnesota Avenue, NE	20019
Scott	Marc	Wells Fargo Bank 5201 MacArthur Boulevard, NW	20016
Sintaisong	Nakornsri	Formal Signatures 1150 4th Street, SW	20024
Sloley	Ilanna Monique	Self 307 Shepherd Street, NW	20011
Smith-Cole	Silena	Department of Human Service/ Family Services Administration 64 New York Avenue, NE	20002
Steele	Malauna	Self 1240 4th Street, NE, #502	20002

Stiles	Daniel	CoStar Group 1331 L Street, NW	20005
Suzich	Peter Alexander	American Institutes for Research 1000 Thomas Jefferson Street, NW	20007
Thomas	Amos	AARP 601 E Street, NW	20049
Thompson	Taahira N.	Akridge 601 13th Street, NW, Suite 300 North	20005
Thompson	Tai R.	United States Postal Service 475 L'Enfant Plaza, SW	20260
Thorn	Amy J.	SmithGroup 1700 New York Avenue, NW, Suite 100	20006
Tyler	Kara Ann	United States Holocaust Memorial Museum 100 Raoul Wallenberg Place, SW	20024
Wallace	Kiara E. S.	National Treasury Employees Union 1750 H Street, NW	20006
White	Marc D.	Paragon Title 1410 Q Street, NW	20009
Wilson	Cinnamon	District of Columbia Office of the Inspector General 717 14th Street, NW, Suite 500	20005

OFFICE OF VICTIM SERVICES AND JUSTICE GRANTS

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2020 (FY20)

DOMESTIC VIOLENCE STRATEGIC PLAN FUNDING

The Office of Victim Services and Justice Grants (OVSJG) announces the availability of FY 2020 grant funds for the development of a domestic violence housing strategic plan. The purpose of this RFA is to develop a strategic plan to enhance access to safe housing for victims of domestic violence, across all stages of recovery and healing. The successful applicant will work in collaboration with OVSJG, other District agencies, community-based organizations, advocates, victims/survivors, and residents to develop the strategic plan. **Request for Application (RFA) Release Date:** Monday, August 19, 2019.

Period of Award: Fiscal Year 2020 (October 1, 2019 – September 30, 2020)

Available Funding: OVSJG will award one (1) grant up to $200,000.

OVSJG will give priority consideration to proposals from agencies or organizations with a demonstrated record of providing similar services to federal, state, or local government.

Eligible Applicants: Any public or private, community-based non-profit agency, organization or institution located in the District of Columbia is eligible to apply, including District government agencies. For profit organizations are eligible but may not include profit in their grant application. For-profit organizations may also participate as subcontractors to eligible agencies.

Application Submission Deadline: September 16, 2019

The Request for Applications (RFA) will be available electronically beginning August 19, 2019 at http://ovsjg.dc.gov. All applications are to be submitted via ZoomGrants™.

For additional information regarding this grant competition, please email ovsjg@dc.gov with the subject line reference “FY 2020 DV Housing Strategic Plan”.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19406-A of Paige Reffe, pursuant to 11 DCMR Subtitle Y § 703.4, for a modification of consequence to the plans approved by BZA Order No. 19406, to permit an increase of the height of a rear wall enclosure, on a rear deck addition of an existing, detached principal dwelling unit in the R-1-B Zone at premises 3300 Lowell Street N.W. (Square 2091, Lot 28).

HEARING DATE (19406):	January 11, 2017
DECISION DATE (19406):	January 11, 2017
ORDER ISSUANCE DATE (19406):	January 27, 2017
MODIFICATION DECISION DATE:	July 17, 2019

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

BACKGROUND

On January 11, 2017, in Application No. 19406, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by Paige Reffe (the "Applicant") for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, the rear yard requirements of Subtitle D § 306.1,and the nonconforming structures requirements of Subtitle C § 202.2, to allow a two-story addition to an existing one-family dwelling in the R-1-B Zone at premises 3300 Lowell Street, N.W. (Square 2091, Lot 28). The Board issued Order No. 19406 on January 27, 2017. (Exhibit 2.)

MODIFICATION OF CONSEQUENCE

On March 21, 2019, the Applicant submitted a request for modification of consequence to the plans approved by the Board in Order No. 19406. (Exhibit 1.) The Applicant requested a modification to the plans in order to make changes to the design of the deck area in the right side yard. Specifically, the Applicant proposes to incorporate a gas fireplace and shuttered openings within the patio wall, to change the material of the wall, and to raise the height of the wall to eight feet above grade, exceeding the seven-foot height shown on the approved plans. The Applicant submitted revised plans reflecting these modifications. (Exhibit 13 (Revised), Exhibit 3 (Original).) The Applicant does not indicate that the proposed modification of consequence would require additional relief from the Zoning Regulations.

The Applicant's request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Pursuant to Subtitle Y §§ 703.8-703.9, the request for modification of consequence shall be served on all other parties to the original application and those parties are allowed to submit comments within ten days after the request has been filed with the Office of

Zoning and served on all parties. The Applicant provided proper and timely notice of the request for modification of consequence.

The Applicant submitted a letter requesting a waiver of the two-year time limit on a request for modification of plans, pursuant to Subtitle Y § 703.15. Although that provision specifically references "minor modification," the Board granted the waiver out of an abundance of caution and for good cause.

ANC 3C did not submit a written report to the record. Office of Planning ("OP") submitted a report on July 3, 2019, recommending approval of the proposed modification of consequence to the Applicant's plans. (Exhibit 15.)

As directed by 11 DCMR Subtitle Y § 703.4, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification of consequence of approved plans. Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking a modification of consequence to the plans approved in Case No. 19406, the Applicant has met its burden of proof under as directed by 11 DCMR Subtitle Y § 703.4.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant request would not be adverse to any party. 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 consequence of the Board's approval in Application No. 19406 is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 13.**

In all other respects, Order No. 19406 remains unchanged.

VOTE: 5-0-0 (Frederick L. Hill, Anthony J. Hood, Carlton E. Hart, Lorna L. John, and Lesylleé M. White 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: July 19, 2019

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. 19999 of Sanjay Bajaj, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the street frontage requirements of Subtitle C § 303.5, to subdivide two existing tax lots in the RA-2 and MU-4 Zones at premises at 1920 17th Street S.E. (Square 5612, Lots 827 and 833)

HEARING DATE: June 12, 2019 and July 17, 2019
DECISION DATE: July 17, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 8A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 4, 2019, at which a quorum was present, the ANC voted (7-0-0) to support the application. (Exhibit 44.) The ANC notes that the Applicant has agreed to designate two units for Inclusionary Zoning, to provide three off-street parking spaces, to work with neighbors on design and construction, and to provide support for Anacostia High School.

OP Report. The Office of Planning ("OP") submitted a report recommending approval of the application, subject to three conditions that would limit future development on the property. (Exhibit 28.) OP provided testimony at the public hearing to address how these conditions would mitigate potential impacts of the relief requested. The Board adopted the proposed conditions.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 29.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for an area variance from the street frontage requirements of Subtitle C § 303.5, to subdivide two existing tax lots in the RA-2 and MU-4 Zones.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that 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, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS[1] AT EXHIBIT 39 AND WITH THE FOLLOWING CONDITIONS:**

1. Development of the portion of the site currently known as Lot 827 shall be limited to three stories and 35 feet in height.

2. Development of the portion of the site currently known as Lot 833 shall be limited to four stories and 45 feet in height.

3. Development on the portion of the site currently known as Lot 833 may extend directly back from the portion of the site currently known as Lot 827; however, any portion of a building must remain at least 10 feet away from the rear of Lots 24, 25 and 832, as measured perpendicularly from the rear lot lines of those lots.

VOTE: 5-0-0 (Frederick L. Hill, Lorna L. John, Lesylleé M. White, Carlton E. Hart, and Anthony J. Hood to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY: _____
SARA A. BARDIN
Director, Office of Zoning

[1] 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.

FINAL DATE OF ORDER: July 19, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 20027 of Kara Benson, as amended, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the height requirements of Subtitle E § 5102.1 and the alley centerline setback requirements of Subtitle E § 5106.1, to construct a two-story addition to an existing semi-detached, principal dwelling unit in the RF-3 Zone at premises 520 Groff Court N.E. (Square 779, Lot 0179).

HEARING DATE: June 5, 2019 and July 17, 2019
DECISION DATE: July 17, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 27 (Revised); Exhibit 4 (Original).)[1]

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6C. The Board received requests for party status in opposition from eight neighbors. (Exhibits 30, 32.) In advance of the public hearing on this case and before the Board's decision on these requests, the authorized agent for the eight neighbors filed a letter withdrawing the party status requests. (Exhibit 55.)

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 8, 2019, at which a quorum was present, the ANC voted 5-0 to support the application. (Exhibit 52.) The ANC indicated that its support of the application was conditioned on the Applicant executing a construction management agreement for the protection of nearby residents. The ANC report noted that this condition had been satisfied by the Applicant.

OP Report. The Office of Planning ("OP") submitted two reports recommending approval of the variance relief requested and not supporting the Applicant's argument that the relief for height

[1] The original application included a request for special exception relief from the rear yard requirements of Subtitle E § 5104.1 and the nonconforming structure requirements of Subtitle C § 202.2, which was withdrawn. Also, the Applicant sought relief from the height requirements of Subtitle E § 5102.1 and the alley centerline setback requirements of Subtitle E § 5106.1 as area variances, but later requested that the Board consider, in the alternative, relief from these requirements as special exceptions. (Exhibit 51.) The Board determined to consider the relief for height and alley centerline setback as area variances, as shown in the self-certification form in Exhibit 27.

and alley centerline setback may be considered as a special exception. (Exhibits 48, 53.) OP also recommended that the Applicant revise its plans to provide a one-foot setback from the north alley. During the public hearing, OP testified that it would be satisfied if the Applicant were instead to provide assurances that it would not construct any bollards or other projections into public space. The Applicant noted that it agrees to not to construct any projection into public space, as this would not be permitted under the Construction Code.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 47.)

Persons in Support. The Board received one letter in support of the application. (Exhibit 26.)

Persons in Opposition. Aside from the requests for party status in opposition later withdrawn, the Board received one letter in opposition to the application. (Exhibit 39.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for area variances from the height requirements of Subtitle E § 5102.1 and the alley centerline setback requirements of Subtitle E § 5106.1, to construct a two-story addition to an existing semi-detached, principal dwelling unit in the RF-3 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that 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, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS[2] AT EXHIBIT 43B.**

VOTE: **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Anthony J. Hood to APPROVE)

[2] Self-certification: In granting the self-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.

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: July 22, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 20064 of Mount Sinai Baptist Church, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use provisions of Subtitle U § 320.1(b) to permit a new community service center in an existing attached building in the RF-1 Zone at premises 1608 3rd Street, N.W. (Square 520, Lot 93).

HEARING DATE: July 17, 2019
DECISION DATE: July 17, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5E.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 18, 2019, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 27.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 28.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 30.)

Persons in Opposition. One neighbor residing adjacent to the property at 1606 Third Street, N.W., testified in opposition to the application, expressing concerns about potential noise at the facility, given the number of children who will be served. The Applicant pointed out that the children's arrival will be staggered, and the children will not all be in one place at the same time - which will lessen the noise at the facility. The Applicant expressed a commitment to working with the neighbor to address any concerns that might arise.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the use provisions of Subtitle U § 320.1(b) to permit a new community service center in an existing attached building in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and 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 further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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.**

VOTE: **5-0-0** (Frederick L. Hill, Lorna L. John, Lesylleé M. White, Carlton E. Hart, and Anthony J. Hood 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: July 22, 2019

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 § 702.2, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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. 20067 of National Children's Center Inc., pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use provisions of Subtitle U § 320.1(b)(1)-(3) to permit a new community service center use in an existing building in the RF-1 Zone at premises 3400 Martin Luther King Jr. Avenue, S.E. (Square 5978, Lot 5).

HEARING DATE: July 17, 2019
DECISION DATE: July 17, 2019

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 14.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 8C.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on July 9, 2019, at which a quorum was present, the ANC voted unanimously to support the application. (Exhibit 39.)

OP Report. The Office of Planning submitted a report, dated July 5, 2019, recommending approval of the application. (Exhibit 33.)

DDOT Report. The District Department of Transportation submitted a report, dated July 5, 2019, indicating that it had no objection to the application. (Exhibit 32.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the use provisions of Subtitle U § 320.1(b) (1-3) to permit a new community service center use in an existing building in the RF-1 Zone.
Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and 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 further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 13.**

VOTE: **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Anthony J. Hood 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: July 22, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 20070 of Peter Roushdy and Kelly Franklin, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1 to construct a rear deck addition to an existing, semi-detached principal dwelling unit in the R-3 Zone at premises 3764 Benton Street, N.W. (Square 1301, Lot 672).

HEARING DATE: July 17, 2019
DECISION DATE: July 17, 2019

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 3B.

ANC Report. The ANC's report indicated that the ANC voted 5-0-0 to support the application. (Exhibit 29.) The ANC report did not include all the required elements of Subtitle Y § 406.2 to be given "great weight," but the Board nonetheless acknowledged the ANC's support.

OP Report. The Office of Planning submitted a report, dated July 5, 2019, recommending approval of the application. (Exhibit 34.)

DDOT Report. The District Department of Transportation submitted a report, dated June 26, 2019, indicating that it had no objection to the application. (Exhibit 31.)

Persons in Support. Three letters of support for the application were submitted to the record by neighbors. (Exhibits 12-14.)

Persons in Opposition. No persons submitted correspondence in opposition to the application.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1 to construct a rear deck addition to an existing, semi-detached principal dwelling unit in the R-3 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and 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 further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 8.**

VOTE: **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Anthony J. Hood 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: July 23, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 01-01B
Z.C. Case No. 01-01B
BP/CRF 901 New York Avenue, LLC
(Modification of Consequence of Consolidated PUD @ Square 372
[901 New York Avenue, N.W.])
March 25, 2019

Pursuant to public notice, the Zoning Commission for the District of Columbia (the "Commission") held a public meeting on March 25, 2019 at which the Commission considered the application of BP/CRF 901 New York Avenue, LLC (the "Applicant") for a Modification of Consequence (the "Application") of the consolidated planned unit development ("PUD") approved by Z.C. Order No. 920, as amended, for Lot 34 in Square 372 (the "Property"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedure, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (the "Zoning Regulations," to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

1. In 1988, the Commission first approved a PUD to construct an office building with ground-floor retail (the "Building") on the Property in Z.C. Case No. 88-16C by Z.C. Order No. 629 (the "Approved PUD," as subsequently amended), which the Commission subsequently extended by Z.C. Order Nos. 629A through 629F.

2. In 2000, the Commission approved a modification and expansion of the Approved PUD, with a related Zoning Map amendment, in Z.C. Case No. 99-6M/88-16C by Z.C. Order No. 920, which approved a rezoning from C-3-C, HR/C-3-C, and DD/C-3-C to C-4 and the modification of the Building to have the density of a 10.0 floor area ratio ("FAR"), a height of 130 feet, and approximately 532,505 square feet of gross floor area.

3. In 2001, the Commission approved a minor modification to the Approved PUD in Z.C. Case No. 01-01MM/99-6M/88-16C by Z.C. Order No. 920-A, to permit the owner to utilize the combined lot provisions of the Zoning Regulations to meet the applicable housing requirement through a contribution to the Housing Production Trust Fund.

4. In 2018, the Commission approved a modification to the Approved PUD in Z.C. Case No. 01-01A/01-01MM/99-6M/88-16C by Z.C. Order No. 01-01A, to permit revisions to the Building's entrances along New York Avenue and K Street.

5. The Application proposed to revise the Approved PUD to modernize the Building by establishing a Design Manual that establishes general design rules for ground-floor commercial storefronts and within which design rules the Applicant has flexibility to accommodate specific tenant needs. (Exhibits ["Ex."] 2, 2C1, 2C2.) The Design Manual

provides guidance for anchor storefronts along corner-location tenant spaces, for in-line storefronts interior to the building façades, and for façade materials and cladding, glazing, lighting, and awnings. Within these parameters, the Design Manual allows flexibility to accommodate tenant-specific design needs including the ability to paint grills in anchor tenant areas and to incorporate operable façades to connect with outdoor seating and abutting the streetscape. The Design Manual depicts tenant-specific renovations for the eastern corner of the building's ground floor as an example of the applicability of the design guidelines.

6. In addition to the Design Manual, the Application proposed to change Condition 8 of Z.C. Order No. 920 to authorize limited signage proposed in the Design Manual.

7. The Applicant served the only other party, Advisory Neighborhood Commission ("ANC") 2C, as attested by the Certificate of Service submitted with the Application. (Ex. 2.)

8. The District Department of Transportation ("DDOT") submitted a report on March 8, 2019, stating that it had no objection to the Application but noted that the Applicant would have to obtain a public space permit for proposed changes to the public space adjacent to the Property. (Ex. 5.)

9. In response to comments from the Office of Planning ("OP") and ANC 2C, the Applicant revised the Application, including removing the proposed upper-story office tenant signage, prohibiting public space signage, installing potential sidewalk café space along K Street, and committing to maintain uniform awning height along street frontages. (Ex. 6-6A2.) The Applicant also proposed revising Condition 1 of the Order to incorporate the Design Manual as part of the approved plans.

10. OP submitted a report on March 19, 2019, agreeing that the Application qualified as a Modification of Consequence and recommending approval of the Application based on the changes agreed to by the Applicant in its revised Application. (Ex. 6, 7.)

11. ANC 2C submitted a written report stating that, at a regularly-scheduled and duly-noticed meeting held on March 22, 2019, with a quorum present, ANC 2C voted to support the Application, as revised, to include the ANC's conditions, including removing the upper-story office tenant signage, installing potential sidewalk café space along K Street (immediately to the east of the K Street entrance), and committing to maintaining uniform heights of awnings along strong frontages. (Ex. 6-6A2, 8.)

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance".

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order, … or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission" as examples of a Modification of Consequence.

4. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify architectural elements of the Building and to modify conditions in the Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).

5. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 2C.

6. The Commission determines that because OP and ANC 2C, the only party other than the Applicant to the PUD, had filed responses to the Application, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met and so the Commission could consider the merits of the Application at the March 25, 2019 public meeting.

7. The Commission finds that the modification proposed by the Application is consistent with the PUD approved by Z.C. Order No. 920 because the Application only proposes to modify the architectural details and clarify the signage limitation of the Building.

"Great Weight" to the Recommendations of OP

8. D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8 require the Commission to give "great weight" to the recommendations contained in the OP Report. The Commission found OP's recommendations that the Application qualified as a Modification of Consequence and that the Commission approve the Application persuasive and concurred in that judgment.

"Great Weight" to the Written Report of the ANC

9. D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.) and Subtitle Z § 406.2 require the Commission to give "great weight" to the issues and concerns contained in the written report of an affected ANC. The Commission found ANC 2C's support for the Application, subject the revisions adopted by the Applicant in Exhibit 6, persuasive and concurred in that judgment.

DECISION

At its public meeting on March 25, 2019, in consideration of the case record and Findings of Fact and Conclusions of Law herein, upon the motion of Commissioner Shapiro, as seconded by Commissioner Turnbull, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a Modification of Consequence to the consolidated PUD approved in Z.C. Order No. 920, as amended by Z.C. Order Nos. 920-A and 01-01A, subject to the following conditions 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).

The conditions in Z.C. Order No. 920, as amended by Z.C. Order Nos. 920-A and 01-01A, remain unchanged, except that Condition Nos. 1 and 8 are revised to read as follows (additions in **bold and underlined** text):

1. The PUD site shall be developed in accordance with the plans prepared by Davis Carter Scott, marked as Exhibits 20 and 44 **in Z.C. Case No. 99-6M/88-16C**, as modified by the plans contained in Exhibit 2C in Z.C. Case No. 01-01A**, and the plans contained in Exhibits 6A1-6A2 in Z.C. Case No. 01-01B,** and as further modified by the guidelines, conditions, and standards of this Order.

…

8. **The restrictions and requirements of the comprehensive design manual contained in Exhibit 6A in Z.C. Case No. 01-01B shall, in combination with these conditions, govern the building's retail signage and storefronts, as specified therein.** With regard to retail tenant signage and awnings, the applicant shall be permitted to install a variety of retail tenant signage and awnings via one or a combination of the following methods: (i) colored signage and awnings with applied tenant lettering located on the sign panel and backlighting; or (ii) metal signband with tenant lettering inset into signband and backlighting, as shown in Exhibit 44 **in Case No. 99-6M/88-16C, as amended by Exhibits 6A1-6A2 of Z.C. Case No. 01-01B**. Awnings may be installed at the ground level of the building. **Awnings along each of the three street frontages shall be of a uniform height as to the relevant street frontage as measured to the highest point at which they are attached and shall not extend vertically above the upper limit of the grills between the first and second floors. Other than awnings serving outdoor café seating areas, awnings shall be contained within individual bays and shall not span more than one bay.** Covering materials may be canvas or similar non-rubberized cloth material, glass, or metal. Vinyl, or other plastic-like sheeting is not acceptable. Awning surfaces may be of any color or pattern. Awning edges shall be straight lines; scallops, curves, fringes, etc. are not acceptable. **Awnings serving outdoor café seating areas may extend across stone piers to create a unified area beneath a singular canopy. Such awnings shall not be a single uniform color but shall be designed with a pattern in order to break down their mass.** Signage and logos may be placed horizontally in the sign box at the front edge of the canopy. Signage lettering and logos may not be placed on sides, tops, or sloping surfaces of the awnings **while graphics or artwork on the inclined portion of awning canopies shall be subject to the public**

space permitting process. Blade signs shall not extend above the top of the second floor, and there shall be no signs above the second floor of the building. No signage may be included on the fences, walls, or planters enclosing sidewalk cafes nor on other ground-level projections into public space. With respect to the existing stone columns of the building façade and the building's corners, there shall be no changes to the materials or color of the most prominent vertical columns that extend from the base of the building to the top. Cladding of these columns shall not be permitted. Grills between such columns in storefront zones, as shown on Exhibits 6A1-6A2 of Z.C. Case No. 01-01B, may be painted. Varying materials and painting is permitted within the storefront zones between these columns, up to the top of the grills between the first and second floors within the "in-line storefront zones" and up to the top of the second floor for the "anchor storefront zones." The horizontal stone façade elements that separate certain areas of the second and third floors in the "anchor storefront zones," as shown in the Design Manual, may be clad but may not be removed or painted.

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this order shall become final and effective upon publication in the *D.C. Register*; that is, on August 2, 2019.

BY ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING