

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 23-74, Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Act of 2019
- Office of the State Superintendent of Education solicits public comment on the proposed State Determined Performance Levels for secondary and postsecondary programs receiving Carl D. Perkins funds
- Department of Energy and Environment announces funding for mapping the District’s underground and piped streams
- Department of Health announces funding for providing facility based housing with supportive services
- Department of Public Works proposes revisions to the refuse disposal fee at District’s waste transfer stations
- Department of Small and Local Business Development announces funding for operating a DC Main Streets Program

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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

Deadlines for Submission of Documents for Publication

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

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

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Legal Effect of Publication - Certification

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

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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

COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION

ANNOUNCES A PUBLIC HEARING OF THE COMMITTEE

on

Bill 23-0074, the “Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Act of 2019”

and

Bill 23-0173, the “Accounting Clarification for Real Estate Professionals Amendment Act of 2019”

Wednesday, October 2, 2019, at 11:00 AM
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Wednesday, October 2, 2019, Councilmember Anita Bonds, Chairperson of the Committee on Housing & Neighborhood Revitalization, will hold a public hearing on Bill 23-0074, the “Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Act of 2019” and Bill 23-0173, the “Accounting Clarification for Real Estate Professionals Amendment Act of 2019”. The hearing will take place in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 11:00 a.m.

Bill 23-0074, the “Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Act of 2019”, would exempt low income housing tax credit redevelopment projects from TOPA notice requirements. Bill 23-0173, the “Accounting Clarification for Real Estate Professionals Amendment Act of 2019”, would allow payment of a real estate commission to be made to a business entity.

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization, at (202) 724-8198, or email jtrimboli@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on October 1, 2019. Persons wishing to testify are encouraged to **submit 15 copies of written testimony**. Oral testimony should be limited to three minutes for individuals and five minutes for organizations.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Neighborhood Revitalization, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite G6, Washington, D.C. 20004. The record will close at 5:00 p.m. on October 16, 2019.

<p style="text-align: center;">COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE APPOINTMENTS AS OF JULY 31, 2019</p>
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NOTICE OF EXCEPTED SERVICE EMPLOYEES

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

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Chief of Staff	Flowers, Marisa	9	Excepted Service - Reg Appt

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
8/23/2019

Notice is hereby given that:

License Number: ABRA-098818

License Class/Type: C Restaurant

Applicant: Deset Ethiopian Restaurant, LLC

Trade Name: Deset Ethiopian Restaurant

ANC: 4A06

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

6128 Georgia AVE NW, WASHINGTON, DC 20012

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
10/7/2019

A HEARING WILL BE
10/21/2019

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 12 am	10 am - 12 am	-
Monday:	10 am - 12 am	10 am - 12 am	-
Tuesday:	10 am - 12 am	10 am - 12 am	-
Wednesday:	10 am - 12 am	10 am - 12 am	-
Thursday:	10 am - 2 am	10 am - 2 am	-
Friday:	10 am - 2 am	10 am - 2 am	-
Saturday:	10 am - 2 am	10 am - 2 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: August 16, 2019
Protest Petition Deadline: September 30, 2019
Roll Call Hearing Date: October 15, 2019
Protest Hearing Date: December 4, 2019

License No.: ABRA-114355
Licensee: Proteo, LLC
Trade Name: El Cielo Restaurant by Juan Manuel Barrientos
License Class: Retailer's Class "C" Tavern
Address: 1280 4th Street, N.E.
Contact: Ayana Mayberry: (202) 544-2200

WARD 5

ANC 5D

SMD 5D01

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 October 15, 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 ****December 4, 2019 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class C Tavern serving modern Columbian cuisine with a seating capacity of 120 and Total Occupancy Load of 199. Summer Garden with 61 seats. Sidewalk Café with 18 seats. The location is a market in which the licensee is also requesting to utilize shared culinary space.

HOURS OF OPERATION INSIDE OF THE PREMISE AND FOR THE SUMMER GARDEN AND SIDEWALK CAFÉ

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

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN AND SIDEWALK CAFÉ

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: August 16, 2019
Protest Petition Deadline: September 30, 2019
Roll Call Hearing Date: October 15, 2019
Protest Hearing Date: December 4, 2019

License No.: ABRA-114355
Licensee: Proteo, LLC
Trade Name: El Cielo Restaurant by Juan Manuel Barrientos
License Class: Retailer's Class "C" Tavern
Address: 1280 4th Street, N.E.
Contact: Ayana Mayberry: (202) 544-2200

WARD 5

ANC 5D

SMD 5D01

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 October 15, 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 ****September 30, 2019 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class C Tavern serving modern Columbian cuisine with a seating capacity of 120 and Total Occupancy Load of 199. Summer Garden with 61 seats. Sidewalk Café with 18 seats. The location is a market in which the licensee is also requesting to utilize shared culinary space.

HOURS OF OPERATION INSIDE OF THE PREMISE AND FOR THE SUMMER GARDEN AND SIDEWALK CAFÉ

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

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN AND SIDEWALK CAFÉ

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
8/23/2019

Notice is hereby given that:

License Number: ABRA-112322

License Class/Type: C Restaurant

Applicant: Gunju 1924 LLC

Trade Name: Gogi Yogi

ANC: 1B01

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

1921 8th ST NW, UNIT 115, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
10/7/2019

A HEARING WILL BE
10/21/2019

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

ENDORSEMENT(S): Sidewalk Cafe Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	-
Monday:	10 am - 2 am	10 am - 2 am	-
Tuesday:	10 am - 2 am	10 am - 2 am	-
Wednesday:	10 am - 2 am	10 am - 2 am	-
Thursday:	10 am - 2 am	10 am - 2 am	-
Friday:	10 am - 3 am	10 am - 3 am	-
Saturday:	10 am - 3 am	10 am - 3 am	-

	Hours Of Sidewalk Cafe	Hours of Summer Garden
Sunday	10 am - 12 am	10 am - 12 am
Monda	10 am - 12 am	10 am - 12 am
Tuesda	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 12 am	10 am - 12 am
Friday:	10 am - 1 am	10 am - 1 am
Saturday:	10 am - 1 am	10 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
Protest Petition Deadline: October 7, 2019
Roll Call Hearing Date: October 21, 2019
Protest Hearing Date: December 11, 2019

License No.: ABRA-114773
Licensee: Lyve at U, LLC
Trade Name: Lyve at U
License Class: Retailer's Class "C" Tavern
Address: 2001 11th Street, N.W.
Contact: David Rountree, Member: (202) 730-2970

WARD 1

ANC 1B

SMD 1B02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on October 21, 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 **December 11, 2019 at 1:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "C" Tavern serving seafood, burgers, wings, and salads. Applicant is applying for an Entertainment Endorsement with Dancing and Cover Charge inside the premises only. Applicant is applying for Sports Wagering with 1 teller, 2 self-service kiosks, and multiple geo-fenced mobile applications. Applicant is also applying for a Sidewalk Café Endorsement with 12 seats. Total seating inside premises is 219 with a Total Occupancy Load of 400.

HOURS OF OPERATION

Sunday through Saturday 8am – 4am

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

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFÉ)

Sunday through Saturday 11am – 11pm

HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES ONLY)

Monday through Thursday 4pm – 2am, Friday through Sunday 8am – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
Protest Petition Deadline: October 7, 2019
Roll Call Hearing Date: October 21, 2019

License No.: ABRA-097473
Licensee: T and A, LLC
Trade Name: Montana Liquors
License Class: Retailer's Class "A" Liquor
Address: 710 H Street, N.E.
Contact: Ayinades Mamo: (571) 201-4448

WARD 6 ANC 6A SMD 6A01

Notice is hereby given that this licensee has requested to transfer the license to a new location with a Substantial Change under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on October 21, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION/SUBSTANTIAL CHANGE

Licensee requests to transfer the license from 1801 Montana Avenue, N.E. to a new location at 710 H Street, N.E. Applicant is also requesting a Substantial Change to change of hours of operation and sales, and add a Tasting Permit to the license.

CURRENT HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES

Sunday Closed, Monday through Saturday 9am – 10pm

PROPOSED HOURS OF OPERATION/ ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 10am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
Protest Petition Deadline: October 7, 2019
Roll Call Hearing Date: October 21, 2019

License No.: ABRA-113576
Licensee: Wi Mila, Inc.
Trade Name: New Seven Market
License Class: Retailer's Class "B" 25%
Address: 1406 Good Hope Road, S.E.
Contact: Kevin Lee: (703) 941-3133

WARD 8

ANC 8A

SMD 8A05

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on October 21, 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

Class Change from Retailer "B" 25% to Retailer "B".

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am - 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
Protest Petition Deadline: October 7, 2019
Roll Call Hearing Date: October 21, 2019

License No.: ABRA-023943
Licensee: DMM, LLC
Trade Name: Raku-Ya
License Class: Retailer's Class "C" Restaurant
Address: 1900 Q Street, N.W.
Contact: Marcel The: (301) 213-1652

WARD 2

ANC 2B

SMD 2B03

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 October 21, 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 to expand the Sidewalk Café seating capacity from 38 to 68.

HOURS OF OPERATION INSIDE PREMISES

Sunday through Saturday 7am – 2am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES

Sunday 10am – 2am, Monday through Saturday 8am – 2am

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

Sunday through Thursday 10am – 1am, Friday and Saturday 10am – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
Protest Petition Deadline: October 7, 2019
Roll Call Hearing Date: October 21, 2019
Protest Hearing Date: December 11, 2019

License No.: ABRA-114779
Licensee: RCSH Operations, LLC
Trade Name: Ruth's Chris Steak House
License Class: Retailer's Class "C" Restaurant
Address: 2100 L Street, N.W.
Contact: Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 2

ANC 2A

SMD 2A06

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on October 21, 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 December 11, 2019 at 4:30 p.m.

NATURE OF OPERATION

New Retailer's Class "C" Restaurant offering upscale, fine dining with selections of steak, seafood, and sides. Total seating inside is 325 with a Total Occupancy Load of 350.

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

Sunday through Saturday 10 am - 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
Protest Petition Deadline October 7, 2019
Roll Call Hearing Date: October 21, 2019

License No.: ABRA-108842
Licensee: S & H 6, Inc.
Trade Name: Streets Market
License Class: Retailer's Class "C" Restaurant
Address: 51 M Street, N.E.
Contact: Warren Lewis: (202) 686-7600

WARD 6

ANC 6C

SMD 6C06

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on October 21, 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 to provide live entertainment indoors only.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE THE PREMISES

Sunday through Saturday 8am - 1am

PROPOSED HOURS OF LIVE ENTERTAINMENT INSIDE THE PREMISES

Sunday through Saturday 8am - 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
 Protest Petition Deadline: October 7, 2019
 Roll Call Hearing Date: October 21, 2019
 Protest Hearing Date: December 11, 2019

License No.: ABRA-114767
 Licensee: The Candle Bar Stores, LLC
 Trade Name: The Candle Bar
 License Class: Retailer’s Class “CX” Multipurpose Facility
 Address: 1065 Wisconsin Avenue, N.W.
 Contact: Stephen O’Brien, Esq.: (202) 625-7700

WARD 2

ANC 2E

SMD 2E05

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 October 21, 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 **December 11, 2019 at 4:30 p.m.**

NATURE OF OPERATION

A new class CX Multipurpose Facility specializing in candle making classes and workshops. Seating Capacity of 30. Total Occupancy Load of 46.

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

Sunday through Saturday 10am – 10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**NOTICE OF PUBLIC HEARING**

Placard Posting Date: August 23, 2019
Protest Petition Deadline: October 7, 2019
Roll Call Hearing Date: October 21, 2019
Protest Hearing Date: December 11, 2019

License No.: ABRA-114757
Licensee: The Gold Room Bar Lounge, LLC
Trade Name: The Gold Room Bar/Lounge
License Class: Retailer's Class "C" Tavern
Address: 1370 H Street, N.E.
Contact: Norris E. Goins (202) 345-1431

WARD 6 ANC 6A SMD 6A06

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 October 21, 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 **December 11, 2019 at 1:30 p.m.**

NATURE OF OPERATION

A new class C Tavern serving American cuisine. Seating Capacity of 95. Total Occupancy Load of 105. The license will include a Rooftop Summer Garden with 8 Seats. Licensee is also requesting an Entertainment Endorsement to provide live entertainment with Cover Charge and Dancing indoors only.

HOURS OF OPERATION INSIDE OF THE PREMISES

Sunday through Thursday 6am – 2am, Friday and Saturday 6am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE OF THE PREMISES

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR THE ROOFTOP SUMMER GARDEN

Sunday through Thursday 4pm – 12am, Friday and Saturday 4pm – 3am

HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES ONLY

Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 23, 2019
Protest Petition Deadline: October 7, 2019
Roll Call Hearing Date: October 21, 2019

License No.: ABRA-105990
Licensee: Wineandbutter, LLC
Trade Name: wine and butter
License Class: Retailer’s Class “B”
Address: 1023 East Capitol Street, S.E.
Contact: Risa Hirao: (202) 544-2200

WARD 6 ANC 6B SMD 6B05

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on October 21, 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 for a Class Change from Retailer “B” to Retailer’s Class “B” Full-Service Grocery store.

HOURS OF OPERATION

Sunday through Saturday 7am – 10pm

HOURS OF ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 9am – 10pm

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

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

**Case No. 19-09: Hillcrest/National Presbyterian Church Historic District
4101 and 4125 Nebraska Avenue and 4120 and 4124 Van Ness Street NW
Square 1724, part of Lot 805
Affected Advisory Neighborhood Commission: 3D**

The hearing will take place at **9:00 a.m. on Thursday, September 26, 2019**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

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

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

If the Historic Preservation Review Board designates a property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects:
Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects

affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

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

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

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

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

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

The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on an amendment request submitted by Richard Wright Public Charter School for Journalism and Arts (Richard Wright PCS) on August 2, 2019 to relocate its campus to a new location in Ward 6, effective for the second term of school year (SY) 2019-20.

Richard Wright PCS is currently in its eighth year of operation educating students in grades 8-12 at a single campus located at 770 M Street SE in Ward 6. Effective for January 2020, the school will relocate its campus to 475 School Street SW, which is also located in Ward 6. The school has worked with Building Hope to secure a new 25-year lease, and it has begun preparations for renovations of the new facility.

A public hearing will be held on September 16, 2019 and a vote will be held on October 21, 2019 at 6:30 p.m.

How to Submit Public Comment:

1. Submit written comment one of the following ways:
 - a. E-mail: public.comment@dcpsb.org
 - b. Postal mail: Attn: Public Comment, *DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - c. Hand Delivery/Courier*: Same as postal address above
2. Sign up to testify in-person at the public hearing on September 16, 2019 by emailing a request to public.comment@dcpsb.org by no later than 4 p.m. on Friday, September 13.

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

The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on an amendment request submitted by Rocketship Education DC Public Charter School (Rocketship DC PCS) on August 2, 2019 to open its third campus at a new location in Ward 5, effective for school year (SY) 2020-21.

Rocketship DC PCS is a local education agency (LEA) currently in its third year of operation serving students in grades prekindergarten-3 through fourth at two campuses located in Wards 7 and 8. Per its existing charter agreement, Rocketship is approved to open a new campus each year up to a total of 8 (including its existing 2 campuses) as long as the previous campuses are tier one schools. While Rocketship DC PCS was previously slated to open its third campus in SY 2018-2019, the school later requested to postpone the campus opening until SY 2020-21. Per this amendment application, Rocketship DC PCS will open its third campus in the Fort Totten area of Ward 5 at 5450 3rd Street NE. Renovations of the facility will be completed in two phases, beginning in October 2019. The school will officially move in prior to SY 2020-21.

A public hearing will be held on September 16, 2019 and a vote will be held on October 21, 2019 at 6:30 p.m.

How to Submit Public Comment:

1. Submit written comment one of the following ways:
 - a. E-mail: public.comment@dcpcsb.org
 - b. Postal mail: Attn: Public Comment, *DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - c. Hand Delivery/Courier*: Same as postal address above
2. Sign up to testify in-person at the public hearing on September 16, 2019 by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Friday, September 13.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, OCTOBER 23, 2019
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD SIX

20128 **Application of Matthew Pregmon and Arielle Giegerich**, pursuant to ANC 6B to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 205.4, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a rear and third-floor addition on an existing, attached principal dwelling unit in the RF-1 Zone at premises 1421 D Street S.E. (Square 1062, Lot 101).

WARD SIX

20129 **Application of 555 E Street SW, LLC**, pursuant to 11 DCMR Subtitle ANC 6D X, Chapter 9, for a special exception under the penthouse requirements of Subtitle C § 1500.3(c), to establish a penthouse bar and restaurant use for the penthouse of the proposed hotel in the D-5 Zone at premises 550 School Street S.W. (Square 494, Lot 36).

WARD FIVE

20131 **Application of Qinglong Chen**, pursuant to 11 DCMR Subtitle X, ANC 5E Chapter 9, for a special exception under Subtitle E § 5203.3, from the roof top addition requirements of Subtitle E § 206.1, to remove a roof top architectural element on an existing detached principal dwelling unit in the RF-1 Zone at premises 711 Lawrence Street N.E. (Square 3653, Lot 24).

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WARD FIVE

20133 **Application of Cassandra Spratt**, pursuant to 11 DCMR Subtitle X,
ANC 5E Chapter 9, for a special exception under Subtitle D § 5201 from the
rear yard requirements of Subtitle D § 306.2, to construct a two-story
rear addition to an existing, attached principal dwelling unit in the R-3
zone at premises 130 Rhode Island Avenue N.E. (Square 3538E, Lot
19).

WARD FOUR

20134 **Application of TPWR Developer, LLC**, pursuant to 11 DCMR
ANC 4A Subtitle X, Chapter 9, for a special exception under Subtitle K § 921.1
from the maximum linear ground-floor building frontage restriction of
Subtitle K § 902.7(e), to develop a mixed used project with ground
floor retail in the WR-2 Zone at premises 7100 Georgia Avenue N.W.
(Square 2950, Lot 846).

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

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OCTOBER 23, 2019

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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

ለሙከራ ሰርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም)

ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሙከራ በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

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

French

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

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿Necesita ayuda para participar?

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

Vietnamese

Quý vị có cần trợ giúp gì để tham gia không?

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

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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**

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

TIME AND PLACE: Thursday, November 7, 2019, @ 6:30 p.m.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 19-14 (Office of Planning – Proposed Text Amendments to Subtitles C, D, E, and F to Clarify the Regulations on Nonconforming Structures)

THIS CASE IS OF INTEREST TO ALL ANCS

On July 18, 2019, the Office of Planning (“OP”) filed with the Office of Zoning a setdown report that served as the pre-hearing report required by Subtitle Z § 501 of Title 11 of the DCMR (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references herein refer unless otherwise specified) and as a petition proposing text amendments to the Zoning Regulations that would clarify what relief is required and available for additions to a nonconforming structure by amending the following:

- Subtitle C § 202.2 to clarify that enlargements and additions to nonconforming structures that
 - conform to development standards would be permitted as a matter-of-right;
 - do not conform to development standards would require relief as required under each subtitle;
- Subtitle D, Chapter 52, to remove the current reference to relief from Subtitle C § 202.2, clarify which development standards are eligible for special exception relief and consolidate all special exception authority in this chapter by deleting current §§ 5007 and 5108;
- Subtitle E, Chapter 52, to remove the current reference to relief from Subtitle C § 202.2, clarify which development standards are eligible for special exception relief and consolidate all special exception authority in this chapter by deleting current §§ 5005 and 5107;
- Subtitle F, Chapter 52, to remove the current reference to relief from Subtitle C § 202.2 and clarify which development standards are eligible for special exception relief; and
- Subtitle X, Chapter 10, to remove the reference to Subtitle C § 202 as relief from that section is no longer required.

The proposed text amendment would apply city-wide.

At its regular public meeting held on July 29, 2019, the Zoning Commission voted to grant OP’s request to set down the proposed text amendment for a public hearing and authorized flexibility

for OP to work with the Office of the Attorney General to refine the proposed text and add any conforming language as necessary.

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows (text to be deleted is marked in **bold** and ~~strikethrough~~ text and new text is shown in **bold** and underlined text):

I. Subtitle C, GENERAL RULES, is proposed to be amended as follows:

Subsection 202.2 of § 202, NONCONFORMING STRUCTURES, of Chapter 2, NONCONFORMITIES, is proposed to be amended to read as follows:

202.2 Enlargements or additions may be made to the structure; provided that the addition or enlargement itself shall:

- (a) Conform to **the** use and development standard requirements **or obtain relief from the relevant standards**; and
- (b) Neither increase **nor** extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined **unless relief is obtained from the relevant standards**.

II. Subtitle D, RESIDENTIAL HOUSE ZONES, is proposed to be amended as follows:

Section 5007, SPECIAL EXCEPTION, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR R ZONES, is proposed to be deleted as follows:

~~5007 ——— SPECIAL EXCEPTION~~

~~5007.1 ——— Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D § 5201.~~

Section 5108, SPECIAL EXCEPTION, of Chapter 51, ALLEY LOT REGULATIONS FOR R ZONES, is proposed to be deleted as follows:

~~5108 ——— SPECIAL EXCEPTION~~

~~5108.1 ——— Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D § 5204.~~

The title of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS is proposed to be amended to read as follows:

CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES

Section 5200, GENERAL PROVISIONS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, is proposed to be amended as follows:

5200 GENERAL PROVISIONS

5200.1 The ~~following~~ provisions of this chapter provide for special exception relief to the specified development standards and regulations subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.

5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception authorized by this chapter shall be processed as a variance pursuant to Subtitle X, Chapter 10.

The title of Section 5201, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, is proposed to be amended to read as follows:

5201 ~~ADDITION TO A BUILDING OR ACCESSORY STRUCTURE~~ SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

Section 5201, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, is proposed to be amended as follows:

5201 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

5201.1 ~~The~~ For an addition to a principal residential building on a non-alley lot with one (1) principal dwelling unit or for a new principal residential building on a substandard record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may approve as a special exception ~~in the R zones relief from the following development standards of this subtitle,~~ subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, relief from the following development standards of this subtitle:

(a) Lot occupancy subject to the following table:

TABLE D § 5201.1(a): MAXIMUM PERMITTED LOT OCCUPANCY BY SPECIAL EXCEPTION

<u>Zone</u>	<u>Maximum Lot Occupancy</u>
<u>R-3, R-13, and R-17</u> <u>R-20 - Row dwellings</u>	<u>70%</u>
<u>R-20 - Detached and semi-detached dwellings</u> <u>All other R zones</u>	<u>50%</u>

- (b) Yards, including alley centerline setback;
- (c) Courts; and
- ~~(d) Minimum Lot dimensions;~~
- ~~(e) (d) Pervious surface; and.~~
- ~~(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.~~

5201.2

Special For a new or enlarged accessory structure to a residential building on a non-alley lot, the Board of Zoning Adjustment may approve as a special exception relief under this section is applicable only to the following, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, from the following development standards:

- (a) **An addition to a building with only one (1) principal dwelling unit; or Lot occupancy subject to the following table:**

TABLE D § 5201.2(b): MAXIMUM PERMITTED LOT OCCUPANCY BY SPECIAL EXCEPTION

<u>Zone</u>	<u>Maximum Lot Occupancy</u>
<u>R-3, R-13, and R-17</u> <u>R-20 - Row dwellings</u>	<u>70%</u>
<u>R-20 - Detached and semi-detached dwellings</u> <u>All other R zones</u>	<u>50%</u>

- ~~(b) A new or enlarged accessory structure that is accessory to such a building Maximum building area of an accessory building;~~
- ~~(c) Yards, including alley centerline setback;~~
- ~~(d) Courts; and~~

(e) Pervious surface.

5201.3 **For a new or enlarged principal building on an alley lot, the Board of Zoning Adjustment may approve as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9 relief from the following development standards:**

(a) Yards, including alley centerline setback; and

(b) Pervious surface.

5201.3 5201.4 An applicant **application** for special exception **relief** under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
- (c) The addition or accessory structure, together with the original building, **or the alley lot building,** as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage; **and**
- (d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; **and,**
- ~~(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot as specified in the following table:~~

TABLE D § 5201.4: MAXIMUM PERMITTED LOT OCCUPANCY

<u>Zone</u>	<u>Maximum Lot Occupancy</u>
R-3 R-13 R-17	70%
R-20 – attached dwellings only	70%
R-20 – detached and semi-detached dwellings All Other R zones	50%

~~5201.4~~ **5201.5** The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

~~5201.5~~ **5201.6** This section may ~~may~~ **shall** not be used to permit the introduction or expansion of a nonconforming use, **lot occupancy**, as a special exception.

~~5201.6~~ This section shall not be used to permit the introduction or expansion of nonconforming height, or number of stories as a special exception.

5201.7 Where an application requests relief from the alley centerline setback requirements under this section, the Office of Planning (OP) shall coordinate the review of the application by referring it for comments or recommendations from relevant government agencies, including, but not limited to:

- (a) District Department of Transportation (DDOT);
- (b) Department of Public Works (DPW);
- (c) Metropolitan Police Department (MPD);
- (d) Fire and Emergency Medical Services Department (FEMS);
- (e) DC Water (WASA); and
- (f) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

OP shall include any received comments or recommendations in its analysis of the application.

Section 5204, SPECIAL EXCEPTION CRITERIA ALLEY LOTS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS, is proposed to be deleted as follows:

~~5204~~ **SPECIAL EXCEPTION CRITERIA ALLEY LOTS [RESERVED]**

~~5204.1~~ The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an R zone pursuant to Subtitle X, Chapter 9

III. Subtitle E, RESIDENTIAL FLAT ZONES is proposed to be amended as follows:

Section 5007, SPECIAL EXCEPTION, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RF ZONES is proposed to be deleted as follows:

~~5007 ——— SPECIAL EXCEPTION~~

~~5108.1 ——— Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201.~~

Section 5108, SPECIAL EXCEPTION, of Chapter 51, ALLEY LOT REGULATIONS is proposed to be deleted as follows:

~~5108 ——— SPECIAL EXCEPTION~~

~~5108.1 ——— Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E § 5204.~~

The title of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS is proposed to be amended to read as follows:

**CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR
RF ZONES**

Section 5200, GENERAL PROVISIONS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, is proposed to be amended to read as follows:

5200 GENERAL PROVISIONS

5200.1 The ~~following~~ provisions of this chapter provide for special exception relief to the specified development standards and regulations subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.

5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception authorized by this chapter shall be processed as a variance pursuant to Subtitle X, Chapter 10.

The title of Section 5201, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES is proposed to be amended to read as follows:

5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

Section 5201, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, is proposed to be amended to read as follows:

5201 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

5201.1 The For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard record lot as described by Subtitle C §301.1, the Board of Zoning Adjustment may approve as a special exception, in the RF zones relief from the following development standards subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, relief from the following development standards of this subtitle:

- (a) Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) Yards, including alley centerline setback;
- (c) Courts; and
- ~~(d) Minimum Lot dimension;~~
- ~~(e) (d) Pervious surface; and.~~
- ~~(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.~~

5201.2 Special For a new or enlarged accessory structure to a residential building on a non-alley lot, the Board of Zoning Adjustment may approve as a special exception, relief under this section is applicable only to the following subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, relief from the following development standards of this subtitle:

- (a) An addition to a residential building Lot occupancy under Subtitle E § 5003 up to a maximum of seventy percent (70%) for all new and existing structures on the lot;

- (b) ~~A new or enlarged accessory structure that is accessory to such a building; or~~ Yards, including alley centerline setback;
- (c) ~~A reduction in the minimum setback requirements of an alley lot.~~ Courts; and
- (d) Pervious surface.

5201.3 ~~For a new or enlarged building on an alley lot, the Board of Zoning Adjustment may approve as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, relief from the following development standards of this subtitle:~~

- (a) Yards, including alley centerline setback; and
- (b) Pervious surface.

5201.3 ~~**5201.4**~~ An ~~applicant~~ **application** for special exception **relief** under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
- (c) The addition or accessory structure, together with the original building, **or the alley lot building,** as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage; **and**
- (d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; **and.**
- ~~(e) **The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).**~~

5201.4 ~~**5201.5**~~ The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

~~5201.5~~ 5201.6 This section ~~may~~ shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy, as a special exception.

~~5201.6~~ ~~This section shall not be used to permit the introduction or expansion of noneonforming height, or number of stories as a special exception.~~

5201.7 Where an application requests relief from the alley centerline setback requirements, the Office of Planning (OP) shall coordinate the review of the application by referring it for comments or recommendations from relevant government agencies, including, but not limited to:

(a) District Department of Transportation (DDOT);

(b) Department of Public Works (DPW);

(c) Metropolitan Police Department (MPD);

(d) Fire and Emergency Medical Services Department (FEMS);

(e) DC Water (WASA); and

(f) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

OP shall include any received comments or recommendations in its analysis of the application.

Section 5204, SPECIAL EXCEPTION CRITERIA ALLEY LOTS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, is proposed to be deleted:

5204 ~~SPECIAL EXCEPTION CRITERIA ALLEY LOTS [RESERVED]~~

~~5204.1 The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an RF zone may be approved as a special exception pursuant to Subtitle X, Chapter 9~~

IV. Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES is proposed to be amended as follows:

The title of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RA ZONES, is proposed to be amended to read as follows:

Chapter 50, ACCESSORY BUILDING REGULATIONS ~~(RA)~~ FOR RA ZONES

Section 5005, SPECIAL EXCEPTION, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RA ZONES, is proposed to be deleted as follows:

5005 ~~SPECIAL EXCEPTION [RESERVED]~~

~~5005.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F§ 5201.~~

Section 5107, SPECIAL EXCEPTION, of Chapter 51, ALLEY LOT REGULATIONS FOR RA ZONES, is proposed to be deleted as follows:

5107 ~~SPECIAL EXCEPTION [RESERVED]~~

~~5107.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle F§ 5201.~~

Section 5200, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS, is proposed to be amended to read as follows:

5200 GENERAL PROVISIONS

5200.1 The provisions of this chapter provide for special exception relief to the specified development standards and regulations ~~in the RA zones~~ as a special exception subject to the provisions of ~~this chapter~~ each section and the general special exception criteria at Subtitle X, Chapter 9.

5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception authorized by this chapter shall be processed as a variance pursuant to Subtitle X, Chapter 10.

The title of Section 5201, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, ACCESSORY BUILDING REGULATIONS FOR RA ZONES, is proposed to be amended to read as follows:

5201 ~~ADDITION TO A BUILDING OR ACCESSORY STRUCTURE~~ SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

Section 5201, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, is proposed to be amended to read as follows:

5201 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

5201.1 ~~The~~ For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard record lot as described by Subtitle C §301.1, the Board of Zoning Adjustment may grant as a special exception, ~~relief from the following development standards of this subtitle~~, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, relief from the following development standards of this subtitle:

- (a) Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) Yards, including alley centerline setback; and
- (c) Courts; and
- (e) (d) Green area Area ratio Ratio.

5201.2 ~~Special exception relief under this section is applicable only to the following~~ For a new or enlarged accessory structure to a residential building on a non-alley lot, the Board of Zoning Adjustment may approve as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, relief from the following development standards, of this subtitle:

- (a) ~~An addition to an existing residential building; or~~ Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) ~~A new or enlarged accessory structure that is accessory to such a building.~~ Yards, including alley centerline setback;
- (c) Courts; and
- (d) Green Area Ratio.

5201.3 For a new or enlarged building on an alley lot, the Board of Zoning Adjustment may approve as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9, relief from the following development standards of this subtitle:

- (a) Yards, including alley centerline setback; and

(b) Green Area Ratio.

~~5201.3~~ **5201.4** An application for special exception **relief** under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (a) The light and air available to neighboring properties shall not be unduly compromised;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
- (c) The addition or accessory structure, together with the original building, **or the alley lot building,** as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage; **and**
- (d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; ~~and.~~
- ~~(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).~~

~~5201.4~~ **5201.5** The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

~~5201.5~~ **5201.6** This section shall not be used to permit the introduction or expansion of a nonconforming use, **lot occupancy, as a special exception.**

~~5201.6~~ ~~5201.8~~ ~~This section shall not be used to permit the introduction or expansion of nonconforming~~ height, or number of stories as a special exception.

5201.7 **Where an application requests relief from the alley centerline setback requirements under this section, the Office of Planning (OP) shall coordinate the review of the application by referring it for comments or recommendations from relevant government agencies, including, but not limited to:**

- (a) District Department of Transportation (DDOT);**

- (b) Department of Public Works (DPW);
- (c) Metropolitan Police Department (MPD);
- (d) Fire and Emergency Medical Services Department (FEMS);
- (e) DC Water (WASA); and
- (f) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

OP shall include any received comments or recommendations in its analysis of the application.

Section 5204, SPECIAL EXCEPTION CRITERIA ALLEY LOTS, of Chapter 52, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, is proposed to be deleted to read as follows:

5204 SPECIAL EXCEPTION CRITERIA ALLEY LOTS [RESERVED]

~~5204.1 The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an RA zone may be approved as a special exception pursuant to Subtitle X, Chapter 9~~

V. Subtitle X, GENERAL PROCEDURES, is proposed to be amended as follows:

Subsection 1001.3 of Section 1001, VARIANCE TYPES, of Chapter 10, VARIANCES is proposed to be amended as follows:

- 1001.3 Examples of area variances are requests to deviate from:
- (a) Requirements that ...¹
 - ...
 - (d) Limitations on the alteration or conversion of certain structures on alley lots as stated in Subtitle D § 1610; Subtitle E § 1104; Subtitle F § 903; and Subtitle G § 1503; **and**
 - ~~(e) The prohibition against certain enlargements and additions to nonconforming structures as stated at Subtitle C § 202; and~~

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

(f) (e) Preconditions to the establishment of ... a more intense use.

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended (D.C. Official Code § 6-641.01, et seq. (2018 Repl.)).

This public hearing will be conducted in accordance with the rulemaking case provisions of the Zoning Regulations, 11 DCMR Subtitle Z, Chapter 5.

How to participate as a witness.

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

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

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

- | | | |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals | 3 minutes each |

The Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://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, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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

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

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

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

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

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

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

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

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 and Zoning Commission Order No. 07-08C, issued by the Zoning Commission of the District of Columbia and published in the *D.C. Register* on June 28, 2019, at 66 DCR 7666.

The final rulemaking amended § 718 (Temporary Surface Parking Lots for Ballpark), Chapter 7 (Vehicle Parking) of Subtitle C (General Rules) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking incorrectly omitted a conforming amendment confirming that the temporary surface parking lot uses authorized by the rulemaking, which specifically included Square 767, Lots 44-47, and Square 768, Lots 19-22, is authorized in the RA-2 zone in which those properties are currently located.

The corrections to the final rulemaking are made below (additions are shown in **bold and underline** text; deletions are shown in **~~bold and strikethrough~~** text):

Section 401, MATTER-OF-RIGHT USES (RA) of Chapter 4, USE PERMISSIONS RESIDENTIAL APARTMENT ZONES (RA), of Subtitle U, USE PERMISSIONS, is amended as follows:

- 401.1 The following uses shall be permitted as a matter-of-right in an RA zone subject to any applicable conditions:
- (a) Any use permitted in the RF zones ...¹
 - ...
 - (e) Recreation building, park, ... subject to the following:
 - (1) No part of any use ...
 - ...
 - (5) Any lighting used ... to the boundaries of the lot; **and**
 - (f) Elderly development center or adult day care ... individuals not including staff; **and**

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

(g) A temporary surface parking lot accessory to the Ballpark shall be permitted on Square 767, Lots 44-47 and Square 768, Lots 19-22 in accordance with Subtitle C § 718.

This Errata Notice's correction to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of June 28, 2019.

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.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (DC Health), pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following new Chapters 94 (Dialysis Technicians), 95 (Medication Aides), 96 (Certified Nursing Assistants) and 97 (Patient Care Technicians) to Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

These regulations are required pursuant to the Practice of Nursing Amendment Act of 2009, effective July 7, 2009 (D.C. Law 18-18; D.C. Official Code § 3-1209.07(b) (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998.

These regulations were previously published as a Notice of Proposed Rulemaking at 60 DCR 000788 (January 25, 2013), a Second Proposed Rulemaking at 65 DCR 000185 (January 12, 2018), and a Third Proposed Rulemaking at 66 DCR 006413 on May 24, 2019. No comments were received during the thirty (30)-day comment period and no changes have been made.

These regulations were adopted as final on July 1, 2019 and will become effective upon publication in the *D.C. Register*.

Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Chapter 94, DIALYSIS TECHNICIANS, is amended to read as follows:

CHAPTER 94 DIALYSIS TECHNICIANS

- 9400 GENERAL PROVISIONS
- 9401 REGISTRATION
- 9402 TERM OF REGISTRATION
- 9403 CRIMINAL BACKGROUND CHECK
- 9404 GENERAL REQUIREMENTS FOR DIALYSIS TECHNICIAN REGISTRATION
- 9405 [RESERVED]
- 9406 DIALYSIS TECHNICIAN REGISTRATION BY ENDORSEMENT
- 9407 DIALYSIS TECHNICIAN RENEWAL OF REGISTRATION
- 9408 DIALYSIS TECHNICIAN INACTIVE STATUS AND REACTIVATION OF REGISTRATION
- 9409 DIALYSIS TECHNICIAN REINSTATEMENT OF EXPIRED REGISTRATION
- 9410 [RESERVED]
- 9411 [RESERVED]
- 9412 [RESERVED]

- 9413 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO
DIALYSIS TECHNICIANS
- 9414 [RESERVED]
- 9415 DIALYSIS TECHNICIAN TASKS
- 9416 [RESERVED]
- 9417 DISCIPLINE
- 9418 [RESERVED]
- 9419 [RESERVED]
- 9420 STANDARDS FOR DIALYSIS TECHNICIAN TRAINING PROGRAMS
- 9499 DEFINITIONS

9400 GENERAL PROVISIONS

- 9400.1 This chapter applies to applicants for, and holders of, a registration to practice as a dialysis technician (DT).
- 9400.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title apply to holders of a registration to practice as a DT.

9401 REGISTRATION

- 9401.1 Pursuant to 42 CFR § 494.180(b)(5), no person shall practice as a DT in the District of Columbia longer than eighteen (18) months without being registered by the Board of Nursing (Board) as a DT.
- 9401.2 A DT shall be certified pursuant to § 9404.1(d) and registered by the Board within eighteen (18) months of his or her hire date. If a DT who is not certified changes employment from one dialysis facility to another, the time he or she was employed in the first facility shall count towards the eighteen (18) month period for certification unless he or she had a gap in employment as a DT of more than eighteen (18) months.

9402 TERM OF REGISTRATION

- 9402.1 Subject to § 9401.1, a registration issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each even-numbered year.
- 9402.2 The Director may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a registration expires.

9403 CRIMINAL BACKGROUND CHECK

- 9403.1 A person applying for registration (“an applicant”) as a DT shall undergo a criminal background check (CBC) prior to issuance of the registration.

9403.2 After issuance of an initial certification, the applicant shall undergo an additional CBC as determined by Title 17 DCMR Chapter 85.

9403.3 The Board shall review the positive results of an applicant’s CBC.

9404 GENERAL REQUIREMENTS FOR DIALYSIS TECHNICIAN REGISTRATION

9404.1 An applicant for registration as a DT shall:

- (a) Be at least eighteen (18) years of age;
- (b) Have graduated from high school or have a graduate equivalency diploma;
- (c) Submit an application and application fee; and
- (d) Submit evidence of current certification from one of the following:
 - (1) The Certified Clinical Hemodialysis Technician Examination offered by the Nephrology Nursing Certification Commission;
 - (2) The Board of Nephrology Examiners for Nursing and Technology examination;
 - (3) The National Nephrology Certification Organization examination; or
 - (4) Another certification program recognized by the Centers for Medicare & Medicaid Services (CMS) and the Board.

9404.2 An application that remains incomplete for ninety (90) days or more from the date of submission may be considered abandoned and may be closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for registration, and pay the required fees.

9405 [RESERVED]

9406 DIALYSIS TECHNICIAN REGISTRATION BY ENDORSEMENT

9406.1 An applicant currently working in another jurisdiction as a DT shall apply for registration as a DT by endorsement in order to work in the District of Columbia as a DT.

9406.2 An applicant for registration by endorsement as a DT shall provide proof of the following:

- (a) That he or she has a current unencumbered certification as a DT by a certifying body recognized by the Board; and
- (b) That he or she has an unencumbered certification, registration or licensure from another jurisdiction, if applicable.

9407**DIALYSIS TECHNICIAN RENEWAL OF REGISTRATION**

9407.1

An applicant for renewal shall:

- (a) Submit evidence of completion of twelve (12) hours per year, twenty-four (24) in total, of in-service or continuing education in the area of dialysis or areas relevant to practice during the renewal period; provided that at least ten percent (10%) of the in-service or continuing education shall be in a public health subject as determined and published every five (5) years or as deemed appropriate by the Director;
- (b) Have completed two (2) hours of continuing education in cultural competency or specialized clinical training on clients who identify as lesbian, gay, bisexual, transgender and queer, and any additional Board-mandated topics;
- (c) Have practiced for a minimum of one hundred (100) hours during the prior twenty-four (24) months as a dialysis technician under the supervision of a registered nurse (RN);
- (d) Submit a current certification as a dialysis technician from a certification program recognized by the Centers for Medicare & Medicaid Services and the Board; and
- (e) Complete a CBC as required by § 9403.

9407.2

In-service programs or continuing education provided by a nursing organization, or health services organization that is recognized by the Board, shall be:

- (a) Current in subject matter;
- (b) Developed and taught by qualified individuals; and
- (c) Relevant to the role of a DT.

9407.3

Applications shall be subject to audit to assure compliance with §§ 9407.1 and 9407.2.

9408 DIALYSIS TECHNICIAN INACTIVE STATUS AND REACTIVATION OF REGISTRATION

- 9408.1 A DT with an active certification may request to be placed on inactive status.
- 9408.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice as a DT in the District of Columbia.
- 9408.3 To reactivate an inactive status, the individual shall submit evidence of current certification from a certification program recognized by the CMS and the Board.

9409 DIALYSIS TECHNICIAN REINSTATEMENT OF EXPIRED REGISTRATION

- 9409.1 If a DT fails to renew his or her registration, the Board shall reinstate the registration if the applicant:
 - (a) Applies to the Board for reinstatement of the registration within five (5) years after the registration expires;
 - (b) Provides evidence of current certification;
 - (c) Provides evidence of having completed twelve (12) continuing education hours within the year prior to submission of an application; and
 - (d) Completes a CBC as required in accordance with Title 17 DCMR Chapter 85.
- 9409.2 If a DT does not hold a national certification and fails to apply for reinstatement within five (5) years after it expires, the applicant shall meet the requirements pursuant to § 9404.

9410 [RESERVED]

9411 [RESERVED]

9412 [RESERVED]

9413 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO DIALYSIS TECHNICIANS

- 9413.1 A registered nurse (RN) may delegate nursing care tasks to a DT.
- 9413.2 A DT shall not practice independently but shall work under the supervision of a RN.

9413.3 Dialysis tasks that may be delegated to a DT shall comply with the standards for delegation listed in 17 DCMR § 5415 and be determined by:

- (a) The knowledge and skills of the DT;
- (b) Verification of the clinical competence of the DT by the employing agency;
- (c) The stability of the patient’s condition that involves predictability, absence of risk of complication, and rate of change;
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices and channels of communication that lend support to the type of dialysis tasks, functions, or activities being delegated to a DT;
 - (2) The complexity and frequency of care needed by a given client population;
 - (3) The proximity of clients to staff;
 - (4) The number and qualifications of staff; and
 - (5) The accessibility of the registered nurse or other licensed health professionals.

9413.4 Dialysis that inherently involves on-going assessment, interpretation or decision making that cannot be logically separated from the procedure(s) shall not be delegated to a DT.

9414 [RESERVED]

9415 DIALYSIS TECHNICIAN TASKS

9415.1 A DT may perform the following tasks under the supervision of a registered nurse, nurse practitioner, or physician while utilizing effective communication and interpersonal skills:

- (a) Preparing and cannulating peripheral access sites;
- (b) Initiating, delivering or discontinuing dialysis care;

- (c) Measuring and recording temperature, pulse, respiration, and blood pressure when initiating, delivering, or discontinuing dialysis patient care;
- (d) Administering the following drugs only:
 - (1) Anticoagulants either to prime the extracorporeal system in preparation for initiation of treatment, or for administration throughout the treatment, in an amount prescribed by a licensed provider; and
 - (2) Normal saline via the extracorporeal system to correct dialysis induced hypotension based on the facility’s medical protocol, provided that amounts beyond that established in the facility’s medical protocol shall not be administered without the direction from a registered nurse, nurse practitioner, physician, or physician assistant.
- (e) Assisting the registered nurse in data collection;
- (f) Obtaining a blood specimen via the extracorporeal system;
- (g) Responding to complications that arise in conjunction with dialysis care;
- (h) Managing vascular access; and
- (i) Maintaining the central venous catheter.

9415.2 The scope of practice of a DT shall not include:

- (a) Dialysis care for a patient whose condition is determined by the registered nurse to be critical, fluctuating, or unpredictable; and
- (b) The administration of blood and blood products.

9415.3 DTs, where appropriate, shall provide care based upon standing treatment protocols.

9416 [RESERVED]

9417 DISCIPLINE

9417.1 The Board may revoke, suspend, or deny the registration of any DT who is convicted of any crime involving moral turpitude pursuant to D.C. Official Code § 3-1205.14(a)(4) (20126 Repl. & 2018 Supp.).

- 9417.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c)(5)) (2016 Repl. & 2018 Supp.), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against the DT.
- 9417.3 Grounds for denial, suspension, revocation or other discipline of a DT include the inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14 (2016 Repl. and 2018 Supp.):
- (a) Substance abuse or other chemical dependency;
 - (b) Client abandonment;
 - (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement, or renewal; or
 - (3) Giving or receiving assistance in taking the competency evaluation;
 - (d) Client neglect, abuse, or misappropriation of funds;
 - (e) Boundary violations;
 - (f) Unsafe client care;
 - (g) Performance of acts beyond the DT's range of functions or beyond those tasks delegated;
 - (h) Misappropriation or misuse of property;
 - (i) Criminal conviction;
 - (j) Failure to conform to acceptable standards of practice as a DT;
 - (k) Placement of clients at risk of harm; or
 - (l) Violation of the privacy or failure to maintain the confidentiality of client information.

- 9417.4 The Board shall maintain and make available all public Board disciplinary actions.
- 9417.5 DT's who are unable to perform their duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2016 Repl.)
- 9417.6 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act, D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl. & 2018 Supp.) that it deems appropriate.
- 9418 [RESERVED]**
- 9419 [RESERVED]**
- 9420 STANDARDS FOR DIALYSIS TECHNICIAN TRAINING PROGRAMS**
- 9420.1 A medical director and nurse manager shall be responsible for patient care and outcomes in DT training programs.
- 9420.2 The medical director shall be accountable to the governing body of the dialysis facility for the quality of medical care provided to patients in DT training programs.
- 9420.3 Pursuant to 42 CFR § 494.140(a), the medical director shall be a physician in internal medicine or pediatrics, certified by a professional board, who has completed a board-approved training program in nephrology and has at least twelve (12) months of experience providing care to patients receiving dialysis.
- 9420.4 If a physician, as specified in § 9420.3, is not available to direct a dialysis training program, another physician may direct the program subject to the approval of the Department of Health pursuant to 42 CFR § 494.140(a)(2).
- 9420.5 Pursuant to 42 CFR § 494.140(b), the nurse manager shall meet the following qualifications:
- (a) Be a full-time employee of the training program;
 - (b) Be an RN;
 - (c) Have at least twelve (12) months experience in clinical nursing, and an additional six (6) months of experience in providing nursing care to patients on maintenance dialysis.

9499 DEFINITIONS

9499.1 As used in this chapter, the following terms shall have the meanings ascribed:

Abuse - any willful or reckless act or omission by a DT that causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, physical or emotional injury, death, or financial exploitation of a client.

Administer - the direct application of drugs to the human body only by insertion or via a dialysis tubing device as prescribed by a licensed provider.

Applicant - a person applying for a registration to practice as a DT.

Board - the Board of Nursing as established by § 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04 (2016 Repl.)).

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the DT.

Criminal background check – an investigation into a person’s history by the appropriate state and federal authorities or approved vendor to determine whether the person has been convicted of a crime in the District of Columbia or in any other state or territory of the United States.

Delegation - the transference from the RN to another individual within the scope of his or her practice, the authority to act on behalf of the RN in the performance of a nursing intervention, while the RN retains accountability and responsibility for the delegated act.

Director - the Director of the Department of Health, or his or her designee.

Endorsement - the process of issuing a certification to a DT applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

In-service - learning experiences provided in the work setting for the purpose of assisting staff members in performing their assigned functions in that particular agency or institution.

Misappropriation - the application of another's property or money dishonestly to one's own use.

Neglect - any act or omission by a DT which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Program - the planned series of instructions, didactic and clinical, designed so the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired DT registration.

9499.2 The definitions in § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

Chapter 95, MEDICATION AIDES, is amended to read as follows:

CHAPTER 95 MEDICATION AIDES

9500	GENERAL PROVISIONS
9501	CERTIFICATION
9502	TERM OF CERTIFICATION
9503	CRIMINAL BACKGROUND CHECK
9504	GENERAL REQUIREMENTS FOR MEDICATION AIDE CERTIFICATION
9505	REQUIREMENTS FOR MEDICATION AIDE CERTIFICATION BY EXAMINATION
9506	REQUIREMENTS FOR MEDICATION AIDE CERTIFICATION BY ENDORSEMENT
9507	MEDICATION AIDE CERTIFICATION RENEWAL
9508	MEDICATION AIDE INACTIVE STATUS AND REACTIVATION OF CERTIFICATION
9509	REINSTATEMENT OF EXPIRED CERTIFICATION
9510	[RESERVED]
9511	[RESERVED]
9512	[RESERVED]
9513	ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO MEDICATION AIDES
9514	[RESERVED]
9515	MEDICATION AIDE TASKS
9516	REPORTING REQUIREMENTS
9517	DISCIPLINE
9518	[RESERVED]
9519	[RESERVED]
9520	STANDARDS FOR MEDICATION AIDE TRAINING PROGRAMS
9521	SUPERVISED PRACTICE OF MEDICATION AIDE TRAINEES
9522	[RESERVED]
9523	MEDICATION AIDE PROGRAM APPROVAL PROCEDURES FOR HEALTHCARE FACILITIES
9524	MEDICATION AIDE PROGRAM APPROVAL PROCEDURES FOR SCHOOLS
9525	PERIODIC REVIEW OF APPROVED PROGRAMS
9526	[RESERVED]
9527	MEDICATION AIDE TRAINING PROGRAM REQUIREMENTS
9528	MINIMUM QUALIFICATIONS FOR MEDICATION AIDE TRAINEES
9529	[RESERVED]
9530	CLOSING OF TRAINING PROGRAMS
9531	RECORDS RETENTION
9532	RESOURCES, FACILITIES, AND SERVICES
9599	DEFINITIONS

9500 GENERAL PROVISIONS

9500.1 This chapter applies to applicants for, and holders of, a certification to practice as a medication aide (MA-C).

9500.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title apply to holders of a certification to practice as an MA-C.

9501 CERTIFICATION

9501.1 No person shall practice as an MA-C in the District of Columbia without being certified by the Board of Nursing (Board).

9502 TERM OF CERTIFICATION

9502.1 Subject to § 9501.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each odd-numbered year.

9502.2 The Director of the Department of Health (DOH) may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a certification expires.

9503 CRIMINAL BACKGROUND CHECK

9503.1 A person applying for certification as an MA-C shall undergo a criminal background check (CBC) prior to issuance of the certification.

9503.2 After issuance of an initial certification, the applicant shall undergo an additional CBC in accordance with Title 17 DCMR Chapter 85.

9503.3 The Board shall review the applicant's positive CBC results.

9504 GENERAL REQUIREMENTS FOR MEDICATION AIDE CERTIFICATION

9504.1 An applicant for certification as an MA-C shall:

- (a) Be at least eighteen (18) years of age;
- (b) Provide evidence of having passed the National Council of Boards of Nursing (NCSBN) Medication Aide Certification Examination (MACE) and of satisfactory performance of nursing related services for a minimum of one (1) year;
- (c) Meet the requirements of § 9503;

- (d) Submit a completed application and application fee to the Board; and
- (e) Submit any other documents that may be required by the Board.

9504.2 An application that remains incomplete for ninety (90) days or more from the date of submission may be considered abandoned and may be closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for certification, and pay the required fees.

9505 REQUIREMENTS FOR MEDICATION AIDE CERTIFICATION BY EXAMINATION

9505.1 To qualify for certification by examination an applicant shall:

- (a) Receive a passing score on the MACE; and
- (b) Meet requirements of this chapter.

9505.2 To apply for authorization to take an MA-C examination, an applicant shall provide proof of one (1) of the following:

- (a) Successful completion of a medication aide course approved by the Board;
- (b) Successful completion of a practical nursing or registered nursing fundamentals course in the United States and a minimum of forty (40) hours of practice in a clinical setting that includes administration of drugs; or
- (c) Completion of a credentials evaluation by an organization recognized by the Board, indicating equivalent education as a registered nurse or licensed practical nurse for nurses educated outside of the United States.

9505.3 To request special accommodations for an examination, an applicant shall submit in writing, the following information:

- (a) A letter from the appropriate health professional that confirms the applicant's disability and provides information describing the accommodations required; and
- (b) A letter from the applicant's education program, indicating what accommodations were granted by the program.

9505.4 If an applicant has not taken or passed the medication aide examination more than twenty-four (24) months after the date the applicant becomes eligible to apply to

take the examination, the applicant shall comply with requirements set forth in § 9505.1(a).

9506 REQUIREMENTS FOR MEDICATION AIDE CERTIFICATION BY ENDORSEMENT

9506.1 An applicant currently working in another jurisdiction as an MA-C shall apply for MA-C by endorsement in order to work in the District of Columbia as an MA-C.

9506.2 An applicant for MA-C by endorsement shall submit proof of:

- (a) Current unencumbered registration or certification as an MA-C in another jurisdiction; or
- (b) Having passed the NCSBN MACE or other medication aide examination accepted by the Board; and
- (c) Documentation from the applicant's supervising nurse or employer attesting to the trainee's satisfactory performance of nursing related services for a period of time not less than one (1) year.

9507 MEDICATION AIDE CERTIFICATION RENEWAL

9507.1 An applicant for renewal shall:

- (a) Provide evidence of completion of twelve (12) hours per year, twenty-four (24) in total, of in-service training or continuing education; provided that at least ten percent (10%) of the in-service or continuing education shall be in a public health subject as determined and published every five (5) years or as deemed appropriate by the Director;
- (b) Have completed six (6) continuing education credits in pharmacology or administration of drugs per year;
- (c) Have completed two (2) hours of continuing education in cultural competency or specialized clinical training on clients who identify as lesbian, gay, bisexual, transgender or queer, and any additional Board mandated topics;
- (d) Submit evidence of performance of drug administration related services for compensation for a minimum of eight (8) hours during the prior twelve (12) months; and
- (e) Complete a CBC as required in accordance with Title 17 DCMR Chapter 85.

9507.2 In addition to meeting the requirements specified above, MA-Cs who have another active District of Columbia certification, as a nursing assistive personnel, may apply those hours of in-service or continuing education toward their MA-C continuing education requirement.

9507.3 Applicants shall be subject to audit to assure compliance with § 9507.1.

9508 MEDICATION AIDE INACTIVE STATUS AND REACTIVATION OF CERTIFICATION

9508.1 An MA-C with an active certification may request to be placed on inactive status.

9508.2 While on inactive status, an MA-C shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as an MA-C in the District of Columbia.

9508.3 To reactivate an inactive status, an applicant shall meet the requirements of § 9507.

9509 REINSTATEMENT OF EXPIRED CERTIFICATION

9509.1 If an MA-C fails to renew his or her certification, the Board shall reinstate the certification if the applicant:

- (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires;
- (b) Provides evidence of having completed twenty-four (24) continuing education hours within the two (2) years prior to submission of an application; and
- (c) Completes a CBC as required in accordance with Title 17 DCMR Chapter 85.

9509.2 If an MA-C does not hold a certification in another jurisdiction and fails to apply for reinstatement within five (5) years after his or her certification expires, the MA-C shall meet the requirements for certification pursuant to § 9505, Certification by Examination.

9510 [RESERVED]

9511 [RESERVED]

9512 [RESERVED]

9513 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO MEDICATION AIDES

- 9513.1 An RN or LPN may assign or delegate tasks to an MA-C if the task is appropriate to the level of knowledge and skill of the MA-C and is within the scope of authorized tasks of the MA-C listed in § 9515.1.
- 9513.2 MA-Cs shall not practice independently but shall work under the supervision of an RN or LPN.
- 9513.3 The delegation or assignment of a task shall comply with the standards for delegation and assignment listed in 17 DCMR § 5415 (Registered Nurse) and delegation and assignment listed in 17 DCMR § 5515 (Licensed Practical Nurse). Nursing care tasks that may be delegated or assigned shall be determined by:
- (a) The knowledge and skills of the MA-C;
 - (b) Verification of the clinical competence of the MA-C by the employing agency;
 - (c) The stability of the client's condition, including factors such as predictability, absence of risk of complication, and rate of change; and
 - (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated to the MA-C;
 - (2) The complexity and frequency of care needed by a given client population; and
 - (3) The accessibility of a registered nurse (RN) or licensed practical nurse (LPN).
- 9513.4 The MA-C shall not perform a task involving the administration of drugs if:
- (a) The administration of drugs requires a calculation of the dosage of the drug or the conversion of the dosage;
 - (b) The supervising nurse is unavailable either in person or by telephone to monitor the progress of the client and the effect of the drug on the client;
 - (c) The client is not stable or has changing health care needs; or

- (d) The MA-C has not been prepared by training to perform the delegated or assigned task. Upon such delegation or assignment, the MA-C shall immediately inform the supervising nurse of his or her inability by training to perform the delegated task.

9514 [RESERVED]

9515 MEDICATION AIDE TASKS

9515.1 The MA-C may perform the following under the supervision of an RN or LPN:

- (a) Providing effective communication and interpersonal skills;
- (b) Administering epinephrine via an auto injector to treat severe allergic reactions to insect stings, bites and foods;
- (c) Performing finger stick blood glucose test with a physician's, nurse practitioner's or physician assistant's order which shall indicate:
 - (1) The frequency for finger sticks;
 - (2) The normal blood sugar range;
 - (3) The range outside of the indicated range and when to notify the nurse for readings; and
 - (4) The parameters for when to contact emergency services;
- (d) Reporting of symptoms or side effects;
- (e) Administering insulin or any other subcutaneous injection as specified by the Board, via a prefilled syringe;
- (f) Administering oral drugs;
- (g) Administering drugs via eye, ear, or nose;
- (h) Administering drugs via suppository;
- (i) Administering topical drugs and medicated shampoos;
- (j) Reporting symptoms or side effects; and
- (k) Documenting drug administration or omissions, on medication administration record.

9515.2 In addition to the tasks listed in this section, MA-Cs when working in the role of a certified nursing assistant shall comply with 17 DCMR § 9615 and when working in the role of a home health aide, shall comply with 17 DCMR § 9315.

9516 REPORTING REQUIREMENTS

9516.1 Based on agency or facility policies, the MA-C shall document which drugs have been administered and shall document whether drugs have been taken by the patient as ordered.

9516.2 The MA-C shall:

- (a) Report the following to the supervising nurse:
 - (1) Signs or symptoms that appear life threatening;
 - (2) Events that appear health threatening; and
 - (3) Drugs that produced no results or undesirable effects as reported by the patient;
- (b) Notify a nurse prior to each administration of prescribed PRN (as needed) drugs;
- (c) Be personally responsible and accountable for all actions taken when implementing delegated tasks;
- (d) Comply with laws, policies and procedures applicable to the setting in which the MA-C is administering drugs; and
- (e) Be employed only in situations where a registered nurse or licensed practical nurse supervisor is available.

9517 DISCIPLINE

9517.1 The Board may revoke, suspend, or deny registration of any MA-C who is convicted of any crime involving moral turpitude pursuant to D.C. Official Code § 3-1205.14(a)(4) (2016 Repl. and 2018 Supp.).

9517.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c)(5), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against the MA-C.

- 9517.3 Grounds for denial, suspension, revocation or other discipline of an MA-C include the inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14:
- (a) Substance abuse or other chemical dependency;
 - (b) Client abandonment;
 - (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement or renewal; or
 - (3) Giving or receiving assistance in taking the competency evaluation;
 - (d) Client neglect, abuse or misappropriation of funds;
 - (e) Boundary violations;
 - (f) Unsafe client care;
 - (g) Performing acts beyond the MA-C range of functions or beyond those tasks delegated;
 - (h) Misappropriating or misusing property;
 - (i) A criminal conviction;
 - (j) Failing to conform to acceptable standards of practice as an MA-C;
 - (k) Putting clients at risk of harm; or
 - (l) Violating the privacy or failing to maintain the confidentiality of client information.
- 9517.4 The Board shall maintain and make available all records of disciplinary actions.
- 9517.5 An MA-C who is unable to perform his or her duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse's Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2016 Repl.)

9517.6 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act, D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl.) that it deems appropriate.

9518 [RESERVED]

9519 [RESERVED]

9520 STANDARDS FOR MEDICATION AIDE TRAINING PROGRAMS

9520.1 No institution shall provide MA-C training in the District of Columbia unless its training program has been approved by the Board.

9520.2 The following types of institutions may apply for approval to provide MA-C training:

- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia which are licensed by the Higher Education Licensure Commission (HELC) pursuant to the Educational Institution Licensure Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code §§ 38-1301, *et seq.* (2012 Repl.));
- (b) Private, non-degree post-secondary schools operating in the District of Columbia which are licensed by the Education Licensure Commission; and
- (c) District of Columbia public universities or colleges; and
- (d) Health care facilities licensed and operating in the District of Columbia, that have received no adverse actions during the preceding two (2) years.

9520.3 The Board shall consider any one of the following as an adverse action which would preclude a facility from providing MA-C training:

- (a) A facility's participation in the Medicaid or Medicare Program is terminated, restricted or revoked;
- (b) A facility, other than a new facility, has received a provisional or restricted license; or
- (c) A facility is given a provider agreement of less than one (1) year.

9521 SUPERVISED PRACTICE OF MEDICATION AIDE TRAINEES

9521.1 A medication aide trainee may practice only in accordance with the Act and this chapter.

- 9521.2 A trainee who is fulfilling educational requirements under this chapter may engage in supervised practice without a District of Columbia certification.
- 9521.3 All supervised practice of a trainee shall take place under the general or immediate supervision of a registered nurse or licensed practical nurse.
- 9521.4 A trainee shall identify himself or herself as a trainee before practicing.
- 9521.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or client's family member.
- 9521.6 The nurse supervising the trainee shall be responsible for practice by a trainee during the period of supervision and may be subject to disciplinary action for trainee violations of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 ("Act") (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl.)), or this chapter.
- 9521.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee.
- 9522 [RESERVED]**
- 9523 MEDICATION AIDE PROGRAM APPROVAL PROCEDURES FOR HEALTHCARE FACILITIES**
- 9523.1 Each facility applying for approval to provide MA-C training shall submit an application for approval which contains the following information:
- (a) A certificate of exemption or approval from the Higher Education Licensure Commission (HELC);
 - (b) A certificate of exemption or approval by the HELC, if coursework is offered to persons not employed by the facility;
 - (c) A list of qualified instructors with resumes attached; and
 - (d) A description of the trainee population and the tentative training schedule.
- 9523.2 A training program shall not admit trainees to the program before the program has been approved by the Board.
- 9523.3 The Board shall withdraw approval of training if the facility loses its licensure status.

9524 MEDICATION AIDE PROGRAM APPROVAL PROCEDURES FOR SCHOOLS

9524.1 Each institution applying for approval to provide MA-C training shall do the following:

- (a) At least one hundred eighty (180) days in advance of the scheduled starting date, submit an application for approval to the Board which contains the following information:
 - (1) A statement of purpose;
 - (2) A statement of need for the training program in the District of Columbia;
 - (3) A description of the proposed program's potential effect on existing medication aide training programs in the area;
 - (4) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (5) Evidence of financial resources, adequate planning, implementation, and continuation of the program;
 - (6) Licensure status of the proposed training facility;
 - (7) The qualifications of proposed instructors;
 - (8) The number of fulltime equivalent budgeted instructor positions;
 - (9) Evidence of the availability of adequate clinical facilities;
 - (10) A description of the anticipated trainee population, including admission and graduation criteria, a copy of the admissions examination, and health requirements;
 - (11) A tentative time schedule for planning and initiating the program; and
 - (12) A fee schedule;
- (b) Submit the one thousand dollar (\$1000) application fee.

- 9524.2 Schools currently non-compliant with the Board's regulatory requirements for existent programs are not eligible to submit an application to establish an additional program.
- 9524.3 After reviewing the application, based on the applicant's compliance with § 9527, a decision shall be made by the Board to:
- (a) Approve the application;
 - (b) Defer approval if additional information is needed; or
 - (c) Deny approval of the application.
- 9524.4 If an application approval has been granted, a site visit may be conducted.
- 9524.5 After reviewing the site visit report and applicant's compliance with § 9532, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.
- 9524.6 The nurse coordinator for each facility or institution approved to provide training shall attend a Board sponsored orientation.
- 9524.7 A training program shall not admit trainees to the program before the program has been approved by the Board.
- 9524.8 If the application is denied, the applicant shall not resubmit an application until one (1) year has passed from the last submission.

9525 PERIODIC REVIEW OF APPROVED PROGRAMS

- 9525.1 Programs approved by the Board to train MA-Cs shall submit to the Board an annual report and the five hundred dollar (\$500) fee in accordance with procedures established by the Board.
- 9525.2 The Board shall annually re-evaluate the medication aide training programs.
- 9525.3 The Board may make unannounced visits to review and assess each nursing medication aide training program to ensure that the program is in compliance with the training requirements in §§ 9527, 9528, 9531 and 9532.
- 9525.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, and any other information deemed appropriate by the Board.
- 9525.5 Three (3) levels of training for non-compliance include:

- (a) Level 1 non-compliance:
 - (1) Up to five percent (5%) of student records reviewed during site visits are out of compliance with § 9531;
 - (2) Program is in compliance with Sections §§ 9527, 9528, and 9532; or
 - (3) Annual certification pass rates are below seventy-five percent (75%) but no lower than seventy percent (70%);
- (b) Level 2 non-compliance:
 - (1) Between six percent (6%) and twenty percent (20%) of student records reviewed during site visits are out of compliance with § 9531;
 - (2) Program is non-compliant with only one of the sections: §§ 9527, 9528, or 9532; or
 - (3) Annual certification pass rates are below seventy percent (70%) but no lower than sixty-five percent (65%);
- (c) Level 3 non-compliance:
 - (1) Twenty-one percent or more of student records reviewed during site visits are out of compliance with § 9531;
 - (2) Program is non-compliant with more than one of the sections: §§ 9527, 9528, or 9532; or
 - (3) Annual certification pass rates are below sixty-five percent (65%).

9525.6 The Board will issue the sanctions to programs for non-compliance violations listed below including, but not limited to:

- (a) Level 1 non-compliance:
 - (1) Conditional Approval;
 - (2) Corrective action plan is due within thirty (30) days of receipt of the status letter; and
 - (3) Site visit to review and assess implementation of the corrective actions within six (6) months.

- (b) Level 2 non-compliance:
 - (1) Conditional Approval;
 - (2) Restricted Admissions;
 - (3) Board will recommend actions to correct deficiencies; and
 - (4) Corrective action plan is due within thirty (30) days of receipt of the status letter;
 - (5) Site visit to review and assess implementation of the corrective actions within six (6) months;
 - (6) Pass rates reviewed in six (6) months; and
 - (7) Fine of up to two thousand dollars (\$2000) if not in full compliance by the next annual review.

- (c) Level 3 non-compliance:
 - (1) Warning Status;
 - (2) Restricted Admissions;
 - (3) Hire consultant to assist in developing and implementing actions to correct deficiencies;
 - (4) Consultant's report is due to the Board within sixty (60) days;
 - (5) Site visit to review and assess implementation of corrective actions within six (6) months;
 - (6) Pass rates reviewed in six (6) months; and
 - (7) Fine of up to three thousand dollars (\$3000) if not in full compliance by the next annual review.

9525.7 The Board shall withdraw approval of a training program in non-compliance if:

- (a) It determines that the program has failed to implement the approved corrective action plan;
- (b) The program has failed to correct deficiencies within time period specified by the Board; or

(c) The education institution loses its licensure.

9525.8 The Board shall investigate all credible and timely complaints made against a program and may conduct hearings in connection with such complaints.

9525.9 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2016 Repl.).

9526 [RESERVED]

9527 MEDICATION AIDE TRAINING PROGRAM REQUIREMENTS

9527.1 Training programs shall use Board approved MA-C model curriculum, that consists of classroom, skills laboratory, and supervised practice hours and may be amended from time to time.

9527.2 All MA-C training programs shall have adequate faculty and clinical facilities to provide supervised clinical experience with early, realistic exposure to job requirements. The clinical experience shall include the full range of skills needed in the workplace.

9527.3 The program must maintain seventy-five percent (75%) pass rate on the District of Columbia's competency evaluation each year.

9527.4 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.

9527.5 The training program shall be coordinated by a registered nurse, who:

(a) Has a current, unencumbered District of Columbia license pursuant to D.C. Official Code § 3-1205.14 (2016 Repl.); and

(b) Has at least two (2) years of full-time or full-time equivalent experience as a registered nurse with clinical experience.

9527.6 The MA-C program coordinator shall be a qualified registered nurse with institutional authority and administrative responsibility for the program.

9527.7 The program coordinator's responsibilities shall include, but are not limited to:

(a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;

(b) Establishing the responsibilities of the instructors;

- (c) Ensuring that each instructor meets the qualifications as specified in this chapter;
- (d) Ensuring that each student is properly supervised during the student's clinical experience; and
- (e) Reporting annually and respond upon request to the Board.

9527.8 Each instructor shall have the following minimum qualifications:

- (a) Be currently licensed or registered in good standing, in the jurisdiction in which he or she is providing the preceptorship;
- (b) Have completed a course in teaching adults or have experience in teaching adults and supervising aides; and
- (c) Have a minimum of two (2) years of experience, as a registered nurse or licensed practical nurse, providing direct patient care during the five (5) years immediately preceding the date of the written agreement.

9527.9 The ratio of instructors to trainees in clinical areas involving direct care and medication administration to clients shall be based upon client acuity level, skill level of the trainee, and the clinical setting.

9527.10 Each training program shall have a record or attestation that trainees received information in writing on the policies governing admission, retention, dismissal, and the course requirements of the training program.

9528 MINIMUM QUALIFICATIONS FOR MEDICATION AIDE TRAINEES

9528.1 Each trainee shall receive a high school diploma or its equivalent, including for example, but not limited to, the General Education Diploma or National External Diploma Program.

9528.2 Each person applying for medication aide training shall provide evidence of:

- (a) Certification as HHA after passing the District of Columbia HHA examination; or
- (b) Certification as a nursing assistant after passing the National Nurse Aide Assessment Program exam or other CNA exam acceptable to the Board.

9528.3 Each trainee shall provide documentation from the trainee's supervising nurse or employer attesting to the trainee's satisfactory performance of nursing related services for a period of time not less than one (1) year.

9528.4 Each trainee shall provide evidence of vaccination or immunity to communicable diseases prior to admission.

9528.5 Each trainee shall attest in writing to receiving information on:

- (a) The policies governing admission, retention, dismissal, and the course requirements of the training program; and
- (b) Certification requirements including CBC and examination requirements.

9529 [RESERVED]

9530 CLOSING OF TRAINING PROGRAMS

9530.1 Each MA-C program that voluntarily discontinues shall:

- (a) Notify the Board, in writing, as early as possible of the intended discontinuance, stating the reason(s) and planned date of the intended closing;
- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and
- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9530.2 Before the Board may withdraw approval of a program the Board shall:

- (a) Issue a notice of intended action to the program notifying the program that:
 - (1) The Board intends to withdraw approval of the program and the reasons for the action;
 - (2) The institution has a right to a hearing; and
- (b) Send notice to the HELC of the Board's intention to withdraw program approval.

9530.3 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board; and
- (b) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9531 RECORDS RETENTION

9531.1 Each MA-C training program shall maintain an accurate and appropriate system of record keeping.

9531.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.

9531.3 The training program shall maintain a record for each trainee which shall include the following:

- (a) A completed and signed application;
- (b) Results of entrance assessment;
- (c) The trainee's record of academic performance;
- (d) Evidence of vaccinations or immunity to communicable diseases;
- (e) A board issued clinical evaluation form completed and signed by clinical instructor;
- (f) A signed statement for receipt of the training program's policies and certification requirements regarding examination and criminal background check; and
- (g) Additional documents per the training program's policies.

9531.4 Each instructor's personnel records shall be maintained by the training program facility and shall include application data, qualifications, and a position description, and shall be available for review by the Board.

9531.5 All records shall be maintained by the training program for a minimum of seven (7) years.

9532 RESOURCES, FACILITIES, AND SERVICES

9532.1 Each MA-C training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:

- (a) Adequate temperature controls in each training facility;
- (b) Clean and safe conditions of the facility's premises;

- (c) Adequate space for private faculty-student conferencing;
- (d) Adequate lighting in each facility; and
- (e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.

9532.2 Each classroom, conference room, skills laboratory, and office shall be adequate to meet the needs of the training program.

9532.3 Each cooperative agreement between a training program and a healthcare facility shall be in writing. The training program shall maintain a copy of the agreement in its records.

9599 DEFINITIONS

9599.1 As used in this chapter, the following terms shall have the meanings ascribed:

Abuse - the infliction of physical or mental harm, injury, or death, or financial exploitation of a client.

Administer - the direct application of drugs to the human body whether by ingestion, inhalation, insertion, sublingual, or topical means; or the application of drugs by an epinephrine autoinjector device for emergency purposes only.

Applicant - a person applying for certification as a medication aide employee under this chapter.

Board - the Board of Nursing as established by Section 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04 (2016 Repl.)).

Clinical - faculty planned and guided learning activities designed to assist preceptors in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Conditional approval - the approval status that is granted for a time period specified by the Board to an MA-C training program to correct deficiencies when the training program has failed to meet or maintain the requirements and standards of this chapter.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the medication aide.

Criminal background check – an investigation into a person’s history by the appropriate state and federal authorities or approved vendor to determine whether the person has been convicted of a crime in the District of Columbia or in any other state or territory of the United States.

Delegation - the transference from the RN or LPN to another individual within the scope of his or her practice, the authority to act on behalf of the RN or LPN in the performance of a nursing intervention, while the RN or LPN retains accountability and responsibility for the delegated act.

Director - the Director of the Department of Health, or his or her designee.

Drug –

- (a) Any substance recognized as a drug, medicine, or medicinal chemical in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, or official Veterinary Medicine Compendium or other official drug compendium or any supplement to any of them;
- (b) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;
- (c) Any chemical substance (other than food) intended to affect the structure or any function of the body of man or other animal; and
- (d) Any substance intended for use as a component of any items specified in subparagraph (a), (b), or (c) of this paragraph, but does not include medical devices or their components, parts, or accessories.

Endorsement - the process of issuing a certification to an applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

Fingerstick - sticking of the finger to get a blood sample to use in a glucometer to measure the amount of glucose in blood.

Health care facility – a facility and agency that provide long-term care such as an assisted living residence, group homes for persons with physical and intellectual disabilities, and skilled home care agencies.

Higher Education Licensure Commission – a Mayoral appointed regulatory, consumer protection authority responsible for public protection with regard to legitimate quality education in the District of Columbia.

In-service - activities provided by the employer intended to assist the medication aide in acquiring, maintaining, or increasing competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Immediate supervision - supervision in which the supervisor is on the premises and within vocal communication, either directly or by communication device.

Medication aide certified – an individual who has successfully completed training and a certification examination to administer drugs and has been certified by the Board.

Misappropriation – the application of another’s property or money dishonestly to one’s own use.

Neglect - any act or omission by an MA-C which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a patient.

Nursing assistive personnel - an individual who has received appropriate training or instruction to function in a complementary or assistant role to a RN or LPN, in providing direct patient care or in carrying out delegated nursing tasks.

Pass rate - the percentage of candidates who receive a passing score on the competency evaluation out of the total number of examinations administered for the review period.

Program - the planned series of instruction, didactic and clinical, designed so that the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired medication aide certification.

Skills laboratory – faculty guided activities planned for students in a school/campus laboratory that simulates the activities provided by the CNA. The activities include demonstrations and return demonstrations using equipment and supplies that are used for the purpose of attaining required psychomotor skills.

Chapter 96, CERTIFIED NURSING ASSISTANTS, is added to read as follows:

CHAPTER 96 CERTIFIED NURSING ASSISTANTS

9600	GENERAL PROVISIONS
9601	NURSING ASSISTANT CERTIFICATION
9602	TERM OF CERTIFICATION
9603	CRIMINAL BACKGROUND CHECK
9604	GENERAL REQUIREMENTS FOR NURSING ASSISTANT CERTIFICATION
9605	REQUIREMENTS FOR NURSING ASSISTANT CERTIFICATION BY EXAMINATION
9606	REQUIREMENTS FOR NURSING ASSISTANT CERTIFICATION BY ENDORSEMENT
9607	REQUIREMENTS FOR NURSING ASSISTANT RENEWAL OF CERTIFICATION
9608	REQUIREMENTS FOR INACTIVE STATUS AND REACTIVATION OF CERTIFICATION
9609	REQUIREMENTS FOR REINSTATEMENT OF EXPIRED NURSING ASSISTANT CERTIFICATION
9610	[RESERVED]
9611	[RESERVED]
9612	[RESERVED]
9613	ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS
9614	[RESERVED]
9615	CERTIFIED NURSING ASSISTANT TASKS
9616	[RESERVED]
9617	DISCIPLINE
9618	ACTION ON COMPLAINTS OF RESIDENT NEGLECT AND ABUSE, AND MISAPPROPRIATION OF RESIDENT PROPERTY
9619	[RESERVED]
9620	STANDARDS FOR TRAINING PROGRAMS
9621	SUPERVISED PRACTICE OF TRAINEES
9622	[RESERVED]
9623	[RESERVED]
9624	TRAINING PROGRAM APPROVAL PROCEDURES
9625	PERIODIC REVIEW OF APPROVED PROGRAMS
9626	[RESERVED]
9627	NURSING ASSISTANT TRAINING PROGRAM REQUIREMENTS
9628	MINIMUM QUALIFICATIONS FOR NURSING ASSISTANT TRAINEES
9629	[RESERVED]
9630	CLOSING OF EDUCATION AND TRAINING PROGRAMS
9631	RECORDS RETENTION
9632	RESOURCES, FACILITIES, AND SERVICES
9699	DEFINITIONS

9600 GENERAL PROVISIONS

- 9600.1 This chapter applies to applicants for, and holders of, a certification to practice as a certified nursing assistant (CNA).
- 9600.2 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title apply to holders of a certification to practice as a CNA.

9601 NURSING ASSISTANT CERTIFICATION

- 9601.1 No person shall practice as a CNA in the District of Columbia longer than four (4) months without first being registered by the Board of Nursing (Board).
- 9601.2 A nursing assistant shall be certified pursuant to § 9604.1 and registered by the Board within four (4) months of his or her hire date. If a nursing assistant who is not certified changes employment from one (1) long-term care facility to another, the time he or she was employed in the first facility shall count towards the four (4) month period for employment.

9602 TERM OF CERTIFICATION

- 9602.1 Subject to § 9601.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each odd-numbered year.
- 9602.2 The Director may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a certification expires.

9603 CRIMINAL BACKGROUND CHECK

- 9603.1 A person applying for certification as a CNA shall undergo a criminal background check (CBC) prior to issuance of the certification.
- 9603.2 After issuance of an initial certification, the applicant shall undergo an additional CBC as determined by Title 17 DCMR Chapter 85.
- 9603.3 The Board shall review the applicant's positive CBC results.

9604 GENERAL REQUIREMENTS FOR NURSING ASSISTANT CERTIFICATION

- 9604.1 An applicant for certification as a CNA shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Meet the requirements of § 9603.1;

- (c) Submit evidence of successfully passing a certification examination offered by one (1) of the following:
 - (1) A Board-approved nurse aide assessment program; or
 - (2) Other certification program recognized by the Centers for Medicare and Medicaid Services (CMS) and the Board.
- (d) Submit a completed application to the Board along with any other documents that may be required by the Board.

9604.2 An application that remains incomplete for ninety (90) days or more from the date of submission may be considered abandoned and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for certification, and pay the required fees.

9605 REQUIREMENTS FOR NURSING ASSISTANT CERTIFICATION BY EXAMINATION

9605.1 To qualify for certification by examination, an applicant shall:

- (a) Receive a passing score on the National Council of State Boards of Nursing, Inc. (NCSBN) National Nurse Aide Assessment Program (NNAAP); and
- (b) Meet requirements of this chapter.

9605.2 To apply for authorization to take the NNAAP, an applicant shall provide proof of one of the following:

- (a) Successful completion of a CNA program or bridge to nursing assistant program, within the past twenty-four (24) months, approved by the Board or by a nursing Board in the United States with standards determined by the Board to be substantially equivalent to the standards in the District of Columbia; or
- (b) Successful completion of a practical nursing or registered nursing “Fundamentals of Nursing” course with a minimum forty (40) hours clinical component which includes skills as specified in § 9615; or
- (c) Completion of a credentials evaluation by an organization recognized by the Board, indicating equivalent education as a registered nurse or licensed practical nurse for nurses educated outside of the United States.

9605.3 To request special accommodations for an examination, an applicant shall submit in writing, the following information:

- (a) A letter from the appropriate health professional which confirms the applicant's disability and provides information describing the accommodations required; and
- (b) A letter from the applicant's education program, indicating what accommodations were granted by the program.

9605.4 If an applicant has not taken or passed the nursing assistant certification examination for more than twenty-four (24) months after the date the applicant becomes eligible to apply to take the examination, the applicant shall comply with requirements set forth in § 9605.1 (a).

9606 REQUIREMENTS FOR NURSING ASSISTANT CERTIFICATION BY ENDORSEMENT

9606.1 An applicant currently working in another jurisdiction as a CNA shall apply for CNA by endorsement in order to work in the District of Columbia as a CNA.

9606.2 An applicant for endorsement as a CNA shall provide proof of the following:

- (a) Current unencumbered registration or certification as a CNA in another jurisdiction; and
- (b) Meeting the requirements of § 9604.

9607 REQUIREMENTS FOR NURSING ASSISTANT RENEWAL OF CERTIFICATION

9607.1 An applicant for renewal shall:

- (a) Provide evidence of completion of twelve (12) hours per year, twenty-four (24) in total, of continuing education or in-service training in the area of health or nursing needs, of an assigned client population during the certification period; provided that at least ten percent (10%) of the in-service or continuing education shall be in a public health subject as determined and published every five (5) years or as deemed appropriate by the Director;
- (b) Have completed two (2) hours of continuing education in cultural competency or specialized clinical training on clients who identify as lesbian, gay, bisexual, transgender or queer, and any additional Board mandated topics;

(c) Provide evidence of the performance of a minimum of eight (8) hours of nursing related services for compensation during the prior twenty-four (24) months; and

(d) Complete a CBC as required.

9607.2 Applicants who have another active District of Columbia certification as a nursing assistive personnel may apply continuing education hours to NAP renewal requirements.

9607.3 Applications will be subject to audit to assure compliance with § 9607.1.

9608 REQUIREMENTS FOR INACTIVE STATUS AND REACTIVATION OF CERTIFICATION

9608.1 A CNA with an active certification may request to be placed on inactive status.

9608.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as a CNA in the District of Columbia.

9608.3 To reactivate an inactive status, an individual shall:

(a) Apply to the Board for reactivation of the certification;

(b) Provide evidence of having completed twenty-four (24) hours of in-service training or continuing education within the past two (2) years prior to submission of an application;

(c) Provide evidence of current CNA certification or registration in another jurisdiction; and

(d) Provide evidence of having worked, providing nursing services a minimum of eight (8) hours within the past two (2) years prior to submission of an application.

9609 REQUIREMENTS FOR REINSTATEMENT OF EXPIRED NURSING ASSISTANT CERTIFICATION

9609.1 If a CNA fails to renew his or her certification, the Board shall reinstate the certification if the applicant:

(a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires;

- (b) Provides evidence of having completed twenty-four (24) hours of in-service training or continuing education within the past two (2) years prior to submission of an application;
- (c) Provides evidence of current CNA certification or registration;
- (d) Provides evidence of having worked for a minimum of eight (8) hours within the last twenty-four (24) months as a CNA; and
- (e) Completes a CBC as required in accordance with Title 17 DCMR Chapter 85.

9609.2 If a CNA does meet the requirements specified in § 9609.1 and fails to apply for reinstatement within five (5) years after his or her certification expires, the applicant shall meet the requirements for certification pursuant to § 9605.

9610 [RESERVED]

9611 [RESERVED]

9612 [RESERVED]

9613 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS

9613.1 A registered nurse, licensed practical nurse, nurse practitioner, clinical nurse specialist or physician may assign or delegate tasks to a CNA that are among the authorized tasks listed in § 9615.1.

9613.2 A CNA shall not practice independently but shall work under the supervision of an RN or LPN or other authorized licensed health care professional.

9613.3 The delegation or assignment shall comply with the standards for delegation listed in 17 DCMR § 5415 (Registered Nurse) and assignments listed in 17 DCMR § 5515 (Licensed Practical Nurse). Nursing care tasks that may be delegated or assigned shall be determined by:

- (a) The knowledge and skills of the CNA;
- (b) Verification of the clinical competence of the CNA by the employing agency;
- (c) The stability of the client’s condition, including factors such as predictability, absence of risk of complication, and rate of change in health status; and

- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated;
 - (2) The complexity and frequency of care needed by a given client population; and
 - (3) The accessibility of an RN or LPN.

9613.4 Nursing tasks that inherently involve on-going assessment, interpretation, or decision making that cannot be logically separated from one or more procedures shall not be delegated to the CNA.

9614 [RESERVED]

9615 CERTIFIED NURSING ASSISTANT TASKS

9615.1 Under the supervision of an RN or LPN or other authorized licensed health professional, a CNA may perform the following tasks:

- (a) Provide effective communication and interpersonal skills;
- (b) Maintain infection control;
- (c) Provide safety and emergency procedures;
- (d) Promote a patient's independence;
- (e) Recognize and report abuse;
- (f) Basic nursing skills which include:
 - (1) Measuring and recording vital signs;
 - (2) Measuring and recording height and weight;
 - (3) Observing and reporting pain;
 - (4) Recognizing abnormal signs and symptoms of common diseases and conditions;
 - (5) Applying clean bandages;

- (6) Assisting with admitting, transferring, or discharging patients; and
- (7) Applying and removing elastic stockings;
- (g) Personal care skills, including but not limited to:
 - (1) Bathing, skin care, and dressing;
 - (2) Oral and denture care;
 - (3) Shampoo and hair care;
 - (4) Fingernail care;
 - (5) Toileting, perineal and ostomy care; and
 - (6) Feeding and hydration, including proper feeding techniques and use of assistive devices in feeding;
- (h) Mental health and social welfare care such as:
 - (1) Responding appropriately to behavior;
 - (2) Providing care, sensitive to religion, national origin, gender identity, and sexual orientation; and
 - (3) Providing care to dying patients;
- (i) Basic restorative services such as:
 - (1) Transferring, ambulation, eating, and dressing changes;
 - (2) Range of motion exercises;
 - (3) Proper turning and positioning in bed and chair;
 - (4) Bowel and bladder training;
 - (5) Care and use of prosthetic and orthotic devices; and
 - (6) Changing dry dressings;
- (j) Patient's rights such as:
 - (1) Providing privacy and maintaining confidentiality;

- (2) Promoting the patient's rights to make personal choices to accommodate his or her needs;
- (3) Giving assistance in resolving grievances and disputes;
- (4) Providing needed assistance in getting to and participating in patient and family groups and other activities;
- (5) Maintaining care and security of a patient's personal possessions;
- (6) Providing care which ensures that the patient is free from abuse, mistreatment, and neglect and the need to report any such instances to appropriate facility staff; and
- (7) Maintaining the patient's environment and care to avoid the need for restraints.

9616 [RESERVED]

9617 DISCIPLINE

- 9617.1 The Board may revoke, suspend, or deny registration of any CNA who is convicted of any of crime involving moral turpitude pursuant to D.C. Official Code § 3-1205.14(a)(4) (2016 Repl. & 2018 Supp.).
- 9617.2 In addition to any other disciplinary action it may take, it may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c) (5) (2016 Repl.), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against a CNA.
- 9617.3 Grounds for denial, suspension, revocation or other discipline of a CNA include the inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14 (2016 Repl.):
- (a) Substance abuse or other chemical dependency;
 - (b) Client or patient abandonment;
 - (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement or renewal; or

- (3) Giving or receiving assistance in taking the competency evaluation;
- (d) Client or patient neglect, abuse or misappropriation of funds;
- (e) Boundary violations;
- (f) Unsafe client care;
- (g) Performing acts beyond the CNA's range of functions or beyond those tasks delegated;
- (h) Misappropriation or misuse of property;
- (i) A criminal conviction;
- (j) Failure to conform to acceptable standards of practice as a CNA;
- (k) Putting clients or patients at risk of harm; or
- (l) Violating the privacy or failing to maintain the confidentiality of client information.

9617.4 A CNA who is unable to perform his or her duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse's Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2016 Repl.).

9617.5 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)) that it deems appropriate.

9618 ACTION ON COMPLAINTS OF RESIDENT NEGLECT AND ABUSE, AND MISAPPROPRIATION OF RESIDENT PROPERTY

9618.1 The Board will review all allegations of resident neglect and abuse, and misappropriation of resident property.

9618.2 The Board shall not make a finding that an individual has neglected a resident if the individual demonstrates that the neglect was caused by factors beyond the control of the individual.

9618.3 If there is reason to believe, either through oral or written evidence that an individual used by a facility to provide services to residents could have abused or

neglected a resident or misappropriated a resident's property, the Board will investigate the allegation.

9618.4 If the Board makes a preliminary determination, based on oral or written evidence and its investigation, that the abuse, neglect or misappropriation of property occurred, within ten (10) working days of the Board's findings, it shall notify:

- (a) The individual(s) implicated in the findings;
- (b) The individual(s) of a right to a hearing;
- (c) The current administrator of the facility in which the incident occurred; and
- (d) The administrator of the facility that currently employs the individual, if different from the facility in which the incident occurred.

9618.5 Pursuant to § 9618.4(b), the hearing notice shall include:

- (a) A description of the allegations made against the CNA;
- (b) The proposed findings from the investigation;
- (c) A statement that the CNA may challenge the charges against him or her, by submitting a written request within twenty (20) days from the date of service of the notice on a prescribed form;
- (d) Notification that his or her name will be listed in the CNA Abuse Registry, as having knowingly abused or neglected a resident or misappropriated a resident's property while providing services in a facility, unless the CNA requests a hearing and the charges against him or her are not proven;
- (e) The consequences to the CNA of being listed in the CNA Abuse Registry;
- (f) The consequences of a finding through the hearing process that the alleged resident abuse or neglect, or misappropriation of resident property did occur; and
- (g) The fact that the individual has a right to be represented by an attorney at the individual's own expense.

9618.6 The Board shall complete the hearing and the hearing record within one hundred twenty (120) days from the day it receives the request for a hearing.

9618.7 If, following a hearing, neglect, abuse, or misappropriation of a resident's property has been substantiated, or if an individual waives the right to a hearing

after a complaint alleging neglect, abuse, or misappropriation has been substantiated, the Board shall report the findings to the CNA Abuse Registry within ten (10) working days.

9618.8 The following information on any substantiated finding by the Board, of abuse, neglect, or misappropriation of property of an individual shall be placed on the nurse aide abuse registry:

- (a) Documentation of the Board's investigation, including the nature of the allegation and the evidence that led the Board to conclude that the allegation was valid;
- (b) The date of the hearing, if the individual chose to have one, and its outcome; and
- (c) A statement by the individual disputing the allegation, if he or she chooses to make one.

9618.9 This information shall remain in the registry permanently, unless the finding was made in error, the individual was found not guilty in a court of law, or the District is notified of the individual's death.

9619 [RESERVED]

9620 STANDARDS FOR TRAINING PROGRAMS

9620.1 No institution shall provide CNA training in the District of Columbia unless its training program has been approved by the Board.

9620.2 The following types of institutions may apply for approval to provide CNA training:

- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia which are licensed by Higher Education Licensure Commission (HELC) pursuant to the Institution Licensure Act of 1976 (D.C. Law 1-104; D.C. Official Code §§ 38-1301, *et seq.* (2016 Repl.));
- (b) Private, non-degree post-secondary schools operating in the District of Columbia which are licensed by the HELC;
- (c) District of Columbia public vocational or trade schools;
- (d) District of Columbia public universities or colleges; and

- (e) Hospitals, and health care facilities licensed as training facilities by the HELC and operating in the District of Columbia that have received no adverse action during the preceding two (2) years.

9620.3 The Board shall consider any one (1) of the following as an adverse action which shall preclude a health care facility from providing CNA training:

- (a) The termination, restriction, or revocation of the facility's participation or enrollment in the Medicaid or Medicare program;
- (b) Provisional or restricted licensure of the facility, provided it is not a new facility; or
- (c) If the facility has a provider agreement of less than one (1) year.

9621 SUPERVISED PRACTICE OF TRAINEES

9621.1 A nursing assistant trainee may practice only in accordance with the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (Act) (D.C. Law 6-99; D.C. Official Code §§ 3-1203.01, *et seq.* (2016 Repl.)) and this chapter.

9621.2 A trainee who is fulfilling educational requirements of this chapter may engage in supervised practice without a District of Columbia certification.

9621.3 All supervised practice of a trainee shall take place under the general or immediate supervision of an RN or LPN.

9621.4 A trainee shall identify himself or herself as a trainee before practicing.

9621.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or a client's family member.

9621.6 The nurse supervising the trainee shall be responsible for all practice by a trainee during the period of supervision and may be subject to disciplinary action for trainee violations of the Act or this chapter.

9621.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee.

9622 [RESERVED]

9623 [RESERVED]

9624 TRAINING PROGRAM APPROVAL PROCEDURES

9624.1 Each institution applying for a certificate of approval to provide nursing assistant training shall do the following:

- (a) Submit to the Board, at least one hundred eighty (180) days in advance of the scheduled starting date, a statement of intent to establish a CNA training program;
- (b) Submit to the Board an application for a certificate of approval which contains the following information:
 - (1) A statement of purpose;
 - (2) A statement of need for the training program in the District of Columbia;
 - (3) A description of the proposed program's potential effect on existing nursing assistant training programs in the area;
 - (4) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (5) Evidence of financial resources adequate for planning, implementation, and continuation of the program;
 - (6) Licensure status of the proposed training facility;
 - (7) The qualification of proposed instructors;
 - (8) The number of full-time equivalent budgeted instructor positions;
 - (9) Evidence of the availability of adequate clinical facilities for the training program;
 - (10) A description of the anticipated trainee population including admission and graduation criteria, health requirements, and named entrance examination;
 - (11) Tentative time schedule for planning and initiating the program;
 - (12) Fee schedules; and
- (c) Submit to the Board the one thousand dollar (\$1000) application fee.

- 9624.2 Schools currently non-compliant with the Board's regulatory requirements for existent programs are not eligible to submit an application to establish an additional program.
- 9624.3 After reviewing the application, based on the applicant's compliance with § 9627, a decision shall be made to:
- (a) Approve the application;
 - (b) Defer approval if additional information is needed; or
 - (c) Deny approval of the application.
- 9624.4 If an application approval has been granted, a site visit may be conducted.
- 9624.5 After reviewing the site visit report and the applicant's compliance with § 9632, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.
- 9624.6 The nurse coordinator for each facility or institution approved to provide training shall attend a Board sponsored orientation.
- 9624.7 A training program shall not admit trainees to the program before the program has been approved by the Board.
- 9624.8 If the application is denied, the applicant may not resubmit an application until one (1) year has passed from the last submission.

9625 PERIODIC REVIEW OF APPROVED PROGRAMS

- 9625.1 Programs approved by the Board to train CNAs shall submit to the Board an annual report and the five hundred dollar (\$500) fee in accordance with procedures established by the Board.
- 9625.2 The Board shall annually re-evaluate the nursing assistant training programs.
- 9625.3 The Board may make unannounced visits to review and assess each nursing assistant training program to ensure that the program is in compliance with the training requirements in §§ 9627, 9628, 9631 and 9632.
- 9625.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, annual reporting and any other information deemed appropriate by the Board.
- 9625.5 Three (3) levels of non-compliance for training programs include:

- (a) Level 1 non-compliance:
 - (1) Up to five percent (5%) of student records reviewed during site visits are out of compliance with § 9631;
 - (2) Program is in compliance with Sections §§ 9627, 9628, and 9632; or
 - (3) Annual certification pass rates are below seventy-five percent (75%) but no lower than seventy percent (70%);
- (b) Level 2 non-compliance:
 - (1) Between six percent (6%) and twenty percent (20%) of student records reviewed during site visits are out of compliance with § 9631;
 - (2) Program is non-compliant with only one (1) of the sections: §§ 9627, 9628, or 9632; or
 - (3) Annual certification pass rates are below seventy percent (70%) but no lower than sixty-five percent (65%);
- (c) Level 3 non-compliance:
 - (1) Twenty-one percent (21%) or more of student records reviewed during site visits are out of compliance with § 9631;
 - (2) Program is non-compliant with more than one (1) of the sections: §§ 9627, 9628, or 9632; or
 - (3) Annual certification pass rates are below sixty-five percent (65%).

9625.6 The Board will issue the sanctions to programs for non-compliance violations listed below including, but not limited to:

- (a) Level 1 non-compliance:
 - (1) Conditional Approval;
 - (2) Corrective action plan is due within thirty (30) days of receipt of the status letter; and
 - (3) Site visit to review and assess implementation of the corrective actions within six (6) months.

- (b) Level 2 non-compliance:
 - (1) Conditional Approval;
 - (2) Restricted Admissions;
 - (3) Board will recommend actions to correct deficiencies; and
 - (4) Corrective action plan is due within thirty (30) days of receipt of the status letter;
 - (5) Site visit to review and assess implementation of the corrective actions within six (6) months;
 - (6) Pass rates reviewed in six (6) months; and
 - (7) Fine of up to two thousand dollars (\$2000) if not in full compliance by the next annual review.

- (c) Level 3 non-compliance:
 - (1) Warning Status;
 - (2) Restricted Admissions;
 - (3) Hire consultant to assist in developing and implementing actions to correct deficiencies;
 - (4) Consultant's report is due to the Board within sixty (60) days;
 - (5) Site visit to review and assess implementation of corrective actions within six (6) months;
 - (6) Pass rates reviewed in six (6) months; and
 - (7) Fine of up to three thousand (\$3000) if not in full compliance by the next annual review.

9625.7 The Board shall withdraw approval of a training program in non-compliance if:

- (a) It determines that the program has failed to implement the approved corrective action plan.
- (b) The program has failed to correct deficiencies within time period specified by the Board; or

(c) The education institution loses its licensure.

9625.8 The Board shall investigate all credible and timely complaints made against a program and may conduct hearings in connection with such complaints.

9625.9 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2016 Repl.).

9626 [RESERVED]

9627 NURSING ASSISTANT TRAINING PROGRAM REQUIREMENTS

9627.1 Training programs shall use Board approved CNA model curriculum, that consists of classroom, skills laboratory, and supervised practice hours and may be amended from time to time.

9627.2 All CNA training programs shall have adequate faculty and clinical facilities to provide supervised clinical experience with early, realistic exposure to job requirements. The clinical experience shall include the full range of skills needed in the workplace.

9627.3 The program must maintain seventy-five percent (75%) pass rate on the District of Columbia's competency evaluation each year.

9627.4 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.

9627.5 The training program shall be coordinated by an RN, who:

(a) Has a current, unencumbered District of Columbia license pursuant to D.C. Official Code § 3-1205.14 (2016 Repl.); and

(b) Has at least two (2) years of full-time or full-time equivalent experience as an RN with clinical experience in the clinical practice setting he or she is coordinating.

9627.6 The CNA program coordinator shall be a qualified registered nurse with institutional authority and administrative responsibility for the program.

9627.7 The program coordinator's responsibilities shall include, but are not limited to:

(a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;

(b) Establishing the responsibilities of the instructors;

- (c) Ensuring that each instructor meets the qualifications as specified in this chapter;
- (d) Ensuring that each student is properly supervised during the student's clinical experience; and
- (e) Reporting annually and respond upon request to the Board.

9627.8 Each instructor shall have the following minimum qualifications:

- (a) Be licensed or certified in his or her profession in the District of Columbia;
- (b) Have completed a course in teaching adults or have experience in teaching adults and supervising nursing assistants; and
- (c) Have a minimum of two (2) years of experience as a registered nurse or licensed practical nurse, providing direct patient care during the five (5) years immediately preceding the date of the written agreement.

9627.9 The ratio of instructor to trainees in a clinical setting shall not exceed one (1) instructor to eight (8) trainees.

9627.10 Each training program shall have a record or attestation that trainees received information in writing on the policies governing admission, retention, dismissal, and the course requirements of the training program.

9628 MINIMUM QUALIFICATIONS FOR NURSING ASSISTANT TRAINEES

9628.1 Each trainee shall be required to take a Board-approved pre-admission examination to assess reading, writing, and math skills prior to enrollment in a training program.

9628.2 English literacy shall be established on the Comprehensive Adult Student Assessment Systems e-test, General Assessment of Instructional Needs - Wonderlic, or Tests for Adult Basic Education at a minimum 5th grade level.

9628.3 Each trainee shall provide evidence of vaccination or immunity to communicable diseases prior to admission.

9628.4 Each trainee shall attest in writing to receiving information on:

- (a) The policies governing admission, retention, dismissal, and the course requirements of the training program; and

- (b) Certification requirements including CBC and examination.

9629 [RESERVED]

9630 CLOSING OF EDUCATION AND TRAINING PROGRAMS

9630.1 Each CNA program that voluntarily discontinues shall:

- (a) Notify the Board, in writing, as early as possible of the intended discontinuance, stating the reason(s) and planned date of the intended closing;
- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and
- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9630.2 Before the Board may withdraw approval of a program the Board shall:

- (a) Issue a notice of intended action to the program notifying the program that:
 - (1) The Board intends to withdraw approval of the program and the reasons for the action;
 - (2) The institution has a right to a hearing; and
- (b) Send notice to the HELC of the Board's intention to withdraw program approval.

9630.3 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board; and
- (b) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9631 RECORDS RETENTION

9631.1 Each CNA training program shall maintain an accurate and appropriate system of record keeping.

9631.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.

- 9631.3 The record of each trainee shall include the following information:
- (a) Completed and signed application;
 - (b) Results of entrance assessment;
 - (c) Trainee's Record of academic performance;
 - (d) Evidence of vaccinations or immunity to communicable diseases;
 - (e) Board issued clinical evaluation form completed and signed by clinical instructor;
 - (f) Signed statement for receipt of school policies and certification requirements regarding examination and criminal background check; and
 - (g) Additional documents per the school's policies.
- 9631.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and a position description, and shall be available for review by the Board.
- 9631.5 All records shall be maintained by the training program for a minimum of seven (7) years.
- 9632 RESOURCES, FACILITIES, AND SERVICES**
- 9632.1 Each CNA training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:
- (a) Adequate temperature controls in each training facility;
 - (b) Clean and safe conditions of the facility's premises;
 - (c) Adequate space for private faculty-student conferencing;
 - (d) Adequate lighting in each facility; and
 - (e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.
- 9632.2 Each classroom, conference room, skills laboratory, and office shall be adequate to meet the needs of the training program.

9632.3 Each cooperative agreement between a training program and a healthcare facility shall be in writing. The training program shall maintain a copy of the agreement in its records.

9699 DEFINITIONS

9699.1 When used in this chapter, the following terms shall have the meanings ascribed:

Abuse - the infliction of physical or mental harm, or injury to, or death or financial exploitation of a client.

Board - the Board of Nursing as established by § 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04 (2016 Repl.)).

Certified nursing assistant - nursing assistive personnel who are certified to assist with the delivery of direct nursing care to patients, and work under the supervision of a nurse or other health professional.

Clinical - faculty planned and guided learning activities designed to assist in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Conditional approval - the approval status that is granted for a time period specified by the Board to an CNA training program to correct deficiencies when the training program has failed to meet or maintain the requirements and standards of this chapter.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the CNA.

Criminal background check – an investigation into a person’s history by the appropriate state and federal authorities or approved vendor to determine whether the person has been convicted of a crime in the District of Columbia or in any other state or territory of the United States.

Delegation - the transference from the RN or LPN to another individual within the scope of his or her practice, the authority to act on behalf of the RN or LPN in the performance of a nursing intervention, while the RN or LPN retains accountability and responsibility for the delegated act.

Director - the Director of the Department of Health, or his or her designee.

Endorsement - the process of issuing a certification to an applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

Health care facility - a facility or agency that provide long-term care services such as an assisted living residence, group home for persons with physical and intellectual disabilities, and a skilled home care agency.

Higher Education Licensure Commission - the Mayoral appointed regulatory, consumer protection authority responsible for public protection with regard to legitimate quality education in the District of Columbia.

Immediate supervision - supervision in which the supervisor is on the premises and within vocal communication, either directly or by communication device.

In-service - activities provided by the employer intended to assist the CNA in acquiring, maintaining, or increasing competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Misappropriation - the application of another's property or money dishonestly to one's own use.

Neglect - any act or omission by a CNA which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Nursing assistive personnel - individuals who have received appropriate training or instruction to function in a complementary or assistant role to an RN or LPN, in providing direct patient care or in carrying out delegated nursing tasks. The term includes, but is not limited to, nursing students, graduate nurses, home health aides, personal care aides, medication aides, dialysis technicians, CNAs, patient care technicians, or others as specified by the Board of Nursing.

Pass rate - the percentage of candidates who receive a passing score on the competency evaluation out of the total exams administered for the review period.

Program - the planned series of instruction, didactic and clinical, designed so that the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired nursing assistant certification.

Skills laboratory - faculty guided activities planned for students in a school/campus laboratory that simulates the activities provided by the CNA. The activities include demonstrations and return demonstrations using equipment and supplies that are used for the purpose of attaining required psychomotor skills.

A new Chapter 97, PATIENT CARE TECHNICIAN, is added to read as follows:

CHAPTER 97 PATIENT CARE TECHNICIAN

9700	GENERAL PROVISIONS
9701	PATIENT CARE TECHNICIAN CERTIFICATION
9702	TERM OF CERTIFICATION
9703	CRIMINAL BACKGROUND CHECK
9704	GENERAL REQUIREMENTS FOR PATIENT CARE TECHNICIAN CERTIFICATION
9705	REQUIREMENTS FOR PATIENT CARE TECHNICIAN CERTIFICATION BY EXAMINATION
9706	PATIENT CARE TECHNICIAN CERTIFICATION BY ENDORSEMENT
9707	PATIENT CARE TECHNICIAN RENEWAL OF CERTIFICATION
9708	PATIENT CARE TECHNICIAN INACTIVE STATUS AND REACTIVATION OF CERTIFICATION
9709	PATIENT CARE TECHNICIAN REINSTATEMENT OF EXPIRED CERTIFICATION
9710	[RESERVED]
9711	[RESERVED]
9712	[RESERVED]
9713	ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO PATIENT CARE TECHNICIAN
9714	[RESERVED]
9715	PATIENT CARE TECHNICIAN TASKS
9716	[RESERVED]
9717	DISCIPLINE
9718	[RESERVED]
9719	[RESERVED]
9720	STANDARDS FOR TRAINING PROGRAMS
9721	SUPERVISED PRACTICE OF TRAINEES
9722	[RESERVED]
9723	PROGRAM APPROVAL PROCEDURES FOR HEALTH CARE FACILITIES
9724	TRAINING PROGRAM APPROVAL PROCEDURES
9725	PERIODIC REVIEW OF APPROVED PROGRAMS
9726	[RESERVED]
9727	PATIENT CARE TECHNICIAN TRAINING PROGRAM REQUIREMENTS
9728	MINIMUM QUALIFICATIONS FOR PATIENT CARE TECHNICIAN TRAINEES
9729	[RESERVED]
9730	CLOSING OF EDUCATION AND TRAINING PROGRAMS
9731	RECORDS RETENTION
9732	RESOURCES, FACILITIES, AND SERVICES
9799	DEFINITIONS

9700 GENERAL PROVISIONS

9700.1 This chapter applies to applicants for, and holders of, a certification to practice as a patient care technician (PCT).

9700.2 This chapter shall apply to persons who, regardless of job title, are employed in an acute care service agency or facility for the purpose of providing PCT activities as specified in this chapter.

9700.3 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations Administrative Procedures) of this title apply to holders of a certification to practice as a PCT.

9701 PATIENT CARE TECHNICIAN CERTIFICATION

9701.1 No person shall practice as a PCT in the District of Columbia without first being certified by the Board of Nursing (Board).

9702 TERM OF CERTIFICATION

9702.1 Subject to § 9701.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each odd-numbered year.

9702.2 The Director of the Department of Health may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a certification expires.

9703 CRIMINAL BACKGROUND CHECK

9703.1 A person applying for certification as a PCT shall undergo a criminal background check (CBC) prior to issuance of the certification.

9703.2 After issuance of an initial certification, the applicant shall undergo an additional CBC as determined by Title 17 DCMR Chapter 85.

9703.3 The Board of Nursing shall review the results of a person's positive CBC results.

9704 GENERAL REQUIREMENTS FOR PATIENT CARE TECHNICIAN CERTIFICATION

9704.1 An applicant for certification as a PCT shall:

- (a) Be at least eighteen (18) years of age;
- (b) Meet the requirements of § 9703;

- (c) Submit evidence of successfully passing a PCT examination offered by a PCT certification organization recognized by the National Commission for Certifying Agencies; or
- (d) Provide proof of successful completion of a practical nursing (LPN) or registered nursing (RN) “Fundamentals of Nursing” course and acute care clinical which include skills specified in § 9715.1; or
- (e) Submit a Commission on Graduates of Foreign Nursing Schools certificate, indicating equivalent education as a registered nurse or licensed practical nurse for nurses educated outside the United States; or
- (f) Submit proof of practice for at least one thousand (1,000) hours within the last thirty-six (36) months as a:
 - (1) Navy or Air Force basic medical technician corpsman;
 - (2) Air Force independent duty medical technician;
 - (3) Army health care specialist;
 - (4) Emergency medical technician; or
 - (5) Paramedic;
- (g) Submit a completed application to the Board;
- (h) Submit any other documents that may be required by the Board; and
- (i) Pay all required fees.

9704.2 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for certification, and pay the required fees.

9705 REQUIREMENTS FOR PATIENT CARE TECHNICIAN CERTIFICATION BY EXAMINATION

9705.1 To qualify for PCT certification by examination, an applicant shall:

- (a) Receive a passing score on the National Patient Care Technician Examination; and
- (b) Meet requirements of this chapter.

- 9705.2 To apply for authorization to take a PCT examination, an applicant shall provide proof of one of the following:
- (a) Successful completion of a PCT program within the past twenty four (24) months, approved by the Board or by a nursing Board in the United States with standards determined by the Board to be equivalent to the standards in the District of Columbia;
 - (b) Successful completion of a practical nursing or registered nursing “Fundamentals of Nursing” course and acute care clinical which include skills specified in § 9715.1; or
 - (c) Completion of a credentials evaluation by an organization recognized by the Board, indicating equivalent education as an RN or LPN for nurses education outside of the United States.
- 9705.3 To request special accommodations for an examination, an applicant shall submit in writing, the following information:
- (a) A letter from the appropriate health professional which confirms the applicant’s disability and provides information describing the accommodations required; and
 - (b) A letter from the applicant’s education program, indicating what accommodations were granted by the program.
- 9705.4 If an applicant has not taken or passed the patient care technician certification examination for more than twenty-four (24) months after the date the applicant becomes eligible to apply to take the examination, the applicant shall comply with requirements set forth in § 9705.1(a).
- 9705.5 The Board shall waive the examination requirements for any person currently practicing as a PCT provided that the applicant:
- (a) Demonstrates, to the satisfaction of the Board, that he or she has been performing the functions of a PCT on a full-time or substantially full-time (a minimum of five hundred (500) hours per year) basis for the past twenty-four (24) months;
 - (b) Submits documentation from a supervising nurse, indicating the applicant’s continued competence to provide care;
 - (c) Submits documentation from an employer certifying the applicant’s ability to perform skills as listed in § 9715; and
 - (d) Submits an application by a date specified by the Board.

9706 PATIENT CARE TECHNICIAN CERTIFICATION BY ENDORSEMENT

9706.1 An applicant currently working in another jurisdiction as a PCT shall apply for PCT by endorsement in order to work in DC as a PCT.

9706.2 An applicant for endorsement as a PCT shall provide proof of the following:

- (a) Current unencumbered registration or certification as a PCT;
- (b) Verification from a supervising registered nurse or licensed practical nurse certifying the applicant's ability to perform skills listed in § 9715; and
- (c) Completion of the requirements as listed in § 9704, Application for Certification.

9707 PATIENT CARE TECHNICIAN RENEWAL OF CERTIFICATION

9707.1 An applicant for renewal shall:

- (a) Provide verification of completion of twelve (12) hours per year (twenty four (24) in total) of in-service training or continuing education; provided that at least ten percent (10%) of the in-service or continuing education shall be in a public health subject as determined and published every five (5) years or as deemed appropriate by the Director;
- (b) Submit evidence of performance of nursing related services for compensation during the prior twenty-four (24) months;
- (c) Complete a CBC as required; and
- (d) Have completed two (2) hours of continuing education in cultural competency or specialized clinical training on clients who identify as lesbian, gay, bisexual, transgender or queer, and any additional Board mandated topics.

9707.2 PCTs who have another active District of Columbia certification as nursing assistive personnel (NAP) may apply continuing education hours to NAP renewal requirements.

9707.3 Applications will be subject to audit to assure compliance with § 9707.1.

9708 PATIENT CARE TECHNICIAN INACTIVE STATUS AND REACTIVATION OF CERTIFICATION

9708.1 A PCT with an active certification may request to be placed on inactive status.

9708.2 While on inactive status, the PCT shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as a PCT in the District of Columbia.

9708.3 To reactivate an inactive status of § 9704, Renewal of Certification.

9709 PATIENT CARE TECHNICIAN REINSTATEMENT OF EXPIRED CERTIFICATION

9709.1 If a PCT fails to renew his or her PCT certification, the Board shall reinstate the certification if the applicant:

- (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires;
- (b) Provides evidence of having completed twenty-four (24) hours of in-service training or continuing education within the past two (2) years prior to submission of an application;
- (c) Provides evidence of current PCT certification or registration;
- (d) Provides evidence of having worked for a minimum of eight (8) hours within the last twenty-four (24) months as a PCT; and
- (e) Completes a criminal background check as required in accordance with Title 17 DCMR Chapter 85.

9709.2 If a PCT fails to apply for reinstatement within five (5) years after his or her certification expires, the applicant shall meet the requirements for certification pursuant to § 9704.

9710 [RESERVED]

9711 [RESERVED]

9712 [RESERVED]

9713 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO PATIENT CARE TECHNICIAN

9713.1 An RN, LPN or licensed health care professional may assign or delegate tasks to PCTs that are among the authorized tasks listed in § 9715.

9713.2 PCTs shall not practice independently but shall work under the supervision of an RN, LPN or other licensed health care professional.

9713.3 The delegation or assignment of tasks shall comply with the standards for delegation listed in 17 DCMR § 5415 (Registered Nurse) and assignment listed in 17 DCMR § 5515 (Licensed Practical Nurse). Nursing care tasks that may be delegated or assigned shall be determined by:

- (a) The knowledge and skills of the PCT;
- (b) Verification of the clinical competence of the PCT by the employing agency;
- (c) The stability of the client's condition, including factors such as predictability, absence of risk of complication, and rate of change in health status; and
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated;
 - (2) The complexity and frequency of care needed by a given client population; and
 - (3) The accessibility of an RN or LPN.

9713.4 Nursing tasks that inherently involve on-going assessment, interpretation, or decision making that cannot be logically separated from one (1) or more procedures shall not be delegated to the PCT.

9713.5 Each PCT shall be trained to address the specific health care needs of his or her assigned population.

9714 [RESERVED]

9715 PATIENT CARE TECHNICIAN TASKS

9715.1 Under the supervision of an RN, LPN or licensed health professional, a PCT may perform the following tasks in addition to the tasks specified in § 9615:

- (a) Monitoring the administration of oxygen equipment by observing settings, tubing and equipment;
- (b) Inserting a peripheral intravenous catheter;

- (c) Discontinuing a peripheral IV catheter;
- (d) Elimination procedures, including enemas, fleets, and soap suds enemas;
- (e) Administering an electrocardiogram;
- (f) Fingertick blood glucose testing;
- (g) Specimen collection;
- (h) Incentive spirometry;
- (i) Phlebotomy;
- (j) Pulse oximetry;
- (k) Inserting and discontinuing urinary catheters;
- (l) Applying elastic stockings; and
- (m) Applying and removing sequential compression devices.

9716 [RESERVED]

9717 DISCIPLINE

- 9717.1 The Board may revoke, suspend, or deny the registration of any PCT who is convicted of any crime involving moral turpitude pursuant to D.C. Official Code § 3-1205.14(a)(4) (2016 Repl. & 2018 Supp.)).
- 9717.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c)(5) (2016 Repl.), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against a PCT.
- 9717.3 Grounds for denial, suspension, revocation or other discipline of a PCT include inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14 (2016 Repl.):
- (a) Substance abuse or other chemical dependency;
 - (b) Client or patient abandonment;
 - (c) Fraud or deceit, which may include but is not limited to:

- (1) Filing false credentials;
- (2) Falsely representing facts on an application for initial certification, reinstatement or renewal; or
- (3) Giving or receiving assistance in taking the competency evaluation.
- (d) Client or patient neglect, abuse or misappropriation of funds;
- (e) Boundary violations;
- (f) Unsafe client care;
- (g) Performing acts beyond the PCT range of functions or beyond those tasks delegated;
- (h) Misappropriation or misuse of property;
- (i) A criminal conviction;
- (j) Failing to conform to acceptable standards of practice as a PCT;
- (k) Putting clients or patients at risk of harm; or
- (l) Violating the privacy or failing to maintain the confidentiality of client information.

9717.4 PCTs who are unable to perform their duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse’s Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2016 Repl.).

9717.5 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act (“Act”), D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl.) that it deems appropriate.

9718 [RESERVED]

9719 [RESERVED]

9720 STANDARDS FOR TRAINING PROGRAMS

9720.1 No institution shall provide PCT training in the District of Columbia unless its training program has been approved by the Board.

- 9720.2 The following types of institutions may apply for approval to provide PCT training:
- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia which are licensed by the Higher Education Licensure Commission (HELC) pursuant to the Educational Institution Licensure Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code §§ 38-1301, *et seq.* (2016 Repl.));
 - (b) Private, non-degree, post-secondary schools operating in the District of Columbia which are licensed by the HELC;
 - (c) District of Columbia public universities or colleges;
 - (d) Hospitals; and
 - (e) Nursing facilities licensed and operating in the District of Columbia that have received no adverse actions during the preceding two (2) years.

9720.3 The Board shall consider any one of the following as an adverse action which preclude a facility from providing training:

- (a) Termination, restriction, or revocation of a facility's participation in the Medicaid or Medicare program;
- (b) Provisional or restricted licensure of the facility, provided it is not a new facility; or
- (c) A facility is given a provider agreement of less than one (1) year.

9721 SUPERVISED PRACTICE OF TRAINEES

9721.1 A PCT trainee may practice only in accordance with the Act and this chapter.

9721.2 A trainee who is fulfilling educational requirements of this chapter may engage in supervised practice without a District of Columbia certification.

9721.3 All supervised practice of a trainee shall take place under the general or immediate supervision of an RN or LPN.

9721.4 A trainee shall identify himself or herself as a trainee before practicing.

9721.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or client's family member.

9721.6 The nurse supervising the trainee shall be responsible for all practice by a trainee during the period of supervision and may be subject to disciplinary action for trainee violations of the Act or this chapter.

9721.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee in accordance with the hearing provision of D.C. Official Code § 3-1205.14(a) (2016 Repl.).

9722 [RESERVED]

9723 PROGRAM APPROVAL PROCEDURES FOR HEALTH CARE FACILITIES

9723.1 Each facility applying for approval to provide PCT training shall submit an application for approval which contains the following information:

- (a) A statement of intent to establish a training program;
- (b) A certificate of exemption or approval by HELC, if coursework is offered to persons not employed by the facility;
- (c) A list of qualified instructors with resumes attached; and
- (d) A description of the trainee population and tentative curriculum implementation schedule.

9723.2 A training program shall not admit trainees to the program before the program has been approved by the Board.

9723.3 The Board shall withdraw approval of training if the facility loses its licensure status.

9724 TRAINING PROGRAM APPROVAL PROCEDURES

9724.1 Each institution applying for a certificate of approval to provide PCT training shall do the following:

- (a) Submit to the Board of Nursing (Board), at least one hundred eighty (180) days in advance of the scheduled starting date, a statement of intent to establish a PCT training program; and
- (b) Submit to the Board an application for a certificate of approval which contains the following information:

- (1) A statement of need for the training program in the District of Columbia;
 - (2) A description of the proposed program's potential effect on existing PCT training programs in the area;
 - (3) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (4) Evidence of financial resources adequate for planning, implementation, and continuation of the program;
 - (5) Licensure status of the proposed training facility;
 - (6) The qualification of the proposed instructors;
 - (7) The number of fulltime equivalent budgeted instructor positions;
 - (8) Evidence of the availability of adequate clinical facilities for the training program;
 - (9) A description of the anticipated trainee population including admission and graduation criteria, a copy of the entrance exam and health requirements.
 - (10) A tentative time schedule for planning and initiating the program;
 - (11) Fee schedules; and
- (c) Submit to the Board the one thousand dollar (\$1000) application fee.

9724.2 Schools currently non-compliant with the Board's regulatory requirements are not eligible to submit an application to establish an additional program.

9724.3 After reviewing the application, based on the applicant's compliance with § 9727, a decision shall be made to:

- (a) Approve the application;
- (b) Defer approval if additional information is needed; or
- (c) Deny approval of the application.

9724.4 If an application approval has been granted, a site visit may be conducted.

- 9724.5 After reviewing the site visit report and compliance with § 9732, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.
- 9724.6 The nurse coordinator for each facility or institution approved to provide training shall attend a Board sponsored orientation.
- 9724.7 A training program shall not admit trainees to the program before the program has been approved by the Board.
- 9724.8 If the application is denied, the applicant may not resubmit an application until one (1) year has passed from the last submission.

9725 PERIODIC REVIEW OF APPROVED PROGRAMS

- 9725.1 Programs approved by the Board to train PCTs shall submit to the Board an annual report and the five hundred dollar (\$500) fee in accordance with procedures established by the Board.
- 9725.2 The Board shall annually re-evaluate the patient care technician training programs.
- 9725.3 The Board may make unannounced visits to review and assess each nursing patient care technician training program to ensure that the program is in compliance with the training requirements in §§ 9727, 9728, 9731 and 9732.
- 9725.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, and any other information deemed appropriate by the Board.
- 9725.5 Three (3) levels of non-compliance for training programs include:
- (a) Level 1 non-compliance:
 - (1) Up to five percent (5%) of student records reviewed during site visits are out of compliance with § 9731;
 - (2) Program is non-compliant with only one (1) of the sections §§ 9727, 9728, and 9732; or
 - (3) Annual certification pass rates are below seventy-five percent (75%) but no lower than seventy percent (70%).
 - (b) Level 2 non-compliance:

- (1) Between six percent (6%) and twenty percent (20%) of student records reviewed during site visits are out of compliance with §9731;
 - (2) Program is non-compliant with only one of the sections: §§ 9727, 9728, or 9732; or
 - (3) Annual certification pass rates are below seventy percent (70%) but no lower than sixty-five (65%).
- (c) Level 3 non-compliance:
- (1) Twenty-one percent (21%) or more of student records reviewed during site visits are out of compliance with § 9731;
 - (2) Program is non-compliant with more than one (1) of the sections: §§ 9727, 9728, or 9732; or
 - (3) Annual certification pass rates are below sixty-five (65%).

9725.6

The Board will issue the sanctions to programs for non-compliance violations listed below including, but not limited to:

- (a) Level 1 non-compliance:
- (1) Conditional Approval;
 - (2) Corrective action plan is due within thirty (30) days of receipt of the status letter; and
 - (3) Site visit to review and assess implementation of the corrective actions within six (6) months.
- (b) Level 2 non-compliance:
- (1) Conditional Approval;
 - (2) Restricted Admissions;
 - (3) Board will recommend actions to correct deficiencies;
 - (4) Corrective action plan is due within thirty (30) days of receipt of the status letter;
 - (5) Site visit to review and assess implementation of the corrective actions within six (6) months;

- (6) Pass rates reviewed in six (6) months; and
 - (7) Fine of up to two thousand dollars (\$2000) if not in full compliance by the next annual review.
- (c) Level 3 non-compliance:
- (1) Warning Status;
 - (2) Restricted Admissions;
 - (3) Hire consultant to assist in developing and implementing actions to correct deficiencies;
 - (4) Consultant's report is due to the Board within sixty (60) days;
 - (5) Site visit to review and assess implementation of corrective actions within six (6) months;
 - (6) Pass rates reviewed in six (6) months; and
 - (7) Fine of up to three thousand dollars (\$3000) if not in full compliance by the next annual review.

9725.7 The Board shall withdraw approval of a training program in non-compliance if:

- (a) It determines that the program has failed to implement the approved corrective action plan;
- (b) The program has failed to correct deficiencies within time period specified by the Board; or
- (c) The education institution loses its licensure.

9725.8 The Board shall investigate all credible and timely complaints made against a program and may conduct hearings in connection with such complaints.

9725.9 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2016 Repl.).

9726 [RESERVED]

9727 PATIENT CARE TECHNICIAN TRAINING PROGRAM REQUIREMENTS

- 9727.1 Training programs shall use Board approved PCT model curriculum, that consists of classroom, skills laboratory, and supervised practice hours and may be amended from time to time.
- 9727.2 All PCT training programs shall have adequate faculty and clinical facilities to provide supervised clinical experience with early, realistic exposure to job requirements. The clinical experience shall include the full range of skills needed in the workplace.
- 9727.3 The program must maintain seventy-five percent (75%) pass rate on the District of Columbia's competency evaluation each year.
- 9727.4 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.
- 9727.5 The training program shall be coordinated by an RN, who:
- (a) Has a current, unencumbered District of Columbia license pursuant to D.C. Official Code § 3-1205.14 (2016 Repl.); and
 - (b) Has at least two (2) years of full-time or full-time equivalent experience as a registered nurse with clinical experience in the clinical practice setting he or she is coordinating.
- 9727.6 The PCT program coordinator shall be a qualified registered nurse with institutional authority and administrative responsibility for the program.
- 9727.7 The program coordinator's responsibilities shall include, but are not limited to:
- (a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;
 - (b) Establishing the responsibilities of the instructors;
 - (c) Ensuring that each instructor meets the qualifications as specified in this chapter;
 - (d) Ensuring that each student is properly supervised during the student's clinical experience; and
 - (e) Reporting annually and respond upon request to the Board.
- 9727.8 Each instructor shall have the following minimum qualifications:

- (a) Be currently licensed or registered in good standing, in the jurisdiction in which he or she is providing the preceptorship;
- (b) Have completed a course in teaching adults or have experience in teaching adults and supervising nursing assistants; and.
- (c) Have a minimum of two (2) years of experience, as an RN or LPN, providing direct patient care during the five (5) years immediately preceding the date of the written agreement.

9727.9 The ratio of instructors to trainees in clinical areas involving direct care shall be based upon client acuity level, skill level of the trainee, and the clinical setting.

9727.10 Each training program shall have a record or attestation that trainees received information in writing on the policies governing admission, retention, dismissal, and the course requirements of the training program.

9728 MINIMUM QUALIFICATIONS FOR PATIENT CARE TECHNICIAN TRAINEES

9728.1 Each trainee shall have received a high school diploma or its equivalent, including for example, but not limited to, the General Education Diploma or National External Diploma Program.

9728.2 Each person applying for PCT training shall provide evidence of certification as a nursing assistant after passing the National Nurse Aide Assessment Program exam or other CNA examination acceptable to the Board.

9728.3 Each trainee shall provide documentation from the trainee's supervising nurse or employer attesting to the trainee's satisfactory performance of nursing related services for a period of time not less than one (1) year.

9728.4 Each trainee shall provide evidence of vaccination or immunity to communicable diseases prior to admission.

9728.5 Each trainee shall attest in writing to receiving information on:

- (a) The policies governing admission, retention, dismissal, and the course requirements of the training program; and
- (b) Certification requirements including CBC and examination.

9729 [RESERVED]

9730 CLOSING OF EDUCATION AND TRAINING PROGRAMS

9730.1 Each PCT program that voluntarily discontinues shall:

- (a) Notify the Board, in writing, as early as possible of the intended discontinuance, stating the reason(s) and planned date of the intended closing;
- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and
- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9730.2 Before the Board may withdraw approval of a program the Board shall:

- (a) Issue a notice of intended action to the program notifying the program that:
 - (1) The Board intends to withdraw approval of the program and the reasons for the action;
 - (2) The institution has a right to a hearing; and
 - (3) Send notice to the HELC of the Board's intention to withdraw program approval.

9730.3 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board; and
- (b) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9731 RECORDS RETENTION

9731.1 Each PCT training program shall maintain an accurate and appropriate system of record keeping.

9731.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.

9731.3 A facility shall maintain a record for each trainee which shall include the following information:

- (a) Completed and signed application;
- (b) Results of entrance assessment;
- (c) Trainee's Record of academic performance;
- (d) Evidence of vaccinations or immunity to communicable diseases;
- (e) Board issued clinical evaluation form completed and signed by clinical instructor;
- (f) Signed statement for receipt of school policies and certification requirements regarding examination and criminal background check; and
- (g) Additional documents per the school's policies.

9731.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and a position description, and shall be available for review by the Board.

9731.5 All records shall be maintained by the training program for a minimum of seven (7) years.

9732 RESOURCES, FACILITIES, AND SERVICES

9732.1 Each PCT training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:

- (a) Adequate temperature controls in each training facility;
- (b) Clean and safe conditions of the facility's premises;
- (c) Adequate space for private faculty-student conferencing;
- (d) Adequate lighting in each facility; and
- (e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.

9732.2 Each classroom, conference room, skills laboratory, and office shall be adequate to meet the needs of the training program.

9732.3 Each cooperative agreement between a training program and agency healthcare facility shall be in writing. The training program shall maintain a copy of the agreement in its records.

9799 **DEFINITIONS**

9799.1 When used in this chapter, the following terms shall have the meanings ascribed:

Abuse - the infliction of physical or mental harm, injury, death, or financial exploitation of a client.

Applicant - a person applying for certification as a patient care technician.

Board - the Board of Nursing as established by § 204 of the Act.

Clinical - faculty planned and guided learning activities designed to assist in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources.

Conditional approval - the approval status that is granted for a time period specified by the Board to an home health aide training program to correct deficiencies when the training program has failed to meet or maintain the requirements and standards of this chapter.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the patient care technician.

Criminal background check – an investigation into a person’s history by the appropriate state and federal authorities or approved vendor to determine whether the person has been convicted of a crime in the District of Columbia or in any other state or territory of the United States.

Delegation - the transference from the RN or LPN to another individual within the scope of his or her practice, of the authority to act on behalf of the RN or LPN in the performance of a nursing intervention, while the RN or LPN retains accountability and responsibility for the act.

Director - the Director of the Department of Health, or his or her designee.

District - the District of Columbia.

Emergency medical technician - a person who is trained to give emergency medical care at the scene of an accident or in an ambulance.

Endorsement - the process of issuing a certification to an applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the

Board from the date of certification until the date of certification in the District.

Fingerstick - a sticking of the finger to get a blood sample to use in a glucometer to measure the amount of glucose in blood.

Health care facility - an acute care facility or agency that provides long-term care services such as an assisted living residence, group home for persons with physical and intellectual disabilities, and skilled home care agency.

Higher Education Licensure Commission a Mayoral appointed regulatory, consumer protection authority responsible for public protection with regard to legitimate quality education in the District of Columbia.

Immediate supervision - supervision in which the supervisor is on the premises and within vocal communication with the person being supervised, either directly or by communication device.

Misappropriation - the application of another's property or money dishonestly to one's own use.

Neglect - any act or omission by a patient care technician which causes or is likely to cause or contribute to, or which has caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Nursing assistive personnel - an individual who has received appropriate training or instruction to function in a complementary or assistant role to an RN or LPN, in providing direct patient care or in carrying out delegated nursing tasks.

Paramedic - A specially trained medical technician licensed to provide a wide range of emergency services before or during transportation to a hospital.

Pass rate - means the percentage of candidates who receive a passing score on the competency evaluation out of the total exams administered for the review period.

Patient care technician - nursing assistive personnel with specialized knowledge and training to provide patient care beyond the role of the certified nursing assistant in the acute care setting.

Program - the planned series of instruction, didactic and clinical, designed so that the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired patient care technician certification.

Skills laboratory - faculty guided activities planned for students in a school/campus laboratory that simulates the activities provided by the CNA. The activities include demonstrations and return demonstrations using equipment and supplies that are used for the purpose of attaining required psychomotor skills.

DEPARTMENT OF HEALTH

NOTICE OF SECOND PROPOSED RULEMAKING

The Director of the Department of Health (Department), pursuant to § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the Interstate Medical Licensure Compact Enactment Act of 2018, effective June 5, 2018 (D.C. Law 22-109; D.C. Official Code §§ 3-1271.01 *et seq.* (2019 Supp.)), hereby gives notice of the intent to adopt the following amendment to Chapter 46 (Medicine) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The rulemaking is necessary to update the District of Columbia Municipal Regulations pertinent to the Board of Medicine in order to implement the licensure of physicians through the Interstate Medical Licensure Compact (IMLC), which will enable eligible physicians to become licensed in an expedited manner in member states including the District of Columbia. Consistent with the aim of the Health Occupations Revision Act, this rulemaking will ensure highly qualified physicians licensed in member states are able to become more quickly licensed in the District, increasing the physician workforce and supporting the health and welfare of the public.

The first Notice of Proposed Rulemaking was published in the *D.C. Register* on March 15, 2019 at 66 DCR 003035. One comment was received. That comment from the Medical Society of the District of Columbia suggested the rule include a statement regarding the Department's authority to share disciplinary and investigative information with the Interstate Commission of the IMLC. As a result a new section has been added to cover the requirements for physicians licensed through the IMLC regarding sharing information regarding disciplinary actions and investigations, and required reciprocal actions, as some of those requirements are different than for physicians not licensed through the IMLC.

Chapter 46, MEDICINE, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

A new Section 4621, INTERSTATE MEDICAL LICENSURE COMPACT, is added to read as follows:

4621 INTERSTATE MEDICAL LICENSURE COMPACT

4621.1 The Interstate Medical Licensure Compact (IMLC) allows an eligible physician to become licensed in multiple states in a streamlined process. The Interstate Commission is the governing body of the IMLC. The District of Columbia is a member of the IMLC and able to license physicians pursuant to the IMLC.

4621.2 A physician licensed in the District of Columbia is eligible to apply for licensure pursuant to the IMLC if he or she:

- (a) Is a graduate of a medical school: (1) accredited by the Liaison Committee on Medical Education, (2) accredited by the Commission on Osteopathic College Accreditation, or (3) listed in the International Medical Education Directory or its equivalent;
- (b) Has passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three (3) attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;
- (c) Has successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;
- (d) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;
- (e) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;
- (f) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction. For the purpose of this section only, "offense" means a felony, gross misdemeanor, or crime of moral turpitude;
- (g) Has never held a license authorizing the practice of medicine that has been subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;
- (h) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and
- (i) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

4621.3

A physician may designate the District of Columbia as the state of principal license for purposes of registration for expedited licensure through the IMLC if the physician possesses a full and unrestricted license to practice medicine in the District and the District of Columbia is:

- (a) The state of primary residence for the physician;

- (b) The state where at least twenty-five percent (25%) of the practice of medicine occurs;
- (c) The location of the physician's employer; or
- (d) If no other state qualifies under paragraph (1), (2), or (3) of this subsection, the state designated as state of residence for purposes of federal income tax.

4621.4 An eligible physician seeking licensure through the IMLC with the District of Columbia as his or her state of principal license shall file an application for an expedited license with the Board.

4621.5 A physician who changes his or her state of principal license from the District of Columbia, or who no longer meets the requirements for having the District of Columbia as their principal state of licensure, shall notify the Board of this change within thirty (30) days of the change

4621.6 The Board shall evaluate the application for an expedited license and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission. The Board shall consider the following when evaluating an application of expedited license:

- (a) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.
- (b) The results of a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have a suitability determination in accordance with 5 CFR § 731.202.
- (c) An appeal on the determination of eligibility shall be made in accordance with the requirements of § 4102.3 of this title.

4621.7 If the Board verifies the physician's eligibility for an expedited license, the physician shall complete the registration process established by the Interstate Commission to receive a license in a member state, including the payment of any applicable fees.

- 4621.8 If the Board receives verification of eligibility and required fees for a physician applying through the Interstate Commission from a different state of principal license, the Board shall issue the physician an expedited license. This license shall authorize the physician to practice medicine in the District of Columbia pursuant to all applicable laws and regulations.
- 4621.9 An expedited license shall be valid for the same licensure period in the District of Columbia and in the same manner as required for other physicians holding a full and unrestricted license within the member District of Columbia.
- 4621.10 An expedited license obtained through the IMLC shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignating a new state of principal licensure.
- 4621.11 The Interstate Commission is authorized to develop additional rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.
- 4621.12 A physician seeking to renew an expedited license granted in the District of Columbia shall complete a renewal process with the Interstate Commission if the physician:
- (a) Maintains a full and unrestricted license in a state of principal license;
 - (b) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
 - (c) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and
 - (d) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.
- 4621.13 Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by the District of Columbia.
- 4621.14 The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the District of Columbia.
- 4621.15 Upon receipt by the District of Columbia of the renewal fees collected in accordance with § 4621.14, the physician's license shall be renewed.

- 4621.16 Physician information collected by the Interstate Commission during the renewal process will be distributed to the District of Columbia.
- 4621.17 The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the IMLC.
- 4621.18 When a physician licensed through the Interstate Compact has disciplinary action or an investigation taken against his or her license, the Board:
- (a) Shall report any public action or complaints to the Interstate Commission;
 - (b) Shall report to the Interstate Commission any nonpublic complaint, disciplinary or investigatory information in accordance with rules of the Interstate Commission, and may report any such information not required by rule;
 - (c) May share complaint or disciplinary information about a physician upon request of another member board;
 - (d) May participate with other member boards in joint investigations of physicians licensed by the member boards;
 - (e) Shall deem any disciplinary action taken by a member board against a physician licensed through the Compact as unprofessional conduct which may be subject to discipline by the Board, whether or not such conduct constituted a violation of the District of Columbia Health Occupations Revision Act of 1985, D.C. Official Code §§ 3-1201.01 *et seq.* (HORA);
 - (f) Shall automatically place the license status of a physician licensed through the Compact whose license in the state of principal license has been revoked, surrendered or relinquished in lieu of discipline, or suspended, in the same status without needing any further action;
 - (g) Shall automatically suspend for ninety (90) days the license of a physician licensed through the Compact whose license in a member state has been revoked, surrendered or relinquished in lieu of discipline, or suspended, without needing any further action, in order to complete any investigation and take any other authorized action; and
 - (h) May deem any disciplinary action taken by a member state against a physician licensed through the Compact conclusive as to matters of law and fact and take appropriate action.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Health Occupations Revision Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of her intent to take final rulemaking action to adopt the following amendments to Chapter 48 (Chiropractic) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the rulemaking is to set forth rule amendments regarding existing acupuncture regulations for chiropractors so as to ensure consistency in training requirements for all acupuncture practitioners, and to amend the continuing education requirements for chiropractors to include continuing education in public health priorities as determined and amended from time to time by the Director. Consistent with the aim of the Health Occupations Revision Act, this rulemaking will enhance professionalism within the community and operate in support of the health and welfare of the public.

Chapter 48, CHIROPRACTIC, of Title 17 DCMR, BUSINESS, OCCUPATIONS AND PROFESSIONALS, is amended as follows:

Section 4803, LICENSURE REQUIREMENTS AND QUALIFICATIONS FOR PHYSIOTHERAPY ANCILLARY PROCEDURES CERTIFICATION, is amended as follows:

Subsection 4803.3 is amended to read as follows:

4803.3 In addition to the requirements provided in § 4802 for licensure, a chiropractor seeking to satisfy the requirements to qualify for physiotherapy ancillary procedures certification shall achieve a passing score on the national examination for the physiotherapy test areas equal to or greater than the score recommended by the National Board of Chiropractic Examiners (NBCE).

A new Subsection 4803.4 is added to read as follows:

4803.4 In addition to the requirements provided in § 4802 for licensure, a chiropractor seeking to satisfy the requirements to qualify for acupuncture ancillary procedures certification shall:

- (a) Provide documentation of successful completion of three hundred (300) hours of training in the practice of acupuncture, of which at least one hundred (100) must be clinical; and

- (b) Achieve a passing score on the national examination for the acupuncture test areas equal to or greater than the score recommended by the National Board of Chiropractic Examiners (NBCE).

Section 4806, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 4806.4 is amended to read as follows:

4806.4 An applicant for renewal of a license expiring on December 31, 2020 and all subsequent licensure terms shall submit proof upon request of the Board pursuant to § 4806.7 of having completed thirty (30) hours of approved continuing education credit during the two (2) year period preceding the date the license expires that includes two (2) hours in cultural competence and appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression. Additionally, at least ten percent (10%) of the total required CME shall be in the subjects determined by the Director as public health priorities of the District every five (5) years or less frequently as deemed appropriate by the Director with notice of the subject matter published in the *D.C. Register*. The Board shall disseminate the identified subjects to its licensees when determined by the Director via electronic communication and through publication on its website.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.13 (2018 Repl.)), Section 4902(d) of the Department of Health Functions Clarifications Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(d) (2018 Repl.)), Sections 2(f)(6) and 2(i)(6) of the Medical Marijuana Omnibus Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-209; D.C. Official Code § 7-1671.06(g-2) and (g-3) (2018 Repl.)), the Medical Marijuana Relocation Emergency Amendment Act of 2018, effective February 7, 2019 (D.C. Act 22-645; 66 DCR 2052 (February 15, 2019)), and Mayor's Order 2011-71 dated April 13, 2011, hereby gives notice of her intent to adopt the following amendments to Chapters 50 (Registration, Licensing, and Enforcement of Cultivation Centers and Dispensaries) and 55 (Registration Changes) of Subtitle C (Medical Marijuana) of Title 22 (Health) of District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, and upon the Council's approval of the rulemaking.

The purpose of this rulemaking is to implement the provisions of the Medical Marijuana Omnibus Amendment Act of 2016, which allow a medical marijuana dispensary or cultivation center to change ownership or location.

Pursuant to D.C. Official Code § 7-1671.13(b), if the Council does not disapprove of the rules during the thirty (30) day period of review, the rules shall be deemed approved.

Chapter 50, REGISTRATION, LICENSING, AND ENFORCEMENT OF CULTIVATION CENTERS AND DISPENSARIES, of Title 22-C DCMR, MEDICAL MARIJUANA, is amended as follows:

The title of Chapter 50 is amended to read: REGISTRATION, LICENSING, AND ENFORCEMENT OF CULTIVATION CENTERS, DISPENSARIES, AND TESTING LABORATORIES

Section 5003, NON-TRANSFERABILITY OF LOCATIONS AND OWNERSHIP, is amended as follows:

Subsections 5003.3 and 5003.6 are repealed in their entirety, without substitution.

Chapter 55, REGISTRATION CHANGES, is amended as follows:

Section 5501, INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND CORPORATE CHANGES, is repealed in its entirety and the following inserted in its place, to read as follows:

5501 INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND COPRPORATE CHANGES

- 5501.1 If there is a change in corporate officers, directors, or other persons, owning or controlling one percent (1%) or more, but less than fifty percent (50%), of the common stock of a corporate registration for a medical marijuana dispensary, cultivation center, or testing laboratory, the corporation shall submit to the Department, within fifteen (15) calendar days of the change, the minutes or other instrument giving the names and addresses of any new officer, director, or person owning or controlling any percentage of the stock.
- 5501.2 If there is a change in the ownership of an individual ownership, partnership, or limited liability company or partnership, resulting in a change of ownership of one percent (1%) or more, but less than fifty percent (50%), of the total ownership interest of the business entity's registration for a medical marijuana dispensary, cultivation center, or testing laboratory, the individual owner, partnership, or limited liability company or partnership members shall submit to the Department in a timely manner, but no later than fifteen (15) calendar days after the change has occurred, the instruments reflecting the change in ownership interests.
- 5501.3 Within fifteen (15) calendar days of the changes set forth in § 5501.1 and § 5501.2, the individual owner, partnership, limited liability company or partnership, or corporation shall submit to the Department any data pertaining to the personal and business history of any new officer, director, stockholder, member, general or limited partner, or other person that the Department may require, and each new person shall apply for a registration as required under this subtitle.
- 5501.4 Each individual seeking to own or control interest of at least one percent (1%) in a partnership, limited liability company or partnership, or corporation shall pass a criminal background check and pay the applicable registration fee.
- 5501.5 If the proposed transfer pertains to a medical marijuana dispensary registration, the proposed transferee(s) shall not own or control the interest of one percent (1%) or more in another medical marijuana dispensary registered to operate in the District of Columbia or that has been deemed eligible to operate in the District of Columbia.
- 5501.6 The proposed transferee(s) shall not operate the dispensary, cultivation center, or testing laboratory until they have received a registration issued by the Department.

A new Section 5502 is added to read as follows:

5502 TRANSFER OF EQUAL OR MAJORITY OWNERSHIP OR CONTROL

- 5502.1 At least thirty (30) days before executing an agreement that will result in the transfer of ownership or control of fifty percent (50%) or more of the ownership interest or common stock of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory, the current registrant shall submit to the Department an application for a transfer of equal or majority ownership or control.
- 5502.2 A registrant shall not complete the sale or transfer of fifty percent (50%) or more of its ownership or control of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory until the registrant has received written approval from the Department of the sale or transfer.
- 5502.3 If a registrant transfers ownership or control of fifty percent (50%) or more of its ownership or control of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory without Department approval, the registrant's registration, or authorization to apply for a registration, shall automatically be deemed void and shall be surrendered to the Department upon demand.
- 5502.4 To apply for a transfer of fifty percent (50%) or more of its ownership or control of a registration for a medical marijuana dispensary, cultivation center, or testing laboratory, a registrant shall complete a Department of Health application form and provide the following:
- (a) The legal name or trade name of the business and a copy of the trade name registration, if applicable;
 - (b) The name, address, date of birth, and social security number of the individual owner, partners, limited liability company or partnership member, principal officers, directors, or shareholders (no P.O. Boxes will be accepted);
 - (c) The Certificate of Good Standing for the partnership, limited liability company or partnership, or corporation, issued within thirty (30) days of the date of submission of the application;
 - (d) A Basic Business Registration from the Department of Consumer and Regulatory Affairs with a General Business registration endorsement;
 - (e) A valid zoning determination letter for the premises issued in the name of the new owner;

- (f) Evidence that the applicant has entered into a bona fide agreement with the owner of the building to lease, purchases, or occupy the premises;
- (g) A signed and notarized Physician Affidavit Form, if applicable;
- (h) A signed and notarized Acknowledgment and Attestation form;
- (i) A detailed description of the proposed operations plan and closure plan;
- (j) A detailed description of the proposed business plan and services to be offered;
- (k) A proposed staffing plan (if there are no changes, to the existing staffing plan it may be resubmitted);
- (l) The proposed security plan (if there are no changes, the existing security plan may be resubmitted);
- (m) The proposed product safety, quality control, and labeling plan (if there are no changes to the existing product safety, quality control, and labeling plan, it may be resubmitted);
- (n) The proposed recordkeeping and inventory tracking plan (if there are no changes to the existing recordkeeping and inventory tracking plan, it may be resubmitted);
- (o) The proposed environmental plan, if applicable (if there are no changes to the existing environmental plan, it may be resubmitted);
- (p) Information on the source of funds used to acquire the ownership or control interests of the dispensary, cultivation center, or testing laboratory;
- (q) A copy of both the Bill of Sale and the Purchase and Sale Agreement between the former registrant and new applicant; and
- (r) A notarized and signed copy of the Transfer of Registration Affidavit Form.

5502.5 The proposed transferee(s) shall pass a criminal background check.

5502.6 If the proposed transfer pertains to a medical marijuana dispensary registration, the proposed transferee(s) shall not own or control the interest of one percent (1%) or more in another medical marijuana dispensary registered to operate in the District of Columbia or that has been deemed eligible to operate in the District of Columbia.

5502.7 The proposed transferee(s) shall not operate the dispensary, cultivation center, or testing laboratory until they have received a registration issued by the Department.

A new Section 5503 is added to read as follows:

5503 CHANGE OF LOCATION OR EXPANSION

5503.1 At least thirty (30) days before executing an agreement that will result in the change of location or expansion of a dispensary, cultivation center, or testing laboratory, the registrant shall submit to the Department an application for a change of location or expansion.

5503.2 An application for change of location of a dispensary, cultivation center, or testing laboratory shall be subject to ANC review, and shall not be approved if the relocation would result in more than two (2) dispensaries or six (6) cultivation centers being registered to operate within a single election ward.

5503.3 A registrant shall not relocate or expand until the registrant has received written approval from the Department to relocate or expand.

5503.4 If a registrant relocates or expands without Department approval, the registrant's registration, or authorization to apply for a registration, shall automatically be deemed void and shall be surrendered to the Department upon demand.

5503.5 To apply for a change of location or to expand into adjacent property, a registrant shall complete a Department of Health application form and provide the following:

- (a) The legal business name, including trade name, if applicable, and current address of the dispensary, cultivation center, or testing laboratory;
- (b) The contact person's name, address, email address, telephone number, and facsimile number;
- (c) The address of the proposed location;
- (d) The proposed date for closing the current location, if relocating;
- (e) The proposed date of relocation or expansion;
- (f) The proposed date of opening the new location or expanded location;
- (g) All required ownership information including the name, title, address, and telephone number of the individual owner, partner(s), corporate officer(s), or members;

- (h) A valid zoning determination letter for the proposed location;
- (i) A certified surveyor's report detailing the proximity of the proposed location to the nearest public or private preschool, primary or secondary school or recreation center;
- (j) Evidence that the registrant has entered into a bona fide agreement with the owner of the building to lease, purchase, or occupy the new location or expanded premises;
- (k) The site plan for the proposed location or expanded location;
- (l) A detailed security plan for the proposed location or expanded location;
- (m) A detailed description of the proposed operations plan and closure plan for the proposed location;
- (n) A detailed description of the proposed business plan and services to be offered for the proposed location or expanded location;
- (o) A detailed description of the suitability of the proposed location or expanded location;
- (p) A proposed staffing plan;
- (q) The proposed product safety, quality control, and labeling plan;
- (r) The proposed recordkeeping and inventory tracking plan;
- (s) The environmental plan for the proposed location or expanded location, if applicable;
- (t) A signed and notarized Physician Affidavit Form, if applicable; and
- (u) A signed and notarized Acknowledgment and Attestation form.

5503.6 As part of the review of an application for a change of location, the Director shall give written notice through the mail of the application to all ANCs in the affected ward, pursuant to the requirements set forth in § 5107 of this subtitle.

5503.7 Pursuant to § 5109 of this subtitle, the comments timely submitted by an ANC located in the affected ward for consideration shall relate to the ANC's concerns or support regarding the proposed location including but not limited to:

- (a) The potential adverse impact of the proposed location to the neighborhood;
- (b) An overconcentration or lack of cultivation centers or dispensaries in the affected ward; and
- (c) Its proximity to substance abuse treatment centers, day care centers, and halfway houses.

5503.8 The timely comments submitted by an ANC located in the affected ward, shall be reviewed by the Director in accordance with D.C. Official Code § 1-309.10(d) (2017).

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

DEPARTMENT OF PUBLIC WORKS**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Public Works, pursuant to the authority set forth in Sections 111(a) and 114 of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1031.11 (2013 Repl. & 2018 Supp.)), and Mayor's Order 2017-116 dated May 3, 2017, hereby gives notice of the intent to adopt a proposed rulemaking to amend Chapter 7 (Solid Waste Control), of Title 21 (Water and Sanitation), of the District of Columbia Municipal Regulations (DCMR).

The proposed amendment will revise the refuse disposal fee at District of Columbia waste transfer stations. The transfer stations perform a pivotal role in ensuring that waste does not accumulate in the District and contribute to disease vectors. This rulemaking will ensure that the fees charged by the District more accurately reflect the cost to operate the facilities.

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

Chapter 7, SOLID WASTE CONTROL, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 720, FEES, Subsection 720.8, is amended to read as follows:

720.8 Beginning on September 23, 2019, the applicable fee for the disposal of each ton of solid waste at the waste-handling facilities, excluding those wastes specified in §§ 720.5, 720.6, and 720.7, shall be sixty dollars and sixty-two cents (\$60.62) for each ton disposed; provided, that a minimum fee of thirty dollars and thirty-one cents (\$30.31) shall be imposed on each load weighing one thousand pounds (1,000 lb.) or less.

Subsection 720.9 is amended to read as follows:

720.9 The Solid Waste Diversion Surcharge shall be one dollar (\$ 1.00) for each ton of solid waste disposed of at the waste-handling facilities.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Christine V. Davis, General Counsel, Department of Public Works, 2000 14th Street, N.W., 6th Floor, Washington, D.C. 20009 or via email at christine.davis@dc.gov. Copies of this proposal are available at no charge by writing to the above address.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF THIRD EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211 (2012 Repl. & 2018 Supp.)) and D.C. Official Code §§ 25-351, *et seq.* (2012 Repl.), as amended, hereby gives notice of the following emergency rulemaking which would amend Chapter 3 (Limitations On Licenses) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (“DCMR”).

The amendments to Section 304 (Adams Morgan Moratorium Zone) will: (1) continue the moratorium on on-premises retailer’s licenses, classes CN, DN, CT, DT, CX, and DX, issued in a portion of Adams Morgan; (2) cap the total number of tavern and multipurpose facility licenses in this area at ten (10); (3) extend the moratorium zone to cover eighteen hundred feet (1,800 ft.) in all directions from 2459 18th St., N.W., Washington, D.C. 20009; and (4) keep the moratorium in place for three (3) years.

I. **PROCEDURAL BACKGROUND**

The Adams Morgan Moratorium Zone (AMMZ), promulgated at 23 DCMR § 304, was scheduled to expire on August 27, 2018. In order to prevent the rules from expiring, the Board adopted emergency rules on August 15, 2018, which allowed the then current moratorium to remain in effect pending a public hearing. Before the emergency rules expired, however, the Board approved a Notice of Emergency and Proposed Rulemaking on November 28, 2018.

The emergency and proposed rulemaking the Board adopted in November 2018 superseded the previously adopted emergency rulemaking. In essence, the emergency and proposed rulemaking mirrored the emergency rulemaking in that it maintained the existing cap on CT/DT, CN/DN, and CX/DX licenses and a cap of ten (10) on tavern and multipurpose licenses. The key difference between the emergency and proposed rulemaking and the emergency rules, however, was that the former extended the moratorium zone to eighteen hundred square feet (1,800 sq. ft.) in all directions from 2459 18th St., N.W. The Board made this change to the moratorium based on the overwhelming testimony presented at the public hearing in support of the expansion the moratorium zone.

On March 22, 2019, the emergency and proposed rulemaking was published in the *D.C. Register* for notice and comment. *See* 66 DCR 3502 (March 22, 2019). The comment period ended on April 22, 2019, with the Board having not received any comments. The emergency rules, however, would have expired on March 28, 2019, but for the Board adopting a Notice of Second Emergency Rulemaking (“second emergency rulemaking”) on March 27, 2019. *See* 66 DCR 6208 (May 17, 2019). This action was necessary in order to allow the emergency rulemaking to remain in effect while the Council reviewed the proposed rulemaking.

The second emergency rulemaking is set to expire on July 25, 2019. The mandatory ninety (90)-day Council review period, however, has not yet lapsed. As such, the Board believes it is imperative that it take emergency action again at this time so that the emergency rules can remain in effect during the Council review period. The emergency rulemaking is supported by the community as it contains the proposed changes to the moratorium zone that the community requested. As such, adoption of the emergency rulemaking will ensure the protection of the public health and welfare of the community.

For the reasons explained above, the Board finds the adoption of the emergency rulemaking essential to promoting the public health and safety of the community. Therefore, the Board gives notice, that on July 17, 2019, it has approved the Adams Morgan Moratorium Zone Third Notice of Emergency Rulemaking, five (5) to zero (0). The emergency rules shall remain in effect for one hundred twenty (120) days, expiring on November 14, 2019, unless superseded by an emergency or final rulemaking. These emergency rules shall supersede the emergency rules that are currently in effect.

Strike the current Section 304, ADAMS MORGAN MORATORIUM ZONE, of Chapter 3, LIMITATIONS ON LICENSES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, in its entirety, and insert the following in its place to read as follows:

304 ADAMS MORGAN MORATORIUM ZONE

- 304.1 No new Retailer's License Class CN, CT, CX, DN, DT, or DX shall be issued for a period of three (3) years from the effective date of this section in the area that extends approximately eighteen hundred (1800) feet in all directions from 2459 18th St., N.W., Washington, D.C. 20009. This area shall be known as the Adams Morgan Moratorium Zone.
- 304.2 The Adams Morgan Moratorium Zone is more specifically described as beginning at 18th Street and Vernon Street, NW; and proceeding on both sides of all streets, unless otherwise noted; West on Vernon Street to 19th Street; Northwest on 19th Street to Wyoming Avenue; Southwest on Wyoming Avenue to 20th Street; Northwest on 10th Street to Belmont Road; West on Belmont Road to Waterside Drive; North on Waterside Drive to Allen Place; East on Allen Place to 20th Street; North on 20th Street to Biltmore Street; North on Biltmore Street to Calvert Street; East on Calvert Street to Lanier Place; Northeast on Lanier Place to Adams Mill Road; Northwest on Adams Mill Road, and then Northeast to Ontario Road; East on Ontario Road to Lanier Place; Northeast on Lanier Place to Quarry Road; Southeast on Quarry Road to Columbia Road; Northeast on Columbia Road to Mozart Place; South on Mozart Place to Euclid Street; East on Euclid Street to 16th Street; South on the West side of 16th Street to Florida Avenue; Southwest on Florida Avenue to U Street, and West on U Street to 18th Street, Washington, D.C.
- 304.3 The following license classes shall be exempt from the Adams Morgan Moratorium Zone:

- (a) All restaurants, whether present or future;
- (b) All hotels, whether present or future; and
- (c) Retailer's licenses Class A and B.

- 304.4 The number of Retailer's licenses Class CT, CX, DT, or DX located within the Adams Morgan Moratorium Zone shall not exceed ten (10). The number of Retailer's licenses Class CN or DN shall not exceed zero (0). The holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone shall be prohibited from changing its license class except when the number of Retailer's licenses Class CT, CX, DT, or DX in the Adams Morgan Moratorium Zone is fewer than ten (10). Nothing in this subsection shall prohibit the Board from approving a change of license class application that was filed with the Board by the holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone prior to August 2, 2006.
- 304.5 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class CR, CT, CX, DR, DT, and DX within the Adams Morgan Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.
- 304.6 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Adams Morgan Moratorium Zone to a new location within the Adams Morgan Moratorium Zone.
- 304.7 A license holder outside the Adams Morgan Moratorium Zone shall not be permitted to transfer its license to a location within the Adams Morgan Moratorium Zone, unless exempt by § 304.3.
- 304.8 Nothing in this section shall prohibit a valid protest of any transfer or change of a license class.
- 304.9 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.
- 304.10 This section shall expire three (3) years after the date of publication of the notice of final rulemaking in the District of Columbia Register.

CHILD AND FAMILY SERVICES AGENCY**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Child and Family Services Agency (CFSA), pursuant to Sections 303(a-1) (10) and (12) of the Child and Family Services Agency Establishment Amendment Act of 2000, effective April 4, 2001 (D.C. Law 13-277, D.C. Official Code § 4-1303.03(a-1) (10) and (12) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 62 (Licensing of Youth Shelters, Runaway Shelters, Emergency Care Facilities, and Youth Group Homes) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

This emergency action is necessary to immediately protect the health, safety, and welfare of children receiving care in a youth shelter, emergency care facility, or youth group home, by ensuring these children have the adequate supervision and care necessary for their well-being.

This emergency rule was adopted on August 16, 2019 and became effective immediately on that date. The emergency rule will expire one hundred and twenty (120) days from the date of adoption, December 14, 2019, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The Director of CFSA also gives notice of her intent to adopt this rule, in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 62, LICENSING OF YOUTH SHELTERS, RUNAWAY SHELTERS, EMERGENCY CARE FACILITIES, AND YOUTH GROUP HOMES, of Title 29 DCMR, is amended as follows:

Section 6219, OPERATING PROCEDURES AND STAFFING, is amended as follows:

Subsection 6219.12 is amended to read as follows:

6219.12 CFSA shall not license a facility that has a capacity of more than fifteen (15) residents. CFSA shall not place residents in a facility with a capacity of more than eight (8) residents without the express written approval of the CFSA Director, as detailed in § 6256.3.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Cory Chandler, General Counsel, Child and Family Services Agency, 200 I Street, SE Washington, D.C. 20003 or Cory.Chandler@dc.gov or online at dcregs.dc.gov. Copies of these proposed rules may be obtained without charge at the address above or online at dcregs.dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2019-072
August 20, 2019

SUBJECT: Appointments — Health Information Exchange Policy 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.), and in accordance with Mayor's Order 2016-035, dated March 10, 2016, as amended by Mayor’s Order 2016-071, dated April 27, 2016, it is hereby **ORDERED** that:

1. The following persons are appointed as public voting members of the Health Information Exchange Policy Board (“**Board**”), for a term to end June 25, 2021:
 - a. **JESSICA HERSTEK**, as a medical provider who provides primary care or specialty services member, replacing Kalyani Marathe; and
 - b. **BARRY LEWIS**, as the representative of the District of Columbia Medical Society member, replacing Eliot Sorel.
2. **ALICE LEITER** is appointed as a public voting member of the Board with health care or information technology experience, replacing Kelly Cronin, for a term to end June 25, 2022.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

**BRIYA PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Briya PCS solicits proposals for the following:

- **Laptop Personal Computers**

Full RFP(s) by request. Proposals shall be submitted as PDF documents no later than 5:00 PM on Tuesday, September 3, 2019. Contact: bids@briya.org

CARLOS ROSARIO INTERNATIONAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Legal Services**

The Carlos Rosario School is looking to solicit proposals for various legal services. For questions and RFP details please contact Jerry Luna at jluna@carlosrosario.org. Proposals are due by 4:00 pm on Friday, August 30, 2019.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**NOTICE OF PUBLIC INTEREST: APPLICATION FOR SUBDIVISION**

The Director of the Department of Consumer and Regulatory Affairs (DCRA), pursuant to D.C. Code § 6-1106(a) and Mayor's Order 2011-120, dated July 18, 2011, hereby gives notice of the following application for subdivision:

On June 7, 2019, Lot 108 Lessee LLC filed an application to subdivide Lot 108, Square 192 (also known as the Scottish Rite property located at 1733 16th Street, NW) into two lots. The Surveyor's record number for this application is SR-19-05797.

For further information, please contact Ms. Diana Dorsey Hill at the Office of the Surveyor at diana.dorsey@dc.gov or (202) 442-4660.

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION**NOTICE OF FUNDING AVAILABILITY****2020 Uniform Per Student Funding Formula (UPSFF) Study Grant**

The District of Columbia, by and through the Office of the Deputy Mayor for Education (DME), is soliciting grant applications from organizations to conduct a study of the UPSFF: the 2020 UPSFF Study Grant (“Grant”). The funds were allocated by the Mayor and approved by the Council of the District of Columbia pursuant to section 4032(a) of the Fiscal Year 2020 Budget Support Act of 2019 (B23-209) “for a study of the uniform per student funding formula as recommended by the February 1, 2019 report of the Uniform Per Student Funding Formula Working Group.” This study serves an important public service to the District and must provide forward-thinking, strategic recommendations to help shape the future direction of the UPSFF, while evaluating several key components of the formula as currently implemented.

Eligibility: Qualified organizations providing consulting and/or evaluation services related to state-level, local-level, and/or Local Education Agency (LEA)-level education funding formulas are eligible to apply.

Length of Award: The Grant award will be made for a period of up to one (1) year, pending funding availability and the recipient’s satisfactory completion of the proposed study.

Available Funding for Awards: The amount available for this award period is approximately \$300,000.

Anticipated Number of Awards: DME will have funding available for one (1) award.

The Request for Applications (RFA) will be released on Monday, August 12, 2019 and **the deadline for submission is Friday, September 13, 2019 at 5:00 p.m.** The RFA will be available on DME’s website, www.dme.dc.gov, and/or by contacting the Office of the Deputy Mayor for Education at (202) 727-3636.

DME will facilitate an optional pre-proposal meeting for grant applicants. The pre-proposal meeting will be held from 1:00 p.m. to 3:00 p.m. on Wednesday, August 28, 2019 at the Office of the Deputy Mayor for Education, 1350 Pennsylvania Avenue NW, Suite 307, Washington, DC 20004. Interested parties must contact Kevin Wenzel (kevin.wenzel@dc.gov) in order to RSVP for this meeting by Monday, August 26, 2019.

For additional information regarding this competition, please contact Kevin Wenzel, Budget and Finance Advisor, via email at kevin.wenzel@dc.gov.

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION**REQUEST FOR APPLICATIONS****2020 Uniform Per Student Funding Formula (UPSFF) Study Grant**

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For additional information regarding this competition, please contact Kevin Wenzel, Budget and Finance Advisor, via email at kevin.wenzel@dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF PUBLIC COMMENT PERIOD****CARL D. PERKINS CAREER AND TECHNICAL EDUCATION****PROPOSED STATE DETERMINED PERFORMANCE LEVELS**

As required by the “Strengthening Career and Technical Education for the 21st Century Act” effective July 31, 2018 (PL 115-224; 132 Stat 1563), which amended the “Carl D. Perkins Career and Technical Education Act of 2006” (20 U.S.C. § 2301 *et seq.*), the Office of the State Superintendent of Education (OSSE) must submit a State Education Plan to the US Department of Education which outlines the District’s Career and Technical Education (CTE) strategy, and includes the levels of performance on required core indicators for secondary and postsecondary programs receiving Carl D. Perkins funds as developed by OSSE in coordination with a diverse group of stakeholders.

The proposed levels of performance on the required core indicators for secondary and postsecondary programs receiving Carl D. Perkins funds are available on the OSSE website at: <https://osse.dc.gov/publication/carl-d-perkins-application-forms>.

To ensure an opportunity for the public to provide input prior to submission, the proposed State Determined Performance Levels will be posted on OSSE’s website for 60 calendar days and open for written public comment within the same period. The public comment period on the District of Columbia’s CTE State Determined Performance Levels opened on August 23, 2019 and will close October 23, 2019.

Specifically, OSSE is soliciting comments regarding the following:

- How the levels of performance meet the requirements of the law;
- Support the improvement of performance of all CTE concentrators, including subgroups of students and special populations; and
- Support the needs of the local education and business community.

All persons desiring to comment on the proposed State Determined Performance Levels should submit comments in writing not later than **October 23, 2019** via email to: ossecomments.proposedregulations@dc.gov.

For more information or questions regarding the proposed State Determined Performance Levels or the public comment period, please contact:

Richard Kincaid
State Director of Career and Technical Education
Richard.Kincaid@dc.gov
(202) 442-4008

BOARD OF ELECTIONS**CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 5A04

Petition Circulation Period: **Monday, August 26, 2019 thru Monday, September 16, 2019**
Petition Challenge Period: **Thursday, Sept. 19, 2019 thru Wednesday, Sept. 25, 2019**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
1015 Half Street, SE, Room 750
Washington, DC 20003**

For more information, the public may call **727-2525**.

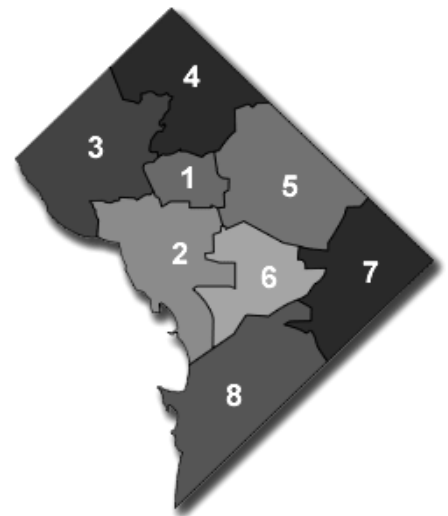
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of JULY 31, 2019**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	49,958	3,183	635	253	192	12,618	66,839
2	33,907	6,011	260	259	163	11,996	52,596
3	41,244	6,336	367	233	149	12,108	60,417
4	51,568	2,286	540	148	172	9,707	64,421
5	56,634	2,604	623	217	249	10,769	71,096
6	61,067	8,203	529	397	251	15,823	86,270
7	51,195	1,403	451	110	203	7,866	61,228
8	49,933	1,594	489	121	210	8,720	61,067
Totals	395,486	31,620	3,894	1,738	1,589	88,607	523,934
Percentage By Party	75.48%	6.04%	.74%	.33%	.30%	17.10%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF JULY 31, 2019

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
1015 HALF STREET, SE SUITE 750
WASHINGTON, DC 20003
(202) 727-2525
<http://www.dcboe.org>



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of JULY 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,850	39	10	7	7	327	2,240
22	4,178	448	27	21	14	1,127	5,815
23	3,224	254	45	17	16	879	4,435
24	2,964	285	27	32	10	878	4,196
25	4,260	470	51	25	11	1,175	5,992
35	4,059	213	61	23	12	926	5,294
36	4,671	248	46	18	19	1,115	6,117
37	3,983	200	40	20	25	961	5,229
38	3,156	147	40	16	13	817	4,189
39	4,421	187	72	16	13	1,025	5,734
40	4,068	200	84	14	13	1,079	5,458
41	4,010	213	77	20	19	1,114	5,453
42	1,940	102	26	9	10	521	2,608
43	1,949	71	23	9	7	396	2,455
137	1,225	106	6	6	3	278	1,624
TOTALS	49,958	3,183	635	253	192	12,618	66,839

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of JULY 31, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	998	180	8	9	9	555	1,759
3	1,866	380	17	16	10	729	3,018
4	2,227	570	12	13	11	893	3,726
5	2,228	623	15	26	12	858	3,762
6	2,546	805	17	20	18	1,356	4,762
13	1,410	236	6	8	6	459	2,125
14	3,185	485	27	27	10	1,059	4,793
15	3,327	395	38	28	13	1,003	4,804
16	3,703	476	29	28	16	1,026	5,278
17	5,271	659	35	43	25	1,634	7,667
129	2,669	450	13	13	12	1,018	4,175
141	2,700	352	22	15	10	719	3,818
143	1,777	400	21	13	11	687	2,909
TOTALS	33,907	6,011	260	259	163	11,996	52,596

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of JULY 31, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,387	409	10	10	5	610	2,431
8	2,533	617	25	9	9	852	4,045
9	1,295	491	8	10	8	529	2,341
10	1,991	391	20	14	10	743	3,169
11	3,782	826	46	49	18	1,382	6,103
12	504	175	1	5	4	224	913
26	3,222	376	23	14	9	943	4,587
27	2,588	248	21	12	2	602	3,473
28	2,731	466	37	15	15	876	4,140
29	1,464	217	13	11	8	444	2,157
30	1,311	200	10	4	4	322	1,851
31	2,571	307	21	11	12	596	3,518
32	2,926	289	28	9	10	636	3,898
33	3,083	269	28	9	5	718	4,112
34	4,238	441	35	14	10	1,222	5,960
50	2,325	279	18	14	10	572	3,218
136	953	72	8	2	2	281	1,318
138	2,320	263	15	21	8	556	3,183
TOTALS	41,224	6,336	367	233	149	12,108	60,417

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of JULY 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,453	68	28	12	6	416	2,983
46	2,958	103	34	10	15	527	3,647
47	3,676	150	43	10	16	786	4,681
48	2,928	129	33	5	4	591	3,690
49	949	45	14	4	8	230	1,250
51	3,465	507	25	11	11	665	4,684
52	1,283	146	9	4	5	238	1,685
53	1,294	73	24	3	4	266	1,664
54	2,458	90	31	4	8	485	3,076
55	2,562	79	20	4	18	462	3,145
56	3,350	104	38	19	12	682	4,205
57	2,622	70	27	8	10	545	3,282
58	2,354	67	20	5	5	403	2,854
59	2,682	86	24	11	7	442	3,252
60	2,303	76	27	8	10	655	3,079
61	1,686	57	16	6	5	320	2,090
62	3,249	129	19	4	4	425	3,830
63	3,978	147	57	5	15	740	4,942
64	2,420	72	19	5	7	400	2,923
65	2,898	88	32	10	2	429	3,459
Totals	51,568	2,286	540	148	172	9,707	64,421

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of JULY 31, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,823	237	69	23	21	1,079	6,252
44	3,045	236	32	14	15	720	4,062
66	4,866	120	45	15	16	717	5,779
67	2,948	105	24	7	8	465	3,557
68	2,049	170	23	11	13	433	2,699
69	2,189	78	19	7	10	316	2,619
70	1,570	70	24	1	5	264	1,934
71	2,541	74	24	9	10	414	3,072
72	4,607	163	42	17	29	811	5,669
73	2,032	102	23	8	7	387	2,559
74	5,172	293	61	23	20	1,125	6,694
75	4,396	250	48	26	20	925	5,665
76	1,873	117	28	11	11	448	2,488
77	3,121	124	35	11	13	609	3,913
78	3,182	107	44	10	15	558	3,916
79	2,260	88	24	4	13	447	2,836
135	3,271	186	41	15	17	664	4,194
139	2,689	84	17	5	6	387	3,188
TOTALS	56,634	2,604	623	217	249	10,769	71,096

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of JULY 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	5,072	658	43	34	18	1,490	7,315
18	5,225	399	45	24	18	1,247	6,958
21	1,263	66	10	9	1	271	1,620
81	4,906	397	50	21	22	1,051	6,447
82	2,685	282	27	17	5	670	3,686
83	6,576	884	47	56	29	1,785	9,377
84	2,076	429	19	14	11	580	3,129
85	2,853	538	18	17	6	793	4,225
86	2,323	268	18	10	8	460	3,087
87	2,826	307	20	10	19	646	3,828
88	2,194	308	25	10	7	514	3,058
89	2,809	648	25	23	12	838	4,355
90	1,690	240	15	9	15	516	2,485
91	4,459	463	36	24	21	1,046	6,049
127	4,461	333	49	25	23	1,002	5,893
128	2,758	245	25	16	8	688	3,740
130	802	322	6	5	3	283	1,421
131	3,984	1,119	35	50	19	1,325	6,532
142	2,105	297	16	23	6	618	3,065
TOTALS	61,067	8,203	529	397	251	15,823	86,270

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of JULY 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,522	91	18	5	6	309	1,951
92	1,629	36	12	1	5	265	1,948
93	1,704	46	20	3	9	270	2,052
94	2,116	61	21	8	8	317	2,531
95	1,775	54	13	2	4	288	2,136
96	2,548	65	18	1	10	398	3,040
97	1,447	53	14	3	6	251	1,774
98	2,049	49	22	6	15	312	2,453
99	1,688	52	17	9	15	336	2,117
100	2,672	48	19	4	9	377	3,129
101	1,675	41	18	7	4	214	1,959
102	2,582	68	17	4	15	368	3,054
103	3,721	84	38	10	12	561	4,426
104	3,423	92	37	3	19	558	4,132
105	2,554	79	19	8	10	447	3,117
106	2,973	65	26	5	11	424	3,504
107	1,880	59	13	3	8	278	2,241
108	1,101	33	4	0	3	146	1,287
109	978	39	3	3	1	119	1,143
110	3,926	105	24	7	12	490	4,564
111	2,650	66	40	7	7	459	3,229
113	2,351	60	21	3	8	314	2,757
132	2,231	57	17	8	6	365	2,684
TOTALS	51,195	1,403	451	110	203	7,866	61,228

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of JULY 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,326	63	19	1	12	377	2,798
114	4,082	164	53	20	27	830	5,176
115	2,960	95	27	7	11	673	3,773
116	4,386	105	40	9	15	732	5,287
117	2,324	53	21	7	9	414	2,828
118	2,981	84	39	5	17	483	3,609
119	2,832	109	32	8	16	513	3,510
120	2,232	52	14	5	5	342	2,650
121	3,665	82	28	11	7	562	4,355
122	1,908	54	22	1	9	315	2,309
123	2,620	219	28	21	20	515	3,423
124	2,834	77	24	5	11	427	3,378
125	4,810	114	45	5	18	853	5,845
126	4,300	157	50	10	17	855	5,389
133	1,383	46	9	1	0	195	1,634
134	2,335	56	25	2	4	337	2,759
140	1,955	64	13	3	12	297	2,344
TOTALS	49,933	1,594	489	121	210	8,720	61,067

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 6/30/2019 and 7/31/2019

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	393,600	31,432	3,894	1,697	1,596	88,872	521,091
Board of Elections Over the Counter	12	3	0	0	0	5	20
Board of Elections by Mail	29	5	0	0	0	11	45
Board of Elections Online Registration	34	6	1	0	0	12	53
Department of Motor Vehicle	637	100	2	14	3	341	1,097
Department of Disability Services	1	0	0	0	0	0	1
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	0	0	0	0	0	0	0
Department of Human Services	1	0	0	0	0	1	2
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	49	3	0	0	0	33	85
+Total New Registrations	763	117	3	14	3	403	1,303

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	176	10	1	2	0	58	247
Administrative Corrections	1,318	151	11	14	0	200	1,694
+TOTAL ACTIVATIONS	1,494	161	12	16	0	258	1,941

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	21	1	0	0	0	6	28
Moved Out of District (Deleted)	0	0	0	0	0	0	0
Felon (Deleted)	3	0	0	0	0	1	4
Deceased (Deleted)	322	17	4	0	2	40	385
Administrative Corrections	139	13	2	0	2	34	190
-TOTAL DEACTIVATIONS	485	31	6	0	4	81	607

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	411	67	28	18	7	495	
- Changed From Party	-297	-126	-37	-7	-13	-340	
ENDING TOTALS	395,486	31,620	3,894	1,738	1,589	89,607	523,934

D.C. BOARD OF ELECTIONS**PUBLIC NOTICE OF PROPOSED NEW PRECINCT**

The Board of Elections (“the Board”) hereby gives notice of its intent to establish a new precinct within Ward 6 that will accommodate the increased number of residents resulting from new housing and residential developments within the ward. The boundaries currently serving Precinct 83 will be redrawn to establish the new precinct, which shall be designated Precinct 144. The boundaries for the new precinct are as follows:

Starting at the intersection of 2nd Street and G Street, N.E.; thence south on said 2nd Street, N.E. to Massachusetts Avenue, N.E.; thence northwesterly on said Massachusetts Avenue, N.E. to North Capitol Street, N.E.; thence north on said North Capitol Street, N.E. to New York Avenue, N.E.; thence northeasterly on said New York Avenue, N.E. to Florida Avenue, N.E.; thence southeasterly on said Florida Avenue, N.E. to 4th Street, N.E.; thence south on said 4th Street, N.E. to L Street, N.E.; thence west on L Street, N.E. to 3rd Street, N.E.; thence south on 3rd Street, N.E. to H Street, N.E.; thence west on H Street, N.E. to 2nd Street, N.E.; thence south on 2nd Street, N.E. to the meeting beginning point of G Street, N.E.

A map of the new precinct can be found at the Board’s website via this link: [\[map\]](#)

The proposal for the new precinct was presented on August 7, 2019 at the Board’s regular monthly meeting. Anyone wishing to comment on the proposal may do so in person at the meeting or by filing written comments at the Board of Elections’ offices located at 1015 Half Street, S.E. Suite 750, Washington, D.C. 20003. Comments should be submitted by the close of business on Friday, September 27, 2019. Final action on the proposal will be taken at the Board’s October meeting, which will be held in the Hearing Room at the Board’s offices.

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE****Proposed Air Quality Source Category Permit Renewal and Revision to Construct and Operate Stationary Natural Gas-Fired Emergency Engines Subject to NSPS Subpart JJJJ**

Notice is hereby given that, pursuant to 20 DCMR §§200 and 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 a renewed and revised source category permit to construct and operate certain natural gas-fired emergency engines subject to the federal New Source Performance Standard (NSPS) for spark ignition internal combustion engines (40 CFR 60, Subpart JJJJ) in the District of Columbia. This source category permit will be designated Permit No. 7043-SC-R1.

This source category permit will cover only a subset of stationary natural gas-fired emergency engines that trigger NSPS Subpart JJJJ applicability based on one of the following triggers:

1. The maximum engine power is less than or equal to 25 horsepower (HP) [19 mechanical kilowatts (kWm)] and it was manufactured on or after July 1, 2008;
2. The manufacturer participates in the voluntary manufacturer certification program described in 40 CFR 60, Subpart JJJJ and the date of manufacture of the emergency engine is after January 1, 2009; or
3. The emergency engine was ordered after June 12, 2006, was manufactured on or after January 1, 2009, and has a maximum engine power greater than 25 HP (19 kWm).

This permit will ultimately replace permit No. 7043-SC, issued September 16, 2015, and scheduled to expire on September 15, 2020. It will not, however, immediately supersede the previous permit for those already covered by that permit. This will give applicants time to submit applications to be covered by the new permit.

In addition to establishing a new five-year duration for the source category permit, the proposed permit also updates permit language, primarily to address revisions to the federal NSPS regulation resulting from a partial vacatur of the regulation by the courts.

The proposed permit complies with the current District and federal laws and regulations governing this source category.

The proposed emission limits to be included in the permit are as follows:

- a. Emissions from the engine shall not exceed those specified in 40 CFR 60.4233 for the appropriate engine type. Any engine subject to a Family Emission Limit (FEL) shall comply with any such limits as specified on the applicable EPA Certificate of Conformity. If the

engine is certified as a non-emergency engine, the engine shall comply with the standards to which it has been certified. [40 CFR 60.4233 and 20 DCMR 201]

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the engine, 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]

Emission Estimate:

Emissions will vary widely, depending upon the size and age of the equipment to be covered. As such there is no set maximum emissions level except that no unit will be approved under this permit that has a potential to emit greater than 25 tons per year of oxides of nitrogen, the trigger threshold for further regulatory requirements under 20 DCMR § 205 (non-attainment New Source Review). However, based on past permitting activity implemented by AQD, very few natural gas-fired emergency engines in the District of Columbia exceed 2,000 horsepower (hp) in mechanical output. Based on a limitation in the permit of 500 hours per year of total operations, conservative emission factors for spark ignition engines, and a 2,000 hp engine size, the following represents an estimate of the maximum emissions expected from any emergency engine covered by this source category permit:

Pollutant	Estimated Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.27
Carbon Monoxide (CO)	20.46
Oxides of Nitrogen (NO _x)	22.44
Volatile Organic Compounds (VOC)	0.66
Sulfur Dioxide (SO ₂)	0.003

The draft revised permit and supporting documentation are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person’s name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington DC 20002
Stephen.Ours@dc.gov

No comments or hearing requests submitted after September 23, 2019 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Proposed Air Quality Source Category Permit Renewal and Revision to Construct and Operate Stationary Diesel-Fired Emergency Engines Subject to NSPS Subpart III

Notice is hereby given that, pursuant to 20 DCMR §§200 and 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 a renewed and revised source category permit to construct and operate certain diesel-fired emergency engines subject to the federal New Source Performance Standard (NSPS) for compression ignition internal combustion engines (40 CFR 60, Subpart III) in the District of Columbia. This source category permit will be designated Permit No. 7048-SC-R1.

This source category permit will cover only a subset of stationary diesel-fired emergency engines that trigger NSPS Subpart III applicability based on one of the following triggers:

1. The model year of the engine is 2007 or later for engines that are not fire pump engines;
2. The engine is for a fire pump and its model year is equal to or newer than those specified in the following table, based on the size of the engine:

Fire Pump Engine Applicability Table		
Engine Power		Starting Applicability Model Year[*]
Mechanical Kilowatts (kW_m)	Horsepower (hp)	
kW _m <75	hp <100	2011
75 ≤ kW _m <130	100 ≤ hp <175	2010
130 ≤ kW _m ≤ 560	175 ≤ hp ≤ 750	2009
kW _m >560	hp >750	2008

* Fire pump engines with a maximum engine power greater than or equal to 37 kW_m (50 hp) and less than 450 kW_m (600 hp) and a rated speed of greater than 2,650 revolutions per minute (rpm) are covered only three years after the model year listed in this table for the applicable power category.

or;

3. The engine was ordered by the owner or operator after July 11, 2005 and one of the following is true:
 - i. The engine was manufactured after April 1, 2006 and is not a fire pump engine; or
 - ii. The engine was manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006;

This permit will ultimately replace permit No. 7048-SC, issued September 30, 2015, and scheduled to expire on September 29, 2020. It will not, however, immediately supersede the previous permit for those already covered by that permit. This will give applicants time to submit applications to be covered by the new permit.

In addition to establishing a new five-year duration for the source category permit, the proposed permit also updates permit language, primarily to address revisions to the federal NSPS regulation resulting from a partial vacatur of the regulation by the courts.

The proposed permit complies with the current District and federal laws and regulations governing this source category.

The proposed emission limits to be included in the permit are as follows:

- a. Emissions from the engine shall not exceed those specified in 40 CFR 60.4205 for the appropriate engine type. Any engine subject to a Family Emission Limit (FEL) shall comply with any such limits as specified on an EPA Certificate of Conformity. If the engine is certified as a non-emergency engine, the engine shall comply with the standards to which it has been certified. [40 CFR 60.4205 and 20 DCMR 201]
- b. Visible emissions shall not be emitted into the outdoor atmosphere from the engine, 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]

Emissions Estimate:

Emissions will vary widely, depending upon the size and age of the equipment to be covered. As such there is no set maximum emissions level except that no unit will be approved under this permit that has a potential to emit greater than 25 tons per year of oxides of nitrogen, the trigger threshold for further regulatory requirements under 20 DCMR §204 (non-attainment New Source Review). However, based on past permitting activity implemented by AQD, very few applicants apply to install diesel-fired emergency engines in the District of Columbia exceeding 4,000 horsepower (hp) in mechanical output. Based on a limitation in the permit of 500 hours per year of total operations, conservative emission factors for compression ignition engines, and a 4,000 hp engine size, the following represents an estimate of the maximum emissions expected from any emergency engine covered by this source category permit:

Pollutant	Estimated Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.7
Carbon Monoxide (CO)	5.5
Oxides of Nitrogen (NO _x)*	24.0
Volatile Organic Compounds (VOC)	0.7
Sulfur Dioxide (SO ₂)	0.3

*Note that there is an applicability limit placed on the permit that no unit having the potential to emit more than 25 tons/year of NO_x will be covered by this source category permit.

The draft revised permit and supporting documentation are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington DC 20002
Stephen.Ours@dc.gov

No comments or hearing requests submitted after September 23, 2019 will be accepted.

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

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

FY 2020 Mapping Underground and Piped Streams

The Department of Energy and Environment (the Department) seeks eligible entities to develop a map and geodatabase of District springs and streams that still produce or carry water and are/were covered or piped underground. The grantee will also produce a detailed report that will inform DOEE's strategic planning for future stream restoration and daylighting projects. The project period is one (1) year. The amount available for the project is approximately \$300,000 for one (1) award.

Beginning 8/23/2019, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

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

Email a request to 2020StreamMappingRFA.grants@dc.gov with "Request copy of RFA 2019-1926-WPD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Keren O'Brien Murphy at 202-731-7262 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Keren O'Brien Murphy RE: 2019-1926-WPD" on the outside of the envelope.

The deadline for application submissions is 9/23/2019, at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2020StreamMappingRFA.grants@dc.gov.

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

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

For additional information regarding this RFA, write to:
2020StreamMappingRFA.grants@dc.gov.

OFFICE OF THE DEPUTY MAYOR FOR HEALTH AND HUMAN SERVICES

MAYOR’S COMMISSION ON HEALTHCARE SYSTEMS TRANSFORMATION

NOTICE OF PUBLIC MEETING

The Mayor’s Commission on Healthcare Systems Transformation will hold a meeting on Tuesday, August 27, 2019 at 10:00 a.m. The meeting will be held in the Board Room (9th floor) at the District of Columbia Hospital Association, 1152 15th Street NW, Washington, D.C. 20005. Below is the agenda for this meeting. A final agenda will be posted to the Office of the Deputy Mayor for Health and Human Services website at <https://dmhhs.dc.gov/>.

For additional information, please contact Amelia Whitman, DMHHS Policy Director, at (202) 727-7973 or amelia.whitman@dc.gov.

DRAFT AGENDA

- | | | |
|----|---|----------------------|
| 1. | Call to Order | Commission Co-Chairs |
| 2. | Commission Administration | Commission Co-Chairs |
| 3. | Presentation by the Department of Health | DC Health |
| 4. | Presentation by United Medical Center | UMC |
| 5. | Presentation by DC Hospital Association and DC Primary Care Association | DCHA/DCPCA |
| 6. | Subcommittee Updates | Subcommittee Chairs |
| 7. | Public Comments | Public |
| 8. | Adjournment | Commission Co-Chairs |

**DEPARTMENT OF HEALTH (DC HEALTH)
HIV/AIDS, HEPATITIS, STD & TB ADMINISTRATION (HAHSTA)
NOTICE OF FUNDING AVAILABILITY (NOFA)
HAHSTA_FBH_09.05.19 (RFA)
Facility Based Housing (Transitional and Emergency)**

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	FY 2019 HOPWA Facility Based Housing with Supportive Services
Funding Opportunity Number:	FO-HAHSTA-PG-00191-002
Program RFA ID#:	HAHSTA_FBH_09.05.19
Opportunity Category:	Competitive
DC Health Administrative Unit:	HIV/AIDS, Hepatitis, STD, and Tuberculosis Administration
DC Health Program Bureau	Capacity Building, Housing and Community Partnerships Division
Program Contact:	Sherita J. Grant, Housing Coordinator Sherita.grant@dc.gov 202-671-5062
Program Description:	The HIV/AIDS, Hepatitis, STD, and Tuberculosis Administration is soliciting applications from qualified agencies to provide services for Facility Based Housing with Supportive Services. Under Facility Based Housing are transitional and emergency housing. Transitional housing provides housing for up to 24 months. Emergency housing provides housing for up to 60 days within a six month period. With these housing services, supportive services will consist of only Intensive Case Management. All participants shall be provided intensive case management within the respective agencies. Case Managers will have to be at least a Licensed Graduate Social Worker (LGSW) to qualify for any case management position. Additionally, your agency can have a peer navigator to assist clients with reaching the goals in their housing plans.

Eligible Applicants	Not- for profit organizations and government agencies. All applicants must have locations in the District of Columbia.
Anticipated # of Awards:	Approximately Nine (9)
Anticipated Amount Available:	\$3,500,000.00
Floor Award Amount:	Up to \$400,000
Ceiling Award Amount:	Up to 500,000

Funding Authorization

Legislative Authorization	AIDS Housing Opportunity Act, Public Law 101-624
Associated CFDA#	14.241
Associated Federal Award ID#	DCH18-F001
Cost Sharing / Match Required?	No
RFA Release Date:	Thursday, September 5, 2019
Pre-Application Meeting Date)	Thursday, September 12, 2019
Pre-Application Meeting (Time)	2:00pm – 4:00pm
Pre-Application Meeting	899 North Capitol Street, NE Washington, DC 20002
Letter of Intent Due date:	COB Thursday, September 12, 2019
Application Deadline Date:	Friday, October 4, 2019
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse . DC Health EGMS https://dcdoh.force.com/GO_ApplicantLogin2

Notes:

1. DC Health reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DC Health grant funding.
4. Applicants must have a DUNS #, Tax ID#, be registered in the federal Systems for Award Management (SAM) and the DC Health Enterprise Grants Management System (EGMS)
5. Contact the program manager assigned to this funding opportunity for additional information.
6. DC Health is located in a secured building. Government issued identification must be presented for entrance.

KINGSMAN ACADEMY PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER INTO A SOLE SOURCE CONTRACT**

Kingsman Academy Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 intends to enter into a sole source contract with Edmentum for an online learning system designed to help students who have been identified as at-risk of not graduating on time. This system is integral to ensure high-quality instruction for Kingsman Academy's overaged, under credited population.

School Overview

Kingsman Academy is an open-enrollment public charter school that serves approximately 300 students in grades 6 through 12 in a project-based academic program that emphasizes a therapeutic approach to personalized learning. Kingsman Academy welcomes all students, especially those who are over-aged and under-credited, who have attendance problems, or who have behavioral or emotional challenges.

- For further information regarding this notice, contact rfp@kingsmanacademy.org no later than **4:00 pm Tuesday, September 3, 2019**. No phone calls, please.

KINGSMAN ACADEMY PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER INTO A SOLE SOURCE CONTRACT**

Kingsman Academy Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 intends to enter into a sole source contract with Kazoo for a customized student behavior incentive and employee engagement and recognition platform. This services provided by this platform are integral to the school's positive behavior supports system and efforts to retain a high-quality team.

School Overview

Kingsman Academy is an open-enrollment public charter school that serves approximately 300 students in grades 6 through 12 in a project-based academic program that emphasizes a therapeutic approach to personalized learning. Kingsman Academy welcomes all students, especially those who are over-aged and under-credited, who have attendance problems, or who have behavioral or emotional challenges.

- For further information regarding this notice, contact rfp@kingsmanacademy.org no later than **4:00 pm Tuesday, September 3, 2019**. No phone calls, please.

KINGSMAN ACADEMY PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER INTO A SOLE SOURCE CONTRACT**

Kingsman Academy Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 intends to enter into a sole source contract with Marzano Research for professional development, curriculum and standards materials, books, and consulting services.

Kingsman Academy will partner with Marzano Research for support with personalized competency-based education (PCBE) and instructional delivery. The partnership provides proprietary educational services and academic achievement products to support public schools in their pursuit of high-quality, research-based educational improvement solutions.

School Overview

Kingsman Academy is an open-enrollment public charter school that serves approximately 300 students in grades 6 through 12 in a project-based academic program that emphasizes a therapeutic approach to personalized learning. Kingsman Academy welcomes all students, especially those who are over-aged and under-credited, who have attendance problems, or who have behavioral or emotional challenges.

- For further information regarding this notice, contact rfp@kingsmanacademy.org no later than **4:00 pm Tuesday, September 3, 2019**. No phone calls, please.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

FY2020 DC MAIN STREETS

(Logan Circle, Upper Bladensburg Road, Glover Park, Cleveland Park, U Street, and Upper Georgia Avenue)

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to operate a DC Main Streets program in the service areas listed below. **The submission deadline is September 12, 2019 at 12:00 p.m.**

The purpose of this grant is to designate and fund DC Main Streets programs, which will assist business districts with the retention, expansion and attraction of neighborhood-serving retail stores and unify and strengthen the commercial corridor.

DSLBD will award **one grant of \$150,000 for each** of the following service areas (i.e., a total of two grants):

- Logan Circle
- Upper Bladensburg Road

DSLBD will award **one grant of \$160,000 for each** of the following service areas (i.e., a total of four grants):

- Glover Park
- Cleveland Park
- U Street
- Upper Georgia Avenue

Eligible Applicants: Eligible applicants are DC-based nonprofit organizations which are current on all taxes.

The DC Main Streets grant award is a recurring grant, which can be renewed annually as long as the grantee continues to meet the standards for accreditation by the National Main Street Center. The FY 2020 grant performance period is October 1, 2019 through September 30, 2020.

Application Process: Interested applicants must complete an online application on or before **September 12, at 12:00 pm**. Instructions for the application can be found in the Request for Applications (RFA), which will be posted by August 14, 2019 at <https://dslbd.dc.gov/service/current-solicitations-opportunities>. DSLBD will not accept applications submitted via hand delivery, mail or courier service. Late submissions and incomplete applications will not be forwarded to the review panel.

Selection Process: DSLBD will select grant recipients through a competitive application process. All applications from eligible applicants that are received before the deadline will be forwarded to a review panel to be evaluated, scored, and ranked based on the selection criteria.

The Director of DSLBD will make the final determination of grant awards. Grantees will be selected by September 30, 2019, but this date may be subject to change.

Funding for this award is contingent on continued funding from the DC Council. The RFA does not commit the Agency to make an award.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

All applicants must attest to executing DSLBD grant agreement as issued (sample document will be provided with the online application) and to starting services by October 15, 2019.

For More Information: Attend the Application Information Session. Please refer to the Request for Applications to see the date, time and location of this meeting.

Questions may be sent to Jennifer Prats, DC Main Streets Grants Manager, at the Department of Small and Local Business Development at Jennifer.prats@dc.gov. All questions must be submitted in writing.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Governance Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, September 11, 2019 at 9:00 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. Emerging Issues | Committee Chairperson |
| 3. Agenda for Upcoming Committee Meeting | Committee Chairperson |
| 4. Executive Session | Committee Chairperson |
| 5. Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Human Resources and Labor Relations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Wednesday, September 11, 2019 at 11:00 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

- | | |
|----------------------|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. Union Topics | Union Presidents |
| 3. Other Business | Committee Chairperson |
| 4. Executive Session | Committee Chairperson |
| 5. Adjournment | Committee Chairperson |

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

Application No. 20047 of the District of Columbia Department of General Services, as amended¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle C § 1402.1 from the retaining wall height requirements under Subtitle C §§ 1401.3 through 1401.5, and under Subtitle C § 1610.2, from the rooftop access requirements of Subtitle C § 1603.6, and from the floor area ratio requirements of Subtitle C § 1604.2, to replace an existing three-story public education building with a new three-story public education building, and to relocate retaining walls, on the campus of an existing public elementary school in the R-1-B zone at premises 3301 Lowell Street, N.W. (Square 2088, Lots 1 and 800).

HEARING DATE: June 26, 2019

DECISION DATE: June 26, 2019

DECISION AND ORDER

The District of Columbia Department of General Services (“**DGS**”) filed an application with the Board of Zoning Adjustment (the “**Board**”) on April 30, 2019 for special exceptions under Subtitle C § 1402.1 of Title 11 of the DCMR (the “**Zoning Regulations**”, to which all references are made unless otherwise specified) for relief under Subtitle C § 1402.1 from the retaining wall height requirements of Subtitle C §§ 1401.3 through 1401.5 and under Subtitle C § 1610.2 from the rooftop access requirements of Subtitle C § 1603.6 and from the floor area ratio (“**FAR**”) requirements of Subtitle C § 1604.2 (the “**Application**”), to replace an existing three-story public education building with a new three-story public education building, and to relocate retaining walls, on the campus of an existing public elementary school in the R-1-B zone at premises 3301 Lowell Street, N.W. (Square 2088, Lots 1, and 800) (the “**Property**”). For the reasons explained below, the Board voted to **APPROVE** the Application.

FINDINGS OF FACT

Notice of Application and Notice of Public Hearing

1. Pursuant to Subtitle Y §§ 400.4 and 402.1, the Office of Zoning (“**OZ**”) sent notice of the Application and the June 26, 2019 public hearing by a May 9, 2019 letter to DGS; Advisory Neighborhood Commission (“**ANC**”) 3C, the affected ANC per Subtitle Y §101.8, the single-member district ANC 3C09, and the Office of ANCs; the Office of Planning (“**OP**”) and the District Department of Transportation (“**DDOT**”); the Councilmember for Ward 3, the Chairman of the Council, and the At-Large Councilmembers; and the owners of all property within 200 feet of the Property. (Ex. 15-

¹ DGS amended the application (Exhibit (“**Ex.**”) 28) by adding a request for a special exception under Subtitle C § 1610.2 from the rooftop access requirements of Subtitle C § 1603.6.

27.) OZ also published notice of the June 26, 2019 public hearing in the *D.C. Register* on May 10, 2019 (66 DCR 5860) as well as through the calendar on OZ's website.

Party Status

2. DGS and ANC 3C were automatically parties in this proceeding per Subtitle Y § 403.5. No request for party status was filed.

The Property

3. The Property is owned by the District of Columbia and operated by DGS and D.C. Public Schools (“**DCPS**”). (Ex. 7.)
4. The Property is comprised of Lots 1 and 800 and contains 66,150 square feet of land area. (Ex. 7.)
5. The Property is rectangular and is located between 33rd and 34th Streets, N.W. and bounded by Macomb Street, N.W. to the North, and Lowell Street, N.W. to the South. (Ex.7.)
6. The Property's topography varies, with a 20-25-foot grade change between the northern and southern boundaries, and a six-foot grade change east to west along the southern boundary. (Ex. 7, p. 9.) There are a number of existing retaining walls on the Property; most of which are four feet and higher. (Ex. 33.)
7. The Property is currently improved with the existing John Eaton Elementary (“**Eaton Elementary**”) public school comprised of four buildings and associated playing fields and outdoor play areas. (Ex. 7.)
8. Three of the four existing buildings on the Property are contributing structures to the Cleveland Park Historic District. (Ex. 8.)
9. The school occupies the whole square and there are no immediately adjacent properties or structures. (Ex. 33.)
10. The surrounding neighborhood is comprised of mostly detached, single family residences. (Ex. 33.)
11. The Property is located in the R-1-B zone district. (Ex.7.)
12. The purpose and intent of the R-1-B zone is to protect quiet residential areas now developed with detached dwellings and adjoining vacant areas likely to be developed for those purposes; and stabilize the residential areas and promote a suitable environment for family life. The R-1-B zone specifically, is intended to provide for areas predominantly

developed with detached houses on moderately sized lots. (Subtitle D §§ 300.1 and 300.3.)

13. Public schools are permitted as a matter-of-right use in R-1-B zones. (Subtitle U § 202.1(m).)
14. The Property is located less than one-half mile from the Cleveland Park Metro Station and there are ten Metrobus lines within walking distance. (Ex. 7.)

The Application

15. The Application proposes to renovate and replace the existing, three-story public school on the Property and to make related improvements to the Eaton Elementary campus including replacing retaining walls and constructing new roof areas which will serve as recreation spaces (the “**Project**”). The renovations will allow DGS to modernize the facilities and accommodate more students. (Ex. 7.)
16. A maximum height of four feet is permitted for a retaining wall in the R-1-B zone. (Subtitle C § 1401.3.)
17. The Application proposes to replace and add additional retaining walls of varying heights in excess of four feet throughout the property. (Ex. 30A1, p.10.)
18. The roof area of a public education building or structure used for open space, recreation areas, or other athletic and field equipment areas shall provide direct pedestrian access not less than ten feet in width from at least two public rights-of way to each roof area. (Subtitle C § 1603.6.)
19. The Application proposes three access stairs (one measuring seven feet and two measuring eight feet) from “Roof Area 1”, and two access stairs (one measuring seven feet, ten inches and one measuring four feet, nine inches) from “Roof Area 2.” (Ex. 28.)
20. The maximum FAR for a public education facility in the R-1-B zone is 0.9. (Subtitle C § 1604.2.)
21. The Application proposes a 1.17 FAR for the Project. (Ex. 28.)
22. The Application states that the Project complies with all other development standards for the R-1-B zone and public education buildings. (Ex. 7.)
23. DGS amended the Application to request, if the Board granted the Application, design flexibility from the final plans as a condition in the order to allow for minor modifications to the design, including exterior façade and retaining walls based on recommendations of the Historic Preservation Review Board (“**HPRB**”) (Ex. 30.)

Zoning Relief

24. The Application requested the following zoning relief²:
- a. A special exception under Subtitle C § 1402.1 from the retaining wall height requirements under Subtitle C §§ 1401.3 through 1401.5 to replace and add additional retaining walls of varying heights throughout the property.
 - b. A special exception under Subtitle C § 1610.2 from the floor area ratio requirements of Subtitle C § 1604.2 to provide 1.17 FAR.
 - c. A special exception under Subtitle C § 1610.2 from the rooftop access requirements of Subtitle C § 1603.6 to provide two access stairs less than 10 feet wide.³

OP Report

25. OP submitted a report dated June 12, 2019 (“**OP Report**”) recommending approval of the Application. (Ex. 33.)
26. The OP Report noted that the Project is not expected to have any adverse impacts on the neighboring properties as the majority of improvements would take place within the interior of the property.
27. OP also noted that DGS is proposing to install landscaping along the retaining walls and that the walls’ appearance would be an improvement over what was existing on the property.
28. On the subject of the roof access requirements, the OP Report noted that DGS proposes a total of seven access points to the two roof areas and that all access areas requiring relief exceed the egress widths for the roof’s occupancy under the D.C. Building Code.
29. With specific regard to the FAR, the OP Report concluded that the requested relief will not have an adverse impact on traffic in the surrounding area. OP concurred with DDOT’s findings, as well as DGS’s traffic study and concluded that:
- a. The majority of the school’s attendees originate within the defined school boundaries for Eaton Elementary as defined by DCPS.

² On June 24, 2019 the Zoning Commission took emergency action on Z.C. Case No. 19-11 which proposed text amendments to the Public School Zoning Regulations, including the FAR and roof access requirements. DGS noted during its testimony that it was aware of the emergency action but was electing to proceed with the requested relief out of an abundance of caution. (BZA Public Hearing Transcript of June 26, 2019 (“**Tr.**”) at 31-32.)

³ DGS added this relief in a supplementary filing. (Ex. 28.)

- b. The site is well served by non-automotive transportation options including pedestrian sidewalks, Metrobus, and Metrorail.
 - c. While there is no on-site parking provided, there are dedicated spaces on the Property's periphery for employee parking and student pick-up/drop-off.
30. The OP Report stated no objection to DGS's requested design flexibility from the final plans, provided that no additional relief is required.

DDOT Report

31. DDOT submitted a report dated June 7, 2019 ("**DDOT Report**") stating that it had no objection to the Application. (Ex. 31.)
32. The DDOT Report concluded that the Project would not have any adverse impacts on the District's transportation network.

ANC Report

33. ANC 3C submitted a written report (the "**ANC Report**") stating that DGS had presented the Application to the surrounding neighborhood at an ANC Community meeting on June 17, 2019. (Ex. 34.) At that June 17, 2019 public meeting, which had been duly noticed and scheduled, and at which a quorum was present, the ANC voted to conditionally support the Application.
34. The ANC Report noted that the Property is unable to support onsite parking due to its size, and further, that the Project is not required under the Zoning Regulations to provide onsite parking due to its location in a historic district. However, the ANC Report raised concerns about the lack of unrestricted parking near the school.
35. The ANC Report requested that the Board impose three conditions to address its concerns regarding the Project:
- a. Require DGS to work with DDOT to create a parking plan to provide dedicated curb parking spaces for John Eaton Elementary teachers and staff during the school day.
 - b. Require DGS to negotiate a construction management plan with the ANC.
 - c. Require that the John Eaton Elementary playground be open to the public during the day when not in use by the school.

Persons in Support

36. The Board did not receive any letters in support of the Application. Four persons testified in conditional support at the public hearing. (Ex. 38.)
37. All of the witnesses expressed their general support for the improvements to the school but noted their concerns with the impacts on parking in the surrounding area. Upon questioning by the Board, the witnesses confirmed that their support was conditional upon the Board adopting the conditions proposed in the ANC Report. (Tr. at 65-77.)

Persons in Opposition

38. The Board received no letters in opposition to the Application and no persons testified in opposition at the hearing.

Public Hearing

39. At the public hearing of June 26, 2019, DGS presented testimony from Julianna Von Zumbusch of Cox Graae Spack Architects⁴, Andrea Swiatocha of DCPS, and Patrick Moloney of DGS.
40. At the Board's request, DGS explained the status of the Project's historic preservation review with HPRB and HPO. (Tr. at 48-50, 82.)
41. DGS also outlined the specific areas of design flexibility from the final plans that it is seeking in connection with its HPRB review (Tr. at 49-50, 91):
- a. Minor changes to the building footprint and site plan, provided that the modifications do not increase the gross floor area ("GFA") or the FAR.
 - b. Permit adjustments to the final location of the retaining walls, provided that the final retaining wall heights would be no greater than requested in the Application.
 - c. Permit modifications to the location and size of the rooftop mechanical screening, provided that the changes do not trigger any additional zoning relief from penthouse height or setback requirements.
 - d. Permit minor changes to the building envelope, specifically the location, size and materiality of the fenestration on the Lowell Street N.W. façade.
42. Nancy MacWood, Chair of ANC 3C, testified as the authorized representative of the ANC. (Ex. 34.) Commissioner MacWood reiterated the ANC's concerns about parking and detailed the ANC's coordination efforts with DDOT to develop a parking plan. She also clarified that the ANC's desire for a condition requiring DGS to enter into a construction management plan stemmed mainly from concerns about traffic and parking

⁴ Ms. Von Zumbusch was admitted as an expert witness in architecture. (Tr. at 32-33.)

during construction. (Tr. at 54-55.) Finally, Commissioner MacWood explained that the ANC also wanted to ensure that the playground would be available to the public. (Tr. at 56.)

43. In response to the testimony of the ANC and the community members, DGS reiterated that per Subtitle C § 704.2, it was not required to provide on-site parking as it was not increasing the GFA by more than 50%. (Tr. at 78.)
44. In addition, Ms. Swiatocha confirmed that it is DCPS policy that all public school playgrounds are open to the public during non-school hours. (Tr. at 81.)
45. DGS stated that it was willing to continue working with the ANC and DDOT in order to reach a solution regarding the traffic, parking and construction concerns. DGS also noted that it was willing to enter into private agreements with the ANC on these matters. (Tr. at 62, 78-80.)

CONCLUSIONS OF LAW

Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.07(g)(2) (2018 Repl.); *see also* Subtitle X § 901.2) authorizes the Board to grant special exceptions, as provided in the Zoning Regulations, where, in the judgement of the Board, the special exception:

- i. will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map,
- ii. will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and
- iii. complies with the special conditions specified in the Zoning Regulations.

For the relief requested by the Application, the “specific conditions” are those of Subtitle C § 1402.1 and Subtitle C § 1610.2.

Relief granted by the Board through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Board’s discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and “if the applicant meets its burden, the Board ordinarily must grant the application.” *First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)).

Subtitle C § 1402.1 - Relief from Retaining Wall Height Requirements of Subtitle C §§ 1401.3 through 1401.5

To qualify for a special exception from the retaining wall height requirements of Subtitle C §§ 1401.3 through 1401.5 under Subtitle C § 1402.1, DGS must demonstrate that conditions relating

to the building, terrain, or surrounding area would make full compliance unduly restrictive, prohibitively costly, or unreasonable.

The Board concludes that the Application meets these requirements due to the site's existing variable topography, which necessitates retaining walls of various heights in order to provide the outdoor recreational and green space required by District educational standards. (Finding of Fact ("FF") 6.)

The Board also notes that the presence of contributing historic structures on the site restricts DGS's ability to more fully regrade portions of the site in order to comply with the regulations. (FF 7-8.)

Subtitle C § 1610.2 - Relief from the Requirements of Subtitle C §§ 1603.6 and 1604.2

Under Subtitle C § 1610.2, to qualify for special exceptions from the rooftop access requirements of Subtitle C § 1603.6 and from the floor area ratio requirements of Subtitle C § 1604.2, DGS must demonstrate that the Application meets the general special exception requirements of Subtitle X § 901.

The Board concludes that the Application meets the general special exception criteria as explained below.

General Special Exception Relief – Subtitle X § 901

The Board concludes that the Application, in addition to meeting the specific conditions of the special exceptions from the retaining wall requirements, also meets the general special exception standards in Subtitle X § 901.2 to be in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps and to not adversely affect the surrounding properties.

The Board concludes that granting the requested special exceptions would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps because the Project meets the intent of the R-1-B zone to permit a new three-story public education building that meets the other development standards of the R-1-B zone. (FF 12-13.)

The Board also notes that the relief from the FAR will allow Eaton Elementary to provide additional classroom and activity spaces which will allow it to accommodate more students. (FF 15.)

The Board concludes that granting the requested special exceptions would not tend to adversely affect the use of neighboring properties because Eaton Elementary is an existing use, separated from the surrounding residential development, and the proposed zoning relief will not result in any adverse impacts beyond the Property's boundaries. (FF 25.)

Specifically, the Board concludes that the changes to the retaining walls will create a more uniform appearance to the Property and allow for more effective use of the site for various facilities. (FF 26.)

The Board also notes that DGS is providing three egress stairways from the roof areas with widths that exceed what is required by the DC Building Code. (FF 27.)

Finally, the Board notes that the concerns regarding the adverse traffic and parking impacts raised by the ANC and the community are preexisting and “independent” of the relief being requested. (Tr. at 60.)

The Board therefore concludes that DGS met its burden of proof to demonstrate that the Application met the general conditions, as well as the specific conditions, for the requested special exceptions from Subtitle C §§ 1401.3 through 1401.5, Subtitle C § 1603.6 and Subtitle C § 1604.2.

“Great Weight” to the Recommendations of OP

The Board is required to give “great weight” to the recommendation of the Office of Planning (D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8).

The Board concludes that the OP Report, which provided an-depth analysis of how the Application met each of the requirements for the requested special exception relief, is persuasive and it concurs with OP’s recommendation that the Application be approved, as discussed above.

“Great Weight” to the Written Report of the ANC

The Board must give “great weight” to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 3C. (§ 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Y § 406.2.) To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).

The only issue or concern specifically referenced in the ANC Report is the matter of the parking and traffic impacts of the Project. The ANC Report did not include any specific reference to construction issues or concerns regarding site access, beyond requested conditions number two and three. The basis for these two conditions was only explained during the ANC’s oral testimony at the public hearing.

On the matter of parking, the Board concurs with the findings of the DDOT report that the requested relief will not result in any adverse impacts to the District transportation system.

Further, the DDOT Report did not note that there would be any adverse impacts on parking in the surrounding area, a finding which was also supported by the OP Report. The Board notes that DGS is not seeking any parking relief for the Project. As such, the Board concludes that requiring DGS to enter into a parking agreement would not help mitigate any impacts related to the requested zoning relief. (Tr. at 85-86.)

The Board also notes that construction-related issues are beyond the Board's purview and subject to regulation and enforcement by the Zoning Administrator of the Department of Consumer and Regulatory Affairs. As such, the Board cannot impose the requirement that DGS enter into a construction management agreement with the ANC. (Tr. at 85-86.)

The Board also concludes that requiring DGS to open the playground and playing fields to the public, when not used by Eaton Elementary, does not serve to mitigate any adverse impacts of the requested zoning relief. Further, DGS has stated on the record that it is District policy to keep public school playgrounds and sports fields open to the public during non-school hours. (Tr. at 81.)

The Board notes that DGS expressed its willingness to enter into private agreements with the ANC and community to address the traffic and construction issues. (Tr. at 62). The Board concludes that this would be the most appropriate course of action. (Tr. at 94-95.)

Based on the foregoing, the Board concludes that the concerns raised by the ANC in its report and reflected in its requested conditions do not constitute "legally relevant issues and concerns" as they do not serve to mitigate any adverse effects created by the requested relief.

DECISION

Based on the case record, the testimony at the hearing, and the Findings of Fact and Conclusions of Law, the Board concludes that DGS has satisfied the burden of proof with respect to the request for special exceptions under Subtitle C § 1402.1 from the retaining wall height requirements under Subtitle C §§ 1401.3 through 1401.5, and under Subtitle C § 1610.2, from the rooftop access requirements of Subtitle C § 1603.6, and from the floor area ratio requirements of Subtitle C § 1604.2, to replace an existing three-story public education building with a new three-story public education building, and to relocate retaining walls, on the campus of an existing public elementary school in the R-1-B zone.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS⁵ AT EXHIBIT 36B1 – 36B3 AND WITH THE FOLLOWING CONDITION:**

⁵ Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6 (Exhibit 28). In granting the requested self-certified relief subject to the plans submitted with the Application, the Board made no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the

1. DGS shall have flexibility to make minor design modifications to the rooftop mechanical screen, the retaining wall height, landscape plan, and the fenestration pattern, size and materiality along the Lowell Street N.W. facade, as required and approved by HPRB, provided that no additional zoning relief is required.

VOTE: 4-0-1 (Carlton E. Hart, Lorna L. John, Lesylleé M. White, Robert E. Miller, to APPROVE; Frederick L. Hill not present, not participating)

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

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

FINAL DATE OF ORDER: August 12, 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, DGS FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR DGS 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 DGS 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.

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 that would require additional or different zoning relief from that is granted by this order.

BZA APPLICATION NO. 20047

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PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION ORDER NO. 03-12W/03-13W**Z.C. Case No. 03-12W/03-13W****District of Columbia Housing Authority****(Modification of Consequence for Consolidated PUD @ Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 882, Lot 77)****June 10, 2019**

Pursuant to public notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public meeting on June 10, 2019 at which the Commission considered the application of the District of Columbia Housing Authority (“DCHA”) for a Modification of Consequence (the “Application”) of the consolidated planned unit development (a “PUD”) approved by Z.C. Order No. 03-12/03-13 (the “Original Order”), as amended by Z.C. Order Nos. 03-12E/03-13E and Z.C. Case No. 03-12O/03-13O (collectively, the “Amended Order”), for Square 767, Lots 44-47, Square 768, Lots 19-22, and Square 882, Lot 77 (the “Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, 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. By the Original Order, effective on October 8, 2004, the Commission granted Capper/Carrollsborg Venture, LLC, DCHA, and Square 769, LLC (collectively, the “Applicant”) preliminary and consolidated approval for a PUD (the “Approved PUD”) for multiple properties located in the southeast quadrant of Washington, D.C., including the Property (the “PUD Site”), as established by the Original Order.
2. The Approved PUD included a related map amendment that rezoned the Property, among other properties, from the R-5-B Zone District (now the RA-2 zone) to the CR Zone District (now the MU-10 zone) effective upon completion of the second-stage approval of the PUD (Condition 3 of the Original Order) and the recordation of a covenant binding the development and use of the rezoned property to that authorized by the Original Order per § 2408.15 of the 1958 Zoning Regulations then in effect.
3. Condition 27 of the Original Order established that second-stage applications for the preliminary PUD could be sought in more than one application, with the first second-stage application required to be filed by April 8, 2006, 18 months after the October 8, 2004 effective date of the Original Order and all remaining second-stage applications required to be filed by October 8, 2008, four years after the effective date of the Original Order.
4. The Applicant filed its first second-stage PUD application in Z.C. Case 03-12A/03-13A on April 29, 2005, within the 18-month period required by Condition 27 of the Original Order.

Square 882, Lot 77

5. On July 3, 2008, the Applicant filed a second-stage application for various parcels within the PUD, including Square 882, Lot 77, in Z.C. Case No. 03-12G/03-13G, prior to the October 8, 2008 deadline imposed by the Original Order.
6. On June 8, 2009, the Commission approved a second-stage PUD for Square 882, Lot 77, among other properties, in Z.C. Order No. 03-12G/03-13G, with a deadline to file a building permit of August 14, 2011, with construction to start within the following year.
7. On December 30, 2011, the Commission approved a two-year extension of this deadline to file a building permit to August 14, 2013, with construction to start within the following year, in Z.C. Order No. 03-12L/03-13L.
8. On December 6, 2013, the Commission approved a further two-year extension of this deadline to file a building permit to August 14, 2015, with construction to start within the following year, in Z.C. Order No. 03-12P/03-13P.
9. On September 12, 2016, the Commission approved a six-month extension of the deadline to start construction to February 14, 2017 in Z.C. Order No. 03-12T/03-13T as the Applicant had already satisfied the August 14, 2015 deadline to file a building permit.
10. On December 16, 2013, DCHA recorded a covenant binding the development of Square 882, Lot 77, and the other properties subject to Z.C. Order No. 03-12G/03-13G, as extended, in conformance with Z.C. Order No. 03-12G/03-13G (Recorder of Deeds # 2013137604). The recording of this covenant, as required by § 2408.15 of the 1958 Zoning Regulations then in effect, together with the completion of the second-stage PUD approval of Z.C. Order No. 03-12G/03-13G, as extended, made effective the rezoning of Square 882, Lot 77, and the other properties subject to that second-stage PUD approval, from the R-5-B Zone District (now RA-2 zone) zone to the CR Zone District (now MU-10 zone).

Square 767, Lots 44-47, and Square 768, Lots 19-22

11. On June 26, 2009, the Commission extended the October 8, 2008 deadline to seek second-stage approval for Squares 767 and 768, among other properties, to December 31, 2013 in Z.C. Order No. 03-12I/03-13I.
12. On April 24, 2015, the Commission further extended the December 31, 2013 deadline to seek second-stage approval for Squares 767 and 768, among other properties, to December 18, 2018 in Z.C. Order No. 03-12R/03-13R.
13. On January 28, 2019, the Commission further extended the December 18, 2018 deadline to seek second-stage PUD approval for Squares 767 and 768, among other properties, to December 18, 2023 in Z.C. Order No. 03-12X/03-13X.
14. As the Commission has not yet approved a second-stage PUD for Square 767, Lots 44-47, and Square 768, Lots 19-22, the rezoning to the CR (now MU-10) zone adopted by

the Original Order has not yet occurred, and these properties remain in the R-5-B Zone District (now RA-2 zone).

Text Amendment Authorization of Temporary Surface Parking Lot Use

15. On July 30, 2007, the Commission took final action on a text amendment to add a new § 2110, with conforming amendments, to the 1958 Zoning Regulations then in effect to authorize the temporary surface parking lot use on the Property, among other properties, in Z.C. Order No. 07-08, with an expiration of April 1, 2013.
16. On December 10, 2012, the Commission took final action on a text amendment to amend § 2110 of the 1958 Zoning Regulations then in effect to extend the expiration of the authorization for the temporary surface parking lot use on the Property, among other properties, in Z.C. Order No. 07-08B, by five years to April 1, 2018.
17. On September 6, 2016, the current Zoning Regulations took effect pursuant to Z.C. Order No. 08-06A and the authorization of this temporary surface parking lot use of former § 2110 was converted to the current Subtitle C § 718.
18. On June 10, 2019, the Commission took final action on a text amendment to amend Subtitle C § 718 to further extend the expiration of the authorization for the temporary surface parking lot use on the Property, among other properties, in Z.C. Order No. 07-08C, by five years to April 1, 2023.

Approved PUD's Authorization for Temporary Surface Parking Lot Use

19. By Z.C. Order No. 03-12E/03-13E, effective October 26, 2007, the Commission approved a Minor Modification to the Original Order to add a new Condition 30 authorizing the temporary surface parking lot use of the Property accessory to the ballpark at South Capitol and N Streets, S.E., for a five-year period through April 1, 2013, as permitted by § 601.1(dd) (now Subtitle U § 517.1(c)) and as authorized by § 2110 of the 1958 Zoning Regulations then in effect (now Subtitle C § 718).
20. By Z.C. Order No. 03-12O/03-13O, effective March 1, 2013, the Commission approved a Minor Modification to the Amended Order to extend the expiration of Condition 30 by five years through April 1, 2018.

The Application

21. On October 23, 2018, the Applicant filed an application for a Minor Modification to the Amended Order to revise Condition 30 to further extend the authorization for the temporary surface parking lot use of the Property for another five-year period, through April 1, 2023 (the Application).
22. The Application justified the requested extension due to delays to the development authorized by the Approved PUD caused by the loss of its designation as a *Difficult Development Area* for Low-Income Housing Tax Credit purposes, which eliminated a 30% equity boost previously available to incentivize investment in the Property. The Application asserted that extending the temporary surface parking lot use for another five

- years would allow the Property to be used instead of remaining vacant while the development financing is completed, to the benefit of the neighboring community. (Exhibit [“Ex.”] 3, 7.)
23. The Applicant served the only other parties to the Original Order, Advisory Neighborhood Commissions (“ANC”) 6B and 6D, as attested by the Certificate of Service submitted with the Application. (Ex. 8.)
 24. The Office of Planning (“OP”) submitted a report (the “OP Report”) on November 9, 2018, stating that the Application should be classified as a Modification of Consequence and that OP had no objections to the Application with the note that the Application should be corrected to include the correct square references. (Ex. 5.)
 25. DCHA submitted an amended and restated Application requesting a Modification of Consequence and including the correct square references as noted in the OP Report. (Ex. 7.)
 26. ANC 6D submitted a written report (the “ANC 6D Report”) stating that, at a regularly scheduled and duly noticed meeting held on December 10, 2018, with a quorum present, ANC 6D voted to support the Application. (Ex. 9). The ANC 6D Report expressed concerns at the slow pace of the development of the Property, and the design and uses of the future building to be constructed on the portion of the Property in Square 767. The ANC 6D Report requested that this extension of the temporary surface parking lot use be the last one approved by the Commission.
 27. ANC 6B submitted a written report (the “ANC 6B Report”) stating that, at a regularly scheduled and duly noticed meeting held on December 14, 2018, with a quorum present, ANC 6B voted to support the Application. (Ex. 11). The ANC 6B Report expressed the concerns that DCHA include as many affordable housing units in the eventual development of the Property and requested that this extension of the temporary surface parking lot use be the last one approved by the Commission.

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” as an example 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 it is a request to

modify Condition 30 of the Amended 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 ANCs 6B and 6D.
6. The Commission concludes that because ANCs 6B and 6D, the only parties other than the Applicant to the Approved 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 June 10, 2019 public meeting.
7. The Commission concludes that the modification proposed by the Applicant is consistent with the Approved PUD because the Application does not change the project amenities and public benefits of the Approved PUD, nor create unacceptable impacts and is not inconsistent with the Comprehensive Plan. Instead the Application only proposes to extend the expiration of the authority for the temporary surface parking lot use on the Property while the Applicant finalizes the outstanding procedures to start construction on the Property, specifically obtaining second-stage approval for Square 767, Lots 44-47 and Square 768, Lots 19-22, and construction financing and any necessary modification of the second-stage approval of Z.C. Order No. 03-12G/03-13G, as extended, for Square 882, Lot 77.

“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 finds OP’s recommendation that the Application qualified as a Modification of Consequence and lack of objection to the Application persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANCs

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 notes the concerns expressed by the ANC 6B and 6D Reports about the pace and specifics of the future development of the Property under the Approved PUD and finds the support of ANCs 6B and 6D for the Application persuasive and concurs in that judgment.

DECISION

At its public meeting on June 10, 2019, in consideration of the case record and Findings of Fact and Conclusions of Law herein, upon the motion of Chairman Hood, as seconded by Vice Chair Miller, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a Modification of Consequence to revise Condition 30 of Z.C. Order No. 03-12/03-13, as amended

by Z.C. Order Nos. 03-12E/03-13E and 03-12O/03-13O, by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

The conditions in Z.C. Order 03-12/03-13, as amended by Z.C. Order Nos. 03-12E/03-13E and 03-12O/03-13O, remain unchanged, except that Condition No. 30 is revised to read as follows (additions in **bold and underline** text; deletions in **~~bold and strikeout~~** text):

30. Notwithstanding anything to the contrary, Squares 767, 768, and 882 may be used as a temporary surface parking lot accessory to the Ballpark as permitted by ~~11 DCMR § 601.1(dd) and in accordance with 11 DCMR § 2110~~ **Subtitle C § 718 and Subtitle U §§ 401.1(g), 509.1(n)(1), and 517.1(c)(1)** of the Zoning Regulations (**Title 11 of the DCMR**) through and until April 1, ~~2018~~ **2023**. **Such use shall be consistent with the plans submitted as Exhibit 1 (pages 44-46) to the Commission record in Z.C. Case No. 03-12E/03-13E on March 30, 2007.**

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 23, 2019.

BY ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

ZONING COMMISSION ORDER NO. 07-18F
Z.C. Case No. 07-18F
Jemal's Up Against the Wall
(Modification of Consequence for Consolidated PUD
@ Square 347, Lot 23 – 1000 F St., N.W.)
July 29, 2019

Pursuant to public notice, the Zoning Commission for the District of Columbia (the "Commission") held a public meeting on July 29, 2019 at which the Commission considered the application of the Jemal's Up Against the Wall (the "Applicant") for a Modification of Consequence (the "Application") of the consolidated planned unit development (a "PUD") approved by Z.C. Order No. 07-18 (the "Original Order"), as amended by Z.C. Order No. 07-18D, for 1000 F Street, N.W. (Square 347, Lot 23; the "Property"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, 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

Prior Approvals

1. By the Original Order dated April 14, 2008, the Commission granted consolidated approval for a PUD (the "Approved PUD") for the Property¹ located at 1000 F Street, N.W. to construct an 11-story office building with a maximum building height of 120 feet and density of 8.3 floor area ratio ("FAR") totaling approximately 97,872 square feet of gross floor area, including 7,813 square feet of retail uses (the "Building").
2. By Z.C. Order Nos. 07-18A and 07-18B, the Commission approved two time extensions of two years each of the validity of the Original Order.
3. By Z.C. Order Nos. 07-18C and 07-18E, the Commission approved minor modifications to extend the deadline for satisfying Condition 4 of the Original Order.
4. By Z.C. Order No. 07-18D, the Commission approved a modification of the Original Order to reduce the number of parking levels from four to two and make minor design modifications to the Building.

Parties

5. The only party to the Z.C Case No. 17-18, other than the Applicant, was Advisory Neighborhood Commission ("ANC") 2C, the affected ANC pursuant to Subtitle Z § 101.8.

¹ The Original Order covered Lots 18, 19, 828-821, and a small portion of the alley to be closed in Square 347. These lots were subsequently consolidated into Lot 23 by the plat recorded with the Office of the Surveyor in Subdivision Book 208 at page 75).

The Application

6. On June 21, 2019, the Applicant filed the Application requesting a Modification of Consequence to allow the installation of two new rows of windows on the third and fourth floors of the southern façade of the Building, as illustrated by Exhibit (“Ex.”) 1E.
7. The Applicant served the Application on June 21, 2019 to ANC 2C and the Office of Planning (“OP”), as attested by the Certificate of Service submitted with the Application. (Ex. 1.)
8. OP submitted a report on July 22, 2019, stating that the Application should be classified as a Modification of Consequence and that OP recommended approval of the Application (the “OP Report”). (Ex. 4.)
9. ANC 2C submitted a written report stating that, at a regularly scheduled and duly noticed meeting held on July 9, 2019, with a quorum present, the ANC voted to support the Application (the “ANC Report”). (Ex. 5.) The ANC Report did not express any issues or concerns with the Application.

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 redesign or relocation of architectural elements” as an example 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 redesign architectural elements of the plans approved by 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 concludes that because ANC 2C, the only party other than the Applicant to the Approved PUD, had filed a response 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 therefore the Commission could consider the merits of the Application at the July 29, 2019 public meeting.

7. The Commission concludes that the modification proposed by the Application is consistent with the Approved PUD because the Application does not change the project amenities and public benefits of the Approved PUD, nor create unacceptable impacts and is not inconsistent with the Comprehensive Plan.

“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.
9. The Commission finds the OP Report’s recommendations that (i) the Application qualified as a Modification of Consequence, and (ii) the Application should be approved, persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANC

10. 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, in this case ANC 2C. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
11. The Commission finds the ANC Report’s recommendation to approve the Application, with no issues or concerns, persuasive and concurs in that judgment.

DECISION

At its public meeting on July 29, 2019, in consideration of the case record and Findings of Fact and Conclusions of Law herein, upon the motion of Chairman Hood, as seconded by Vice Chair Miller, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a Modification of Consequence to the PUD approved by Z.C. Order No. 07-18, as amended by Z.C. Order No. 07-18E, for 1000 F Street, N.W. (Lot 23 in Square 347), by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve), subject to the plans prepared by Shalom Baranes Associates, dated June 13, 2019, and titled “Modification to PUD Approved # ZC 07-18,” marked as Exhibit 1E of the record.

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 23, 2019.

BY ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

Z.C. ORDER NO. 07-18F

Z.C. CASE NO. 07-18F

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ZONING COMMISSION ORDER NO. 12-02A
Z.C. Case No. 12-02A
50 Florida Avenue Development Associates, LLC
(Modification of Consequence of PUD @ Square 3516, Lots 134 and 138)
July 29, 2019

Pursuant to public notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public meeting on July 29, 2019 at which the Commission considered the application of 50 Florida Avenue Development Associates, LLC (the “Applicant”) for a Modification of Consequence (the “Application”) of the consolidated planned unit development (a “PUD”) approved by Z.C. Order No. 12-02 (the “Original Order”) for Lots 134 and 138 in Square 3516 (the “PUD Site”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, 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

Background

1. Pursuant to the Original Order, effective November 29, 2013, the Commission approved a PUD with a related map amendment from the C-2-A and C-M-2 Zone Districts to the C-3-B Zone District to authorize the construction of a building (the “Building”) with a maximum height of 90 feet and a floor area ratio (“FAR”) of 4.83 that included 196,029 square feet of residential use over 182 units, and 7,858 square feet of retail uses with a 1,382-square-foot plaza that could be used for an outdoor café.
2. The PUD Site is located between Florida Avenue, N.E. to the south and a 16-foot-wide public alley to the north, with private properties on its east and west, and is bisected by a 12-foot-wide public alley running north to south separating Lots 134 and 138. The PUD Site has a land area of approximately 42,223 square feet.
3. Condition B.4. of the Original Order required that:

Prior to the issuance of a certificate of occupancy for the building, the Applicant shall submit to the Department of Consumer and Regulatory Affairs (“DCRA”) evidence that:

- a. *The Applicant provided \$220,000 to Cultural Tourism DC for the development and installation of eight signs for an Eckington Heritage Trail in the neighborhood;*
- b. *The Applicant paid a contractor or otherwise incurred costs of \$65,000 for the fabrication and installation of three-sided perimeter tree enclosures (“commonly referred to as “tree boxes”) and mulch at the locations on the north and south sides of Q Street and R Street, N.E. between North Capitol Street and Eckington Street; and*

- c. The eight heritage trail signs have been installed or are in the process of being developed and that the tree boxes and mulch have been installed.*

The Application

4. By a letter dated April 25, 2019, the Applicant submitted the Application requesting that Condition B.4. of the Original Order be modified to allow the installation of fewer tree boxes due to the unanticipated need for a maintenance covenant from the adjacent property owner for each tree box, which would require 65 individual covenants. The need for these maintenance covenants had not been anticipated at the time of the Original Order.
5. The Application proposed that the shortfall in expenditures on the tree boxes would be allocated instead to funding additional signs from Cultural Tourism DC for the Eckington Heritage Trail in the neighborhood of the PUD Site, so that the total disbursement of funds remain the same.
6. The Applicant served the only other parties to the Original Order, Advisory Neighborhood Commission (“ANC”) 5E and Kimberly Konkel, as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 1, p. 5.)
7. ANC 5E submitted a resolution that was adopted by a vote of the ANC at its duly noticed public meeting held on June 18, 2019, with a quorum of nine out of 10 Commissioners present (the “ANC Resolution”). The ANC Resolution noted that “approval of this revised language will enable the developer to obtain a Certificate of Occupancy for the building in a timely manner, while still working with the ANC and residents to ensure delivery of the amenities for the project.” (Ex. 2)
8. Ms. Konkel did not file a response to the Application.
9. The Office of Planning (“OP”) submitted a report dated June 28, 2019 agreeing that the Application qualified as a Modification of Consequence and recommending approval of the Application (the “OP Report”). (Ex. 4.)

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” as an example 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 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 5E and Ms. Konkel.
6. The Commission determines that because OP and ANC 5E, had filed responses to the Application, and because Ms. Konkel did not respond within the time frame established pursuant to Subtitle Z § 703.17(c)(2), that the Commission could consider the merits of the Application at the July 29, 2019 public meeting.
7. The Commission finds that the modification proposed by the Application is consistent with the PUD approved by the Order because the Application only proposes to modify apportionment of the financial contribution between two uses approved by the Original Order.

“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.
9. 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

10. 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. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
11. The Commission found ANC 5E’s support for the Application persuasive and concurred in that judgment.

DECISION

At its public meeting on July 29, 2019, in consideration of the case record and the Findings of Fact and Conclusions of Law herein, upon the motion of Chairman Hood, as seconded by Commissioner Shapiro, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a Modification of Consequence to the PUD approved in Z.C. Order No. 12-02, subject to the following condition by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

The conditions in Z.C. Order No. 12-02, remain unchanged, except as that Condition No. B.4. is revised to read as follows (additions in **bold and underlined** text; deletions in **~~bold and strikethrough~~** text):

- B.4. Prior to the issuance of a certificate of occupancy for the building, the Applicant shall submit to the Department of Consumer and Regulatory Affairs (“DCRA”) evidence that:
- a. ~~The Applicant provided \$220,000 to Cultural Tourism DC for the development and installation of eight signs for an Eckington Heritage Trail in the neighborhood.~~
 - b.a. The Applicant has paid a contractor or otherwise incurred costs of up to \$65,000 for the permitting, fabrication, and installation, and has commenced the installation, of three-sided perimeter tree enclosures ("commonly referred to as "tree boxes") and mulch at the locations on the north and south sides of Q Street, Quincy Street, and R Street, N.E. between North Capitol Street and Eckington Street for those properties whose owners have provided the requisite fully-executed and notarized maintenance covenant;
 - b. The Applicant has provided \$220,000 to Cultural Tourism DC, in addition to any unspent portion of the \$65,000 allocated to tree boxes and mulch, for the development, fabrication, and installation of at least eight signs for an Eckington Heritage Trail in the neighborhood of the PUD Site; and Cultural Tourism has developed or installed these signs or is in the process of doing so.
 - c. ~~The eight heritage trail signs have been installed or are in the process of being developed and that the tree boxes and mulch.~~ The Applicant’s total contribution for the tree boxes, mulch, and heritage trail signs shall be \$285,000.

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 23, 2019.

BY ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

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