

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on “General Conservation on Construction Code Enforcement”
- D.C. Council schedules a public hearing on Bill 23-362, Maternal Health Care Improvement and Expansion Act of 2019
- D.C. Council schedules a public oversight roundtable on the “Performance of the Board of Ethics and Government Accountability's Office of Government Ethics”
- Board of Elections proposes polling place relocations in Precincts 14, 27, 40, 54, 57, 89, and 99
- Department of the Energy and Environment solicits proposals for developing a Comprehensive Watershed Protection Stewardship Program for District residents
- Department of Health Care Finance updates the District Medicaid Program’s reimbursement methodology for nursing facilities
- Department of Housing and Community Development schedules a public hearing on the Consolidated Annual Performance and Evaluation Plan
- D.C. Public Schools schedules a public hearing on the Fiscal Year 2021 Budget
- Department of Public Works revises the refuse disposal fee at District of Columbia waste transfer stations

DISTRICT OF COLUMBIA REGISTER

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MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT
D.C. ACT 23-128

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 11, 2019

To amend, on an emergency basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to change the name of the legal holiday celebrated on the 2nd Monday in October from Columbus Day to Indigenous Peoples’ Day; and to amend sections 25-723 and 28-2701 of the District of Columbia Official Code to do the same.

BE IT ENACTED BY THE COUNCIL FOR THE DISTRICT OF COLUMBIA, That this act may be cited as the “Indigenous Peoples’ Day Emergency Amendment Act of 2019”.

Sec. 2. Section 1202(a)(7) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-319; D.C. Official Code § 1-612.02(a)(7)), is amended by striking the phrase “Columbus Day” and inserting the phrase “Indigenous Peoples’ Day” in its place.

Sec. 3. Section 25-723(c)(1)(B) of the District of Columbia Official Code is amended by striking the phrase “Columbus Day” and inserting the phrase “Indigenous Peoples’ Day” in its place.

Sec. 4. Section 28-2701 of the District of Columbia Official Code is amended by striking the phrase “Columbus Day” and inserting the phrase “Indigenous Peoples’ Day” in its place.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 11, 2019

ENROLLED ORIGINAL

A RESOLUTION

23-218

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

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

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Urban Farming Land Lease Congressional Review Emergency Declaration Resolution of 2019”.

Sec. 2. (a) On July 9, 2019, the Council passed the Urban Farming Land Lease Emergency Amendment Act of 2019, enacted on July 24, 2019 (D.C. Act 23-100; 66 DCR 9732) (“emergency act”), which is set to expire on October 22, 2019.

(b) On September 17, 2019, the Council passed the Urban Farming Land Lease Temporary Amendment Act of 2019, passed on 2nd reading on September 17, 2019 (Enrolled version of Bill 23-377) (“temporary act”). The temporary act was signed by the Mayor on October 7, but has not yet completed congressional review.

(c) This congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Urban Farming Land Lease Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-219

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

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

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Wells School Designation and Master Facilities Plan Disapproval Congressional Review Emergency Declaration Resolution of 2019".

Sec. 2. (a) On July 9, 2019, the Council passed the Wells School Designation and Master Facilities Plan Disapproval Emergency Amendment Act of 2019, effective July 30, 2019 (D.C. Act 23-108; 66 DCR 9762) ("Emergency Act").

(b) On September 17, 2019, the Council passed on second reading a permanent version of the Emergency Act, the Wells School Designation and Master Facilities Plan Disapproval Amendment Act of 2019, enacted on October 7, 2019 (D.C. Act 23-122; 66 DCR _____) ("Permanent Act"), which has not yet been transmitted to Congress for the mandatory 30-day review period.

(c) The Emergency Act will expire on October 28, 2019, prior to the Permanent Act becoming law. Therefore, a congressional review emergency act is necessary to prevent a gap in the law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Wells School Designation and Master Facilities Plan Disapproval Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-220

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency, due to congressional review, with respect to the need to require the Department of Insurance, Securities, and Banking to provide for the licensing of certain entities providing appraisal management services in the District of Columbia and to require an annual registration fee to be paid by those entities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Appraisal Management Company Regulation Congressional Review Emergency Declaration Resolution of 2019”.

Sec. 2. (a) On July 9, 2019, the Council passed the Appraisal Management Company Regulation Emergency Act of 2019, effective July 31, 2019 (D.C. Act 23-110; 66 DCR 10178), (“Emergency Act”).

(b) On September 17, 2019, the Council passed on second reading a temporary version of the Emergency Act, the Appraisal Management Company Regulation Temporary Act of 2019, enacted on October 7, 2019 (D.C. Act 23-117; 66 DCR _____) (“Temporary Act”), which has not yet been transmitted to Congress for the mandatory 30-day review period.

(c) The Emergency Act will expire on October 29, 2019, prior to the Temporary Act becoming law. Therefore, a congressional review emergency act is necessary to prevent a gap in the law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Appraisal Management Company Regulation Congressional Review Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-221

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency, due to congressional review, with respect to the need to require the Mayor to establish a pilot program through which a close relative of a child may be eligible to receive subsidy payments for the care and custody of a child, to establish eligibility requirements for the subsidy, to provide that there is no entitlement to a subsidy and the payment of any subsidy is subject to the availability or appropriations, to authorize the Mayor to issue rules to implement provisions of the act, and to require the Mayor to issue a report to Council evaluating the program.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Close Relative Caregiver Subsidy Pilot Program Establishment Congressional Review Emergency Declaration Resolution of 2019”.

Sec. 2. (a) The Grandparent Caregivers Program was first established in 2006 to help provide stability to families in which grandparents are taking care of their grandchildren with financial support.

(b) Testimony provided during the performance oversight proceedings for the Child and Family Services Agency (“CFSA”) demonstrated that a broader population of kin caregivers exists in the District. One study from 2017 found that 9,000 District children under 18 years of age were living in households led by relative caregivers that were not grandparents.

(c) Witnesses testified that many of these close relative caregivers require immediate financial assistance to ensure that youth are afforded stability and are not removed from a home with a close kinship relationship.

(d) The Fiscal Year 2020 Local Budget Act of 2019, effective August 31, 2019 (D.C. Law 23-11; 66 DCR 8242), includes funding for the establishment of a close relative caregiver subsidy pilot program (“pilot program”), which became available on October 1, 2019, the first day of Fiscal Year 2020.

(e) Emergency legislation is necessary to prevent a gap in the law as the:

(1) The Close Relative Caregiver Subsidy Pilot Program Establishment Emergency Amendment Act of 2019, effective July 16, 2019 (D.C. Act 23-84; 66 DCR 8274), will expire on October 14, 2019 (“emergency legislation”).

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(2) The corresponding permanent legislation, the Close Relative Caregivers Subsidies Amendment Act of 2019, enacted on October 7, 2019 (D.C. Act 23-121; 66 DCR ____), must complete the 30-day congressional review period and has no projected date to become law.

(3) The corresponding temporary legislation, Close Relative Caregiver Subsidy Pilot Program Establishment Temporary Amendment Act of 2019, enacted on September 4, 2019 (D.C. Act 23-113; 66 DCR 12081), is currently under congressional review and is projected to become law November 7, 2019 (“temporary legislation”).

(f) To enable CFSA to continue planning for the administration of the pilot program, including the hiring of one full time equivalent, it is important that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation has become law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Close Relative Caregiver Subsidy Pilot Program Establishment Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-222

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency, due to congressional review, with respect to the need to expand the standby guardianship law to enable a parent, legal guardian, or legal custodian who is, or may be subject to an adverse immigration action, to make short-term plans for a child without terminating or limiting that person's parental or custodial rights.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Standby Guardian Congressional Review Emergency Declaration Resolution of 2019".

Sec. 2. (a) According to the American Immigration Council:

(1) 25,000 undocumented immigrants comprised 26% of the immigrant population and 3.9% of the District's total population in 2014.

(2) 23,979 people in the District, including 8,912 born in the United States, lived with at least one undocumented family member between 2010 and 2014.

(3) During the same period, 7% of children in the District were United States citizens living with at least one undocumented family member (7,572 children in total).

(b) The President has made immigration detention and deportation a signature issue of his administration and despite the District's designation as a sanctuary city, there continues to be apprehensions and detainments, including inside the District of Columbia Superior Court.

(c) Over the last year, organizations that work with detained individuals in the District have seen a 40% increase in the number of District residents being held in immigration detention centers.

(d) On June 17, 2019, President Donald Trump tweeted, "Next week ICE will begin the process of removing the millions of illegal aliens who have illicitly found their way into the United States. They will be removed as fast as they come in."

(e) According to ABC news, on June 18, 2019, an official from the President's administration said that enforcing final deportation orders "is a top priority".

(f) On the evening of June 22, 2019, the U.S. Immigration and Customs Enforcement ("ICE") performed raids in Adams Morgan and Columbia Heights. ICE visited several restaurants undercover to scope them out, gain access to the back of the kitchen, and interrogate

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workers. In connection to these raids, 2 parents who are District residents were detained by ICE and were being held in a local detention center.

(g) On June 25, 2019, there was an additional ICE raid at the Mount Pleasant Library.

(h) When District residents are apprehended and detained, they are transported to detention centers outside of the District, as the District does not have any immigrant detention centers within its jurisdiction. It can often take many days for family members to learn the whereabouts of the detained residents.

(i) Emergency legislation is necessary to prevent a gap in the law as the:

(1) The previously approved Standby Guardian Emergency Amendment Act of 2019, effective July 31, 2019 (D.C. Act 23-111; 66 DCR 188), is set to expire on October 29, 2019 (“emergency legislation”).

(2) The corresponding permanent legislation, the Standby Guardian Amendment Act of 2019, as introduced on July 9, 2019 (Bill 23-402), is currently under Council review with no projected date to become law.

(3) The corresponding temporary legislation, the Standby Guardian Temporary Amendment Act of 2019, enacted on October 7, 2019 (D.C. Act 23-118; 66 DCR ____), is pending with no projected date to become law (“temporary legislation”).

(j) There exists an immediate need for the District to enact legislation, to expand the standby guardianship laws to enable a parent, legal guardian, or legal custodian to be able to make plans to protect the wellbeing of their children in advance of an adverse immigration action, so that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation has become law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Standby Guardian Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-223

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the District of Columbia Public Assistance Act of 1982 to extend the prohibition on the denial of cash or food assistance benefits to adults who are drug felons to include benefits obtained through the Supplemental Nutrition Assistance Program, the Program on Work, Employment, and Responsibility, the General Assistance for Children Program, and the Interim Disability Assistance Program.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Access to Public Benefits Congressional Review Emergency Declaration Resolution of 2019”.

Sec. 2. (a) There exists an immediate need for the District to enact legislation to extend its current opt out from a federal law requiring the District to deny eligibility for Supplemental Nutrition Assistance Program (“SNAP”) and Temporary Assistance for Needy Families (“TANF”) benefits to individuals who have been convicted of any offense that is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (“drug felons”).

(b) Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 22, 1996 (110 Stat. 2180; 21 U.S.C. § 862a), requires the District to deny eligibility for SNAP and TANF benefits to individuals who are drug felons. Subsection (d)(1)(A) of section 115 permits states, including the District, to opt out of the federal law prohibition.

(c) The District exercised the subsection (d)(1)(A) opt out and provided benefits to drug felons who are applicants for or recipients of TANF by enacting section 571 of the District of Columbia Public Assistance Act of 1982, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-205.71).

(d) The Public Benefits Emergency Amendment Act of 2018, effective October 23, 2018 (D.C. Act 22-493; 65 DCR 12072) (“emergency legislation”), and the Access to Public Benefits Temporary Amendment Act of 2018, effective February 22, 2019 (D.C. Law 22-199; 65 DCR 12329) (“temporary legislation”), extended the District’s opt-out to encompass individuals who

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are applicants for or recipients of SNAP and prohibited drug felons from being denied benefits obtained through the Program on Work, Employment, and Responsibility, the General Assistance for Children Program, and the Interim Disability Assistance Program.

(e) The emergency legislation expired on January 21, 2019, the temporary legislation expired on October 5, 2019, and the permanent legislation, the Access to Public Benefits Amendment Act of 2019, enacted October 7, 2019 (D.C. Act 23-120; 66 DCR ____), it pending but must complete the 30-day congressional review period and has no projected date to become law (“permanent legislation”).

(f) Congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the temporary legislation and the effective date of the permanent legislation to maintain the District’s expansion of the availability of critical benefits to District residents who have struggled with drugs. Without this expanded opt out, the District will not be able to assist otherwise qualified needy District residents with accessing nutritious foods solely because the individual is a drug felon without risking adverse action by federal auditors.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Access to Public Benefits Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

23-224

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency, due to congressional review, with respect to the need to amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide an abatement of real property taxes for property located at 1201-1215 Good Hope Road, S.E., and known for tax and assessment purposes as Lot 1017, 847, 867, 866, and 864 in Square 5769.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “MLK Gateway Real Property Tax Abatement Congressional Review Emergency Declaration Resolution of 2019”.

Sec. 2. (a) The Council approved the MLK Gateway Disposition Approval Resolution of 2017, effective December 5, 2017 (Res. 22-319; 65 DCR 33), authorizing the Mayor to dispose of District-owned real property known as MLK Gateway, located at 1201-1215 Good Hope Road, S.E., known for tax and assessment purposes as Lots 1017, 847, 867, 866, and 864 in Square 5769, and at 1909, 1911, and 1913 Martin Luther King, Jr. Avenue, S.E., known for tax and assessment purposes as Lot 829 in Square 577 (“property”).

(b) The selected development team for the property is MLK Gateway Partner, LLC, comprised of the Menkiti Group and Enlightened, Inc. (“Developer”).

(c) In July, the Council enacted the MLK Gateway Real Property Tax Abatement Emergency Amendment Act of 2019, effective July 24, 2019 (D.C. Act 23-105; 66 DCR 9750) (“emergency legislation”), to provide a tax abatement on the property to aid the Developer in financing the development of a mixed-use commercial project on the property. The emergency legislation expires on October 22, 2019.

(d) Temporary legislation, the MLK Gateway Real Property Tax Abatement Temporary Amendment Act of 2019, enacted on September 17, 2019 (Enrolled version of Bill 23-381), must still complete its 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and will not become law until after the emergency legislation has expired.

(e) It is important that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation is in effect.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the MLK Gateway Real Property Tax Abatement Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-225

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

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

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Criminal Justice Coordinating Council Information Sharing Congressional Review Emergency Declaration Resolution of 2019”.

Sec. 2. (a) On July 9, 2019, the Council passed the Criminal Justice Coordinating Council Information Sharing Emergency Amendment Act of 2019, effective July 24, 2019 (D.C. Act 23-106; 66 DCR 9754) (“emergency act”). The emergency act expires on October 22, 2019.

(b) On September 17, 2019, the Council passed the Criminal Justice Coordinating Council Information Sharing Temporary Amendment Act of 2019, passed on 2nd reading on September 17, 2019 (Enrolled version of Bill 23-389) (“temporary act”). The temporary act was signed by the Mayor on October 7, 2019, but has not yet completed congressional review.

(c) This congressional review emergency legislation is now necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Criminal Justice Coordinating Council Information Sharing Congressional Review Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-235

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to amend section 47-362 of the District of Columbia Official Code to provide that intra-District transfers shall not be used to establish new programs or to change allocations specifically denied, limited, or increased by the Council in the budget act, or the accompanying budget report or mark-up sheets.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Intra-District Transfer Limitation Emergency Declaration Resolution of 2019”.

Sec. 2. (a) In the Mayor’s proposed budget for Fiscal Year 2020 (“FY 2020 budget”), as transmitted to the Council, the Mayor proposed moving administration of automated traffic enforcement (“ATE”) from the Metropolitan Police Department (“MPD”) to the District Department of Transportation (“DDOT”). Although the Committee on the Judiciary and Public Safety recommended approving that move, the Committee on Transportation and the Environment recommended disapproving the transfer of the ATE program and associated funding.

(b) The Committee on Transportation and the Environment’s FY 2020 budget report expressed concerns about initiating this transfer through the budget process. The Committee recommended that the transfer be considered as standalone legislation, which would provide an opportunity for public comment on the proposed change, as well as opportunity for the Council, Executive, and public to better understand the financial and administrative changes associated with the proposed transfer.

(c) The final FY 2020 budget approved by the Council and signed by the Mayor did not include funding for this transfer. Funding for the administration of the ATE program remained in the FY 2020 budget for MPD.

(d) Following the enactment of the FY 2020 budget, the Committee on the Judiciary and Public Safety and the Committee on Transportation and the Environment noticed a joint public roundtable on Proposed Transfer of the Automated Traffic Enforcement Program from MPD to DDOT.

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(e) This fall, the Council was made aware that the Executive intended to initiate the transfer of the ATE program from MPD to DDOT. Members of the Council reached out for clarification from Chief Financial Officer, Jeffrey Dewitt (“CFO”) to understand under what legal mechanism the Mayor could initiate such a transfer, given the Council’s explicit repudiation of this funding transfer in the FY 2020 budget.

(f) Under D.C. Official Code § 47-362(b), the Executive may not use reprogrammings to establish new programs or change allocation specifically denied, limited, or increased by the Council in the budget act.

(g) In a September 13, 2019 letter, the CFO noted that the Mayor has the statutory authority to create a program within DDOT to administer the ATE program. The CFO confirmed his understanding that reprogrammings could not be used to fund this new program, stating that any new program would need to be funded through other means in compliance with the District budget. The CFO did not clarify what means those would be.

(h) Other than reprogrammings, the only mechanism to fund the ATE program at DDOT using funds allocated in the FY 2020 budget would be an intra-District transfer.

(i) Immediate legislative action is necessary to prevent action from being taken counter to the explicit intent of the Council in the FY 2020 budget and to ensure that the funding and administration of the ATE program remains with MPD, as intended, until standalone legislation is introduced and considered.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that Intra-District Transfer Limitation Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-236

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to change the legal holiday celebrated on the 2nd Monday in October from Columbus Day to Indigenous Peoples’ Day; and to amend sections 25-723 and 28-2701 of the District of Columbia Official Code to do the same.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Indigenous Peoples’ Day Emergency Declaration Resolution of 2019”.

Sec. 2. (a) Columbus Day was officially designated a federal holiday in 1937, although Christopher Columbus did not discover the Americas, as millions of people were already living in North America upon his arrival in the Americas.

(b) Christopher Columbus never set foot on the shores of what is now known as the United States of America.

(c) Christopher Columbus enslaved, colonized, mutilated, and massacred thousands of indigenous people in the Americas.

(d) Currently 7 states and more than 70 cities do not observe Columbus Day.

(e) Columbus Day is in reverence to a divisive figure whose actions against indigenous people run counter to the values of equality, diversity, and inclusion—values that the District of Columbia has long embodied—and serves only to perpetuate hate and oppression, in contrast to the values the District espouses on a daily basis.

(f) The Council acknowledges the negative historic and continuing impacts of European colonization on the indigenous peoples of the Americas and reaffirms the District’s commitment to equality, diversity, and inclusion for all.

(g) As part of that commitment, the Council declares that there exists an immediate need to honor indigenous peoples’ rich history and culture by acting expeditiously to amend existing law to rename the holiday celebrated on the 2nd Monday in October from Columbus Day to Indigenous Peoples’ Day.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Indigenous Peoples' Day Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-237

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to amend An Act To create a Department of Corrections in the District of Columbia to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sanctuary Values Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists an immediate need to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests from United States Immigration and Customs Enforcement ("ICE").

(b) Immigrants are a valuable and essential part of the District. With increased immigration enforcement across the country, including in the District, it is critical that the District government remains committed to protecting our residents, regardless of their immigration status.

(c) The District has a responsibility to ensure that all residents are respected and able to interact with public safety officials without fear of adverse civil immigration action.

(d) The Metropolitan Police Department provides police services to all residents of the District, regardless of immigration status, and is prohibited from inquiring into an individual's immigration status for the purpose of enforcing civil immigration laws.

(e) The Executive has also supported the District's immigrant community by funding legal services for immigrant residents.

(f) Section 7 of An Act To create a Department of Corrections in the District of Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07) ("the Act"), authorizes the Department of Corrections ("DOC") to hold individuals in its custody past their release dates, pursuant to a detainer request from ICE, only when certain criteria are met. When passed in 2012, the Act was one of the first policies in the country to limit compliance with immigration detainer requests. However, current law must now be reconsidered to more fully protect the District and its residents. Since passage of the Act, ICE's practices have evolved to include requesting notification of individuals' release dates, in addition to or instead of holds. In addition, multiple federal courts have held that ICE detainer requests to hold

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individuals violate the Fourth Amendment, and that complying jurisdictions may be held liable. *See e.g., Galarza v. Szalczyk*, 745 F.3d 634 (3rd Cir. 2014).

(g) DOC's current policy is to provide notification to ICE of individuals' release dates pursuant to detainer requests. On August 23, 2019, the *Washington City Paper* reported that between January 2016 and June 2019, DOC transferred 43 individuals to ICE custody. Based on reports from community members and service providers, DOC has assisted in the detention of many more individuals after their release from DOC by notifying ICE of release dates and times.

(h) Collaborating with ICE, including by complying with detainer requests, does not promote public safety. ICE has created an unsafe, fearful environment for the District's immigrant residents. When the District cooperates with ICE, trust in District agencies by the immigrant community erodes, and public safety is compromised. Immigrant residents become less likely to seek the help of District agencies, particularly law enforcement.

(i) An immigration detainer request is not a criminal detainer issued by a federal judge, but rather a request issued by a federal immigration agent for civil immigration violations. In fact, detainer requests are often made without a probable cause determination into an individual's immigration status and are not subject to review by a federal judge. There is no legal requirement that a local jurisdiction comply with a federal immigration detainer request.

(j) Emergency legislation is required to explicitly limit the District's cooperation with federal immigration agencies, including by complying with detainer requests from ICE, absent a judicial warrant for a violation of criminal law or an order issued by a federal judge.

(k) In passing this emergency legislation, the District would join numerous states, cities, and counties across the nation in taking a stand on cooperation with federal immigration agencies absent judicial warrants or orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Sanctuary Values Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-238

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to require the Office of the Chief Medical Examiner to investigate all maternal mortalities occurring in the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Investigating Maternal Mortalities Emergency Declaration Resolution of 2019”.

Sec. 2. (a) On March 6, 2018, the Council passed the Maternal Mortality Review Committee Establishment Act of 2018, effective June 5, 2018 (D.C. Law 22-111; D.C. Official Code § 7-671.01 *et seq.*), which created a Maternal Mortality Review Committee (“MMRC”) within the Office of the Chief Medical Examiner (“OCME”).

(b) The purpose of the MMRC is to study and understand the circumstances surrounding maternal mortalities and provide recommendations to improve the unacceptably high maternal mortality rate in the District.

(c) Maternal mortality rates in the District indicate nothing short of a maternal health crisis, with 36.1 maternal deaths occurring per 100,000 births in 2018. For many District women of color and low-income women, access to comprehensive preventive and prenatal care is inconsistent and insufficient, a situation made even more dire by the recent closing of area labor and delivery units.

(d) The MMRC is staffed with a host of experts ready to conduct case reviews and study existing patterns to better understand maternal mortality in the District. However, because OCME does not currently have jurisdiction to investigate and make determinations of death in all maternal mortalities, the information that the MMRC has before it in its case reviews is incomplete.

(e) The Executive has taken many critical steps toward improving the health of pregnant District residents, including by introducing the permanent version of this emergency legislation last month and hosting a comprehensive Maternal and Infant Health Summit. The Committee on the Judiciary and Public Safety will hold a hearing on the permanent bill, but it is necessary to act now on an emergency basis to ensure that OCME has legal authority as soon as possible.

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(f) This emergency legislation would amend section 2906 of the Establishment of the Office of the Chief Medical Examiner Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 5-1405), to authorize OCME to investigate all maternal mortalities, thereby allowing the MMRC to fulfill its statutory charge and make recommendations to address the District's maternal mortality crisis.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Investigating Maternal Mortalities Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-239

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to approve the proposed rulemaking submitted by the Mayor to amend Chapter 25 (Metropolitan Police Department Use of Closed Circuit Television) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Closed Circuit Television Modernization Rulemaking Approval Emergency Declaration Resolution of 2019”.

Sec. 2. (a) There exists an immediate need to approve the proposed rulemaking submitted by the Mayor to amend Chapter 25 (Metropolitan Police Department Use of Closed Circuit Television) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations.

(b) On August 10, 2018, the Metropolitan Police Department published a proposed rulemaking to modify and update the procedures governing the Metropolitan Police Department’s (“MPD”) network of closed circuit television (“CCTV”) cameras. MPD did not receive any public comments in response.

(c) The District’s existing regulations provide that CCTV videos shall be indexed, stored, and maintained for 10 calendar days, after which time they will be recorded over or destroyed. The proposed rulemaking would change this in 2 ways. First, recordings would no longer need to be “indexed” and “stored”, and MPD could instead “maintain” the recordings. Second, video recordings could be maintained for up to 90 days instead of the current 10-day retention period. The rulemaking would also allow a sergeant or civilian, in lieu of a lieutenant, to monitor CCTV footage. Lastly, the rulemaking would allow CCTV recordings used for training purposes to be retained according to MPD’s existing retention schedule.

(d) Section 2702(b) of the Metropolitan Police Department Video Surveillance Regulations Act of 2002, effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code § 5-133.19(b)), requires that rulemakings pertaining to MPD’s use of CCTV cameras be submitted to the Council for a 45-day review period, after which time they are deemed disapproved. Therefore, on June 7, 2019, Chairman Mendelson, at the request of the Mayor, introduced

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Proposed Resolution 23-357, the Closed Circuit Television Modernization Rulemaking Approval Resolution of 2019. The proposed resolution was referred to the Committee on the Judiciary and Public Safety (“Committee”) on June 18, 2019, and the Committee held a public roundtable on the proposed resolution on September 26, 2019. Without Council action, the proposed rulemaking will be deemed disapproved on October 24, 2019.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Closed Circuit Television Modernization Rulemaking Approval Emergency Resolution of 2019 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-240

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To approve, on an emergency basis, the proposed rulemaking submitted by the Mayor to amend Chapter 25 (Metropolitan Police Department Use of Closed Circuit Television) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Closed Circuit Television Modernization Rulemaking Approval Emergency Resolution of 2019”.

Sec. 2. Pursuant to section 2702(b) of the Metropolitan Police Department Video Surveillance Regulations Act of 2002, effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code § 5-133.19(b)), the Council approves the rulemaking proposed by the Metropolitan Police Department to amend Chapter 25 of Title 24 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Office of the Mayor, the Chief of Police of the Metropolitan Police Department, and the Administrator of the Office of Documents and Administrative Issuances.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-241

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to amend the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to expand the Attorney General's grant-making authority for crime reduction and violence interruption.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Attorney General Grant-Making Authority Emergency Declaration Resolution of 2019".

Sec. 2. (a) During Fiscal Year ("FY") 2018, the Office of the Attorney General ("OAG") established the Cure the Streets Program ("Program"). This Program is a crime reduction and violence interruption program that uses a public health approach to conflict resolution in communities where violent crime is prevalent. The Program trains known, trusted community residents to serve as violence interrupters in high-tension conflict situations that could escalate into shootings and homicides.

(b) OAG began the Program as a pilot, with 2 initial targeted neighborhoods in FY 2018. In the Attorney General Limited Grant-Making Authority Emergency Amendment Act of 2018, effective June 27, 2018 (D.C. Act 22-391; 65 DCR 7144), the Council provided \$360,000 in start-up funding for the Program and gave OAG grant-making authority in the same amount. This authority was made permanent in the Omnibus Public Safety and Justice Amendment Act of 2018, effective May 10, 2019 (D.C. Law 22-313; 66 DCR 1627).

(c) In the FY 2020 budget, the Council approved a one-time local funds allocation of \$3,762,278 for the Program, which OAG will use to expand to include 6 sites. The Council also authorized OAG to use \$3 million annually from the Litigation Support Fund to support crime reduction and violence prevention activities.

(d) In order to avoid delays and disruptions in the implementation of the Program for FY 2020, OAG now needs additional grant-making authority. This authority would allow OAG to make grants for Program operations in the 6 sites consistent with the Council's decision to provide enhanced funding. There is therefore a critical and immediate need to amend section 108c of Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 10, 2019 (D.C. Law 22-313; D.C. Official Code § 1-301.88f), to remove the \$360,000 limit on OAG's authority to make grants for crime reduction

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and violence interruption activities.

(e) This emergency legislation would also make the expanded authority retroactive to October 1, 2019.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Attorney General Grant-Making Authority Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-242

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To declare the existence of an emergency with respect to the need to approve an amended term sheet for the disposition of District-owned real property known as Truxton Circle, located at 1520-1522 North Capitol Street, N.W., known for tax and assessment purposes as Lot 0842 in Square 0615.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Truxton Circle Parcel Term Sheet Amendment Emergency Declaration Resolution of 2019”.

Sec. 2. (a) The Council approved the Truxton Circle Parcel Disposition Approval Resolution of 2017, effective December 5, 2017 (Res. 22-321; 65 DCR 36), which was accompanied by a term sheet, dated October 5, 2017, that was executed by the Deputy Mayor for Planning and Economic Development (“DMPED”) and the proposed developer. The term sheet outlined certain terms and conditions of the disposition of real property located in Ward 5 at 1520-1522 North Capitol Street, N.W., known for tax and assessment purposes as Lot 0842 in Square 0615 (“Property”).

(b) The selected development team of Cycle House, LLC, and its successors, assigns, or affiliates, (“Developer”) has worked diligently to meet the deadlines set forth in the schedule of performance of the Land Disposition Agreement with the District.

(c) The Developer has pursued the development of a mixed-use building consisting of affordable residential units, and commercial and retail space on the Property (“Project”).

(d) Since 2017, when the term sheet was executed, DMPED and the development team have identified several substantive business terms that require changes for the Project to move forward, including the addition of an affordable housing unit, and Council approval of the amended term sheet.

(e) Pursuant to section 1(b-4) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(b-4)), the Mayor submitted an amended term sheet, in redline form, that reflects certain changes related to the business terms of the transaction of the Property.

(f) The Mayor’s authority to dispose of the Property under the Truxton Circle Parcel Disposition Approval Resolution of 2017 expires on December 4, 2019.

ENROLLED ORIGINAL

(g) Closing for the Property cannot occur without Council approval of the amended term sheet.

(h) Without immediate approval of the amended term sheet by the Council, the Project will be unable to close before the expiration of the disposition authority.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Truxton Circle Parcel Term Sheet Amendment Emergency Approval Resolution of 2019 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-243

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 8, 2019

To approve, on an emergency basis, an amended term sheet for the disposition of District-owned real property known as Truxton Circle, located at 1520-1522 North Capitol Street, N.W., known for tax and assessment purposes as Lot 0842 in Square 0615.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Truxton Circle Parcel Term Sheet Amendment Emergency Approval Resolution of 2019”.

Sec. 2. (a) The Council approved the Truxton Circle Parcel Disposition Approval Resolution of 2017, effective December 5, 2017 (Res. 22-321; 65 DCR 36), which was accompanied by a term sheet, dated October 5, 2017, that was executed by the Deputy Mayor for Planning and Economic Development and the proposed developer. The term sheet outlined certain terms and conditions of the disposition of real property located at 1520-1522 North Capitol Street, N.W., known for tax and assessment purposes as Lot 0842 in Square 0615 (“Property”).

(b) Pursuant to section 1(b-4) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(b-4)), the Mayor submitted to the Council, along with this resolution, an amended term sheet, in redline form, that reflects certain changes related to the business terms of the transaction of the Property (“amended term sheet”).

(c) The Council approves the amended term sheet.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Transmittal.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-67

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To recognize the Baptist Ministers' Wives and Widows Association of Washington, D.C. and Vicinity, Incorporated for its many accomplishments and achievements, and to honor its President, Dr. Marie A. Bowe-Quick for her outstanding service as President of the organization.

WHEREAS, the Baptist Minister' Wives and Widows Association of Washington, D.C. and Vicinity, Incorporated (“BMWWA”) was founded in 1933 by Sister Alberta B. Randolph, wife of Reverend J. Harvey Randolph, who saw a need for ministers’ wives to come together and fellowship with one another as they encouraged and supported each other in their work, with their husbands, for the Lord;

WHEREAS, the BMWWA, comprised of its devoted forty-five members, is committed to strengthening the bonds of friendship to strive toward a wholesome, harmonious, sympathetic, and sisterly relationship among ministers' wives and widows everywhere;

WHEREAS, under the leadership of its 42nd President, Dr. Marie A. Bowe-Quick, BMWWA strengthens the Washington metropolitan region by encouraging effective giving and supporting charitable causes;

WHEREAS, Dr. Marie A. Bowe-Quick, along with her husband, Reverend Wayne B. Quick, Associate Minister at Vermont Avenue Baptist Church, work tirelessly together on several projects including assembling and distributing hygiene bags to men and woman in need and providing backpacks and snacks to underprivileged elementary students;

WHEREAS, Dr. Marie A. Bowe-Quick, now a retired principal, previously taught language arts at junior high schools in Washington, D.C. after receiving her Doctorate in Educational Leadership in Administration, Supervision, and Curriculum from The George Washington University Graduate School of Education and Human Development;

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WHEREAS, the BMWWA is committed to several service projects and events including its featured fundraiser, the Annual Fellowship Breakfast, which the BMWWA has hosted for over twenty years with an attendance of about 800 people;

WHEREAS, the Annual Fellowship Breakfast is expected to raise over \$5,000, which will provide educational scholarships to area youth and contribute to other service projects through the year, assisting local charities in the Washington D.C. metropolitan area;

WHEREAS, the BMWWA is dedicated to not only serving the local community, but also the community abroad in that they are currently working with the embassy of Ghana to provide sanitary supplies for the young women in need;

WHEREAS, the BMWWA presents “Faithful Servant” awards to recognize local congregants who have been identified by their churches as deserving of special honor; and

WHEREAS, on Saturday, April 13, 2019 at The Camelot of Upper Marlboro, the BMWWA will host its Annual Fellowship Breakfast and Scholarship Fund to promote the importance of education.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Baptist Ministers’ Wives and Widows Association of Washington, D.C. and Vicinity, Inc. Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council of the District of Columbia expresses its appreciation to the Baptist Ministers’ Wives and Widows Association of Washington, D.C. and Vicinity, Inc. for its immeasurable contributions to the District of Columbia, and recognizes its President, Dr. Marie A. Bowe-Quick, for her steadfast leadership and commitment to community service.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-68

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To recognize Caribbean-American Heritage Month and the Caribbean-American community as a valued and celebrated cultural community in the District of Columbia, and to declare the month of June as Caribbean-American Heritage Month in the District of Columbia.

WHEREAS, the District of Columbia is home to thousands of people of Caribbean descent;

WHEREAS, the first celebration of Caribbean-American month was conceived by residents of the Ward 4 of the District of Columbia, mainly, Doreen Thompson, Esq., in June 1996;

WHEREAS, in 2001, Mayor Anthony Williams first proclaimed June as Caribbean-American Heritage Month in the District of Columbia;

WHEREAS, in June 2005, the official campaign to nationally recognize the contributions of Caribbean people was jumpstarted when House of Representatives unanimously adopted H. Con. Res. 71, sponsored by Congresswoman Barbara Lee, recognizing the significance of Caribbean people and their descendants in the history and culture of the United States;

WHEREAS, on February 14, 2006, H. Con. Res. 71 similarly passed the Senate, culminating a two-year, bipartisan and bicameral effort;

WHEREAS, President George W. Bush issued the first Presidential proclamation declaring June as Caribbean-American Heritage Month on June 5, 2006;

ENROLLED ORIGINAL

WHEREAS, Ward 4 has been the historical base for the Caribbean community, and continues to have the largest number of persons of Caribbean heritage in the District of Columbia, and includes many Caribbean American restaurants and food businesses, as well as a major church of worship for the Caribbean community;

WHEREAS, Caribbean Americans played an active role in the civil rights movement and other social and political causes, and have continued to contribute to the government, military, arts, business, music, sports and science and technology in the District of Columbia and the United States;

WHEREAS, June of 2019 is the 18th Anniversary of celebrating Caribbean-American Heritage Month in the District of Columbia; and

WHEREAS, Caribbean-American Heritage Month is an opportunity to honor and celebrate the history, culture, and essential role of Caribbean Americans in the District of Columbia and across the United States.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Caribbean-American Heritage Month Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council recognizes the outstanding contributions and valued accomplishments of the Caribbean-American community in the District of Columbia and the United States of America, recognizes District residents of Caribbean heritage on the occasion of Caribbean-American Heritage Month, and declares June 2019 as “Caribbean-American Heritage Month” in the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-69

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To recognize and honor Takoma Park Baptist Church for its commitment, dedication, and service to the residents of Ward 4 and the District of Columbia, and to celebrate Takoma Park Baptist Church’s 100th anniversary.

WHEREAS, on June 8, 1919, the Takoma Park Baptist Church was organized, and in November 1919, The Columbia Association accepted the church as a member;

WHEREAS, in November 1920, Takoma Park Baptist Church was legally incorporated with the Reverend William E. LaRue becoming the first pastor on September 20, 1921;

WHEREAS, Takoma Park Baptist Church held worship services at Takoma Park Seventh-day Adventist Church from November 1921 until 1924 when the church building was officially opened during a week of dedication services, April 6, 1924 through April 13, 1924;

WHEREAS, the Takoma Park Baptist Church lives up to its mission statement “to glorify God by becoming relevant in our world, real in our relationships with God and others, and radical in our discipleship, as committed followers of Jesus Christ”;

WHEREAS, the vibrant congregation of Takoma Park Baptist Church is dedicated to community, service, and faith; and has numerous ministries that serve residents in Ward 4 and across the District of Columbia;

WHEREAS, the congregation of Takoma Park Baptist Church is led by Senior Pastor, Dr. Ernest Trice, an experienced faith leader who has served in that capacity since April 2006; and

WHEREAS, Takoma Park Baptist Church remains a pillar of the Ward 4 community, and after 100 years of service, continues to expand its outreach and social service activities in the District of Columbia.

ENROLLED ORIGINAL

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “100th Anniversary of Takoma Park Baptist Church Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council of the District of Columbia honors Takoma Park Baptist Church for 100 years of dedication and service to the residents of the District and celebrates Takoma Park Baptist Church’s 100th anniversary.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-70

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To celebrate the 20th anniversary of the Georgia Avenue Family Support Collaborative and to recognize the organization for the supportive services they provide for children, youth and families.

WHEREAS, the Georgia Avenue Family Support Collaborative was formed in 1998 to respond to the needs of at-risk families and children in Wards 1 and 4;

WHEREAS, in 1999, the Georgia Avenue Family Support Collaborative initiated services in the Petworth neighborhood of Ward 4, with Lutheran Social Services as the fiscal agent;

WHEREAS, in 2002, the Georgia Avenue Family Support Collaborative became a 501(c)3 nonprofit organization;

WHEREAS, the Georgia Avenue Family Support Collaborative focuses on building protective factors in parents and children, and through their community capacity building work they increase the skills, knowledge and advocacy ability of residents and partners, and strengthen their safety net;

WHEREAS, the Georgia Avenue Family Support Collaborative provides community-based child welfare and prevention services, youth-centered programming and assistance to District families transitioning from homelessness to permanent housing;

WHEREAS, through its various programs, the Georgia Avenue Family Support Collaborative offers varying services to at-risk children and their families both independently and in partnership with numerous government agencies, Ward 4 schools, community-based organizations and faith-based organizations;

WHEREAS, the Georgia Avenue Family Support Collaborative has assisted countless at-risk Ward 4 residents in finding permanent housing, keeping children in school, and becoming more self-reliant and healthier;

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WHEREAS, on Thursday, May 16th, 2019 the Georgia Avenue Family Support Collaborative will celebrate their twentieth anniversary at President Lincoln’s Cottage at The Soldiers’ Home; and

WHEREAS, after twenty years of dedicated service to Ward 4 and the District of Columbia, the Georgia Avenue Family Support Collaborative continues its commitment to providing meaningful service to the community.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Georgia Avenue Family Support Collaborative 20th Anniversary Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council congratulates the Georgia Avenue Family Support Collaborative on its 20th anniversary and recognizes the organization for its commitment to serving the residents of Ward 4 and the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-71

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To recognize Armstrong Alumni Association for 30 years of service.

WHEREAS, Armstrong Technical High School was established for African Americans as Armstrong Manual Training School and was 1 of 2 high schools in the District of Columbia authorized by Congress for vocational education, providing carpentry, machine, foundry, and blacksmith workshops as well as courses in bookkeeping, domestic arts, chemistry, and physics;

WHEREAS, Armstrong Technical High School’s dedication ceremony on September 24, 1902 featured Booker T. Washington as the keynote speaker;

WHEREAS, Armstrong Technical High School’s building, located at 1400 First Street, N.W., is a Renaissance Revival building designed by local architect Waddy B. Woody and was added to the National Register of Historic Places in 1996;

WHEREAS, Armstrong Technical High School was named for Samuel C. Armstrong, a white general who lead an African American Civil War regiment and founder of Hampton Institute, now Hampton University;

WHEREAS, Armstrong Technical High School’s name was changed from Armstrong Manual Training School to Armstrong Technical High School in 1925;

WHEREAS, Armstrong Technical High School closed its doors as a regular high school in 1958 and became the Armstrong Adult Education Center In 1964;

WHEREAS, Armstrong Technical High School building now houses the Friendship Public Charter School Armstrong Campus;

WHEREAS, Armstrong Technical High School graduates have garnered local, national, and international acclaim in their respective fields, including Edward Kennedy “Duke” Ellington, William “Billy” Eckstein, concert singer Lillian Evanti, Green Bay Packers Pro

ENROLLED ORIGINAL

Football Hall of Fame inductee Willie Wood, professional jazz artist John Malachi and former School Board Member Anita Ford Allen; and

WHEREAS, Armstrong Technical High School's Alumni Association has been active for the past 30 years, awarding scholarships to students seeking higher education and keeping Armstrong Technical High School's legacy alive as an integral part of the District of Columbia's history.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Armstrong Alumni Association Recognition Resolution of 2019".

Sec. 2. The Council of the District of Columbia congratulates the Armstrong Alumni Association for its 30 years of activity and service.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-72

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To honor and recognize Access Youth, a nonprofit organization whose mission is to provide at-risk youth with access to the skills, resources, and support they need to stay in school and out of the criminal justice system, on its 10th anniversary.

WHEREAS, founded in 2009, Access Youth has served over 3,500 Washington, D.C. high school students, their families, and community members through mediation, coaching, life skills education, and other interventions focused on empowering young people to use their voices and make choices to improve their lives;

WHEREAS, Access Youth is currently the only nonprofit in the District of Columbia working to curb the school-to-prison pipeline and help at-risk youth stay in school and out of the justice system through early intervention focused on three critical points along this spectrum: truancy, behavioral issues in school, and first-time arrests for low-level offenses;

WHEREAS, Access Youth provides early intervention and prevention programs at the points when youth first begin to exhibit excessive unexcused absences, school behavior issues, and first-time arrest by the police with programs involving individual and group coaching, life skills instruction, and other support;

WHEREAS, Access Youth empowers at-risk youth to have a voice, feel heard and understood, identify goals and plans to change course, and feel supported by caring adults in making better choices;

WHEREAS, youth who experience truancy, suspension or arrest are more likely to drop out of school and end up unemployed and/or incarcerated; furthermore, most of these youth are at-risk low-income, African-American youth who face an array of challenges in their home, neighborhood, and school environments;

WHEREAS, Access Youth’s programs are proven to help youths become more engaged in school and less likely to become truant, suspended, or arrested, as students in the truancy prevention program are three times as likely to avoid truancy as their peers;

ENROLLED ORIGINAL

WHEREAS, through Access Youth’s suspension prevention program, 75% of students avoided suspension for common offenses like fights, bullying, or threats;

WHEREAS, through Access Youth’s arrest prevention program, 75% of first-time-offender youth avoided re-arrest;

WHEREAS, under the leadership of its Founder and Executive Director, Jodi Ovca, Access Youth remains committed to advocating for and supporting the youth and their families of the District of Columbia; and

WHEREAS, on May 9, 2019, Access Youth will celebrate its 10th anniversary at the Longview Gallery in the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Access Youth 10th Anniversary Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council recognizes and honors Access Youth for its 10 years of outstanding service in improving the lives of the youth and families in Ward 4 and of the District of Columbia.

Sec. 3. This Resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-73

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To celebrate the 15th anniversary of the enactment of the Language Access Act of 2004 and the positive effects it has had on the District of Columbia and its residents.

WHEREAS, the District is home to over 35,000 residents who have limited proficiency in the English language;

WHEREAS, over 168 different languages are spoken across the District of Columbia;

WHEREAS, on February 3, 2003, the Language Access Act of 2003 was introduced by Councilmember Jim Graham and co-sponsored by Councilmembers Sandy Allen, Harold Brazil, Adrian Fenty, Phil Mendelson, and Carol Schwartz to eliminate linguistic barriers and ensure that all District residents, workers and visitors have equal access to local government services and programs, despite their English proficiency;

WHEREAS, on April 21, 2004, the Language Access Act of 2004 was enacted by Mayor Anthony A. Williams;

WHEREAS, on June 19, 2004, the Language Access Act of 2004 became effective law in the District of Columbia;

WHEREAS, the Language Access Act obligates the District government to provide equal access and participation in public services, programs, and activities for residents of the District of Columbia who cannot, or have limited capacity to, speak, read, or write English;

WHEREAS, the Language Access Act established an obligation on behalf of the District government to provide people with an English deficiency with free interpreter services, free access to vital documents in their preferred language, and the ability to make a complaint if denied any service at a District agency;

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WHEREAS, the Language Access Act requires these services to be available to any Limited English or non-English speaking population that makes up either 3% or 500 people of the population served or encountered;

WHEREAS, since the implementation of the Language Access Act, the District's Office of Human Rights has implemented a "Know Your Rights" campaign that has created Know Your Rights cards in six different languages outlining their right to assistance in their language and to eliminate language barriers;

WHEREAS, the limited English speaking and non-English speaking residents of the District of Columbia play a vital role in our city, whether it be owning local businesses or being involved in advocacy work and deserve the right to participate in our government and the Language Access Act has helped to ensure this; and

WHEREAS, the Language Access Act continues to provide greater accessibility and inclusion of the District's linguistically diverse communities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "15th Anniversary of the Language Access Act of 2004 Ceremonial Recognition Resolution of 2019".

Sec. 2. The Council recognizes the diverse collection of cultures and languages that add to the beautiful fabric of the District of Columbia, and celebrates the tremendous success of the Language Access Act of 2004 for continuing to make the District more welcoming and accessible for all.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-74

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To honor and recognize DC SCORES, a nonprofit organization whose mission is to provide at-risk youth with confidence and skills to succeed on the playing field, in the classroom, and in life, on its 25th anniversary.

WHEREAS, founded in 1994 by teacher Julie Kennedy at Marie Reed Elementary School, DC SCORES has served over 2,800 Washington, D.C. elementary and middle school students, with a current waiting list of more than 20 schools in the District;

WHEREAS, DC SCORES runs the only public soccer leagues for both elementary and middle school-aged children in the District of Columbia that combine art and service-learning with soccer;

WHEREAS, DC SCORES uses poetry to teach its students how to write creatively and perform spoken word so that by the end of the program, every student has written at least five original poems and performs in the annual DC SCORES Poetry Slam;

WHEREAS, through DC SCORES, students collaborate and develop service-learning plans to address issues identified in their schools and communities, including service plans for community cleanups, awareness campaigns, and fundraisers for homeless charities;

WHEREAS, in addition to its after-school programming, DC SCORES runs a six-week nutrition and soccer program and holds free summer camps focused on soccer and the arts;

WHEREAS, in 1999, DC SCORES expanded beyond Washington, D.C. and became America SCORES and now operates 14 programs in cities across the United States and Canada, including Boston, Chicago, Cleveland, Dallas, Denver, Los Angeles, Milwaukee, New York, Portland, St. Louis, Seattle, and Vancouver;

WHEREAS, in 2015, D.C. United began a partnership with DC SCORES with the goal of improving low-income children’s physical fitness and confidence while building literacy, increasing school engagement, and deepening their connections to their community;

ENROLLED ORIGINAL

WHEREAS, under the leadership of its Executive Director, Bethany Rubin Henderson, DC SCORES remains committed to advocating for and supporting the youth of the District of Columbia to have a voice, feel heard, understood, and empowered;

WHEREAS, in 2018, Executive Director Bethany Rubin Henderson was named Executive Director of the Year by the Washington Business Journal; further, in the same year, DC SCORES was listed as a top-rated nonprofit by GreatNonprofits;

WHEREAS, DC SCORES has contributed greatly to the Ward 4 community and has been providing arts programming and physical instruction to students for 20 years; and

WHEREAS, DC SCORES will celebrate its 25th anniversary in the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “DC SCORES 25th Anniversary Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council recognizes and honors DC SCORES for its 25 years of outstanding service in improving the lives of the youth and families in Ward 4 and of the District of Columbia.

Sec. 3. This Resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-75

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To recognize Reverend Freddie Davis, Senior Pastor of Pilgrim Rest Baptist Church, for his 28 years of service of as Chairman of the Pilgrim Rest Baptist Therapeutic Services, Inc., the overseeing Board of the Better Way Program.

WHEREAS, Reverend Freddie Davis is a native of Sumter, South Carolina where he attended public schools;

WHEREAS, Reverend Freddie Davis matriculated through the Washington Bible College, receiving his Bachelor of Theology from Northwestern College School of Religion in Washington, D.C.;

WHEREAS, Reverend Freddie Davis received a Bachelor of Arts and Master of Divinity from the Richmond Virginia Seminary located in Richmond, Virginia;

WHEREAS, Reverend Freddie Davis has previously served as the President of the National Capital Baptist Convention (NCBC) of Washington, D.C. & Vicinity; a Member of the Board of Directors of Project Bridges; Chairman of the Foreign Mission Board of the NCBC; a Member of the National Baptist Convention, USA, Inc. and a Member of The Missionary Baptist Ministers Conference of Washington, DC & Vicinity;

WHEREAS, Reverend Freddie Davis has served as the Senior Pastor of Pilgrim Rest Baptist Church for 41 years, and under his leadership the ministry has grown spiritually, numerically, and in assets; and

WHEREAS, Reverend Freddie Davis is the founder and visionary of the Pilgrim Rest Baptist Therapeutic Services, Inc., the overseeing arm of the Better Way Program, and has served for more than 28 years as its President of the Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Reverend Freddie Davis Recognition Resolution of 2019”.

ENROLLED ORIGINAL

Sec. 2. The Council of the District of Columbia honors of Reverend Freddie Davis for his 28 years of service of as Chairman of the Pilgrim Rest Baptist Therapeutic Services, Inc., which oversees the Better Way Program.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-76

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To celebrate the Step Afrika!’s 25th Anniversary Gala and to recognize Step Afrika! for 25 years of supporting and teaching young people in the District of Columbia.

WHEREAS, Step Afrika! was founded in 1994, making it the first professional company dedicated to the tradition of stepping;

WHEREAS, Step Afrika! blends percussive dance styles practiced by historically African American fraternities and sororities, African traditional dance, and influences from a variety of other dance and art forms;

WHEREAS, Step Afrika! uses the art of stepping as an educational tool for young people and focuses on teamwork, academic achievement, and cross-cultural understanding;

WHEREAS, through their annual 50-city tour of colleges and theatres, Step Afrika! can reach tens of thousands of Americans every year, as well as people worldwide through their global performances;

WHEREAS, Step Afrika! holds workshops, residency programs, and a variety of arts education activities for K-12 and college students in its home of Washington, D.C. and cities around the world;

WHEREAS, Step Afrika! currently ranks as one of the top ten African American dance companies in the United States;

WHEREAS, on Thursday, June 6th, 2019, Step Afrika! will hold their 25th Anniversary Gala, with District of Columbia Mayor, Muriel Bowser, serving as Honorary Chair to celebrate all the accomplishments of the organization throughout their spectacular history; and

WHEREAS, after 25 years of service to Ward 4, the District of Columbia, and young people across the country, Step Afrika! continues its commitment to guiding and supporting young people.

ENROLLED ORIGINAL

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Step Afrika! 25th Anniversary Gala Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council congratulates Step Afrika! on its 25th Anniversary Gala and recognizes the organization for its commitment to serving the residents of Ward 4 and the District of Columbia.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-77

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To celebrate the 15th Annual Shepherd Elementary School Spring Gala & Auction, and to recognize the Shepherd Elementary School Parent Teacher Association for its efforts to support the students of Shepherd Elementary School.

WHEREAS, the Shepherd Elementary School Spring Gala & Auction raises money to support Shepherd’s academic and enrichment programs, which benefit all the school’s students and their quality of education;

WHEREAS, the Shepherd Elementary School Spring Gala & Auction is a community event that brings together those involved with Shepherd Elementary School in various capacities to further enhance the education of the students of Shepherd Elementary School;

WHEREAS, the Shepherd Elementary School Spring Gala & Auction unites many Ward 4 businesses and residents alike to host a great event that benefits Ward 4 students;

WHEREAS, the Shepherd Elementary School Parent Teacher Association continues to go above and beyond to ensure that the students of Shepherd Elementary School are provided with one of the top educational experiences in the District;

WHEREAS, the long tradition of events such as the Annual Shepherd Elementary School Spring Gala further exemplify the dedication of the Shepherd Elementary School Parent Teacher Association to live up to it’s vision of being a self-sustaining organization capable of providing resources needed to help Shepherd Elementary School achieve its social, cultural and academic goals; and

WHEREAS, on May 4, 2019, the Shepherd Elementary School Parent Teacher Association will hold the 15th Annual Shepherd Elementary School Spring Gala & Auction.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “15th Annual Shepherd Elementary School Spring Gala & Auction Ceremonial Recognition Resolution of 2019”.

ENROLLED ORIGINAL

Sec. 2. The Council of the District of Columbia celebrates the Shepherd Elementary School Spring Gala & Auction on the occasion of its 15th Anniversary.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-78

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To celebrate the 38th anniversary of the Washington, D.C. Chapter of CARATS, Inc. and to recognize the Chapter for their longevity and involvement in the National Organization of CARATS, Inc.

WHEREAS, the DC Chapter of CARATS, Inc. was established on April 24, 1981 by twelve Charter Members Vivian Dean, Dorothy Gaither, Jeanette Hackney, Elaine Hancock, Barbara Harmon, Ruth Hedgepath, Ruth Hurd, Madelaine Jenkins, Geraldine Johnson, Carolyn Stubbs, Roberta Wise, and Peggy Wills;

WHEREAS, the group of women originally came together as a social group by the name of The Gadabouts and were enthusiastically sponsored by the Baltimore Chapter of CARATS, Inc.

WHEREAS, CARATS, Inc. is a national organization of 15 chapters comprised of distinguished and accomplished women dedicated to promote social, educational, and civic involvement among members;

WHEREAS, the CARATS motto is “Embracing Dimensional Friendships”, and the women involved are charming individuals, actively involved in both the organization and their communities, responsible, appreciative of their heritage and truthful and sincere in their endeavors;

WHEREAS, the Washington, D.C. Chapter of CARATS, Inc. have hosted the organization’s National Conclave on 3 occasions including in 1990, 2002 and 2016;

WHEREAS, the Washington, D.C. Chapter of CARATS Inc. have been heavily involved in the national organization with Chapter members serving in roles such as the organizing team that went on to form the National CARATS, Inc., 2 National Vice Presidents, National Financial Secretary, and National Recording Secretary and Chair of Policy Guidelines;

WHEREAS, chapter member DeVera Redmond currently serves as the 18th National President of CARATS, Inc.

ENROLLED ORIGINAL

WHEREAS, on Saturday, April 27th, 2019 the Washington, D.C. Chapter of the CARATS, Inc. will celebrate their 38 years of dimensional friendships with their 22 current Chapter members; and

WHEREAS, after 38 years of dedicated involvement to the communities of Ward 4 and the District of Columbia, as well as their national organization, the Washington, D.C. Chapter of CARATS, Inc. continues its commitment to be women with vigor, vision and vitality.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Washington, D.C. Chapter of CARATS, Inc. 38th Anniversary Ceremonial Recognition Resolution of 2019”.

Sec. 2. The Council congratulates the Washington, D.C. Chapter of CARATS, Inc. on their 38th anniversary and recognizes the organization for its commitment to community involvement, support and leadership.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-79

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 7, 2019

To congratulate Letha M. Blount, founding director of the Washington, DC Chapter of the American Classic Woman of the Year on the celebration of her 89th birthday.

WHEREAS, Letha Blount become a resident of Washington D.C. in 1952 and after training at Wayne School of Nursing and United School of Nursing, became a licensed practical nurse in 1953;

WHEREAS, A former Ms. Senior Ward 2, Letha Blount was crowned Queen of Washington, DC in 2000 and represented the District of Columbia in the national American Classic Woman of the Year Pageant in Charleston, S.C.;

WHEREAS, In 2002, Letha M. Blount became the founder and director of the American Classic woman of the Year pageant in Washington, D.C.;

WHEREAS, Letha Blount played a key role in establishing the Foster House Nutrition Program for senior citizens and served as a volunteer program coordinator as well as president of the Foster House Tenant Association; and

WHEREAS, Letha Blount has been a member of New Bethel Baptist Church for over 50 years serving as an Usher, Nurse Committee Chairperson and Board Member.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution be cited as the "Letha Blount Recognition Resolution of 2019" and declares July 29th as Letha Blount Day in the District of Columbia.

Sec. 2. The Council of the District of Columbia recognizes, honors and salutes Letha Blount for her commitment to excellence and for her numerous contributions to the District of Columbia and her citizens.

Sec. 3. This resolution shall take effect upon the first date of publication in the District of Columbia Register.

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

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

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

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

- | | |
|---------|---|
| B23-471 | Independent Compliance Office Establishment Act of 2019

Intro. 9-17-19 by Councilmembers McDuffie, Nadeau, Allen, T. White, Todd, Bonds, R. White, and Grosso and referred sequentially to the Committee on Facilities and Procurement, the Committee on Labor and Workforce Development, and the Committee on Business and Economic Development with comments from the Committee on Judiciary and Public Safety |
| <hr/> | |
| B23-472 | Electronic Smoking Device Sales Restriction Amendment Act of 2019

Intro. 9-24-19 by Councilmember Cheh and referred to the Committee on Judiciary and Public Safety with comments from the Committee on Health and the Committee on Business and Economic Development |
| <hr/> | |
| B23-487 | Service Animal in Training Clarification Amendment Act of 2019

Intro. 10-8-19 by Councilmembers Cheh, R. White, and T. White and referred to the Committee on Judiciary and Public Safety |
-

- B23-488 Student Activity Fund Theatrical and Music Performance Expenditures Act of 2019
- Intro. 10-8-19 by Councilmember Cheh and referred sequentially to the Committee on Education and the Committee of the Whole
-
- B23-489 Intra-District Transfer Limitation Amendment Act of 2019
- Intro. 10-8-19 by Councilmember Cheh and Chairman Mendelson and referred to the Committee of the Whole
-
- B23-490 Pre-qualification for Homeownership Tax Relief Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers Bonds, Grosso, McDuffie, Cheh, Nadeau, and Todd and referred to the Committee on Business and Economic Development with comments from the Committee on Housing and Neighborhood Revitalization
-
- B23-491 Ranked Choice Voting Act of 2019
- Intro. 10-8-19 by Councilmembers Grosso, Silverman, Nadeau, and Cheh and referred to the Committee on Judiciary and Public Safety
-
- B23-492 Local Residents Voting Rights Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers Grosso, R. White, Silverman, Bonds, Nadeau, Evans, Todd, and Allen and referred to the Committee on Judiciary and Public Safety
-
- B23-493 Enhanced Representation Charter Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers Grosso, Nadeau, and R. White and referred to the Committee of the Whole
-
- B23-494 Ban on Non-Compete Agreements Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers Silverman, Evans, Allen, T. White, Cheh, Nadeau, Bonds, and Chairman Mendelson and referred to the Committee on Labor and Workforce Development
-

- B23-495 Healthy Beverage Choices Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers Nadeau, Cheh, Todd, Allen, Bonds, T. White, Grosso, Silverman, and Chairman Mendelson and referred sequentially to the Committee on Business and Economic Development and the Committee of the Whole
-
- B23-496 Fair Access to Selective High Schools Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers Allen, T. White, Bonds, Nadeau, Grosso, Cheh, and R. White and referred sequentially to the Committee on Education and the Committee of the Whole
-
- B23-497 Renewable Energy Future Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers R. White, Evans, McDuffie, Grosso, Nadeau, Todd, T. White, Cheh, Bonds, Silverman, Allen, Gray, and Chairman Mendelson and referred to the Committee on Facilities and Procurement with comments from the Committee on Transportation and the Environment
-
- B23-498 Intersectional Discrimination Protection Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers T. White, Todd, Grosso, Nadeau, and Silverman and referred to the Committee on Government Operations
-
- B23-499 Housing Provider Repeated Violation Enhancement Amendment Act of 2019
- Intro. 10-8-19 by Councilmembers T. White, Cheh, Nadeau, and Todd and referred to the Committee of the Whole
-
- B23-500 Unemployment Compensation Employer Classification Amendment Act of 2019
- Intro. 10-9-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development
-

B23-501 Sanctuary Values Amendment Act of 2019

Intro. 10-9-19 by Councilmembers Allen, Silverman, Evans, Grosso, T. White, Nadeau, Cheh, Gray, R. White, McDuffie, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

PROPOSED RESOLUTIONS

PR23-467 Food Policy Council Philip Sambol Confirmation Resolution of 2019

Intro. 9-27-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

PR23-502 Board of Dentistry Iris Morton Confirmation Resolution of 2019

Intro. 10-8-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-503 Board of Dentistry Yolanda Josey-Baker Confirmation Resolution of 2019

Intro. 10-8-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-504 Board of Dentistry John R. Bailey Confirmation Resolution of 2019

Intro. 10-8-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR23-505 Alcoholic Beverage Control Board Ed Grandis Confirmation Resolution of 2019

Intro. 10-9-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

PR23-506 District of Columbia Housing Authority Board of Commissioners Neil Albert Confirmation Resolution of 2019

Intro. 10-9-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 23-42, Substandard Construction Relief Amendment Act of 2019
Bill 23-333, Illegal Construction Repair and Mitigation Amendment Act of 2019
General Conservation on Construction Code Enforcement

on

Thursday, November 7, 2019 at 11:00 a.m.
Room 500 (Council Chambers), John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 23-42**, the “Substandard Construction Relief Amendment Act of 2019,” and **Bill 23-333**, the “Illegal Construction Repair and Mitigation Amendment Act of 2019.” The hearing will also be an opportunity for the Committee to receive testimony regarding code enforcement by the Department of Consumer and Regulatory Affairs (DCRA) against illegal construction in the District. The hearing will be held on **Thursday, November 7, 2019 at 10:00 a.m. in Room 500 (Council Chambers)** of the John A. Wilson Building.

The purpose of Bill 23-42 is to require that code violators who damage adjoining or abutting property be ordered to repair the damage or pay restitution to the property owner where a factfinder determines that a violation covered under the code resulted in physical damage to the adjoining or abutting property. The purpose of Bill 23-333 is to require the repair and mitigation of damage done to an adjoining or abutting property in cases where the adjoining or abutting real property owner demonstrates that the damage was caused by construction and DCRA has issued a stop work order.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or to call Blaine Stum, Legislative Policy Advisor, at (202) 724-8092, and to provide your name, address, telephone number, organizational affiliation, and title (if any) by the close of business Tuesday, **November 5, 2019**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on November 5, 2019 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a larger number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed 24 hours in advance of the hearing at <http://www.chairmanmendelson.com/circulation>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, November 21, 2019.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING**

on

Bill 23-251, Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019

PR 23-444, Modification of the Highway Plan to Remove a Portion of 39th Street, N.W., S.O. 18-41885, Resolution of 2019

Bill 23-332, Abandonment of the Highway Plan for Anacostia Avenue, N.E., S.O. 19-04866, Act of 2019

Bill 23-474, Closing of Public Street and Elimination of Building Restriction Lines and Abutting Squares 3765 and 3767, S.O. 18-41561, Act of 2019

on

Thursday, November 7, 2019 at 10:00 a.m.

**Room 500 (Council Chambers), John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 23-251**, the “Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019,” **PR 23-444**, the “Modification of the Highway Plan to Remove a Portion of 39th Street, N.W., S.O. 18-41885, Resolution of 2019,” **Bill 23-332**, the “Abandonment of the Highway Plan for Anacostia Avenue, N.E., S.O. 19-04866, Act of 2019,” and **Bill 23-474**, the “Closing of Public Street and Elimination of Building Restriction Lines and Abutting Squares 3765 and 3767, S.O. 18-41561, Act of 2019.” The hearing will be held on **Thursday, November 7, 2019 at 10:00 a.m. in Room 500 (Council Chambers)** of the John A. Wilson Building.

The purpose of **Bill 23-251** and **PR 23-244** is to remove a portion of 39th Street, N.W., located within Lot 801 in Square 1823 from the Plan of Permanent Systems of Highways to facilitate mixed-use development of the former Equitable Life/Fannie Mae headquarters at 3900 Wisconsin Avenue, N.W., in Ward 3. The purpose of **Bill 23-332** is to remove a portion of Anacostia Avenue, N.E., located within Lot 806 in Square 5113 (near Kenilworth Park and Aquatic Gardens) from the Plan of Permanent Systems of Highways to facilitate development of a five-story 155-unit affordable assisted living facility for senior citizens in Ward 7. The purpose of **Bill 23-474** is to close a public alley in Square 3765, between Kennedy St. N.E. and Ingraham St. N.E., and eliminate building restriction lines along 4th St. N.E., Kennedy St. N.E. and Ingraham St. N.E. abutting Squares 3765 and 3767.

Those who wish to testify are asked to email the Committee of the Whole at cw@dccouncil.us, or to call Blaine Stum, Legislative Policy Advisor, at (202) 724-8092, and to provide your name, address, telephone number, organizational affiliation, and title (if any) by

the close of business Tuesday, **November 5, 2019**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on November 5, 2019 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lims.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed 24 hours in advance of the hearing at <http://www.chairmanmendelson.com/circulation>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, November 21, 2019.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
THE COMMITTEE ON HEALTH**

ANNOUNCES A PUBLIC HEARING ON

BILL 23-0322, THE “WINDOW BLIND SAFETY NOTIFICATION ACT OF 2019”

BILL 23-0341, THE “PERINATAL HEALTH WORKER TRAINING ACCESS ACT OF 2019”

**BILL 23-0362, THE “MATERNAL HEALTH CARE IMPROVEMENT AND EXPANSION
ACT OF 2019”**

**WEDNESDAY, DECEMBER 18, 2019
11:00 A.M., ROOM 500, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a Public Hearing on Bill 23-0322, the “Window Blind Safety Notification Act of 2019”, Bill 23-0341, the “Perinatal Health Worker Training Access Act of 2019”, and Bill 23-0362, the “Maternal Health Care Improvement and Expansion Act of 2019.” The hearing will be held on Wednesday, December 18, 2019, at 11:00 a.m., in Room 500 of the John A. Wilson Building.

Bill 23-0322, the “Window Blind Safety Notification Act of 2019”, requires hospitals, health care facilities and birth centers to provide notice regarding the danger window blinds pose to children.

Bill 23-0341, the “Perinatal Health Worker Training Access Act of 2019”, requires the Department of Health to distribute grant funds to promote a perinatal health worker training program for residents in Wards 5, 7, and 8 in the health field.

Bill 23-0362, the “Maternal Health Care Improvement and Expansion Act of 2019”, requires individual or group health plans and health insurance coverage through Medicaid or the D.C. Healthcare Alliance program to cover at least two postpartum healthcare visits, home visits, fertility preservation services, and transportation stipends for travel to and from prenatal and postpartum visits. It also requires Medicaid to provide coverage for pregnant District residents that meet income eligibility requirements for one year postpartum. Among other things, it establishes a Center on Maternal Health and Wellness.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Malcolm Cameron, Committee Legislative Analyst at (202) 654-6179 or mcameron@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the

organization, preferably by 5:00 p.m. on Monday, December 16, 2019. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to mcameron@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 113, Washington D.C. 20004.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
THE COMMITTEE ON HEALTH**

ANNOUNCES A PUBLIC HEARING ON

BILL 23-0326, THE “POSTPARTUM COVERAGE ACT OF 2019”

**BILL 23-0360, THE “CONTINUING NUTRITION EDUCATION AMENDMENT ACT OF
2019”**

**BILL 23-0416, “BETTER ACCESS FOR BABIES TO INTEGRATED EQUITABLE
SERVICES ACT OF 2019”**

BILL 23-0430, THE “ACCESS TO BIOSIMILARS AMENDMENT ACT OF 2019”

**WEDNESDAY, NOVEMBER 13, 2019
12:00 P.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a Public Hearing on Bill 23-0326, the “Postpartum Coverage Act of 2019”, Bill 23-0360, the “Continuing Nutrition Education Amendment Act of 2019”, Bill 23-0416, the “Better Access for Babies to Integrated Equitable Services Act of 2019”, and Bill 23-0430, the “Access to Biosimilars Amendment Act of 2019.” The hearing will be held on Wednesday, November 13, 2019, at 12:00 p.m., or immediately following the Committee on Health and Committee on Education’s joint hearing, in Room 412 of the John A. Wilson Building.

Bill 23-0326, the “Postpartum Coverage Act of 2019”, extends postpartum inpatient and outpatient benefits to at least a year after childbirth.

Bill 23-0360, the “Continuing Nutrition Education Amendment Act of 2019”, requires continuing education for certain health occupations on the subject of nutrition.

Bill 23-0416, the “Better Access for Babies to Integrated Equitable Services Act of 2019”, adds provisions to the Comprehensive Newborn Screening Program to establish discharge standards and authorizes penalties for failure to comply with the standards or perform the necessary screens. It would also authorize the Department of Health to collect information from hospitals and birthing facilities to create a report card regarding compliance with newborn screening requirements, lactation support services, parent education, discharge standards, and clinical quality measures. It also creates a

Perinatal and Infant Health Advisory Committee that would advise on ways to reduce preterm birth and newborn screening activities.

Bill 23-0430, the “Access to Biosimilars Amendment Act of 2019”, authorizes licensed pharmacists to dispense interchangeable biological products, and requires notifications to physicians when such interchangeable biological products are dispensed. An interchangeable biological product is a biological product licensed by the US Food and Drug Administration to meet the standards of interchangeability under federal law and determined to be therapeutically equivalent by the USFDA.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Malcolm Cameron, Committee Legislative Analyst at (202) 654-6179 or mcameron@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization, preferably by 5:00 p.m. on Monday, November 11, 2019. Witnesses should bring 15 copies of their written testimony to the roundtable.

The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to mcameron@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 113, Washington D.C. 20004.

**Council of the District of Columbia
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

ANNOUNCE A PUBLIC HEARING ON

**B23-0404, “DEPUTY MAYOR FOR PLANNING AND ECONOMIC
DEVELOPMENT LIMITED GRANT MAKING AUTHORITY FOR CHECK IT
ENTERPRISES AMENDMENT ACT OF 2019”;**

**B23-0439, “LONGTIME RESIDENT BUSINESS PRESERVATION AMENDMENT
ACT OF 2019”**

**B23-0438, “SMALL AND LOCAL BUSINESS ASSISTANCE AMENDMENT ACT
OF 2019”; AND**

**B23-0432, “PROTECTING LOCAL AREA COMMERCIAL ENTERPRISES
AMENDMENT ACT OF 2019”**

**Wednesday, November 6, 2019, 10:00 a.m.
Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, November 6, 2019, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development will hold a public hearing to consider the following bills: B23-0404, the “Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Check IT Enterprises Amendment Act of 2019,” B23-0438, the “Small and Local Business Assistance Amendment Act of 2019,” B23-0439, the “Longtime Resident Business Preservation Amendment Act of 2019,” and B23-0432, the “Protecting Local Area Commercial Enterprises Amendment Act of 2019.” The stated purpose of B23-0404 is to amend the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012 to provide the department authority to issue a grant to Check IT Enterprises, to enable acquisition of a facility in historic Anacostia, which will serve as an educational and resource center for at-risk youth. The stated purpose of B23-0438 is to provide

qualified small and local businesses with a tax credit for a portion of rent or property taxes paid and to reduce the taxable value of commercial property if it is rented or owned by a qualifying small and local business. The stated purpose of B23-0439, the “Longtime Resident Business Preservation Amendment Act of 2019,” is to create a Longtime Resident Business Preservation Program to provide grants and low-interest loans for longtime resident businesses at risk of displacement. Lastly, the stated purpose of B23-0432 is to establish the Legacy Business Program within the Department of Small and Local Business Development in order to provide longtime District-based businesses with technical and financial assistance and to provide property owners with financial incentives to enter into or renew affordable leases with legacy business owners.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee on Business and Economic Development via email at bmcclore@dccouncil.us or at (202) 727-3888, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Monday, November 4th**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **five single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to bmcclore@dccouncil.us. For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee on Business and Economic Development at bmcclore@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on Wednesday, November 13, 2019.**

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH & COMMITTEE ON EDUCATION
NOTICE OF JOINT PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
THE COMMITTEE ON HEALTH**

AND

**COUNCILMEMBER DAVID GROSSO, CHAIRPERSON
THE COMMITTEE ON EDUCATION**

ANNOUNCE A JOINT PUBLIC HEARING ON

**BILL 23-0467, THE “STUDENT MEDICAL MARIJUANA PATIENT FAIRNESS
AMENDMENT ACT OF 2019”**

**WEDNESDAY, NOVEMBER 13, 2019
11:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, and Councilmember David Grosso, Chairperson of the Committee on Education, announce a Joint Public Hearing on Bill 23-0467, the “Student Medical Marijuana Patient Fairness Amendment Act of 2019”. The hearing will be held on Wednesday, November 13, 2019, at 11 a.m., in Room 412 of the John A. Wilson Building.

Bill 23-0467 amends the Legalization of Marijuana for Medical Treatment Initiative of 1998 and the Student Access to Treatment Act of 2007 to allow for administration of medical marijuana at schools in certain cases.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Malcolm Cameron, Committee Legislative Analyst at (202) 654-6179 or mcameron@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization, preferably by 5:00 p.m. on Monday, November 11, 2019.

Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to mcameron@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 113, Washington D.C. 20004.

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

**THE PERFORMANCE OF THE BOARD OF ETHICS AND GOVERNMENT
ACCOUNTABILITY'S OFFICE OF GOVERNMENT ETHICS**

**Thursday, November 21, 2019, 10:00 a.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Thursday, November 21, 2019, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public oversight roundtable on "The Performance of the Board of Ethics and Government Accountability's Office of Government Ethics". The roundtable will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 10:00 a.m.

The Board of Ethics and Government Accountability ("BEGA") is responsible for overseeing the Office of Government Ethics, which investigates allegations of ethical misconduct by District government employees and public officials and enforces the District's Code of Conduct. On July 5, 2019, Councilmember Allen requested that the Office of the District of Columbia Auditor conduct a focused review of BEGA's handling of a June 2018 complaint filed with the agency relating to the Housing Production Trust Fund and the Department of Housing and Community Development. On October 2, 2019, the Office of the District of Columbia Auditor issued its report, titled "BEGA Mishandled Whistleblower Complaint on Housing Procurement", available here: <http://dcauditor.org/report/bega-mishandled-whistleblower-complaint-on-housing-procurement/>. The roundtable will discuss the report's findings, including those related to ethics complaint handling, and examine the operations of, and the Board's oversight of, the Office of Government Ethics.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the roundtable should contact the Committee via email at judiciary@dccouncil.us and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Friday, November 15**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes.

Witnesses should bring **twenty copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

For witnesses who are unable to testify at the roundtable, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee at judiciary@dccouncil.us. **The record will close at the end of the business day on Friday, December 6.**

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

NOTICE OF PUBLIC ROUNDTABLE ON

The District's Snow Removal Operations Plan for Winter 2019 - 2020

Wednesday, November 6th, 2019, at 11:30 AM
in Room 412 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Wednesday, November 6, 2019, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public roundtable on the District's Snow Removal Operations Plan for Winter 2019 - 2020. The roundtable will begin at 11:30 AM in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is for the Committee to learn about what the Department of Public Works has done to prepare for the coming snow season and the agency's plans to coordinate with other entities on snow removal and treatment. The Department of Public Works has primary responsibility for the District's snow removal operations, and efficient operations require the participation and coordination of many government agencies and hundreds of employees.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, Staff Assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring eight copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on November 20, 2019.

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

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

ANNOUNCES A PUBLIC ROUNDTABLE OF THE COMMITTEE ON

PR23-0391, the “District of Columbia Housing Finance Agency Board of Directors Stanley Jackson Confirmation Resolution of 2019”

PR23-0393, the “District of Columbia Housing Finance Agency Board of Directors Buwa Binitie Confirmation Resolution of 2019”

PR23-0395, the “Rental Housing Commission Rupa Puttagunta Confirmation Resolution of 2019”

and

PR23-0491, the “District of Columbia Housing Finance Agency Board of Directors Heather Howard Confirmation Resolution of 2019”

on

Wednesday, October 23, 2019, at 11:00 AM
John A. Wilson Building, Room 120
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember Anita Bonds, Chairperson of the Committee on Housing and Neighborhood Revitalization, will hold a public roundtable on PR23-0391, the “District of Columbia Housing Finance Agency Board of Directors Stanley Jackson Confirmation Resolution of 2019”, PR23-0393, the “District of Columbia Housing Finance Agency Board of Directors Buwa Binitie Confirmation Resolution of 2019”, PR23-0395, the “Rental Housing Commission Rupa Puttagunta Confirmation Resolution of 2019”, and PR23-0491, the “District of Columbia Housing Finance Agency Board of Directors Heather Howard Confirmation Resolution of 2019”. The public roundtable will be held on Wednesday, October 23, 2019, at 11:00 AM in Room 120 of the John A. Wilson Building.

The purpose of PR23-0391 is to confirm the reappointment of Stanley Jackson to the Housing Finance Agency Board of Directors. The purpose of PR23-0393 is to confirm the reappointment of Buwa Binitie as a member of the Housing Finance Agency Board of Directors. The purpose of PR23-0395 is to confirm the reappointment of Rupa Puttagunta to the Rental Housing Commission. The purpose of PR23-0491 is to confirm the appointment of Heather Howard to the Housing Finance Agency Board of Directors. The purpose of this roundtable is to receive testimony from government and public witnesses as to the fitness of these nominees for their respective positions.

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization, at (202) 724-8198, or email housing@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on October 22, 2019. Persons wishing to testify are encouraged to submit 15 copies of written testimony. Oral testimony should be limited to three minutes.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Community Development, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 112, Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, November 6, 2019.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

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

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

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

GBM 23-49: FY 2019 Grant Budget Modifications of September 12, 2019

RECEIVED: 14-day review begins October 9, 2019

GBM 23-50: FY 2019 Grant Budget Modifications of September 23, 2019

RECEIVED: 14-day review begins October 11, 2019

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 18, 2019
Protest Petition Deadline: December 2, 2019
Roll Call Hearing Date: December 16, 2019

License No.: ABRA-111740
Licensee: Annabelle, LLC
Trade Name: Annabelle
License Class: Retailer's Class "C" Restaurant
Address: 2130 Florida Ave NW
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 2 ANC 2B SMD 2B01

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 December 16, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests to change hours inside premises.

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

Sunday closed
Monday through Saturday 5:30 pm - 2am

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

Sunday through Saturday 10 am - 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 18, 2019
Protest Petition Deadline: December 2, 2019
Roll Call Hearing Date: December 16, 2019

License No.: ABRA-111740
Licensee: Annabelle, LLC
Trade Name: Annabelle
License Class: Retailer’s Class “C” Restaurant
Address: 2130 Florida Ave NW
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 2 ANC 2B SMD 2B01

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 December 16, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests to increase Total Occupancy Load from 99 to 144.

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

Sunday closed
Monday through Saturday 5:30 pm – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 18, 2019
 Protest Petition Deadline: December 2, 2019
 Roll Call Hearing Date: December 16, 2019
 Protest Hearing Date: February 5, 2020

License No.: ABRA-113353
 Licensee: Grand Cata Concept, LLC
 Trade Name: Grand Cata at La Cosecha
 License Class: Retailer’s Class “B” Full Service Grocery
 Address: 1280 4th Street, N.E.
 Contact: Andrew Kline, Esq.: (202) 686-7600

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 December 16, 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 **February 5, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new Full-Service Grocery B.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 9am – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 18, 2019
Protest Petition Deadline: December 2, 2019
Roll Call Hearing Date: December 16, 2019
Protest Hearing Date: February 5, 2020

License No.: ABRA-115347
Licensee: Future LLC
Trade Name: Oyster Oyster
License Class: Retailer’s Class “C” Restaurant
Address: 1440 8th Street, N.W.
Contact: Matt Minora: (202) 625-7700

WARD 6

ANC 6E

SMD 6E01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on December 16, 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 **February 5, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer’s Class C Restaurant with a seating capacity of 40 and Total Occupancy Load of 80. Summer Garden with 25 seats.

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

Sunday through Thursday 9am – 12am, Friday and Saturday 9am – 1am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTSIDE IN SUMMER GARDEN

Sunday through Saturday 9am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 18, 2019
Protest Petition Deadline: December 2, 2019
Roll Call Hearing Date: December 16, 2019
Protest Hearing Date: February 5, 2020

License No.: ABRA-115069
Licensee: Mrs. X, LLC
Trade Name: Studio 52
License Class: Retailer's Class "C" Tavern
Address: 1508 Okie Street, N.E.
Contact: Charletta Lewis, Agent: (703)-919-7704

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 December 16, 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 February 5, 2020 at 4:30 p.m.

NATURE OF OPERATION

New Retailer's Class "C" Tavern functioning as an event space for private events for corporations, organizations, and other independent businesses. Applicant is applying for an Entertainment and Cover Charge Endorsement. Total Occupancy Load is 160 with seating for 52 patrons.

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

Sunday through Saturday 9 am - 2 am

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

PUBLIC HEARING NOTICE

Thursday, November 7, 2019 at 6:30pm

Old DC Council Chambers, 441 4th St, NW

Consolidated Annual Performance and Evaluation Plan (CAPER)

District of Columbia's (DC) Fiscal Year 2019/ HUD Fiscal Year 2018

Polly Donaldson, Director, DC Department of Housing and Community Development (DHCD) will conduct a public hearing on Thursday, November 7, 2019, to discuss the District's Fiscal Year (FY) 2019/ HUD Fiscal Year (FY) 2018 performance in its use of funds received from the U.S. Department of Housing and Urban Development (HUD). DHCD received approximately \$33,658,259 from HUD in DC Fiscal Year 2019/HUD Fiscal Year 2018 through five entitlement programs: the Community Development Block Grant (CDBG) Program; the HOME Investment Partnerships Program (HOME); the Emergency Solutions Grant (ESG) Program; National Housing Trust Fund (HTF) and the Housing Opportunities for Persons with AIDS (HOPWA) Program. DHCD administers the CDBG, HTF and HOME funds directly; the Department entered into an agreement with the DC Department of Human Services (DHS) for the prevention of homelessness to administer the ESG grant; and transferred the HOPWA grant to the DC Department of Health (DOH).

In preparation for the submission of the District of Columbia's FY 2019/HUD FY 2018 Consolidated Annual Performance and Evaluation Report (CAPER) to HUD, DHCD is soliciting public comment on the District's effectiveness during DC FY 2019/HUD FY 2018 using federal funds to meet the District's housing and community development needs. These comments will be included as part of DHCD's and the District's evaluation, as required by federal regulations (24 CFR 91.520). The comment period begins on November 1, 2019 and will end on December 2, 2019. The CAPER hearing is reserved for a discussion of the District's FY 2019/HUD FY2018 performance.

This year's hearing will be held on Thursday, November 7, 2019, at 6:30 pm at the Old DC Council Chambers, 441 4th St NW, Washington, DC (Judiciary Square Red Line Metro Station). If you would like to testify, you are encouraged to register in advance by sending an e-mail to opm.questions@dc.gov. The public may also contact Tilla Hall on (202) 442-7239 to attend, register or testify at the CAPER hearing. Please provide your name, address, telephone number, and organization affiliation, if any.

Telecommunications Device for the Deaf (TDD) relay service will be provided by calling (800) 201-7165. Sign language interpretation and language translation services will be available upon request by calling Tilla Hall, seven days prior to the hearing on (202) 442-7239. Persons, who require interpretation or language translation, must specify the language of preference (i.e. Spanish, Vietnamese, Chinese-Mandarin, Korean, Cantonese, Amharic, or French). Language interpretation service will be provided to pre-registered persons only.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS**PUBLIC HEARING NOTICE****FISCAL YEAR 2021 BUDGET**

**Tuesday, October 29, 2019; 6:00PM – 8:00PM
Maury Elementary School
1250 Constitution Ave NE, Washington, DC 20002**

The District of Columbia Public Schools (DCPS) will convene a public budget hearing on Tuesday, October 29, 2019 from 6:00PM – 8:00PM at Maury Elementary School on 1250 Constitution Ave NE, Washington, DC 20002. The purpose of the hearing is to gather input from the public about the upcoming Fiscal Year 2021 (School Year 2020-2021) budget.

Members of the public are invited to provide testimony at the hearing. Individuals or groups wishing to testify should register online at <http://bit.ly/dcpsbudgethearing2019>. Testimony will be limited to three minutes during the hearing. Witnesses should bring five (5) copies of their documentation, including a written copy of their testimony and any supplemental information. All documents will be included as part of the official record.

The registration deadline is 3:00PM on Friday, October 25, 2019. If an individual or group is unable to register online, please contact the School Funding Team at (202) 297-2048.

The official record of this hearing will be transmitted to the Mayor and Council of the District of Columbia pursuant to DC Official Code § 38-917(1).

Interpretation services are available upon request. Please include any requests for interpretation services during the registration process.

Any additional questions or concerns should be directed to the School Funding Team at 202-297-1048 or dcps.schoolfunding@k12.dc.gov.

**BOARD OF ZONING ADJUSTMENT
(REVISED)PUBLIC HEARING NOTICE
WEDNESDAY, DECEMBER 11, 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 EIGHT

19819A **Application of Southern Hills LP**, pursuant to 11 DCMR Subtitle Y §
ANC 8D 704, for a modification of significance to demolish the existing seven
building apartment complex and to revise the project by construction of
six apartment houses with 349 residential units, and a new community
service center in the RA-1 Zone at premises 4201, 4209, 4219, 4333,
4337, and 4347 4th Street S.E. and 304 Livingston Terrace S.E.
(Square 6167, Lots 45, 46, 47, 48, 49, 50 and 51).

WARD EIGHT

20158 **Application of SE Washington Development Associates II LLP**,
ANC 8E pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception
under the new residential development requirements of Subtitle U §
421.1, to construct a new, three-story 56-68 unit apartment house in the
RA-1 Zone at premises 3311-3329 14th Place S.E. (Square 5917, Lots
40-41).

WARD SEVEN

20160 **Application of Darcy Scott**, pursuant to 11 DCMR Subtitle X,
ANC 7D Chapter 10, for a use variance from the use requirements of Subtitle U
§ 201.1, to permit a two-story rear addition to an existing
nonconforming semi-detached flat in the R-2 Zone at premises 4210
Brooks Street N.E. (Square 5088, Lot 23).

BZA PUBLIC HEARING NOTICE
DECEMBER 11, 2019
PAGE NO. 2

WARD TWO

20164 **Application of Ford's Theatre Society**, pursuant to 11 DCMR
ANC 2C Subtitle X, Chapter 9, for special exceptions under Subtitle C § 1504.1
 from the penthouse setback requirements of Subtitle C § 1502.1(b) and
 under Subtitle I § 205.5 from the rear yard requirements of Subtitle I §
 205.1 to construct a two-story addition and a penthouse addition to the
 building at 512 10th Street N.W and to renovate and combine the two
 existing mixed-use buildings in the D-7 Zone at premises 512-514 10th
 Street N.W. (Square 347, Lots 21 and 825).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

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

Do you need assistance to participate?

Amharic

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

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

BZA PUBLIC HEARING NOTICE
DECEMBER 11, 2019
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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

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Korean

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Spanish

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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.

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**

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, DECEMBER 18, 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 TWO

20159 **Application of JJ Brothers LLC**, pursuant to 11 DCMR Subtitle X, ANC 2F Chapter 9, for a special exception under the use requirements of Subtitle I § 303.1(b), to permit an eating and drinking establishment on the ground floor of an existing two-story building in the D-1-R Zone at premises 1133 11th Street N.W. (Square 341, Lot 821).

WARD SIX

20162 **Application of Sandip Mehta and Angela Mizeur**, pursuant to 11 ANC 6B DCMR Subtitle X, Chapter 9, for special exceptions under the accessory building use requirements of Subtitle U § 301.1(e), and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 504.1 to construct a two-story accessory structure to be used as a garage with a second-story dwelling unit in the RF-3 Zone at premises 400 3rd Street S.E. (Square 793, Lot 33).

WARD SIX

20163 **Application of 719 SIXTH ST LLC**, pursuant to 11 DCMR Subtitle ANC 6C X, Chapter 9, for a special exception under Subtitle E § 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a three-story rear addition to an existing attached principal dwelling unit in the RF-1 Zone at premises 719 6th Street, N.E. (Square 859, Lot 121).

BZA PUBLIC HEARING NOTICE
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WARD ONE

20166 **Application of Destination Pet LLC**, pursuant to 11 DCMR Subtitle
ANC 1C X, Chapter 9, for a special exception under the use requirements of
 Subtitle U § 513.1(l), to permit a veterinary office and veterinary
 boarding hospital in the MU-4 Zone at premises 2218-2220 18th Street,
 N.W. (Square 2553, Lot 78).

PLEASE NOTE:

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

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

Do you need assistance to participate?

Amharic

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የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ሙከራ ተርጓሚ) ካስፈለገዎት እባክዎን ከስብሰባው አዎንታዊ ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

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DECEMBER 18, 2019

PAGE NO. 3

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚጠቅሱበት ሰነድ ነው።*Chinese*

您需要有人帮助参加活动吗？

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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

At its regular public meeting held on June 24, 2019, the Zoning Commission voted to grant OP’s request to set down the proposed text amendment for a public hearing.

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; new text is shown in **bold and underline** text).

I. Proposed Amendments to Subtitle B, DEFINITIONS, RULES OF MEASUREMENT AND USE CATEGORIES

Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, is proposed to be amended to revise the definition of “Public School” as follows:

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...¹

School, Public: A building, **structure**, or use within a building operated or chartered by the District of Columbia Board of Education or the District of Columbia Public Charter School Board for educational purposes and such other community uses as deemed necessary and desirable.

The term shall include all educational functions, the building or structure required to house them, and all accessory uses normally incidental to a public school, including but not restricted to athletic fields, field houses, gymnasiums, parking lots, greenhouses, playgrounds, stadiums, and open space.

The term also shall include a community-centered school campus; provided, that no part of the building or structure shall be used to house the administrative offices or maintenance and repair shop intended or used for the entire school system, or as a technical or vocational school.

...

II. Proposed Amendments to SUBTITLE C, GENERAL RULES

Section 702, EXEMPTIONS FROM MINIMUM PARKING REQUIREMENTS, of Chapter 7, VEHICLE PARKING of Subtitle C, GENERAL RULES, is proposed to be amended to clarify parking requirements for public schools in § 702.1 including a new §

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

702.2, with current §§ 702.2 and 702.3 renumbered as new §§ 702.3 and 702.4, to read as follows:

702.1 Except as provided in Subtitle C § 702.2, ~~Within~~ within any zone other than an R or RF zone, the minimum vehicle parking requirement identified in the table of Subtitle C § 701.5 shall be reduced by fifty percent (50%) for any site which is located:

(a) ...

702.2 In any zone, a public school shall be permitted to reduce its minimum vehicle parking requirement by fifty percent (50%) pursuant to the criteria of Subtitle C § 702.1(a), (b), or (c).

~~702.2~~ 702.3 Any applicant claiming a reduction in required parking ...

~~702.3~~ 702.4 Vehicle parking shall not be required ...

A new § 714.3 is proposed to be added to § 714, SCREENING REQUIREMENTS FOR SURFACE PARKING, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, to read as follows:

714.3 Notwithstanding the requirements of Subtitle C § 714.2, screening for a public school's external surface parking shall be provided in accordance with the following provisions:

(a) Screening shall be provided around the entire perimeter of the surface parking area, except no screening is required to be provided for driveways and pedestrian exits or entrances that open directly onto a street, sidewalk or alley; and

(b) The screening shall be either:

(1) A solid or non-solid fence or wall at least forty-two (42) inches high; or

(2) Evergreen shrubs or trees that are planted between four feet (4 ft.) to six feet (6 ft.) on center, and that are at least forty-two inches (42") in height when planted and maintained in perpetuity.

Section 805, LONG-TERM BICYCLE PARKING SPACE REQUIREMENTS, of Chapter 8, BICYCLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended to

clarify bicycle parking requirements for public schools including a new § 805.11, to read as follows:

805.1 ~~All~~ Except for Subtitle C § 805.11, all required long-term bicycle parking spaces shall be located within the building of the use requiring them.

...

805.11 Public schools may locate some or all required long-term bicycle parking spaces outside the school building generating the requirement subject to the following conditions:

(a) Required long-term bicycle parking spaces shall be located on the public school property on which the school building is located and shall be available to all occupants of the building;

(b) Required long-term bicycle spaces shall be located in one or more dedicated bicycle parking areas within one-hundred and twenty feet (120 ft.) of a primary entrance to the school building;

(c) Required long-term bicycle spaces shall be provided either as bicycle racks that meet the standards of Subtitle C §§ 801.3 and 801.4, or as bicycle lockers that meet the standards of Subtitle C § 805.7; and

(d) An aisle at least four feet (4 ft.) wide between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking shall be provided. Aisles shall be kept clear of obstructions at all times.

A new § 806.3 is proposed to be added to § 806, REQUIREMENTS FOR SHOWERS AND CHANGING FACILITIES – NON- RESIDENTIAL USES, of Chapter 8, BICYCLE PARKING, of Subtitle C, GENERAL RULES, to clarify shower and changing facility requirements for public schools, with current §§ 806.3 through 806.5 renumbered as new §§ 806.4 through 806.6, to read as follows:

806.3 Notwithstanding the requirements of Subtitle C §§ 806.4 to 806.6, public elementary schools shall provide a minimum of two (2) showers and two (2) clothing lockers for staff and shall not be required to provide shower and changing facilities for students.

~~806.3~~ 806.4 A non-residential use that requires ...

~~806.4~~ 806.5 A non-residential use that requires ...

~~806.5~~ 806.6 Showers and lockers required by this section ...

The title of Chapter 16, PUBLIC EDUCATION, RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended to read as follows:

CHAPTER 16 PUBLIC EDUCATION, RECREATION OR LIBRARY BUILDINGS OR STRUCTURES

Subsection 1600.1 of § 1600, GENERAL PROVISIONS, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended to read as follows:

1600.1 The provisions of this chapter control the height and bulk of ~~public education buildings and structures~~, public recreation and community centers, and public libraries.

Subsection 1601.1 of § 1601, DEVELOPMENT STANDARDS, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended as follows:

1601.1 Public ~~education buildings and structures~~, public recreation and community centers, or public libraries subject to this chapter, but not otherwise regulated by the development standards of this chapter, shall be subject to the development standards for the zone in which the building or structure is proposed.

Subsection 1602.1 of § 1602, HEIGHT, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be deleted, with current §§ 1602.2 through 1602.4 renumbered as new §§ 1602.1 through 1602.3, to read as follows:

~~1602.1 A public school building or structure may be erected to a height as follows:~~

- ~~(a) In an RF-3 zone, a public school building or structure may be erected to a height not exceeding forty feet (40 ft.);~~
- ~~(b) In an R, RF-1, or RF-2 zone, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft.);~~
- ~~(c) In an RF-4, RF-5, RA, and RC-1 zone, a public school building or structure may be erected to a height not exceeding ninety feet (90 ft.); and~~
- ~~(d) In all other zones a public school building or structure may be erected to the maximum height permitted within the zone.~~

~~1602.2~~ 1602.1 A public recreation and community center may be erected ...

~~1602.3~~ 1602.2 A public library may be built to ...

~~1602.4~~ 1602.3 A college or university building or structure ..

Section 1603, LOT OCCUPANCY, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended, including deleting references to public schools and §§ 1603.5 and 1603.6, with current §§ 1603.7 and 1603.8 renumbered as new §§ 1603.5 and 1603.6, to read as follows:

1603.1 A public recreation and community center shall not ...

...

1603.4 Public ~~education buildings and structures and public~~ libraries shall not occupy a lot in excess of the maximum lot occupancy as set forth in the following table:

TABLE C § 1603.4: MAXIMUM LOT OCCUPANCY FOR PUBLIC EDUCATION BUILDINGS AND STRUCTURES AND PUBLIC LIBRARIES

Zone District	Structure	Maximum Percent of Lot Occupancy (%)
RA-6, RA-7, RA-8, RA-9	Public school buildings and structures	40%
	Public library	40%
R-1-A, R-1-B, R-2, R-3, R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-13, R-14, R-15, R-16, R-17, R-19, R-20, R-21, RF-1, RF-2, RF-3	Public school buildings and structures	60%
	Public library	40%
RA-1, RA-2, RC-1	Public school buildings and structures	60%
	Public library	60%
RA-3, RA-4, RA-5, RA-10, RA-11	Public school buildings and structures	75%
	Public library	75%
All other zones	Public school buildings and structures	None prescribed
	Public library	None prescribed

~~1603.5~~ — ~~A public education building or structure may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in this section subject to all of the following conditions:~~

- ~~(a) — The portion of the building, excluding closed court, exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and~~
- ~~(b) — The total lot occupancy shall not exceed seventy percent (70%) in the R-2, R-3, R-10, R-13, R-17, R-20, and RF zones.~~

~~1603.6~~ — ~~The roof area of a public education building or structure shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level provided direct pedestrian access not less than ten feet (10 ft.) in width from at least two (2) public rights-of-way shall be provided to each roof area used for these purposes.~~

~~1603.7~~ 1603.5 A public recreation and community center may ...

~~1603.8~~ 1603.6 A public library may be permitted a lot occupancy ...

Subsection 1604.2 of § 1604, DENSITY – GROSS FLOOR AREA (GFA) AND FLOOR AREA RATIO (FAR), of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended, to read as follows:

1604.2 Public ~~education buildings and structures,~~ public recreation and community centers; and public libraries shall be permitted a maximum floor area ratio as set forth in the following table:

TABLE C § 1604.2: MAXIMUM FAR FOR PUBLIC EDUCATION BUILDINGS AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES

Zone	Structure	Max-imum FAR
R-1-A, R-1-B, R-2, R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-14, R-15, R-16, R-19, R-21	Public libraries	None prescribed
	Public school buildings and structures	0.9
	Public recreation and community center	0.9
	All other structures	None prescribed
R-3, R-13, R-17, R-20	Public libraries	None prescribed
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	None prescribed

Zone	Structure	Maximum FAR
RF-1, RF-2, RF-3	Public libraries	None prescribed
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	None prescribed
RF-4, RF-5	Public libraries	2.0
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	None prescribed
RA-1, RA-6	Public libraries	2.0
	Public school buildings and structures	1.8
	Public recreation and community center	0.9
	All other structures	0.9
RA-2, RA-7, RA-8, RC-1	Public libraries	2.0
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	1.8
RA-3	Public libraries	3.0
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	3.0
RA-4, RA-9	Public libraries	3.5
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	3.5
RA-5, RA-10	Public libraries	5.0
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	5.0
MU-1, MU-2, MU-15, MU-16, MU-23	Public libraries	As permitted by zone
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	As permitted by zone
MU-3	Public school buildings and structures	1.8
	All other structures	As permitted by zone
MU-10, MU-22, MU-29	Public school buildings and structures	3.0
	All other structures	As permitted by zone
All other zones	All structures	As permitted by zone

Section 1605, MINIMUM LOT SIZE AND DIMENSIONS, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended by deleting §§ 1605.1 through 1605.4, with current §§ 1605.5 renumbered as new §§ 1605.1, to read as follows:

~~1605.1 Unless otherwise permitted or required, use of an existing or creation of a new lot for public school buildings or structures shall be subject to the following minimum lot dimensions as set forth in the following table:~~

TABLE C § 1605.1: MINIMUM LOT DIMENSIONS FOR PUBLIC SCHOOL BUILDINGS OR STRUCTURES

Zone	Structure	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)
R-1-A	Public school or structure	15,000	120
R-1-B	Public school or structure	15,000	120
R-2, R-10	Public school or structure	9,000	120
R-3, R-13, R-17, R-20	Public school or structure	9,000	120
RF (R-4)	Public school or structure	9,000	120
RA-1, RA-6	Public school or structure	9,000	80
RA-2, RA-7, RA-8, RA-9,	Public school or structure	9,000	80
RA-3, RA-4, RA-5, RA-10	Public school or structure	None prescribed	80
All other zones	All other structures	None prescribed	None

~~1605.2 For public education buildings or structures, minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.~~

~~1605.3 For public education buildings or structures on split-zoned lots, the minimum lot width and minimum lot area requirements, if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.~~

~~1605.4 For public education buildings or structures on a lot with more than one (1) street front, the minimum lot width may include the measurement of all street frontages, provided the lot width can be measured without interruption by another lot~~

~~1605.5~~ 1605.1 Except in the RA-1 zone, a public recreation and community center ...

Section 1606, REAR YARD, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended to read as follows:

1606.1 A rear yard shall be provided for each ~~public education building and structure~~, public recreation and community center, or public library located in any R, RF, or RA zone, the minimum depth of which shall be as set forth in the following table:

TABLE C § 1606.1: REAR YARD FOR ~~PUBLIC EDUCATION BUILDING AND STRUCTURE~~, PUBLIC RECREATION AND COMMUNITY CENTER, OR PUBLIC LIBRARY

Zone	Minimum Rear Yard (ft.)
R-1-A, R-1-B, R-6, R-7, R-8, R-9, R-11, R-12, R-14, R-15, R-16, R-19, R-21	25 feet
R-2, R-3, R-10, R-13, R-17, R-20, all RF, RA-1, RA-6	20 feet
RA-2, RA-3, RA-4, RA-7, RA-8, RA-9, RC-1	4" inches per foot 1' of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15'
RA-5, RA-10	3" inches per foot 1' of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12'

1606.2 In the case of a corner lot ...

1606.3 In the case of a lot proposed to be used by a ~~public education building and structures~~ public recreation and community center, or public library that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.

Section 1607, SIDE YARD, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended, to read as follows:

1607.1 In the case of a lot proposed to be used by a ~~public education building and structure~~, public recreation and community center, or public library that abuts or adjoins on one (1) or more side lot lines a public open space, recreation area, or reservation, the required side yard shall not be required.

Subsection 1610.2 of Section 1610, SPECIAL EXCEPTION, of Chapter 16, PUBLIC RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is proposed to be amended to read as follows:

1610.2 Exceptions to the development standards of this chapter for ~~public education buildings and structures~~ or a public library shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

III. Subtitle D, RESIDENTIAL HOUSE (R) ZONES

The title of § 104, PUBLIC EDUCATION, RECREATION, OR LIBRARY BUILDINGS AND STRUCTURES, of Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

104 PUBLIC ~~EDUCATION, SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, OR LIBRARY BUILDINGS AND STRUCTURES~~ AND PUBLIC LIBRARIES

Section 104, PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES, of Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, including adding a new § 104.2, with current § 104.2 renumbered as new § 104.3, to read as follows:

104.1 Public ~~education buildings and structures~~, public recreation and community centers, or public libraries in the R zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

104.2 Public schools in the R zones shall be permitted subject to the conditions of Subtitle D, Chapter 49.

~~104.2~~ **104.3** Development standards not otherwise addressed by Subtitle C, Chapter 16, ~~or Subtitle D, Chapter 49~~, shall be those development standards for the zone in which the building or structure is proposed.

Subsection 207.7 of § 207, HEIGHT, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), is proposed to be deleted, with current §§ 207.8 and 207.9 renumbered as new §§ 207.7 and 207.8, to read as follows:

~~207.7~~ ~~A public school building or structure may be erected to a height not exceeding sixty feet (60 ft.).~~

~~207.8~~ **207.7** A public recreation and community center ...

~~207.9~~ **207.8** Where required by the Height Act, a height in excess ...

A new Chapter 49, PUBLIC SCHOOLS, is proposed to be added to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

4900 GENERAL PROVISIONS

4900.1 The provisions of this chapter control certain height and bulk of public schools.

4901 DEVELOPMENT STANDARDS

4901.1 The specific standards of this chapter shall govern public schools; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.

4902 MINIMUM LOT SIZE AND DIMENSIONS

4902.1 Unless otherwise permitted or required, use of an existing or creation of a new lot for public schools shall be subject to the following minimum lot dimensions as set forth in the following table:

TABLE D § 4902.1: MINIMUM LOT DIMENSIONS FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>
<u>R-1-A, R-1-B</u>	<u>15,000</u>	<u>120</u>
<u>R-2, R-3, R-10, R-13, R-17, R-20</u>	<u>9,000</u>	<u>120</u>
<u>All other R zones</u>	<u>As required by zone</u>	<u>As required by zone</u>

4902.2 Minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.

4902.3 On split-zoned lots, the minimum lot width and minimum lot area requirements, if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.

4902.4 On a lot with more than one (1) street front, the minimum lot width may include the measurement of all street frontages, provided the lot width can be measured without interruption by another lot.

4903 DENSITY – FLOOR AREA RATIO (FAR)

4903.1 Public schools shall be permitted a maximum floor area ratio of 1.8 in the R zones.

4904 **HEIGHT**

4904.1 **Public schools shall be permitted a maximum building height, not including the penthouse, as set forth in the following table:**

TABLE D § 4904.1: MAXIMUM BUILDING HEIGHT FOR PUBLIC SCHOOL

<u>Zone</u>	<u>Maximum Building Height (ft.)</u>	<u>Maximum Number of Stories</u>
<u>R-11, R-12, R-13</u>	<u>40</u>	<u>No Limit</u>
<u>All other R zones</u>	<u>60</u>	<u>No Limit</u>

4905 **PENTHOUSES**

4905.1 **Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.**

4906 **LOT OCCUPANCY**

4906.1 **Public schools shall not occupy a lot in excess of the maximum lot occupancy as set forth in the following table:**

TABLE D § 4906.1: LOT OCCUPANCY FOR PUBLIC SCHOOL

<u>Zone</u>	<u>Maximum Lot Occupancy (%)</u>
<u>R-6, R-7, R-8, R-9, R-10, R-11, R-14, R-15</u>	<u>30</u>
<u>All other R zones</u>	<u>60</u>

4906.2 **A public school subject to the 60% lot occupancy maximum may occupy the lot upon which it is located in excess of sixty percent (60%) subject to all of the following conditions:**

(a) The portion of the building, excluding closed court, exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and

(b) The total lot occupancy shall not exceed seventy percent (70%) in the R-2, R-3, R-13, R-17, and R-20 zones.

4907 **REAR YARD**

4907.1 **A rear yard shall be provided for each public school the minimum depth of which shall be as set forth in the following table:**

TABLE D § 4907.1: REAR YARD FOR PUBLIC SCHOOL

<u>Zone</u>	<u>Minimum Rear Yard (ft.)</u>
<u>R-2, R-3, R-10, R-13, R-17, R-20</u>	<u>20</u>
<u>All other R zones</u>	<u>25</u>

4907.2 **In the case of a lot that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.**

4908 **SIDE YARD**

4908.1 **Two (2) side yards, each a minimum of eight feet (8 ft.) in width, shall be provided in the R-1-A, R-1-B, R-6, R-7, R-8, R-9, R-11, R-12 R-14, R-15, R-16, R-19, and R-21 zones.**

4908.2 **In the R-2 and R-10 zones, one (1) side yard, a minimum of eight feet (8 ft.) in width, shall be provided for all semi-detached buildings and two (2) side yards, each a minimum of eight feet (8 ft.) in width, shall be provided for all detached buildings.**

4908.3 **In the R-3, R-13, R-17 and R-20 zones a side yard shall not be required. However, except as provided in Subtitle D §§ 4908.4 and 4908.5, if the yard is provided, it shall be not less than five feet (5 ft.) wide.**

4908.4 **In the case of a lot that abuts or adjoins a public open space, recreation area, or reservation on one (1) or more side lot line, a required side yard may be reduced or omitted.**

4908.5 **A side yard may be reduced or omitted along a side street abutting a corner lot in an R zone.**

4909 **FRONT SETBACK**

4909.1 **A front setback is not required for a public school.**

4910 **COURTS**

4910.1 **Where a court is provided, it shall have the following minimum dimensions:**

TABLE D § 4910.1: MINIMUM DIMENSIONS FOR A COURT

<u>Zone</u>	<u>Open Court Width</u>	<u>Closed Court Width</u>	<u>Closed Court Area</u>
<u>R zones</u>	<u>2.5 in./ft. of height of court; 6 ft. minimum</u>	<u>2.5 in./ft. of height of court; 12 ft. minimum</u>	<u>Twice the square of the required width of court dimension;</u>

			<u>250 sq. ft. minimum</u>
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4911 **PERVIOUS SURFACE**

4911.1 **The minimum percentage of pervious surface of a lot shall be thirty percent (30%).**

4912 **SPECIAL EXCEPTION**

4912.1 **Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.**

IV. Proposed Amendments to Subtitle E, RESIDENTIAL FLAT (RF) ZONES

The title of § 104, PUBLIC EDUCATION, RECREATION, OR LIBRARY BUILDINGS AND STRUCTURES, of Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (RF) ZONES, is proposed to be amended to read as follows:

104 PUBLIC EDUCATION, SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, OR LIBRARY BUILDINGS AND STRUCTURES AND PUBLIC LIBRARIES

Section 104, PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES, of Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (RF) ZONES, is proposed to be amended by adding new § 104.2 and renumbering existing § 104.2 as new § 104.3, to read as follows:

104.1 Public ~~education buildings and structures,~~ public recreation and community centers, or public libraries in the RF zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

104.2 **Public schools in the RF zones shall be permitted subject to the conditions of Subtitle E, Chapter 49.**

~~104.2~~ **104.3** Development standards not otherwise addressed by Subtitle C, Chapter 16, or Subtitle E, Chapter 49, shall be those development standards for the zone in which the building or structure is proposed.

Subsection 204.1, of § 204, PERVIOUS SURFACE, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), is proposed to be amended as follows:

204.1 The minimum pervious surface requirements for new construction on a lot in an RF zone are set forth in the following table:

TABLE E § ~~205.1~~ 204.1: MINIMUM PERVIOUS SURFACE REQUIREMENTS

	Lot Size Minimum (sq. ft.)	Pervious Surface Minimum (%)
Residential use	Less than 1,800	0%
	1,801 to 2,000	10%
	Larger than 2,000	20%
Places of worship	Not applicable	50%
Public recreation and community center	Not applicable	50%
Public schools	Not applicable	50%
All other structures	Not applicable	50%

A new Chapter 49, PUBLIC SCHOOLS, is proposed to be added, to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

4900 GENERAL PROVISIONS

4900.1 The provisions of this chapter control certain height and bulk of public schools.

4901 DEVELOPMENT STANDARDS

4901.1 The specific standards of this chapter shall govern public schools; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.

4902 MINIMUM LOT SIZE AND DIMENSIONS

4902.1 Unless otherwise permitted or required, use of an existing or creation of a new lot for public schools shall be subject to the following minimum lot dimensions as set forth in the following table:

TABLE E § 4902.1: MINIMUM LOT DIMENSIONS FOR PUBLIC SCHOOLS

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
RF zones	9,000	120

4902.2 Minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.

4902.3 On split-zoned lots, the minimum lot width and minimum lot area requirements, if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.

4902.4 On a lot with more than one (1) street front, the minimum lot width may include the measurement of all street frontages, provided the lot width can be measured without interruption by another lot.

4903 DENSITY – FLOOR AREA RATIO (FAR)

4903.1 Public schools shall be permitted a maximum floor area ratio of 1.8 in the RF zones.

4904 HEIGHT

4904.1 Public schools shall be permitted a maximum building height, not including the penthouse, as set forth in the following table:

TABLE E § 4904.1: MAXIMUM HEIGHT FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum Height (ft.)</u>	<u>Maximum Number of Stories</u>
<u>RF-1, RF-2</u>	<u>60</u>	<u>No limit</u>
<u>RF-3</u>	<u>40</u>	<u>No limit</u>
<u>RF-4, RF-5</u>	<u>90</u>	<u>No limit</u>

4905 PENTHOUSES

4905.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

4906 LOT OCCUPANCY

4906.1 Public schools shall not occupy a lot in excess of the maximum lot occupancy as set forth in the following table:

TABLE E § 4906.1: MAXIMUM LOT OCCUPANCY FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum Lot Occupancy (%)</u>
<u>RF-1, RF-2, RF-3</u>	<u>60</u>
<u>RF-4, RF-5</u>	<u>No limit</u>

4906.2 A public school may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in this section subject to all of the following conditions:

(a) The portion of the building, excluding closed court, exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and

(b) The total lot occupancy shall not exceed seventy percent (70%).

4907 REAR YARD

4907.1 A rear yard with a minimum depth of twenty feet (20 ft.) shall be provided for each public school.

4907.2 In the case of a lot that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.

4908 SIDE YARD

4908.1 In the RF zones a side yard shall not be required. However, except as provided in Subtitle E §§ 4908.2 and 4908.3, if the yard is provided, it shall be not less than five feet (5 ft.) wide.

4908.2 In the case of a lot that abuts or adjoins a public open space, recreation area, or reservation on one (1) or more side lot line, a required side yard may be reduced or omitted.

4908.3 A side yard may be reduced or omitted along a side street abutting a corner lot in an RF zone.

4909 FRONT SETBACK

4909.1 A front setback is not required for a public school.

4910 COURTS

4910.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE E § 4910.1: MINIMUM DIMENSIONS FOR A COURT

<u>Zone</u>	<u>Open Court Width</u>	<u>Closed Court Width</u>	<u>Closed Court Area</u>
<u>RF zones</u>	<u>2.5"/1' of height of court; 6' minimum</u>	<u>2.5"/1' of height of court; 12' minimum</u>	<u>Twice the square of the required width of court dimension; 250 sq. ft. minimum</u>

4911 **PERVIOUS SURFACE**

4911.1 **The minimum percentage of pervious surface of a lot shall be fifty percent (50%).**

4912 **SPECIAL EXCEPTION**

4912.1 **Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.**

V. Proposed Amendments to Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES

The title of § 104, PUBLIC EDUCATION, RECREATION, OR LIBRARY BUILDINGS AND STRUCTURES, of Chapter 1, INTRODUCTION TO RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

104 **PUBLIC EDUCATION, SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, OR LIBRARY BUILDINGS AND STRUCTURES AND PUBLIC LIBRARIES**

Section 104, PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES, of Chapter 1, INTRODUCTION TO RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, including adding new §§ 104.2 and 104.3, to read as follows:

104.1 Public ~~education buildings and structures~~ recreation and community centers, or public libraries in the RA zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

104.2 **Public schools in the RA zones shall be permitted subject to the conditions of Subtitle D, Chapter 49.**

104.3 **Development standards not otherwise addressed by Subtitle C, Chapter 16, or Subtitle F, Chapter 49, shall be those development standards for the zone in which the building or structure is proposed.**

A new Chapter 49, PUBLIC SCHOOLS, is proposed to be added, to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

4900 **GENERAL PROVISIONS**

4900.1 The provisions of this chapter control certain height and bulk of public schools.

4901 DEVELOPMENT STANDARDS

4901.1 The specific standards of this chapter shall govern public schools; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.

4902 MINIMUM LOT SIZE AND DIMENSIONS

4902.1 Unless otherwise permitted or required, use of an existing or creation of a new lot for public schools shall be subject to the following minimum lot dimensions as set forth in the following table:

TABLE F § 4902.1: MINIMUM LOT DIMENSIONS FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>
<u>RA-1, RA-2, RA-6, RA-7, RA-8, RA-9</u>	<u>9,000</u>	<u>80</u>
<u>RA-3, RA-4, RA-5, RA-10</u>	<u>No minimum</u>	<u>80</u>

4902.2 Minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.

4902.3 On split-zoned lots, the minimum lot width and minimum lot area requirements, if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.

4902.4 On a lot with more than one (1) street front, the minimum lot width may include the measurement of all street frontages, provided the lot width can be measured without interruption by another lot.

4903 DENSITY – FLOOR AREA RATIO (FAR)

4903.1 Public schools shall be permitted a maximum floor area ratio as set forth in the following table:

TABLE F § 4903.1: MAXIMUM FLOOR AREA RATIO (FAR) FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum FAR</u>
<u>RA-1, RA-2, RA-6, RA-7, RA-8</u>	<u>1.8</u>
<u>RA-3, RA-4, R-5, RA-9, R-10</u>	<u>3.0</u>

4904 **HEIGHT**

4904.1 **Public schools shall be permitted a maximum building height of ninety feet (90 ft.), not including the penthouse.**

4904.2 **Public schools shall not be subject to a maximum number of stories.**

4905 **PENTHOUSES**

4905.1 **Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.**

4906 **LOT OCCUPANCY**

4906.1 **Public schools shall not occupy a lot in excess of the maximum lot occupancy as set forth in the following table:**

TABLE F § 4906.1: MAXIMUM LOT OCCUPANCY FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum Lot Occupancy (%)</u>
<u>RA-1, RA-2</u>	<u>60</u>
<u>RA-3, RA-4, RA-5, RA-10, RA-11</u>	<u>75</u>
<u>RA-6, RA-7, RA-8, RA-9</u>	<u>40</u>

4906.2 **A public school may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in this section provided the portion of the building, excluding closed court, exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories**

4907 **REAR YARD**

4907.1 **A rear yard shall be provided for each public school the minimum depth of which shall be as set forth in the following table:**

TABLE F § 4907.1: REAR YARD FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Minimum Rear Yard (ft.)</u>
<u>RA-1, RA-6</u>	<u>20</u>
<u>RA-2, RA-3, RA-4, RA-7, RA-8, RA-9</u>	<u>4" per 1' of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15'</u>

<u>Zone</u>	<u>Minimum Rear Yard (ft.)</u>
<u>RA-5, RA-10</u>	<u>3” per 1” of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12’</u>

4907.2 In the case of a lot that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.

4908 SIDE YARD

4908.1 In the RA-1 zone, one (1) side yard, a minimum of eight feet (8 ft.) in width, shall be provided.

4908.2 In an RA zone other than the RA-1 zone, a side yard shall not be required. However, except as provided in Subtitle F §§ 4908.3 and 4908.4, if the yard is provided, it shall be not less than five feet (5 ft.) wide.

4908.3 In the case of a lot that abuts or adjoins a public open space, recreation area, or reservation on one (1) or more side lot line, a required side yard may be reduced or omitted.

4908.4 A side yard may be reduced or omitted along a side street abutting a corner lot in an RA zone.

4909 COURTS

4909.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE F § 4909.1: MINIMUM DIMENSIONS FOR A COURT

<u>Zone</u>	<u>Open Court Width</u>	<u>Closed Court Width</u>	<u>Closed Court Area</u>
<u>RA zones</u>	<u>2.5”/1’ of height of court; 6’ minimum</u>	<u>2.5”/1’ of height of court; 12’ minimum</u>	<u>Twice the square of the required width of court dimension; 250 sq. ft. minimum</u>

4910 SPECIAL EXCEPTION

4910.1 Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

VI. Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended as follows:

A new § 105, PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES, is proposed to be added to Chapter 1 INTRODUCTION TO MIXED-USE ZONES, to read as follows:

105 PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES

105.1 Public recreation and community centers or public libraries in the MU zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

105.2 Public schools in the MU zones shall be permitted subject to the conditions of Subtitle G, Chapter 49.

105.3 Development standards not otherwise addressed by Subtitle C, Chapter 16, or Subtitle G, Chapter 49, shall be those development standards for the zone in which the buildings or structures is proposed.

Chapter 10, DEVELOPMENT STANDARDS FOR PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS OR PUBLIC LIBRARIES IN MU ZONES, is proposed to be deleted in its entirety.

A new Chapter 49, PUBLIC SCHOOLS, is proposed to be added to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

4900 GENERAL PROVISIONS

4900.1 The provisions of this chapter control certain height and bulk of public schools.

4901 DEVELOPMENT STANDARDS

4901.1 The specific standards of this chapter shall govern public schools; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.

4902 DENSITY - FLOOR AREA RATIO (FAR)

4902.1 Public schools shall be permitted a maximum floor area ratio as set forth in the following table:

TABLE G § 4902.1: MAXIMUM FLOOR AREA RATIO (FAR) FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum FAR</u>
<u>MU-1, MU-2, MU-10, MU-15, MU-16, MU-22, MU-23, MU-29</u>	<u>3.0</u>
<u>MU-3</u>	<u>1.8</u>
<u>All other MU zones</u>	<u>As permitted for residential (non-IZ) uses by zone</u>

4903 PENTHOUSES

4903.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

4904 REAR YARD

4904.1 A minimum rear yard shall be provided as required by the zone within which the lot is located; provided that no rear yard shall be required for a lot that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation.

4905 SIDE YARD

4905.1 In the case of a lot that abuts or adjoins a public open space, recreation area, or reservation on a side lot line, the required side yard shall not be required.

4906 SPECIAL EXCEPTION

4906.1 Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

VII. Proposed Amendments to Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES

A new § 105, PUBLIC SCHOOLS, is proposed to be added to Chapter 1 INTRODUCTION TO NEIGHBORHOOD MIXED-USE (NC) ZONES, to read as follows:

105 PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS AND PUBLIC LIBRARIES

105.1 Public recreation and community centers, or public libraries in the NC zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

105.2 Public schools in the NC zones shall be permitted subject to the conditions of Subtitle H, Chapter 49.

105.3 Development standards not otherwise addressed by Subtitle C, Chapter 16, or Subtitle H, Chapter 49, shall be those development standards for the zone in which the buildings or structures is proposed.

Chapter 10, DEVELOPMENT STANDARDS FOR PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES FOR NC ZONES, is proposed to be deleted in its entirety.

A new Chapter 49, PUBLIC SCHOOLS, is proposed to be added to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

Sections 4900 to 4905 of Chapter 49, PUBLIC SCHOOLS are proposed to be added to clarify development standards for public schools, to read as follows:

4900 GENERAL PROVISIONS

4900.1 The provisions of this chapter control certain height and bulk of public schools.

4901 DEVELOPMENT STANDARDS

4901.1 The specific standards of this chapter shall govern public schools; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.

4902 PENTHOUSES

4902.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

4903 REAR YARD

4903.1 In the case of a lot proposed to be used by a public school that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.

4904 SIDE YARD

4904.1 In the case of a lot proposed to be used by a public school that abuts or adjoins a public open space, recreation area, or reservation on a side lot line, the required side yard shall not be required.

4905 SPECIAL EXCEPTION

4905.1 Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

VIII. Proposed Amendments to Subtitle I, DOWNTOWN (D) ZONES

A new § 103, PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES, is proposed to be added to Chapter 1, INTRODUCTION TO DOWNTOWN (D) ZONES, to read as follows:

103 PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES

103.1 Public recreation and community centers, or public libraries in the NC zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

103.2 Public schools in the D zones shall be permitted subject to the conditions of Subtitle I, Chapter 49.

103.2 Development standards not otherwise addressed by Subtitle I, Chapter 49, shall be those development standards for the zone in which the buildings or structures is proposed.

A new Chapter 49, PUBLIC SCHOOLS, is proposed to be added, to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

4900 GENERAL PROVISIONS

4900.1 The provisions of this chapter control certain height and bulk of public schools.

4901 DEVELOPMENT STANDARDS

4901.1 The specific standards of this chapter shall govern public schools; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.

4902 PENTHOUSES

4902.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

4903 REAR YARD

4903.1 In the case of a lot proposed to be used by a public school that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.

4904 SIDE YARD

4904.1 In the case of a lot proposed to be used by a public school that abuts or adjoins a public open space, recreation area, or reservation on a side lot line, the required side yard shall not be required.

4905 SPECIAL EXCEPTION

4905.1 Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

IX. Proposed Amendments to Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES

The title of § 105, PUBLIC EDUCATION BUILDING AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, OR PUBLIC LIBRARIES, of Chapter 1, INTRODUCTION TO PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended, to read as follows:

**105 ~~PUBLIC EDUCATION BUILDINGS AND STRUCTURES~~ SCHOOLS,
~~PUBLIC RECREATION AND COMMUNITY CENTERS, OR~~ AND
~~PUBLIC LIBRARIES~~**

Section 105, PUBLIC SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES, of Chapter 1, INTRODUCTION TO PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended, including adding new § 105.2, with current § 105.2 renumbered as new § 105.3, to read as follows:

105.1 Public ~~education buildings and structures~~, public recreation and community centers, ~~or and~~ public libraries in the PDR zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

105.2 Public schools, in the PDR zones shall be permitted subject to the conditions of Subtitle J, Chapter 49.

~~105.2-105.3~~ Development standards not otherwise addressed by Subtitle C, Chapter 16 ~~or Subtitle J, Chapter 49~~ shall be those development standards for the zone in which the building or structure is proposed.

A new Chapter 49, PUBLIC SCHOOLS, is proposed to be added to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

4900 GENERAL PROVISIONS

4900.1 The provisions of this chapter control certain height and bulk of public schools.

4901 DEVELOPMENT STANDARDS

4901.1 The specific standards of this chapter shall govern public schools; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.

4902 PENTHOUSES

4902.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

4903 REAR YARD

4903.1 In the case of a lot proposed to be used by a public school that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.

4904 SIDE YARD

4904.1 In the case of a lot proposed to be used by a public school that abuts or adjoins a public open space, recreation area, or reservation on a side lot line, the required side yard shall not be required.

4905 SPECIAL EXCEPTION

4905.1 Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

X. Proposed Amendments to Subtitle K, SPECIAL PURPOSE ZONES

Section 711, PUBLIC EDUCATION BUILDING AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES (RC), of Chapter 7, REEDE-COOK ZONES - RC-1 THROUGH RC-3, is proposed to be amended, including adding new §§ 711.2 and 711.3, to read as follows:

711 ~~PUBLIC EDUCATION BUILDING AND STRUCTURES~~ SCHOOLS, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES (RC)

711.1 Public ~~education building and structures,~~ ~~public~~ recreation and community centers, and public libraries shall be controlled through the development standards specified in Subtitle C, Chapter 16.

711.2 Public schools shall be controlled through the development standards specified in Subtitle K, Chapter 49.

711.3 Development standards not otherwise addressed in Subtitle C, Chapter 16, or Subtitle K, Chapter 49, shall be those development standards for the zone in which the building or structure is proposed.

A new Chapter 49, PUBLIC SCHOOLS is proposed to be added, to read as follows:

CHAPTER 49, PUBLIC SCHOOLS

4900 GENERAL PROVISIONS

4900.1 **The provisions of this section control certain height and bulk of public schools, public recreation and community centers, and public libraries in the RC-1 through RC-3 zones.**

4901 **DEVELOPMENT STANDARDS**

4901.1 **The specific standards of this section shall govern public schools, public recreation and community centers, and public libraries; in the absence of specific standards, the development standards for the zone in which the building or structure is proposed shall apply.**

4902 **DENSITY FLOOR AREA RATIO (FAR)**

4902.1 **Public schools, public recreation and community centers, and public libraries shall be permitted a maximum floor area ratio as set forth in the following table:**

TABLE K § 4902.1: MAXIMUM FLOOR AREA RATIO (FAR) FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum FAR</u>
<u>RC-1</u>	<u>2.0</u>
<u>RC-2, RC-3</u>	<u>As permitted by zone</u>

4903 **HEIGHT**

4903.1 **The maximum permitted building height, not including the penthouse, shall be as set forth in the following table:**

TABLE K § 4903.1: MAXIMUM HEIGHT FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum Height (ft.)</u>	<u>Maximum Number of Stories</u>
<u>RC-1</u>	<u>90</u>	<u>No limit</u>
<u>RC-2, RC-3</u>	<u>As permitted by zone</u>	<u>As permitted by zone</u>

4904 **PENTHOUSES**

4904.1 **Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public school buildings shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.**

4905 **LOT OCCUPANCY**

4905.1 **Public schools shall not occupy a lot in excess of the maximum lot occupancy as set forth in the following table:**

TABLE K § 4905.1: MAXIMUM LOT OCCUPANCY FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Maximum Lot Occupancy (%)</u>
<u>RC-1</u>	<u>60</u>
<u>RC-2, RC-3</u>	<u>No limit</u>

4905.2 **A public school may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in this section provided the portion of the building, excluding closed court, exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories.**

4906 **REAR YARD**

4906.1 **A rear yard shall be provided for each public school the minimum depth of which shall be as set forth in the following table:**

TABLE K § 4906.1: REAR YARD FOR PUBLIC SCHOOLS

<u>Zone</u>	<u>Minimum Rear Yard (ft.)</u>
<u>RC-1</u>	<u>4" per 1' of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15'</u>
<u>RC-2, RC-3</u>	<u>As permitted by zone</u>

4906.2 **In the case of a lot proposed to be used by a public school that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.**

4907 **SIDE YARD**

4907.1 **In the case of a lot proposed to be used by a public school that abuts or adjoins a public open space, recreation area, or reservation on a side lot line, the required side yard shall not be required.**

4908 **SPECIAL EXCEPTION**

4908.1 **Exceptions to the development standards of this chapter for public schools shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.**

XI. Proposed Amendments to Subtitle U, USE PERMISSIONS

Paragraph 202.1(m) of § 202, MATTER-OF-RIGHT USES – R USE GROUPS A, B, AND C, of Chapter 2, USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, including adding a new paragraph (n), with current paragraphs (n) through (r) renumbered as new paragraphs (o) through (s), to read as follows:

202.1 The following uses shall be permitted as a matter of right in R-Use Groups A, B, and C subject to any applicable conditions:

(a) Any use permitted as a matter of right in Subtitle U §201;

...

(m) Public ~~education buildings and structures,~~ public recreation and community centers, and public libraries subject to the development standards of Subtitle C, Chapter 16;

(n) Public schools;

~~(n)~~ **(o)** Public schools, collocation ...

~~(o)~~ **(p)** Temporary buildings for construction ...

~~(p)~~ **(q)** Temporary use of premises ...

~~(q)~~ **(r)** Mass transit facility; and

~~(r)~~ **(s)** Reuse of former District of Columbia public schools ...

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.*

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

How to participate as a witness - oral presentation

Interested persons or representatives of organizations may be heard at the public hearing. 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, by e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

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 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 |

Pursuant to Subtitle Z § 506.1, 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.

How to participate as a witness - written statements

Written statements, in lieu of personal appearances or oral presentation, 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.

“Great weight” to written report of ANC

Subtitle Z § 505.1 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 505.2, an ANC that wishes to have a representative provide oral testimony at the hearing must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

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.

ለመተና ፅርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓም) ካስፈለገዎት እባክዎን ከስብሰባው አግባብ ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡ በነጻ ነው።

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer (CPO) of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2016 Repl. & 2019 Supp.)) (the “Act”), hereby gives notice of the adoption of a new Chapter 30 (Inherently Governmental Functions) to Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking implements Sections 3(a)(1), 3(a)(2), and 3(f), of the Procurement Integrity Transparency, and Accountability Amendment Act of 2015 (PITAAA), effective October 8, 2016 (D.C. Law 21-158; D.C. Official Code §§ 2-351.04(34A), (37B), and 2-352.05a (2019 Supp.)) that prohibits contracting for services that are inherently governmental functions, and establishes standards procedures for acquiring services closely associated with an inherently governmental function. This rulemaking is necessary to provide legal certainty to contracting officers, programmatic staff, and other stakeholders regarding District procurement.

A notice of proposed rulemaking was published for a thirty (30)-day comment period on June 30, 2017 at 64 DCR 6120–6125. OCP received written comments on July 17, 2017 from Council Chairman Phil Mendelson. Chairman Mendelson opined that draft Sections 3001 and 3002 should be revised so as to contain more specificity as to what are inherently governmental functions, and functions closely associated with an inherently governmental function, respectively. Furthermore, Chairman Mendelson recommended that proposed Subsection 3001.2 be deleted or revised, as there was substantive disagreement over the classification of functions.

OCP incorporated Chairman Mendelson’s comments into the proposed rules. Specifically, OCP specified that the following are inherently governmental functions: approving budgetary policy; performing adjudicatory functions other than those relating to arbitration or other methods of alternative dispute resolution; controlling criminal prosecutions; directing the conduct of criminal investigations; approve final agency responses to Freedom of Information Act requests including the determination to either withhold or release documents or approve agency responses to administrative appeals of Freedom of Information Act requests; and command public safety, fire, emergency response, and homeland security employees. Further, the list of functions closely associated with inherently governmental functions was modified to include the following: supporting acquisition planning; supporting government reorganization activities; evaluating contract proposals, participating as a technical advisor to a source selection board, or serving as a nonvoting member of a source selection board; and developing, but not approving, statements of work.

A Notice of Second Proposed Rulemaking was published for 30-day comment period on June 14, 2019 at 66 DCR 7172–7178. No comments were received and no changes to the text have been made. On July 19, 2019, the CPO took final action to adopt these rules as originally published in the Notice of Second Proposed Rulemaking.

The rulemaking will become effective upon publication of this notice in the *District of Columbia Register*.

Chapter 30, INHERENTLY GOVERNMENTAL FUNCTIONS, is added to Title 27 DCMR, CONTRACTS AND PROCUREMENT, to read as follows:

CHAPTER 30 INHERENTLY GOVERNMENTAL FUNCTIONS

3000 GENERAL PROVISIONS

3001 INHERENTLY GOVERNMENTAL FUNCTIONS

3002 FUNCTIONS CLOSELY ASSOCIATED WITH AN INHERENTLY GOVERNMENTAL FUNCTION

3003 WAIVER

3004 [RESERVED]

3005 [RESERVED]

3006 [RESERVED]

3099 DEFINITIONS

3000 GENERAL PROVISIONS

3000.1 The contracting officer shall not award a contract or otherwise obligate the District for any service that is an inherently governmental function.

3000.2 The contracting officer may award a contract for the performance of a function closely associated with an inherently governmental only if the head of a using agency benefited by the performance of the contract:

- (a) Finds that appropriate District government employees cannot reasonably perform the function at issue;
- (b) Ensures that appropriate District government employees supervise contractor performance of the contract and perform all inherently governmental functions associated with the contract; and
- (c) Addresses any organizational conflict of interest of the contractor in the performance of the functions closely associated with an inherently governmental function under the contract.

3001 INHERENTLY GOVERNMENTAL FUNCTIONS

3001.1 An inherently governmental function involves, among other things, the interpretation and execution of the laws of the District to:

- (a) Bind the District to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

- (b) Appoint, direct, or control officials or employees of the District;
- (c) Approve District government policy, including budget policy;
- (d) Approve the final selection or non-selection of individuals for District government employment;
- (e) Approve position descriptions or performance standards of District government employees;
- (f) Exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the District, including the control, or disbursement of, appropriated and other District funds;
- (g) With respect to contracts to procure goods or services for the District:
 - (1) Determine what supplies or services are to be acquired by the District, and at what prices; provided, that the Director or his or her designee may give a contractor authority to acquire supplies for the District at prices within specified ranges or quantities and subject to other reasonable conditions considered appropriate;
 - (2) Participate as a voting member on any source-selection board, unless the contractor has:
 - (A) Been retained by the District for its specific technical expertise; and
 - (B) No conflict of interest exists with regard to the contract or vendors under consideration by the source-selection board.
 - (3) Approve any contractual documents, including documents defining requirements, incentive plans, and evaluation criteria;
 - (4) Award contracts;
 - (5) Administer contracts, including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and accepting or rejecting contractor products or services;
 - (6) Terminate contracts;
 - (7) Determine whether contract costs are reasonable, allocable, or allowable; or

- (8) Evaluate a contractor's performance when the evaluation is to be used to determine whether payment should be made to the contractor and in what amount.
- (h) Make a final adjudication in a civil or criminal proceeding or perform adjudicatory functions other than those relating to arbitration or other methods of alternative dispute resolution;
- (i) Control criminal prosecutions;
- (j) Direct the conduct of criminal investigations;
- (k) Approve final agency responses to Freedom of Information Act requests including the determination to either withhold or release documents or approve agency responses to administrative appeals of Freedom of Information Act requests;
- (l) Collect, control, and disburse fees, royalties, fines, taxes, and other public funds, unless authorized by law; and
- (m) Command public safety, fire, emergency response, and homeland security employees.

3001.2 Inherently governmental functions do not normally include, among other things, services that involve or relate to:

- (a) Gathering information for or providing advice, opinions, recommendations, or ideas to District government employees or officials;
- (b) Budget analyses, including activities such as workload modeling, fact finding, efficiency studies, and cost analyses;
- (c) Conducting analyses or feasibility studies, or providing strategy options to be used by agency personnel in developing policy;
- (d) Providing research, analysis, draft language, or administrative support to District employees on regulations;
- (e) Supporting contract management;
- (f) Supporting agency responses to Freedom of Information Act requests, provided that such support is primarily technical or administrative in nature and does not involve making final decisions about document release or production;

- (g) Providing information regarding agency policies or regulations, such as attending conferences on behalf of an agency, conducting community relations campaigns, or conducting agency training courses;
- (h) Providing alternative dispute resolution services such as arbitration or mediation;
- (i) Inspection services;
- (j) Providing legal advice and interpretations of regulations and statutes to District officials, provided that District or an instrumentality thereof retains final decision-making authority on all dispositive matters;
- (k) Representing the District as outside litigation counsel, bond counsel, or disclosure counsel, or in any legal proceedings, provided that District or an instrumentality thereof retains final decision-making authority on all dispositive matters;
- (l) Special non-law enforcement, security activities that do not directly involve criminal investigations, such as prisoner detention or transport and non-military national security details;
- (m) Routine voucher and invoice examination; and
- (n) Functions that are primarily ministerial and internal in nature, such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services.

3002 FUNCTIONS CLOSELY ASSOCIATED WITH AN INHERENTLY GOVERNMENTAL FUNCTION

3002.1 Functions closely associated with inherently governmental functions include services that involve or relate to:

- (a) The evaluation of another contractor's performance when the evaluation is not to be used to determine whether payment should be made to the contractor and in what amount;
- (b) The use of or access to confidential information or proprietary information;
- (c) Supporting acquisition planning;
- (d) Supporting government reorganization activities;

- (e) Evaluating contract proposals, participating as a technical advisor to a source selection board, or serving as a nonvoting member of a source selection board; and
- (f) Developing, but not approving, statements of work.

3003 WAIVER

3003.1 The Director may waive compliance with any of the requirements of this chapter for any contract in effect on October 8, 2016, and for any option period exercised under such contract, so long as the option period was provided for in the contract as of October 8, 2016.

3003.2 Notwithstanding § 3003.1 of this chapter, the requirements of this chapter shall apply to any contract or option period in effect on October 8, 2021.

3004 [RESERVED]

3005 [RESERVED]

3006 [RESERVED]

3099 DEFINITIONS

3099.1 The following terms used in this chapter shall have the following meanings ascribed:

Confidential information – any information which is available to an employee of the District of Columbia only because of the employee’s status as an employee of the District of Columbia and is not a matter of public knowledge or available to the public upon request.

Director – the Director of the Office of Contracting and Procurement or the District of Columbia Chief Procurement Officer.

Function closely associated with an inherently governmental function – means a function that is not an inherently governmental function, but is similar to an inherently governmental function because of the nature of the function, the manner in which the contractor performs the function, or the manner in which the government administers the contractor’s performance of the function, as determined by application of the criteria set forth under D.C. Official Code § 2-352.05a.

Inherently governmental function – means a function that is so intimately related to the public interest as to require performance by District

government employees, as determined by application of the criteria set forth under D.C. Official Code § 2-352.05a.

Proprietary information – information, including trade secrets, data, formulas, patterns, compilations, programs, devices, methods, techniques, or processes, which have the following characteristics:

- (a) The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; or
- (b) The information is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Using agency – any subordinate or independent agency, department, board, commission, employee, or instrumentality of the District government that utilizes any supplies, services, or construction procured pursuant to the Act and subject to the regulations promulgated thereunder.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes approved December 27, 1967 (81 Stat.744; D.C. Official Code § 1-307.02 (2016 Repl. & 2018 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of the adoption of an amendment to Chapter 65 (Medicaid Reimbursement to Nursing Facilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

DHCF is amending the reimbursement methodology to nursing facilities participating in the District's Medicaid program beginning February 1, 2018. These rules set forth the revised methodology and requirements governing Medicaid reimbursement of nursing facilities. Major highlights of the reimbursement methodology include: 1) continuation of prospective rates that are refined to avoid the continuous cycle of adjusting rates and claims; 2) specific per diem rates for each patient; 3) availability of add-on payments for special needs patients who require ventilator or bariatric care or who are behaviorally complex; and 4) the creation of a new quality improvement program, including mandatory reporting and a performance payment for participating District nursing facilities that demonstrate improvement or maintain a high level of performance across a set of quality improvement measures.

This methodology ensures that similar facilities are paid similar reimbursement rates for similar patients, and that facilities receive immediate financial benefit when admitting higher acuity patients. The methodology also eliminates the need for quarterly census and case mix calculation requirements under the prior methodology. Finally, new quality reporting requirements and the availability of quality-related supplemental payments will incent nursing facilities to develop the infrastructure, processes, and reporting mechanisms necessary to implement future quality improvement and payment reform initiatives.

An initial Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 19, 2018, at 65 DCR 000460. One (1) set of comments was received from the District of Columbia Health Care Association (DCHCA). DHCF carefully considered all comments received and made some changes in response to the comments received. In addition, DHCF is making changes pursuant to requests from the Centers for Medicare and Medicaid Services (CMS) to support approval of the accompanying State Plan Amendment (SPA), which was approved by CMS on March 15, 2018. A Notice of Second Emergency and Proposed Rulemaking was published in the *D.C. Register* on March 22, 2019, at 66 DCR 003515. DHCF received no comments and made no changes to this rulemaking.

The estimated aggregate fiscal impact of the new reimbursement methodology is an increase of \$2,771,588.00 in fiscal year (FY) 2018 and an increase of \$2,692,539.00 in FY 2019.

These rules correspond to a related SPA, which was approved by CMS and the Council of the District of Columbia (Council). The Council authorized the SPA in the “Fiscal Year 2017 Budget Support Act of 2016,” effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 1-307.02 (2016 Repl.)). The SPA was approved by CMS on March 15, 2018 with an effective date of February 1, 2018.

These rules were adopted as final on October 2, 2019 and shall be effective upon publication in the *D.C. Register*.

Chapter 65, MEDICAID REIMBURSEMENT TO NURSING FACILITIES, of Title 29 DCMR, PUBLIC WELFARE, is deleted in its entirety and replaced with the following:

CHAPTER 65 MEDICAID REIMBURSEMENT TO NURSING FACILITIES

- 6500 GENERAL PROVISIONS**
- 6501 REIMBURSEMENT OF DISTRICT NURSING FACILITIES**
- 6502 COMPUTATION OF PRICE AND FLOOR**
- 6503 RESIDENT ASSESSMENT**
- 6504 RESIDENT CLASSIFICATION SYSTEM**
- 6505 FACILITY NURSING AND RESIDENT CARE COSTS PER DIEM CALCULATION**
- 6506 FACILITY ROUTINE AND SUPPORT COSTS PER DIEM CALCULATION**
- 6507 FACILITY CAPITAL-RELATED COSTS PER DIEM CALCULATION**
- 6508 VENTILATOR CARE**
- 6509 VENTILATOR CARE DISCHARGE**
- 6510 VENTILATOR CARE REIMBURSEMENT**
- 6511 BEHAVIORALLY COMPLEX CARE**
- 6512 BEHAVIORALLY COMPLEX CARE REIMBURSEMENT**
- 6513 BARIATRIC CARE**
- 6514 BARIATRIC CARE REIMBURSEMENT**
- 6515 ALLOWABLE COSTS**
- 6516 EXCLUSIONS FROM ALLOWABLE COSTS**
- 6517 REBASING AND ANNUAL RATE ADJUSTMENTS**
- 6518 REIMBURSEMENT FOR NEW PROVIDERS**
- 6519 REIMBURSEMENT FOR REORGANIZED FACILITIES, EXPANDED FACILITIES, REDUCED CAPACITY, OR CHANGE OF OWNERSHIP**
- 6520 REIMBURSEMENT FOR OUT OF STATE FACILITIES**
- 6521 COST REPORTING AND RECORD MAINTENANCE**
- 6522 ACCESS TO RECORDS**
- 6523 APPEALS**
- 6524 NURSING FACILITY QUALITY IMPROVEMENT PROGRAM**
- 6525 PARTICIPATION IN THE NURSING FACILITY QUALITY IMPROVEMENT PROGRAM**
- 6526 NFQII PERFORMANCE SCORING**

**6527 NURSING FACILITY QUALITY OF CARE FUND AND NFQII
6599 PERFORMANCE PAYMENT
DEFINITIONS**

6500 GENERAL PROVISIONS

6500.1 The purpose of this chapter is to establish principles of reimbursement for nursing facilities participating in the District of Columbia Medicaid program.

6500.2 Medicaid reimbursement to nursing facilities for services provided beginning February 1, 2018 shall be on a prospective payment system consistent with the requirements set forth in this chapter.

6500.3 In order to receive Medicaid reimbursement, each nursing facility shall enter into a provider agreement with the Department of Health Care Finance (DHCF) for the provision of nursing facility services and comply with the screening and enrollment requirements set forth in Chapter 94 (Medicaid Provider and Supplier Screening, Enrollment, and Termination) of Title 29 of the District of Columbia Municipal Regulations (DCMR).

6500.4 As a condition of Medicaid reimbursement, each nursing facility shall be licensed as a nursing home pursuant to the requirements set forth in the "Health Care and Community Residence License Act of 1983," effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.* (2012 Repl.)) and meet the federal conditions of participation for nursing facilities in the Medicaid program as set forth in 42 CFR part 483.

6500.5 Medicaid reimbursement for nursing facility services to a Medicaid beneficiary shall not be provided unless the Medicaid beneficiary has been determined clinically eligible for nursing facility services in accordance with 29 DCMR § 989 and District policy guidance.

6501 REIMBURSEMENT OF DISTRICT NURSING FACILITIES

6501.1 Each nursing facility located in the District of Columbia shall be reimbursed by Medicaid for a patient specific per diem rate for each resident in accordance with the formula set forth in § 6501.2. The rate shall be prospective and only include allowable cost described in §§ 6501.9, 6501.10, and 6501.11.

6501.2 The Medicaid reimbursable patient specific per diem rate shall equal the sum of:

- (a) The product of the resident's Resource Utilization Group (RUG) weight as described in § 6504 and the facility specific per diem for nursing and patient care price described in §§ 6502.3 and 6505.7;

- (b) The facility specific per diem for routine and support price described in § 6502.2; and
 - (c) The facility specific per diem for capital cost described in § 6507.
- 6501.3 In addition to the patient specific rate described in § 6501.2, each nursing facility may receive an add-on payment for each resident who is:
 - (a) Receiving ventilator care pursuant to the requirements set forth in §§ 6508-6510;
 - (b) Qualifying as behaviorally complex pursuant to the requirements set forth in §§ 6511-6512; and
 - (c) Qualifying as bariatric pursuant to the requirements set forth in §§ 6513-6514.
- 6501.4 The patient specific rate described in § 6501.2 is developed by establishing a base year facility specific per diem rate using three (3) cost categories as described in § 6501.8.
- 6501.5 Each nursing facility shall be classified into three (3) peer groups as described in § 6502.
- 6501.6 The base year per diem price for each peer group is a per diem rate that is calculated using the allowable costs for the base year for all Medicaid-participating nursing facilities in the District. The base year used to establish February 1, 2018 rates is the 2015 cost report year.
- 6501.7 Except for depreciation, amortization, and interest on capital-related expenditures, the base year allowable costs calculated for each nursing facility shall be adjusted to a common end date, the mid-point of the District rate year, using the Centers for Medicare and Medicaid Services (CMS) Prospective Payment System Skilled Nursing Facility Input Price Index.
- 6501.8 The base year per diem rate for nursing and resident care services and routine and support services for each peer group and the facility specific capital cost per diem is based on the allowable base year costs and shall be developed using three (3) cost categories:
 - (a) Routine and support expenditures, as described in § 6501.9;
 - (b) Nursing and resident care expenditures as described in § 6501.10; and
 - (c) Capital-related expenditures, as described in § 6501.11.

- 6501.9 Routine and support expenditures shall include expenditures for:
- (a) Dietary and nutrition services, including raw food;
 - (b) Laundry and linen;
 - (c) Housekeeping;
 - (d) Plant operations and related clerical support;
 - (e) Volunteer services;
 - (f) Administrative and general salaries;
 - (g) Professional services - non-healthcare related;
 - (h) Non-capital related insurance;
 - (i) Travel and entertainment;
 - (j) General and administrative costs;
 - (k) Medical Director and related clerical costs;
 - (l) Non-capital related interest expense;
 - (m) Social services;
 - (n) Resident Activities;
 - (o) Staff development;
 - (p) Medical Records;
 - (q) Routine personal hygiene items and services;
 - (r) Utilization review;
 - (s) Central supplies; and
 - (t) Other miscellaneous expenses as noted on the nursing facility's cost report submitted pursuant to § 6521.
- 6501.10 Nursing and resident care costs shall include the costs of:
- (a) Nursing services;

- (b) Non-prescription drugs and pharmacy consultant services;
- (c) Medical supplies;
- (d) Laboratory services;
- (e) Radiology services;
- (f) Physical, speech, and occupational therapy services that are provided to Medicaid beneficiaries;
- (g) Respiratory therapy;
- (h) Behavioral health services; and
- (i) Oxygen therapy.

6501.11 Capital-related costs shall include the costs of:

- (a) Equipment rental;
- (b) Depreciation and amortization;
- (c) Interest on capital debt;
- (d) Facility rental;
- (e) Real estate taxes and capital-related insurance;
- (f) Property insurance; and
- (g) Other capital-related expenses.

6501.12 Provider tax expenses shall not be included in calculating the base year costs.

6501.13 The costs attributable to paid feeding assistants provided in accordance with the requirements set forth in 42 CFR parts 483 and 488 shall be included in nursing and resident care costs for base years beginning on or after October 27, 2003.

6501.14 When necessary, each facility specific per diem rate will be reduced by the same percentage to maintain compliance with the Medicare upper payment limit requirement.

6501.15 DHCF may approve an adjustment to the facility specific per diem rate if the facility demonstrates that it incurred higher costs due to extraordinary

circumstances beyond its control, including but not limited to a strike, fire, flood, earthquake, or similar unusual occurrences with substantial cost effects.

6501.16 Each adjustment pursuant to § 6501.15 shall be made only to the extent the costs are reasonable, attributable to the circumstances specified, separately identified by the facility, and verified by DHCF. Any such adjustment will be applicable only to the affected facility, shall be time limited, and shall not impact the peer group price.

6502 COMPUTATION OF PRICE AND FLOOR

6502.1 DHCF shall classify each nursing facility operating in the District and participating in the Medicaid program into three (3) peer groups:

- (a) Peer Group One - All freestanding nursing facilities, with more than seventy-five (75) Medicaid certified beds;
- (b) Peer Group Two - All freestanding nursing facilities with seventy-five (75) or fewer Medicaid certified beds; and
- (c) Peer Group Three - All hospital-based nursing facilities.

6502.2 The routine and support per diem price for each peer group shall be the day-weighted median cost per diem as described in § 6506 multiplied by a peer group specific factor. The peer group specific factors used in this formula will be posted on the DHCF website at <https://dhcf.dc.gov/page/medicaid-reimbursement-nursing-facilities-participating-district-columbia-medicaid-program>. To the extent that changes to these factors are needed in future, DHCF will publish notice in the *D.C. Register* thirty (30) days in advance of any changes and post the updated factors on the DHCF website at the link noted above.

6502.3 The nursing and resident care price for each peer group shall be the day-weighted median case mix neutralized cost per diem as described in § 6505 multiplied by a peer group specific factor. The peer group specific factors used in this formula will be posted on the DHCF website at <https://dhcf.dc.gov/page/medicaid-reimbursement-nursing-facilities-participating-district-columbia-medicaid-program>. To the extent that changes to these factors are needed in future, DHCF will publish notice in the *D.C. Register* thirty (30) days in advance of any changes and post the updated factors on the DHCF website at the link noted above.

6502.4 For the rate period beginning February 1, 2018, DHCF has applied a fixed percentage of the peer group price in calculating the peer group floor. Each facility's case mix adjusted Medicaid cost per day is subject to the floor, which is a fixed percentage of the peer group price. The fixed percentage used in this calculation will be posted on the DHCF website at: <https://dhcf.dc.gov/page/medicaid-reimbursement-nursing-facilities-participating->

[district-columbia-medicaid-program](#). To the extent that changes to this percentage are needed in future, DHCF will publish notice in the *D.C. Register* thirty (30) days in advance of any changes and post the updated percentage on the DHCF website at the link noted above.

6502.5 Once nursing facilities have been classified into peer groups for the purpose of establishing the peer group prices, the nursing facility price for each peer group shall apply to all facilities in that peer group until Medicaid rates are rebased, or until DHCF makes an adjustment to the price or floor.

6502.6 DHCF shall publish a public notice in the *D.C. Register* and on the DHCF website setting forth the reimbursement methodology for each District nursing facility at least thirty (30) calendar days prior to implementation. In addition, DHCF shall issue individualized notices that detail facility-specific reimbursement rates to each participating nursing facility at least thirty (30) days prior to February 1, 2019. DHCF shall post notice of the final rates on the DHCF website upon approval of the reimbursement methodology by the U.S. Health and Human Services, Centers for Medicare and Medicaid Services (CMS). A public notice of any changes to the reimbursement rates shall be published in the *D.C. Register* at least thirty (30) calendar days in advance of the changes.

6503 RESIDENT ASSESSMENT

6503.1 Each nursing facility shall complete an assessment of each resident's functional, medical and psycho-social capacity consistent with the requirements set forth in 42 CFR § 483.20.

6503.2 The Minimum Data Set (MDS), Version 3.0 or successor updates to this version, shall be used by each nursing facility.

6503.3 Each nursing facility shall comply with the policies set forth in the October 2016 Long-Term Care Facility Resident Assessment Instrument 3.0 User's Manual for the MDS Version 3.0 or successor updates to this version.

6504 RESIDENT CLASSIFICATION SYSTEM

6504.1 DHCF shall use the forty-eight (48)-group resident classification system developed by CMS known as the Resource Utilization Groups IV (RUGS IV), Version 1.03 or successor updates.

6504.2 DHCF shall use the Case Mix Indices known as the standard data set F01 developed by CMS or successor updates to this version.

6504.3 Each resident assessed under RUGS shall be assigned the highest numeric case mix index (CMI) score for which the resident qualifies. Assessments that cannot

be classified to a RUGS IV category due to errors shall be assigned the category with the lowest numeric CMI score.

- 6504.4 The most recent valid MDS assessment for the resident shall be used by the nursing facility when submitting the RUG category on the claim for services.
- 6504.5 The RUG category shall be included on the claim for services as a valid Health Insurance Prospective Payment System (HIPPS) code.
- 6504.6 The CMI for the submitted RUG category will be used to adjust the nursing and resident care portion of the facility specific per diem during claims adjudication.
- 6504.7 If subsequent review of the medical record, or the MDS reveals that the RUG category submitted as a HIPPS code on the claim is incorrect, the claim will be reprocessed with the appropriate HIPPS code, RUG category, and CMI.

6505 FACILITY NURSING AND RESIDENT CARE COSTS PER DIEM CALCULATION

- 6505.1 Each nursing facility's allowable nursing and resident care Medicaid reimbursable costs shall be adjusted in accordance with § 6505.4.
- 6505.2 The total resident days shall be determined in accordance with § 6515.2.
- 6505.3 The amount calculated in § 6505.1 shall be divided by the Total Facility Case Mix Index to establish case mix neutral costs. This process is known as case mix neutralization. For the base year, total facility case mix will be the average facility-wide case mix for the three calendar quarters beginning January 1, 2015 and ending September 30, 2015.
- 6505.4 For nursing and resident care costs other than the cost for speech therapy, occupational therapy, and physical therapy, the case mix neutral costs established in § 6505.3 shall be divided by the resident days calculated in accordance with § 6505.2 to determine each nursing facility's nursing and resident care cost per diem without physical, speech and occupational therapy services.
- 6505.5 Per diem costs for physical, speech and occupational therapy services shall be calculated by dividing such costs by total Medicaid resident days. The resulting per diem shall be added to the per diem for nursing and resident care costs, excluding the costs for speech therapy, occupational therapy, and physical therapy. The resulting sum of the per diems shall comprise each nursing facility's nursing and resident care cost per diem unadjusted for case mix.
- 6505.6 The peer group price established in accordance with § 6505.3 for nursing and resident care costs for each peer group shall be reduced for any facility whose nursing and resident care cost per diem adjusted for Medicaid case mix does not

meet the established minimum percentage of the Medicaid case mix adjusted peer group price (the “floor”).

6505.7 The difference between the facility Medicaid case mix adjusted cost per diem and the floor is subtracted from the Medicaid case mix adjusted peer group price for that facility. The resulting value is divided by the facility Medicaid case mix to determine the facility specific nursing and resident care Medicaid case mix neutral per diem price. In the base year, the Medicaid case mix used in the calculations in §§ 6505.6 and 6505.7 is the average case mix for the quarters ending June 30, 2016 and September 30, 2016.

6505.8 For rebasing periods after February 1, 2018, the nursing and resident care cost per diem shall be adjusted for Medicaid case mix using the day-weighted average Medicaid case mix of the preceding federal fiscal year for each facility, based on the Medicaid case mix of final paid claims for that facility for nursing facility services.

6506 FACILITY ROUTINE AND SUPPORT COSTS PER DIEM CALCULATION

6506.1 In the base year, each facility’s routine and support cost per diem shall be established by dividing total allowable routine and support base year costs adjusted in accordance with § 6501.7 by total resident days determined in accordance with § 6515.2 for all nursing care residents.

6506.2 Each nursing facility's routine and support price per diem shall be the per diem price calculated for the facility’s assigned peer group in § 6502.2.

6507 FACILITY CAPITAL-RELATED COSTS PER DIEM CALCULATION

6507.1 Each nursing facility's capital-related cost per diem shall be calculated by dividing total allowable capital-related base year costs adjusted in accordance with § 6501.7 by total resident days determined in accordance with § 6515.2 for all nursing care residents.

6507.2 For all rate periods on or after February 1, 2018, the capital cost per diem calculated in the base year shall apply to all subsequent rate periods, until the next rebasing period.

6508 VENTILATOR CARE

6508.1 In addition to the patient specific per diem rate described in § 6501.2, DHCF shall pay an additional per diem amount for any day that a resident qualifies for and receives ventilator care pursuant to the requirements set forth in §§ 6508 through 6510.

- 6508.2 Each resident receiving ventilator care shall meet all of the following requirements:
- (a) Be ventilator dependent and not able to breathe without mechanical ventilation;
 - (b) Use the ventilator for life support, sixteen (16) hours per day, seven (7) days per week;
 - (c) Have a tracheostomy or endotracheal tube;
 - (d) At the time of placement the resident has been ventilator dependent during a single stay or continuous stay at a hospital, skilled nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF/IID);
 - (e) Have a determination by the resident's physician and respiratory care team that the service is medically necessary, as well as documentation which describes the type of mechanical ventilation, technique and equipment;
 - (f) Be medically stable, without infections or extreme changes in ventilatory settings and/or duration (increase in respiratory rate by five (5) breaths per minute, increase in FiO₂ of twenty-five percent (25%) or more), and/or increase in tidal volume of two-hundred milliliters (200 mls) or more at time of placement;
 - (g) Require services on a daily basis which cannot be provided at a lower level of care; and
 - (h) Require services be provided under the supervision of a licensed health care professional.
- 6508.3 Each nursing facility shall comply with all of the standards governing ventilator care services set forth in 22-B DCMR § 3215.
- 6508.4 Ventilator care shall be prior-authorized by DHCF. The following documents shall be required for each authorization:
- (a) Level of Care determination;
 - (b) Pre-admission Screening and Annual Resident Review (PASARR) forms;
 - (c) Admission history;
 - (d) Physical examination reports;

- (e) Surgical reports; and
- (f) Consultation reports and ventilator dependent addendum.

6508.5 For purposes of this section the term “medically necessary” shall mean a service that is required to prevent, identify, or treat a resident's illness, injury or disability and meets the following standards:

- (a) Consistency with the resident's symptoms, or with prevention, diagnosis, or treatment of the resident's illness or injury;
- (b) Consistency with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
- (c) Appropriateness with regard to generally accepted standards of medical practice;
- (d) Is not medically contraindicated with regard to the resident's diagnosis, symptoms, or other medically necessary services being provided to the resident;
- (e) Is of proven medical value or usefulness, and is not experimental in nature;
- (f) Is not duplicative with respect to other services being provided to the resident;
- (g) Is not solely for the convenience of the resident;
- (h) Is cost-effective compared to an alternative medically necessary service which is reasonably acceptable to the resident based on coverage determinations; and
- (i) Is the most appropriate supply or level of service that can safely and effectively be provided to the resident.

6509 VENTILATOR CARE DISCHARGE

6509.1 Each provider shall ensure that residents are weaned from the ventilator when weaning is determined to be medically appropriate.

6509.2 A provider shall discontinue weaning and resume mechanical ventilation if the resident experiences any of the following:

- (a) Blood pressure elevation of more than twenty (20) millimeters of mercury (mmHg) systolic or more than ten (10) mmHg diastolic;
- (b) Heart rate of more than ten percent (10%) above the baseline or a heart rate of one-hundred twenty (120) beats per minute;
- (c) Respiratory rate increase of more than ten (10) breaths per minute or a rate above thirty (30) breaths per minute;
- (d) Arrhythmias;
- (e) Reduced tidal volume;
- (f) Elevated partial pressure of arterial carbon dioxide;
- (g) Extreme anxiety;
- (h) Dyspnea; or
- (i) Accessory muscle use in breathing or an otherwise deteriorating breathing pattern.

6509.3 Each nursing facility shall have an appropriate program for discharge and weaning from the ventilator.

6509.4 The nursing facility shall ensure that the resident and all caregivers be trained in all aspects of mechanical ventilation and demonstrate proficiency in ventilator care techniques before a ventilator-dependent resident can be discharged home on a mechanical ventilator.

6509.5 The physician and respiratory team shall arrange a schedule for follow-up visits, as indicated by the needs of the resident.

6509.6 A written discharge plan shall be provided to and reviewed with the resident and resident's caregiver and shall include at a minimum the following information:

- (a) Name, address, and telephone number of the primary physician;
- (b) Address and telephone number of the local hospital emergency department;
- (c) Name, address and telephone number of the physician for regular respiratory check-ups, if different from the physician identified in § 6509.6(a);
- (d) The responsibilities of the resident and caregiver in daily ventilator care;

- (e) Identification of financial resources for long-term care;
- (f) Identification of community resources for health, social, educational and vocational needs;
- (g) An itemized list of all equipment and supplies needed for mechanical ventilation;
- (h) Names, addresses and telephone numbers of mechanical ventilation equipment dealers and a list of services that they provide; and
- (i) Contingency plans for emergency situations.

6509.7 The nursing facility shall notify DHCF of the date of discharge from the facility.

6510 VENTILATOR CARE REIMBURSEMENT

6510.1 The add-on reimbursement rate for ventilator care shall be three hundred eighty dollars (\$380.00) per day for each resident. A public notice of any changes in the ventilator care reimbursement rate shall be published in the *D.C. Register* at least thirty (30) calendar days in advance of the changes.

6511 BEHAVIORALLY COMPLEX CARE

6511.1 In addition to the patient specific per diem rate described in § 6501.2, DHCF shall pay an additional per diem amount for any day that a resident qualifies as behaviorally complex pursuant to the definition set forth in § 6511.2.

6511.2 A behaviorally complex resident is defined as one who demonstrates two (2) or more of the following categories of behaviors, with at least one (1) behavior occurring four (4) or more days per week:

- (a) Demonstrates self injury, including head banging, self-biting, hitting oneself, or throwing oneself to floor with or without injury;
- (b) Demonstrates physical aggression, including assaulting other residents, staff, or property with or without injury to other residents or staff;
- (c) Demonstrates verbal aggression, including disruptive sounds, noises, screaming that disturbs roommate, staff or other residents;
- (d) Demonstrates aggressive behaviors, including sexual behaviors, disrobing, throwing or smearing food, feces, stealing, hoarding, going through other residents' or staff belongings, or elopement attempts; or

(e) Consistently rejects medical care.

6511.3 Reimbursement for behaviorally complex residents shall be prior authorized by DHCF. Medical records including the MDS, nursing progress notes, and incident reports supporting experience of behavior, including documentation of disruptive behavior within the last thirty (30) days is required for prior authorization. The documentation shall support that a resident meets the definition set forth in § 6511.2.

6511.4 If the resident has transferred within the last thirty (30) days, the documentation shall include the records from the referring facility.

6511.5 DHCF may authorize reimbursement of the add-on rate not to exceed ninety (90) consecutive days. Any subsequent reimbursement after expiration shall require prior authorization.

6512 BEHAVIORALLY COMPLEX CARE REIMBURSEMENT

6512.1 The add-on reimbursement rate for behaviorally complex care shall be eighty-two dollars (\$82.00) per day for each resident. A public notice of any changes in the behaviorally complex care reimbursement rate shall be published in the *D.C. Register* at least thirty (30) calendar days in advance of the changes.

6513 BARIATRIC CARE

6513.1 In addition to the patient specific per diem rate described in § 6501.2, DHCF shall pay an additional per diem amount for any day that a resident qualifies as a bariatric resident pursuant to the requirements set forth in § 6513.2.

6513.2 A bariatric resident is defined as one who:

- (a) Has a body mass index (BMI) of forty (40) or higher; and
- (b) Requires the assistance of two or more staff for three (3) or more Activities of Daily Living (ADL) during the most recent MDS assessment period.

6513.3 Reimbursement for bariatric residents shall be prior authorized by DHCF. The following documentation is required for authorization:

- (a) Medical records including MDS documenting the resident's height, weight and calculation of BMI; and
- (b) A description of the resident's ADL assistance needs, including the relevant section of the most recent MDS assessment demonstrating the need for assistance of two or more staff for three (3) or more ADLs.

6514 BARIATRIC CARE REIMBURSEMENT

6514.1 The add-on reimbursement rate for bariatric care shall be thirty-nine dollars (\$39.00) per day for each resident. A public notice of any changes in the bariatric care reimbursement rate shall be published in the *D.C. Register* at least thirty (30) calendar days in advance of the changes.

6515 ALLOWABLE COSTS

6515.1 Allowable costs shall include items of expense the provider incurs in the provision of routine services related to resident care including:

- (a) Room and board, including dietary and nutrition services, food, laundry and linen, housekeeping, routine personal hygiene items and services, plant operations and maintenance;
- (b) Medical direction;
- (c) Nursing care;
- (d) Medical and surgical supplies;
- (e) Social services
- (f) Resident activities;
- (g) Special services required by the resident, including physical, occupational, or speech therapy, oxygen therapy, but not dental care;
- (h) Incontinency care;
- (i) Behavioral Health services;
- (j) Canes, crutches, walkers and wheelchairs, excluding customized wheelchairs;
- (k) Traction equipment and other durable medical equipment for multi resident use;
- (l) Special dietary services, including tube or hand feeding and special diets;
- (m) Laundry services, including basic personal laundry; and
- (n) Other allowable expenses as determined by DHCF and identified in policy guidance.

- 6515.2 The occupancy rate used in determining the per diem rate for each cost category shall be the greater of:
- (a) The actual total facility paid occupancy, including paid reserved bed days; or
 - (b) Ninety-three percent (93%) of certified total facility bed days available during the cost reporting period.
- 6515.3 General and administrative expenses shall include but not be limited to:
- (a) Administrative salaries, including fringe benefits;
 - (b) Professional services, including accounting and auditing expenses, fees of management consultants and legal fees;
 - (c) General liability insurance;
 - (d) Telephone;
 - (e) Licenses;
 - (f) Travel and entertainment;
 - (g) Office expenses, including services and supplies;
 - (h) Personnel and procurement;
 - (i) Dues and subscriptions;
 - (j) Home office costs;
 - (k) Interest on working capital; and
 - (l) Occupational Safety and Health Administration costs.
- 6515.4 Depreciation allowance shall be determined in accordance with the Medicare Principles of Reimbursement set forth at 42 CFR part 413 subpart G, except that:
- (a) Only the straight line method shall be used; and
 - (b) The useful life of the assets must comply with the most recent guidelines for hospitals published by the American Hospital Association and approved by the Medicare program.

- 6515.5 Consistent use of either the component or composite asset depreciation schedule shall be required, as follows:
- (a) Component depreciation is permitted in the case of a newly constructed facility and for recognized building improvements where the costs can be separated and acceptable useful lives determined; and
 - (b) Composite depreciation shall be applied for a newly purchased existing facility.
- 6515.6 Donated assets shall be recorded at fair market value at the time received, based on the lesser of at least two bona fide appraisals.
- 6515.7 Leasehold improvements shall be depreciated over the lesser of the asset's useful life or the remaining life of the lease.
- 6515.8 When a facility is sold, the depreciation basis shall be subject to the limitation of the reevaluation of assets mandated by § 1861(v)(1)(O) of Title XVIII of the Social Security Act.
- 6515.9 Necessary and proper interest on both current and capital indebtedness shall be allowable costs, determined in accordance with the Medicare Principles of Reimbursement set forth at 42 CFR § 413.153.
- 6515.10 Bad debts, charity, and courtesy allowances, as defined at 42 CFR § 413.89(b), shall not be recognized as allowable costs.
- 6515.11 The cost of services, facilities, and supplies furnished to the provider by an organization related to the provider by common ownership or control are included in the allowable cost of the provider at the cost to the related organization. The cost charged by the related organization shall not exceed the price of comparable services, facilities or supplies that could be purchased by independent providers in the Washington metropolitan area.
- 6515.12 Return on equity capital of proprietary providers shall be determined according to the Medicare Principles of Reimbursement.
- 6515.13 Reasonable rental expense shall be an allowable cost for leasing of a facility from a non-related party if it is an arm's length transaction.
- 6515.14 The purchase or rental by a facility of any property, plant, equipment, services and supplies shall not exceed the cost that a prudent buyer would pay in the open market to obtain these items.
- 6515.15 District of Columbia provider tax costs shall be excluded from allowable costs.

- 6515.16 Home office costs and management fees shall be subject to the following conditions and limitations:
- (a) Home office cost allocations and management fees between related parties shall be reported without mark-up by the nursing facility;
 - (b) Costs that are not allowable, such as those related to nonworking officers or officers' life insurance, shall not be included in home office allocations or management fees; and
 - (c) The nursing facility's audited certified cost allocation plan relating to home office and management fees shall be provided.
- 6515.17 Respiratory therapy costs including equipment rental, supplies and labor and staffing costs associated with providing ventilator care shall be excluded from allowable costs.
- 6515.18 For purposes of this section, the phrases “related to the provider,” “common ownership” and “control” shall have the same meaning as set forth in 42 CFR § 413.17(b).

6516 EXCLUSIONS FROM ALLOWABLE COSTS

- 6516.1 The following categories of expense shall be excluded from allowable operating costs because they are not normally incurred in providing resident care:
- (a) Fundraising expenses in excess of ten percent (10%) of the amount raised;
 - (b) Parties and social activities not related to resident care;
 - (c) Personal telephone, radio, and television services;
 - (d) Gift, flower and coffee shop expenses;
 - (e) Vending machines;
 - (f) Interest expenses and penalties due to late payment of bills or taxes, or for licensure violations;
 - (g) Prescription drug costs;
 - (h) Personal resident purchases; and
 - (i) Beauty and barber shop costs.
- 6516.2 The following expenditures shall reduce allowable costs:

- (a) The greater of the revenues generated from employee and guest meals or the cost of the meals;
- (b) The greater of the revenues generated from rental space in the facility or the cost of the rental space;
- (c) Purchase discounts and allowances;
- (d) Investment income for unrestricted funds to the extent that it exceeds interest expense on investments;
- (e) Recovery of an insured loss;
- (f) Grants, gift and income from endowments designated by the donor for specific operating expenses; and
- (g) Any other income or expense item determined to reduce allowable costs pursuant to the Medicare Principles of Reimbursement. DHCF shall not offset performance based payments made to nursing facilities participating in the Nursing Facility Quality Improvement Program and add-on payments for ventilator care, bariatric care, and care for the behaviorally complex against allowable costs.

6517 REBASING AND ANNUAL RATE ADJUSTMENTS

- 6517.1 Not later than October 1, 2021, and every four (4) years thereafter, the base year data, medians, day-weighted medians and peer group prices shall be updated.
- 6517.2 DHCF retains authority to update the routine and support and the nursing and resident care components of the peer group nursing facility rates annually.

6518 REIMBURSEMENT FOR NEW PROVIDERS

- 6518.1 Each new provider shall be assigned to the appropriate peer group as set forth in § 6502.1.
- 6518.2 The per diem rate for each new provider shall be the base year day-weighted average case mix neutral peer group price for nursing and resident care and the peer group price for routine and support services.
- 6518.3 The capital per diem for each new provider shall be the greater of the base year day-weighted average per diem of facilities in the assigned peer group, or the median per diem for the peer group.

6518.4 Each new provider may receive an add-on payment for each resident that qualifies and receives ventilator care pursuant to §§ 6508 - 6510 or for residents qualifying for reimbursement as behaviorally complex pursuant to §§ 6511- 6512 or bariatric care, pursuant to §§ 6513 - 6514.

6518.5 DHCF shall notify, in writing, each new nursing facility of its payment rate calculated in accordance with this section. The rate letter to a new provider shall include the per diem payment rate calculated in accordance with this section.

6519 REIMBURSEMENT FOR REORGANIZED FACILITIES, EXPANDED FACILITIES, REDUCED CAPACITY, OR CHANGE OF OWNERSHIP

6519.1 A nursing facility that has been reorganized pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code on or after September 30, 2000 shall be reimbursed at the same rate in effect prior to the date the reorganized facility filed its petition for bankruptcy.

6519.2 A nursing facility with a change of ownership on or after September 30, 2000 shall be reimbursed at the same rate established for the nursing facility prior to the change of ownership, except the capital per diem shall be the greater of the base year day-weighted average per diem of facilities in the assigned peer group or the capital rate for the nursing facility prior to the change of ownership.

6519.3 A nursing facility that expands its bed capacity shall be reimbursed for its newly added beds at the same rate established for the nursing facility prior to the expansion until the next rebasing effective date, unless the addition of beds qualifies the expanded facility for a different peer group.

6519.4 If the expanded facility qualifies for a different peer group, the facility rates will be adjusted to comply with the new peer group rates one (1) year after the new beds are put into service, or on the next rebasing date, whichever comes first.

6519.5 A nursing facility that reduces its bed capacity shall continue to be reimbursed at the same rate established for the nursing facility prior to the bed reduction until the next rebasing effective date, unless the bed reduction qualifies the facility for a different peer group.

6519.6 If a reduction in the number of beds qualifies the facility for a different peer group, the facility rates will be adjusted to comply with the new peer group rates as soon as the reduction is effective.

6520 REIMBURSEMENT FOR OUT OF STATE FACILITIES

6520.1 If a District Medicaid beneficiary is placed in an out-of-state facility in accordance with the requirements of § 6520.5, DHCF shall reimburse the facility in accordance with the Medicaid reimbursement rate of the state in which the

facility is located or a negotiated rate, provided that it is not greater than the estimated Medicaid reimbursement rate of the state in which the facility is located.

- 6520.2 DHCF shall notify each out-of-state facility, in writing, of its payment rate calculated in accordance with this section.
- 6520.3 An out-of-state facility is not required to file cost reports with DHCF.
- 6520.4 Each out-of-state facility shall obtain written authorization from DHCF prior to admission of a District Medicaid beneficiary.
- 6520.5 DHCF may approve placement of a District Medicaid beneficiary in an out-of-state facility only if DHCF determines there are not nursing facilities in the District with immediate capacity to admit that can provide the appropriate level of care for the beneficiary.

6521 COST REPORTING AND RECORD MAINTENANCE

- 6521.1 Each nursing facility shall submit an annual cost report to the Medicaid program within one hundred twenty days (120) days of the close of the facility's cost reporting period, which shall be concurrent with its fiscal year used for all other financial reporting purposes.
- 6521.2 Cost reports shall be submitted on the DHCF approved form, and shall be completed according to the published cost report instruction manual. DHCF reserves the right to modify the cost reporting forms and instructions and shall send written notification to each nursing facility regarding any changes to the forms, instructions and copies of the revised cost reporting forms.
- 6521.3 A delinquency notice shall be issued if the facility does not submit the cost report on time and has not received an extension of the deadline for good cause.
- 6521.4 Only one (1) extension of time shall be granted to a facility for a cost reporting year and no extension of time shall exceed thirty (30) days. DHCF shall honor all extensions of time granted to hospital-based facilities by the Medicare program.
- 6521.5 If the cost report is not submitted within thirty (30) days of the date of the notice of delinquency, twenty percent (20%) of the facility's regular monthly payment shall be withheld each month until the cost report is received.
- 6521.6 Each nursing facility shall submit one (1) original hard-copy and (1) one electronic copy of the cost report. Each copy shall have an original signature.

- 6521.7 The requirements for cost reports shall be detailed in the DHCF nursing facility cost report instruction manual. Each cost report shall meet the following requirements:
- (a) Be properly completed in accordance with program instructions and forms and accompanied by supporting documentation;
 - (b) Include copies of audited financial statements or other official documents submitted to a governmental agency justifying revenues and expenses;
 - (c) Include and disclose payments made to related parties in accordance with § 6515.11 and the reason for each payment to a related party; and
 - (d) Include audited cost allocation plans for nursing facilities with home office costs, if applicable.
- 6521.8 Computations included in the cost report shall be accurate and consistent with other related computations and the treatment of costs shall be consistent with the requirements set forth in these rules.
- 6521.9 In the absence of specific instructions or definitions contained in these rules or cost reporting forms and instructions, the decision of whether a cost is allowable shall be determined in accordance with the Medicare Principles of Reimbursement and the guidelines set forth in Medicare Provider Reimbursement Manual.
- 6521.10 All cost reports shall cover a twelve (12) month cost reporting period, which shall be the same as the facility's fiscal year, unless DHCF has approved an exception.
- 6521.11 A cost report that is not complete, as required by §§ 6521.6 through 6521.8, shall be considered an incomplete filing and the nursing facility shall be so notified.
- 6521.12 If, within thirty (30) days of the notice of incomplete filing, the facility fails to file a completed cost report and no extension of time has been granted by DHCF, twenty percent (20%) of the facility's regular monthly payment shall be withheld each month until the filing is complete.
- 6521.13 DHCF shall pay the withheld funds promptly after receipt of the completed cost report and documentation required meeting the requirements of this section.
- 6521.14 Each facility shall maintain adequate financial records and statistical data for proper determination of allowable costs and in support of the costs reflected on each line of the cost report. The financial records shall include the facility's accounting and related records including the general ledger and books of original entry, all transactions documents, statistical data, lease and rental agreements and any original documents which pertain to the determination of costs.

- 6521.15 Each nursing facility shall maintain the records pertaining to each cost report as described in § 6521.14 for a period of not less than seven (7) years after filing of the cost report. If the records relate to a cost reporting period under audit or appeal, records shall be retained until the audit or appeal is completed.
- 6521.16 All records and other information may be subject to periodic verification and review. Each cost report may be subject to a desk review.
- 6521.17 Each nursing facility shall:
- (a) Use the accrual method of accounting; and
 - (b) Prepare the cost report in accordance with generally accepted accounting principles and all program instructions.
- 6521.18 Audits shall be conducted to establish the rates upon rebasing as set forth in § 6517.

6522 ACCESS TO RECORDS

- 6522.1 In accordance with the Health Insurance Portability and Accountability Act of 1996 and other privacy laws, each nursing facility shall allow appropriate DHCF personnel, representatives of the federal Department of Health and Human Services and other authorized agents or officials of the District of Columbia government and federal government full access to all records during announced and unannounced audits and reviews.

6523 APPEALS

- 6523.1 At the conclusion of each base year audit or any other required audit, a nursing facility shall receive an audited cost report including a description of each audit adjustment and the reason for each adjustment.
- 6523.2 Within thirty (30) days of the date of receipt of the audited cost report, any nursing facility that disagrees with the audited cost report may request an administrative review by sending a written request for administrative review to DHCF.
- 6523.3 The written request for an administrative review shall include an identification of the specific audit adjustment to be reviewed, the reason for the request for review of each audit adjustment and documentation supporting the request.
- 6523.4 DHCF shall mail a formal response to the nursing facility no later than forty-five (45) days from the date of receipt of the written request for administrative review pursuant to § 6523.2.

6523.5 Decisions made by DHCF and communicated in the formal response described in § 6523.4 may be appealed to the Office of Administrative Hearings within thirty (30) days of the date of issuance of the formal response.

6523.6 DHCF shall issue a rate letter to each nursing facility that includes the relevant rate parameters used to determine the final rate components consistent with the requirements set forth in this chapter.

6524 NURSING FACILITY QUALITY IMPROVEMENT PROGRAM

6524.1 Beginning February 1, 2018, DHCF will implement the Nursing Facility Quality Improvement (NFQIP) Program.

6524.2 Participation in the Nursing Facility Quality Improvement Reporting Track is mandatory for all nursing facilities in the District. Participation in the Nursing Facility Quality Improvement Incentive Track is optional. The two tracks are set forth below:

- (a) Nursing Facility Quality Improvement Reporting (NFQIR) Track: This track only reports performance measures set forth in § 6524.3 and does not provide a supplemental Medicaid payment; and
- (b) Nursing Facility Quality Improvement Incentive (NFQII) Track: This track provides a supplemental Medicaid payment for participating nursing facilities that report performance measures set forth in §§ 6524.3 and 6524.3 and provide services that result in better care and higher quality of life for their residents; or

6524.3 Quality reporting is mandatory for all District nursing facilities. Each nursing facility shall report to DHCF, annually, on the performance measures set forth below, which shall be calculated and reported as follows:

Nursing Facility Quality Improvement Reporting Performance Measures				
Measure Number/ Name	Measurement Domain	NQF #	Steward	Description

<p>1. Percent of high risk, long-stay residents with pressure ulcers</p>	<p>Quality of Care</p>	<p>0679</p>	<p>CMS</p>	<p>Numerator: The number of all long-stay residents with a selected target assessment that meets both of the following conditions:</p> <ul style="list-style-type: none"> • Condition #1: There is a high risk for pressure ulcers, as “high-risk” is defined in the denominator definition below. • Condition #2: Stage II-IV or unstageable pressure ulcers are present, as indicated by any of the following six (6) conditions: <ul style="list-style-type: none"> ○ 2.1 (M0300B1 = [1, 2, 3, 4, 5, 6, 7, 8, 9]) or ○ 2.2 (M0300C1 = [1, 2, 3, 4, 5, 6, 7, 8, 9]) or ○ 2.3 (M0300D1 = [1, 2, 3, 4, 5, 6, 7, 8, 9]). <p>Denominator: The number of all long-stay residents with a selected target assessment who meet the definition of high risk, except those with exclusions.</p> <p>Residents are defined as high-risk if they meet one (1) or more of the following three (3) criteria on the target assessment:</p> <ul style="list-style-type: none"> • Impaired bed mobility or transfer indicated, by either or both of the following: <ul style="list-style-type: none"> ○ Bed mobility, self-performance (G0110A1 = [3, 4, 7, 8]) or ○ Transfer, self-performance (G0110B1 = [3, 4, 7, 8]) or • Comatose (B0100 = [1]) or • Malnutrition or at risk of malnutrition (I5600 = [1]) (checked). <p>Exclusions:</p> <ul style="list-style-type: none"> • Target assessments that define a long-stay resident as high risk under this measure should be excluded from the denominator calculation if the target assessment is an admission assessment (A0310A = [01]) or a Prospective Payment System (PPS) 5-day or readmission/return assessment (A0310B = [01, 06]). • If the resident is not included in the calculation of the numerator (the resident did not meet the pressure ulcer conditions for the numerator) and any of the following conditions are true: <ul style="list-style-type: none"> ○ (M0300B1 = [-]). ○ (M0300C1 = [-]). ○ (M0300D1 = [-]).
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<p>2. Percentage of long-stay residents who received an antipsychotic medication</p>	<p>Quality of Care</p>	<p>N/A</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with a selected target assessment where the following condition is true: antipsychotic medications received. This condition is defined as follows:</p> <ul style="list-style-type: none"> • For assessments with target dates on or before 03/31/2012: (N0400A = [1]). • For assessments with target dates on or after 04/01/2012: (N0410A = [1, 2, 3, 4, 5, 6, 7]). <p>Denominator: The number of long-stay residents with a selected target assessment, except those with exclusions.</p> <p>Exclusions: Residents are excluded from the calculation of the numerator if any of the following is true:</p> <ul style="list-style-type: none"> • For assessments with target dates on or before 03/31/2012: (N0400A = [-]). • For assessments with target dates on or after 04/01/2012: (N0410A = [-]). <p>Residents are also excluded if any of the following related conditions are present on the target assessment (unless otherwise indicated):</p> <ul style="list-style-type: none"> • Schizophrenia (I6000 = [1]). • Tourette’s syndrome (I5350 = [1]). • Tourette’s syndrome is considered to be (I5350 = [1]) if this item is not active on a prior the target assessment or if a prior assessment is available; or. • Huntington’s disease (I5250 = [1]).
<p>3. Percent of long-stay residents with a urinary tract infection</p>	<p>Quality of Care</p>	<p>0684</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with a selected target assessment that indicates urinary tract infection within the last thirty (30) days (I2300 = [1]).</p> <p>Denominator: The number of all long-stay residents with a selected target assessment, except those with exclusions.</p> <p>Exclusions: Residents are excluded from the denominator calculation if:</p> <ul style="list-style-type: none"> • Target assessment is an admission assessment of (A0310A = [01]) or a PPS 5-day or readmission/return assessment (A0310B = [01, 06]); or • Urinary tract infection value is missing (I2300 = [-]).

<p>4. Percent of low risk long-stay residents who lose control of their bowels or bladder</p>	<p>Quality of Care</p>	<p>N/A</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with a selected target assessment that indicates frequently or always incontinence of the bladder (H0300 = [2, 3]) or bowel (H0400 = [2, 3]).</p> <p>Denominator: The number of all long-stay residents with a selected target assessment, except those with exclusions.</p> <p>Exclusions: Residents are excluded from the calculation of the denominator if:</p> <ul style="list-style-type: none"> • Resident’s target assessment is an admission assessment (A0310A = [01]) or a PPS five (5-) day or readmission/return assessment (A0310B = [01, 06]); . • Resident is not in numerator and H0300 = [-] OR H0400 = [-]. • Residents have any of the following high risk conditions: a. Severe cognitive impairment on the target assessment as indicated by (C1000 = [3] and C0700 = [1]) OR (C0500 ≤ [7]); b. Totally dependent in bed mobility self-performance (G0110A1 = [4, 7, 8]);. c. Totally dependent in transfer self-performance (G0110B1 = [4, 7, 8])’or . d. Totally dependent in locomotion on unit self-performance (G0110E1 = [4, 7, 8]). • Resident does not qualify as high risk (see #3 above) and both of the following two (2) conditions are true for the target assessment: a. C0500 = [99, ^, -]; and b. C0700 = [^, -] or C1000 = [^, -]. • Resident does not qualify as high risk (see #3 above) and any of the following three (3) conditions are true: a. G0110A1 = [-]; b. G0110B1 = [-]; and c. G0110E1 = [-]. • Resident is comatose (B0100 = [1]) or comatose status is missing (B0100 = [-]) on the target assessment. • Resident has an indwelling catheter (H0100A = [1]) or indwelling catheter status is missing (H0100A = [-]) on the target assessment. • Resident has an ostomy (H0100C = [1]) or ostomy status is missing (H0100C = [-]) on the target assessment.
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<p>5. Percent of long-stay residents experiencing one or more falls with major injury</p>	<p>Quality of Care</p>	<p>0674</p>	<p>CMS</p>	<p>Numerator: The number of long-stay residents with one or more look-back scan assessments that indicate one or more falls that resulted in major injury (J1900C = [1, 2]).</p> <p>Denominator: The number of all long-stay nursing home residents with a one or more look-back scan assessments except those with exclusions.</p> <p>Exclusions: Residents are excluded from the calculation of the denominator if one of the following is true for all of the look-back scan assessments:</p> <ul style="list-style-type: none"> • The occurrence of falls was not assessed (J1800 = [-]), or • The assessment indicates that a fall occurred (J1800 = [1]) and the number of falls with major injury was not assessed (J1900C = [-])
<p>6. Resident/Family Satisfaction Survey</p>	<p>Quality of Life</p>	<p>N/A</p>	<p>DHCF or its representative</p>	<p>The survey will document resident/family satisfaction with the services provided by the nursing facility. The survey will be:</p> <ul style="list-style-type: none"> • The AHRQ standardized nursing home CAHPS survey tool; and • Annually administered and tabulated by an external entity from the nursing facility and DHCF. <p>A summary report of the survey and response rate will be made publicly available.</p>

<p>7. End of Life Program</p>	<p>Quality of Life</p>	<p>N/A</p>	<p>DHCF</p>	<p>The facility must develop a program for all residents (including but not limited to those with a terminal diagnosis) that serves the staff, residents, and family members in preparation for the time when beneficiary is unable to communicate their wishes for themselves regardless of anticipated length of stay . Supporting documentation for the program provided by the nursing facility to DHCF must provide:</p> <ul style="list-style-type: none"> • A detailed narrative of the facility's end of life program that identifies individual preferences, spiritual needs, wishes, expectations, specific grief counseling, a plan for honoring those that have died, and a process to inform the facility residents of such death; • Documentation of no less than four (4) and no greater than ten (10) residents' individual wishes and how the facility honored them; and • Proof of staff education on the facility's end of life planning program.
<p>8. Low-acuity Non-emergent ED visits</p>	<p>Utilization</p>	<p>N/A</p>	<p>DHCF</p>	<p>Percentage of inpatient admissions among nursing facility long stay residents for specific ambulatory care conditions that may have been prevented through appropriate outpatient care.</p>
<p>9. All-cause 30-day Readmissions</p>	<p>Utilization</p>	<p>1768</p>	<p>NCQA</p>	<p>The number of acute inpatient stays during the measurement year that were followed by an unplanned acute readmission for any diagnosis within thirty (30) calendar days and the predicted probability of an acute readmission. Data are reported in the following categories:</p> <ul style="list-style-type: none"> • Count of Index Hospital Stays (denominator); • Count of thirty (30)-Day Readmissions (numerator); and • Average adjusted Probability of Readmission.
<p>10. Potentially Preventable Hospital Admissions</p>	<p>Utilization</p>	<p>N/A</p>	<p>AHRQ</p>	<p>Percentage of inpatient admissions among nursing facility residents for specific ambulatory care conditions that may have been prevented through appropriate outpatient care. Includes admissions for one of the following conditions: diabetes with short-term complications, diabetes with long-term complications, uncontrolled diabetes without complications, diabetes with lower-extremity amputation, chronic obstructive pulmonary disease, asthma, hypertension, or heart failure without a cardiac procedure.</p>

11. Staff Continuing Education in MDS Training	Infrastructure	N/A	DHCF	Provide documentation that staff is trained to document MDS assessment in a uniform and consistent manner.
12. Staff Turnover	Infrastructure	N/A	DHCF	The percentage of direct care staff [^] who have been terminated ^{^^} during the measurement period, calculated as follows: $100 * (\text{Number of nursing terminations at the nursing home during the period} / (\text{average number of nursing staff employees}) - 100.$ [^] Direct Care Staff - All full-time, part-time, permanent, short-term, seasonal, salaried and hourly RN, LPN, and CNA staff. Staff of temporary agencies and outside contractors are not included. ^{^^} Terminated - Any person who is no longer employed by the nursing facility for any reason.
13. RN hours per resident day	Infrastructure	N/A	DHCF	RN hours per resident day is calculated by adding RN hours plus fifty (50) percent of Direct of Nursing (DON) hours worked by nursing home employees plus eighty (80) percent of RN hours worked by contract agency staff, and dividing by total resident days for the reporting period.
14. Quality Improvement Plan <i>(This measure will be retired in FY2020 and will become a participation requirement for the NFQII program.)</i>	Infrastructure	N/A	DHCF	Documentation on how the nursing facility will address transitions of care and optimize on performance measures. The measure will review the nursing facility's Quality Assurance and Performance Improvement program utilizing the ACA required guidelines.

6524.4 In addition to the reporting requirements set forth in § 6524.3, each nursing facility participating in NFQII shall report to DHCF, annually, on an additional set of requirements and performance measures set forth below:

Nursing Facility Quality Initiative Incentive Performance Measures				
Measure Number/ Name	Measurement Domain	NQF #	Steward	Description
1. Certified EHR Adoption <i>(NFQII only)</i>	Infrastructure	N/A	DHCF	Demonstrate use of electronic health record (EHR) technology to support the creation and execution of a person-centered plan of care for each beneficiary that will facilitate transitions of care.

<p>2. Enrollment and Integration in the Chesapeake Regional Information System for our Patients (CRISP) to receive ENS (NFQII only)</p>	<p>Infrastructure</p>	<p>N/A</p>	<p>DHCF</p>	<p>Demonstrate use of enrollment in and use of Health Information Exchange tools as detailed below:</p> <ul style="list-style-type: none"> • In year 1 nursing facilities provide proof of enrollment in the Chesapeake Regional Information System for our Patients (CRISP) or comparable system, to receive hospital and emergency department alerts for enrolled beneficiaries. • In year 2 nursing facilities provide narrative of how the facility has integrated the HIE connectivity into its workflow
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6524.5 Results on all performance measures referenced in § 6524.3 shall be publicly posted on the DHCF website.

6525 PARTICIPATION IN THE NURSING FACILITY QUALITY IMPROVEMENT PROGRAM

6525.1 To participate in the NFQIR track, the nursing facility must:

- (a) Be located in the District of Columbia;
- (b) Be enrolled in and seek reimbursement from the District's Medicaid Program as a nursing facility; and
- (c) Report data pursuant to § 6524.3.

6525.2 To participate in the NFQII track, the nursing facility must:

- (a) Meet requirements pursuant to § 6525.1;
- (b) Submit a letter indicating intent to participate in the NFQII track by September 1, 2018 and annually thereafter; and
- (c) Beginning fiscal year 2020 and annually thereafter, submit a quality improvement plan on the nursing facility plans to address improved transition of care and optimize its workflow to achieve optimal performance on performance measures set forth in § 6524.3.

6525.3 DHCF shall notify the nursing facilities if all participation requirements have been met no later than thirty (30) business days after the receipt of the required materials.

- 6525.4 Measures specifications for the performance payment shall consist of a set of guidelines set forth by DHCF. Measure specifications for the baseline period and first performance measurement period are set forth in § 6524.3.
- 6525.5 DHCF reserves the right to change performance measures, measure specifications, and participation requirements. DHCF will notify nursing facilities of the performance measures, measure specifications, and any changes through transmittals issued to the nursing facilities no later than sixty (60) calendar days prior to October 1st of each measurement year (MY).
- 6525.6 Data from the following periods will be used to determine the initial performance payment in fiscal year 2020:
- (a) The baseline period shall begin on February 1, 2018 and end on September 30, 2018; and
 - (b) Fiscal year 2019, the period beginning October 1, 2018 and ending September 30, 2019, is the first performance measurement period.

6526 NFQII PERFORMANCE SCORING

- 6526.1 Nursing facilities electing to participate in the NFQII will be assessed for the performance payment based on the facility:
- (a) Submitting a written statement attesting to compliance or completion of a performance measure accompanied by supporting documentation;
 - (b) Attaining the seventy-fifth (75th) percentile based on all nursing facility performance from the previous measurement period; or
 - (c) Improving on the individual nursing facility performance relative to the previous year by any margin.
- 6526.2 DHCF will establish performance benchmarks for attainment based on data collected in the baseline period. The performance payment program's baseline period will be the period from February 1, 2018 to September 30, 2018, in which nursing facility performance is initially measured. For each subsequent measurement year, benchmarks will be based on data collected from the prior measurement year. If a participating nursing facility did not attain its goal, then DHCF shall assess whether the participating nursing facility's performance with regard to measures set forth in § 6524 improved from the previous measurement year.
- 6526.3 For domain measures where attainment is measured, an eligible nursing facility must achieve the attainment benchmark of the seventy-fifth (75th) percentile for the initial baseline period or for the previous measurement year to receive the

points allotted for those measures in accordance with § 6526.6. Setting the threshold at the seventy-fifth (75th) percentile means that only nursing facilities performing at the level of the top quartile for the previous year would earn points for attainment. Participating nursing facilities performing below the attainment benchmark will also be able to receive the total points allotted for that measure if they have improved measure performance from the previous year by any amount.

- 6526.4 DHCF will determine an annual performance score using the data available in the measurement year for each eligible nursing facility. The score is based on the number of points that a facility earns for its performance in meeting the benchmarks for each measure described in §§ 6524.3 and 6524.4.
- 6526.5 For domain measures where improvement can be measured, the improvement benchmark will be any improvement in performance of the measure compared to the prior year's performance by any margin.
- 6526.6 DHCF shall determine the distribution of points to calculate annual performance score based on a maximum of one hundred (100) points. DHCF shall apply weights to each of the domains and measures. Each measure in the domain is assigned points by dividing the total points amongst measures in each domain as outlined below:

(a)

Nursing Facility Performance Measure Point Distribution Methodology			
Domains	Measures	MY 2019	MY 2020
Quality of Care	Pressure Ulcers	6	6
	Anti-psychotic Medications	6	6
	Urinary Tract	6	6
	Loss of bowels or bladder	6	6
	Falls w/ injury	6	6
	Domain Total	30	30
Quality of Life	Resident survey	8	10
	End of Life Program	2	10
	Domain Total	10	20
Utilization	Low-Acuity Non-emergent ED Visits	3.3	3.3
	All-cause 30-day Readmissions	3.3	3.3
	Potentially Preventable Hospital Admissions	3.3	3.3
	Domain Total	10	10
Infrastructure	Staff Continuing Education in MDS Training	5	6
	Staff Turnover Rate	5	6
	RN Nursing Hours per Resident Day	5	6
	EHR Adoption	10	11
	HIE Connectivity	10	11
	Quality Improvement Plan	15	N/A
	Domain Total	50	40
Total	Total NFOII Points	100	100

(b) DHCF shall retain the right to adjust relative weights assigned to domains and measures. DHCF shall issue a transmittal notifying nursing facilities of assigned weights no later than sixty (60) calendar days prior to the beginning of the measurement year.

6526.7

If a nursing facility attests to compliance with or completion of a given measure, attains the seventy-fifth (75th) percentile for a given measure, or improves performance on a given measure, as appropriate, then the nursing facility will be awarded the total amount of points allotted for that measure as set forth in § 6526.6. If a nursing facility neither attest to compliance or completion of a given measure, attains the seventy-fifth (75th) percentile for a given measure, nor

improves performance on a given measure, as appropriate, no points will be awarded for that measure. The total score for a nursing facility will be the sum of the total points earned through either attainment, attestation, or improvement across measures set forth in §§ 6524.3 and 6524.4.

6526.8 A transmittal will be issued to each nursing facility no later than ninety (90) calendar days after the start of the measurement year with information on the benchmarks that will be used to measure a facility's performance (attainment or improvement).

6526.9 DHCF shall provide written notification of the attainment and individualized improvement thresholds to each eligible nursing facility no later than one hundred eighty (180) calendar days after the conclusion of the previous measurement year after all performance measures are received and validated.

6527 NURSING FACILITY QUALITY OF CARE FUND AND NFQII PERFORMANCE PAYMENT

6527.1 DHCF shall calculate and distribute performance payments based on available funds from the Nursing Facility Quality of Care Fund.

6527.2 DHCF shall calculate the amount of funds available for distribution to nursing facilities after the conclusion of each measurement year for the subsequent year in accordance with the requirements set forth below:

(a) The amount of funds available for DHCF to distribute to nursing facilities shall be a percentage of the total assessments collected under the Nursing Facility Quality of Care Fund during the fiscal year; and

(b) DHCF shall provide public notice of the amount of funds available for distribution at least sixty (60) days ahead of the beginning of the measurement year.

6527.3 DHCF will distribute performance payments to eligible nursing facilities based on the participating facility's proportionate share of the total Medicaid resident days of all nursing facilities and the facility's annual performance score during the measurement year.

6527.4 Beginning with measurement year 2019, and annually thereafter, performance payments shall be calculated and distributed no later than one hundred eighty (180) calendar days after the conclusion of each measurement year once all performance measures are received and have been validated. A payment letter will include the facility's performance score and the amount of the award.

6527.5 Any unused funds from the prior fiscal year shall be returned to the Nursing Facility Quality of Care Fund.

6599 **DEFINITIONS**

6599.1 When used in this chapter, the following terms shall have the meanings ascribed:

Accrual Method of Accounting - a method of accounting pursuant to which revenue is recorded in the period earned, regardless of when collected and expenses are recorded in the period, regardless of when paid.

Arm's Length Transaction – a transaction between the nursing facility and another party where both parties are acting in their own best interests and there is no established relationship except the mutual involvement of the parties in the transaction itself.

Base Year - the standardized year on which rates for all facilities are calculated to derive a prospective reimbursement rate.

Case Mix Index - a number value score that describes the relative resource use for the average resident in each of the groups under the RUGS IV classification system based on the assessed needs of the resident.

Case Mix Neutralization - the process of removing cost variations between nursing facilities nursing and resident care costs resulting from different levels of case mix.

Change of Ownership shall have the same meaning as “acquiring of effective control” as set forth in D.C. Official Code § 44-401(1).

Clinically Eligible - means that the beneficiary meets the criteria for a nursing facility level of care, as determined by an assessment completed by DHCF or its assign. The assessment includes a determination from clinicians that the beneficiary requires a nursing facility level of care.

Day-Weighted Median - the point in an array from high to low of the per diem costs for all facilities at which half of the days have equal or higher per diem costs and half have equal or lower per diem costs.

Department of Health Care Finance (DHCF) - the single state agency responsible for the administration and oversight of the District's Medicaid program.

Expanded Facility - a facility that puts additional Medicaid certified beds into service.

F01 - the case mix index scores developed by the Centers for Medicare and Medicaid Services for the Medicaid 48-group Resource Utilization Groups (RUGS-IV) classification system.

FiO2 - (fraction of inspired oxygen) - the ratio of the concentration of oxygen to the total pressure of other gases in inspired air.

Facility Medicaid Case Mix - the arithmetic mean of the individual resident case mix index for all residents, for whom DHCF is the payer source, admitted and present in the nursing facility on one (1) day per quarter in each fiscal year, as selected by DHCF. The arithmetic mean shall be carried to four (4) decimal places.

Fair Market Value - the value at which an asset could be sold in the open market in a transaction between unrelated parties.

Long-Stay Resident – A resident who resides in nursing facility for one hundred and one (101) resident days or more.

Mechanical Ventilation - a method for using machines to help an individual to breathe when that individual is unable to breathe sufficiently on his or her own to sustain life.

Median - the point in an ordered array from lowest to highest of nursing facility per diem costs at which the facilities are divided into equal halves.

Medicaid Resident Day - one (1) continuous twenty-four (24)-hour period of care furnished by a nursing facility that concludes at midnight each calendar day, where DHCF is the primary payor. Calendar days include reserved bed days that are paid for by DHCF. The day of the resident's admission is counted as a resident day. The day of discharge is not counted as a resident day.

Minimum Data Set (MDS), Version 3.0 means the resident assessment instrument and data used to determine the RUGS classification of each resident.

New Provider – a nursing facility that, at the time of application to enroll as a Medicaid provider, has not been a provider during the previous twelve (12)-month period or, for rates effective February 1, 2018 and after, does not have a cost report as set forth in § 6521 of this chapter; and a nursing facility not defined as a reorganized facility or a facility that has changed ownership.

Nursing Facility - a facility that is licensed as a nursing home pursuant to the requirements set forth in the “Health Care and Community Residence

License Act of 1983,” effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*) and meets the federal conditions of participation for nursing facilities in the Medicaid program as set forth in 42 CFR part 483.

Nursing Facility Quality of Care Fund – District fund established in accordance with the “Fiscal Year 2005 Budget Support Act of 2004,” effective December 7, 2004 (D.C. Law 15-205; 51 DCR 8441 (September 3, 2004)), as amended by the “Fiscal Year 2006 Budget Support Act of 2006,” effective March 2, 2007 (D.C. Law 16-192; 53 DCR 6899 (August 25, 2006)) and the “Technical Amendments Act of 2008,” effective March 25, 2009 (D.C. Law 17-687; 56 DCR 1117 (February 4, 2009)).

Out of State Facility - a nursing facility located outside the District of Columbia which meets the licensure standards in the jurisdiction where services are provided and meets the federal conditions of participation for nursing facilities in the Medicaid program as set forth in 42 CFR part 483.

Peer Group - a group of nursing facilities sharing the same characteristics.

Per Diem Rate - a rate of payment to the nursing facility for covered services in a resident day.

Reorganized Facility - a nursing facility that has filed for bankruptcy in accordance with the requirements set forth by Chapter 11 (Reorganization) of Title 11 of the United State Bankruptcy Code and is managing debts and operations pursuant to a confirmed reorganization plan.

Resident - an individual who resides in a nursing facility due to physical, mental, familial or social circumstances, or intellectual disability.

Resident Day - one (1) continuous twenty-four (24) hour period of care furnished by a nursing facility and reimbursed by any payor that concludes at midnight each calendar day. Calendar days include reserved bed days that are paid for by DHCF. The day of the resident's admission is counted as a resident day. The day of discharge is not counted as a resident day.

Resource Utilization Groups (RUGS IV) - a category-based resident classification system developed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) used to classify nursing facility residents into groups based on each resident's needs and functional, mental and psychosocial characteristics.

Tidal Volume - the volume of air inspired and expired during a normal respiratory cycle.

Total Facility Average Case Mix - the arithmetic mean of the individual resident case mix indices for all residents, regardless of payer, admitted and present in the nursing facility on one (1) day per quarter in each fiscal year, as selected by DHCF. The arithmetic mean shall be carried to four (4) decimal places.

Tracheostomy - a surgical opening in the trachea or windpipe through which a tube is channeled to assist breathing.

Ventilator Dependent - a resident who requires at least sixteen (16) hours per day of mechanically assisted respiration to maintain a stable respiratory status.

Weaning - the process of gradually removing an individual from the ventilator and restoring spontaneous breathing after a period of mechanical ventilation.

DISTRICT OF COLUMBIA DEPARTMENT OF PUBLIC WORKS

NOTICE OF FINAL 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 (2019 Supp.)), and Mayor’s Order 2017-116, dated May 3, 2017, hereby adopts the following amendment to Chapter 7 (Solid Waste Control), of Title 21 (Water and Sanitation), of the District of Columbia Municipal Regulations (DCMR).

The amendment revises 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 ensures that the fees charged by the District more accurately reflect the cost to operate the facilities.

A Notice of Proposed Rulemaking was published into the *D.C. Register* on August 23, 2019 at 66 DCR at 011498. DPW received public comments from three commenters during the comment period. Many of the comments received regard the operation of the transfer station and adjustment of fees for other types of waste processed at the District’s trash transfer station. The Department of Public Works will conduct quarterly meeting with haulers to discuss concerns raised outside the scope of this rulemaking. Comments, recommendations, questions and concerns outside of the scope of this rulemaking were not considered for this final rulemaking.

The following are comments applicable to this rulemaking and DPW’s response:

Comment	Response
1. When does DPW plan to increase the rates for tipping fees again so that it will be at least covering its cost of operations, disposal, transportation and maintenance?	DPW plans to adjust the Solid Waste Disposal Fee annually.
2. How much capacity do you expect to gain from the proposed tipping fee increase?	The increase of the Solid Waste Disposal Fee ensures that the fee charged by the District more accurately reflects the cost to operate the facility. The increased fee does not create more capacity at the transfer station; it helps cover the cost to process solid waste at the transfer station.
3. The fee setting formula has not been released to support the proposed increase	21 DCMR 719.9 establishes the formula for setting the Solid Waste Disposal Fee. Solid Waste Disposal Fee = [Estimated Material Processing Costs ÷ Projected Tonnage] + Recycling Surcharge

	$\$73.58 = [\$16,330,500.00 \div 225,000] + 1$
4. Unbelievable that fee increased by exactly \$10.	DPW decided the maximum increase of the Solid Waste Disposal Fee would be \$10.00 for any fee adjustment.

No changes have been made to the text of the proposed rules as published with that notice.

These rules were adopted as final on September 23, 2019 and shall take effect upon 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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING¹****Z.C. Case No. 04-33I****(Text Amendment – 11 DCMR)****(To Correct Errors and Omissions, Make Technical Changes, Reorganize Certain Sections,
and Clarify Language in Provisions Governing Inclusionary Zoning Requirements)****September 9, 2019**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2018 Repl.)), and the authority set forth in § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of the adoption of amendments to Subtitles B (Definitions, Rules of Measurement, and Use Categories), C (General Rules), D (Residential House (R) Zones), E (Residential Flat (RF) Zones), F (Residential Apartments (RA) Zones), G (Mixed Use (MU) Zones), H (Neighborhood Mixed Use (NC) Zones), K (Special Purpose Zones), and X (General Procedures) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

Description of Amendment

The text amendment amends:

- Subtitle B by amending § 100.2 to delete the definition of “Bedroom” and revise the definitions of “Inclusionary Development” and “Inclusionary Unit” to make them consistent with the definition in the Inclusionary Zoning (IZ) Act;
- Subtitle C by amending §§ 1001, 1002, 1003, 1005, 1006, and 1505 to clarify the applicability of IZ;
- Subtitle D by amending §§ 105, 302, 402, 502, 602, 702, 802, 902, 1002, 1202, and 1302, and by adding a new § 5206 to clarify the modifications available under IZ for the R zones;
- Subtitle E by amending §§ 105 and 201 and by adding a new § 5206 to clarify the modifications available under IZ for the RF zones;
- Subtitle F by amending §§ 105, 302, 402, 502, 504, and 602 and by adding a new § 5206 to clarify the modifications available under IZ for the RA zones;
- Subtitle G by amending §§ 104, 304, 403, 404, 502, 503, 504, 604, 704, and 804 to clarify the applicability of IZ to the MU zones;
- Subtitle H by amending §§ 103 and 702 to clarify the applicability of IZ to the NC zones;
- Subtitle K by amending §§ 200, 500, 501, and 702 to clarify the applicability of IZ to the SEFC, CG-1, and RC-3 zones; and
- Subtitle X § 305 to clarify household income limits for measuring affordable housing.

¹ For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 04-33I.

Procedures Leading to Adoption of Amendment

The District of Columbia Office of Planning (OP) submitted a memorandum dated November 3, 2017 that served as a petition requesting the text amendment, which also served as OP's setdown report. The Commission accepted the memorandum and voted to set down the text at its November 13, 2017 public meeting.

OP submitted a memorandum dated September 10, 2018 that proposed revisions to the proposed text amendment based on the discussions with the Zoning Administrator at the Department of Consumer and Regulatory Affairs (DCRA), the Department of Housing and Community Development (DHCD), and the Office of the Attorney General (OAG).

At a public hearing scheduled for and held on September 20, 2018, Art Rodgers, Jennifer Steingasser, and Joel Lawson represented OP in recommending approval of the text amendment. Three witnesses provided testimony: Caroline Petti, on behalf of the Committee of 100 on the Federal City (C100); Marilyn Simon; and Samantha Mazo of Cozen O'Connor, whose testimony was submitted to the record, along with written comments from Lisa Mallory on behalf of the District of Columbia Building Industry Association (DCBIA) and Christine Roddy on behalf of Goulston & Storrs (Goulston).

Ms. Petti and Ms. Simon proposed the removal of the reference to the zone height limits in calculating IZ set-aside requirements under Subtitle C §§ 1003.1 and 1003.2. Ms. Petti also suggested clarifying the definitions of "Inclusionary Development" and "Inclusionary Unit" to ensure affordable housing proffers in applications for planned unit developments (PUD). Ms. Simon had two additional comments: (i) she noted an error in the application of IZ to the MU-13 zone, which should be subject to IZ except for properties in the Georgetown Historic District apart from new penthouse habitable space that are covered by IZ, and (ii) she opposed the change to the definition of "bonus density" and IZ set-aside requirements in Subtitle C §§ 1001.1, 1003.1, and 1003.2 to apply only to "utilized," not "achievable," bonus density.

The DCBIA and Goulston filings opposed the proposed ban on locating IZ units in cellars. The Goulston filing had two additional comments: (i) that the Commission correct the revision to Subtitle C §1001.5 that dropped the exemptions from IZ for properties in the SEFC zones with land disposition or other agreements with the District that mandated affordable housing as well as in the WR zones, and (ii) that the Commission add flexibility for IZ units for additions that were subject to IZ.

Ms. Mazo had three suggestions: (i) that the Commission add references to the DHCD regulations that govern the administration of the IZ program; (ii) that the Commission add a vesting provision to grandfather building permit applications filed but not issued prior to the effective date of the text amendment; and (iii) that the Commission consider expanding the IZ program to include a delegated approval to OP similar to the Large Tract Review process that would allow increased density for developments with more than 25% IZ units. Ms. Mazo noted that her last suggestion more appropriately belonged in a subsequent text amendment focused on a "deeper dive into IZ." (September 20, 2018 Transcript [Tr.] at 27.)

At the September 20, 2018 hearing, OP agreed with Ms. Simon's identification of the error involving the MU-13 zone and with Goulston's identification of the error involving the SEFC zones and stated it would address these errors in the final text.

However, OP disagreed with the other comments as follows:

- Ms. Simon's opposition to the changed definition of "bonus density" and her proposal to remove the zone-height reference in the set-aside calculations (shared by Ms. Petti) - OP stated that these changes reflected the Commission's intent in adopting the IZ regulations and the current practice of DCRA;
- Ms. Petti's recommendation to further clarify the IZ definitions - OP asserted that this was unnecessary because OP believed the proposed text provided sufficient guidance to the Commission;
- Goulston and DCBIA's opposition to the ban on IZ units in cellars - OP asserted that this ban filled a gap in the current IZ regulations, balanced out the exemptions from cellar units counting toward FAR and from providing IZ units in penthouses, and prevented IZ units in small projects frequently being located in cellars;
- Goulston's suggestion that additional flexibility for locating IZ units in additions - OP asserted that the current regulations provide sufficient flexibility;
- Goulston's request for a new IZ exemption for the WR zone - OP asserted that this was already provided in Subtitle K § 918.1;
- Ms. Mazo's suggestion to incorporate references to DHCD IZ regulations - OP stated it would consult with DHCD to confirm whether this suggestion would be helpful; and
- Ms. Mazo's suggestion to add a vesting provision - OP asserted that adequate notice of the changes had been provided given the ten-month-plus duration of this case.

The Commission, having considered these comments and OP's testimony, asked OP to respond to issues and concerns raised by the Commission, closed the public hearing, and scheduled the case for proposed action at a public meeting on November 19, 2018.

On November 8, 2018, Advisory Neighborhood Commission (ANC) 3D submitted a report that supported OP's revised definition of bonus density and countered Ms. Simon's opposition. ANC 3D's report also suggested three alternative set-aside calculations that would increase the amount of IZ required.

OP submitted a supplemental report dated November 9, 2018, addressing the issues and concerns raised by the Commission, as follows:

- OP reiterated its opposition to Ms. Simon's and Ms. Petti's proposal to remove the reference to zone heights in Subtitle C §§ 1003.1 and 1003.2 because this change would have complicated impacts due to changes in building technology and codes since the adoption of IZ in 2006. OP therefore would require additional economic modeling to understand the impacts of this change and so proposed to address this issue after the completion of the Comprehensive Plan update;

- OP rejected Ms. Simon’s opposition to OP’s proposed revision to the definition of “bonus density” and the IZ set-aside requirements because this revision reflected the Commission’s prior IZ rulemakings and current implementation by DCRA;
- OP repeated its support for its proposed ban on locating IZ units in cellars as equitable and fulfilling the intent of the IZ program;
- OP explained its proposed revisions to the definitions of “Inclusionary Development” and “Inclusionary Unit” to allow the incorporation within the IZ framework of affordable units proffered by a PUD; and
- OP reiterated its opposition to a delay in the effective date of the revised regulations as unnecessary because the rulemaking process provided sufficient notice and time to prepare for the changes.

At the Commission’s November 19, 2018 public meeting, OP, represented by Art Rodgers and Jennifer Steingasser, welcomed ANC 3D’s report that supported OP’s proposed revision to the definition of “bonus density” and the IZ set-aside requirements of Subtitle C §§ 1001.1, 1003.1, and 1003.2 and countered Ms. Simon’s opposition.

At its November 19, 2018 public meeting, upon the motion of Commissioner May, as seconded by Vice Chairman Miller, the Zoning Commission took **PROPOSED ACTION** to authorize a notice of proposed rulemaking by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

Notice of Proposed Rulemaking (NOPR)

A NOPR for this case was published in the *D.C. Register* on April 12, 2019, at 66 DCR 4814, *et seq.* Two comments were received – one from the Committee of 100 on the Federal City (Second C100 Comment) and the other from Marilyn J. Simon (Second Simon Comment). (Exhibit [Ex.] 20, 21, respectively.)

The Second C100 and Second Simon Comments reiterated their previous proposal to remove the reference to zone height limits in calculating IZ set-aside requirements under Subtitle C §§ 1003.1 and 1003.2 and their prior opposition to OP’s proposed revision to the definition of “bonus density” and the IZ set-aside requirements in Subtitle C §§ 1001.1, 1003.1, and 1003.2. The Second C100 Comment also opposed OP’s proposed transfer of the IZ bonuses and standards from Subtitle C to the individual zone standards in the respective subtitles because C100 preferred all IZ zone standards in one chapter or alternatively in both the individual zone standards and in Subtitle C.

The Second C100 Comment supported OP’s proposed ban on IZ units in cellars and proposed an addition to the definition of “Inclusionary Unit” to further define an affordable housing unit included in a PUD proffer. The Second C100 and Second Simon Comments also cited several errors or omissions in the NOPR, including the applicability of IZ to the MU-13 zone in Subtitle G § 504.3, the use of “voluntary” instead of “voluntarily” in Subtitle C § 1001.2, the deletion of “hotel” from Subtitle C § 1001.5(d), and the lack of a definition of “studio.”

The National Capital Planning Commission (NCPC), through a delegated action dated December 26, 2018, found that the proposed text amendment was exempt from NCPC review because it would not be inconsistent with the Comprehensive Plan for the National Capital, would not adversely affect any other federal interest, and is located outside of the boundary of the L'Enfant City. (Ex. 17.)

At its May 13, 2019 public meeting, the Commission considered these comments and accepted and corrected the errors identified by the Second C100 and Second Simon Comments in Subtitle C §§ 1001.2 and 1001.5(d) and in Subtitle G § 504.3. In response to the Commission's question, OP confirmed that the lack of a definition of "studio" in the Zoning Regulations had never been a problem for the administration of the IZ program and that, in the absence of such a definition, the Zoning Regulations relied on the definition in Webster's Dictionary. The Commission supported OP's proposal to move the IZ bonuses and standards to the individual zone standards in each subtitle as simpler and more effective and agreed with OP's proposal to postpone consideration of the relevance of the zone height in the IZ set-aside requirements of Subtitle C §§ 1003.1 and 1003.2 until after the Comprehensive Plan update was completed.

"Great Weight" to the Recommendations of OP

The Commission must give "great weight" to the recommendations contained in the OP reports under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)); *see* Subtitle Z § 405.8.)

The Commission finds OP's proposals, as amended, persuasive and concurs with OP's recommendation to adopt the text amendment proposed in the NOPR.

"Great Weight" to the Written Report of affected ANCs

The Commission must give "great weight" to the issues and concerns raised in the written report of the ANC(s) affected by the Commission's action. (§ 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2016 Repl.)) and Subtitle Z § 101.8.) To satisfy the great weight requirement, the Commission 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) (citation omitted).)

As the changes proposed in text amendment would affect the entire District, all ANCs are "affected." The Office of Zoning sent all ANCs the Public Hearing Notice, which indicated that it was of interest to all ANCs. (Ex. 4, 5.) The only ANC to submit a comment to the record was ANC 3D, which provided a detailed analysis in support of OP's proposed clarification that "bonus density" was the density "utilized," not "achievable" and rebutted the opposition to this proposed change expressed in the C100 and Simon Comments. The Commission found ANC 3D's advice on the proposed change to the definition of "bonus density" persuasive and concurred in that judgement in adopting the amendment that included this change.

At its public meeting on May 13, 2019, upon the motion of Commissioner Shapiro, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to adopt the amendments as proposed, with corrections of errors in Subtitle C §§ 1001.2 and 1001.5(d) and Subtitle G § 504.3 raised by the Second C100 and Second Simon Comments by a vote of **4-0-1** (Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve; Anthony J. Hood, not present, not voting).

Notice of Second Proposed Rulemaking (NOSPR)

In the interest of clarity, the text amendment was not immediately published as a final rulemaking based on the Commission's final action, but instead, the proposed corrections of the errors raised in Exhibits 20 and 21 were included in the NOSPR published in the *D.C. Register* on August 2, 2019, at 66 DCR 10004, *et seq.*

One comment was received from Marilyn J. Simon (Third Simon Comment). (Ex. 24.) The Third Simon Comment noted that although the NOSPR responded to her prior comment that the NOPR text had incompletely transferred the IZ requirements from Subtitle C to Subtitle G, specifically as applied to the MU-13 and MU-27 zones, the NOSPR's corrections to G §§ 104.1, 504.3, and 804.2 were insufficient because the existing IZ exemption in Subtitle C §§ 1001.5(a)(2) and 1001.5(a)(4) applies to the entire MU-27 zone, but only to the portion of the MU-13 zone in the Georgetown Historic District and suggested alternative language to address this.

The Third Simon Comment also repeated her previous comments that: (i) proposed the removal of the current reference to zone height limits in the IZ set-aside requirements of Subtitle C §§ 1003.1 and 1003.2; and (ii) opposed OP's proposed changes to the definition of "bonus density" and the IZ set-aside requirements in Subtitle C §§ 1001.1, 1003.1, and 1003.2 to apply only to "utilized," not "achievable" bonus density.

The Commission agrees that the NOSPR's correction to Subtitle G for the MU-13 and MU-27 zones incompletely transferred the current IZ applicability for these zones and therefore incorporates the suggested changes to G §§ 104.1, 504.3, and 804.2 in the final text. However, the Commission remains unconvinced by the Third Simon Comment's repeated proposal to remove the existing zone height limit reference in Subtitle C §§ 1003.1 and 1003.2 and believes this reference remains relevant. The Commission similarly finds the opposition to the revised definition of "bonus density" and the IZ set-aside requirements in Subtitle C §§ 1001.1, 1003.1, and 1003.2 unpersuasive and notes the support of this revised definition by both OP and ANC 3D, to whom the Commission must give great weight.

At its public meeting on September 9, 2019, upon the motion of Commissioner Shapiro, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to adopt the text amendment as proposed in the NOPR, as amended by the NOSPR, and reflecting the corrections to Subtitle G §§ 104.1, 504.3, and 804.2 proposed by the Third Simon Comment, by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

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

Title 11 DCMR, ZONING REGULATIONS OF 2016, is amended as follows:

Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

Chapter 1, DEFINITIONS, is amended as follows:

Subsection 100.2 of § 100, DEFINITIONS, is amended to delete the definitions of “Bedroom” and “Development, Inclusionary,” to add a definition of “Inclusionary Development,” and to amend the definitions of “Inclusionary Unit” and “Inclusionary Zoning Act (IZ Act)” to read as follows:

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...²

Inclusionary Development: A residential development that is subject to the provisions of Subtitle C, Chapter 10, Inclusionary Zoning, as a Mandatory or Voluntary Inclusionary Development, or that is required to comply with the provisions therein by an order of the Zoning Commission or of the Board of Zoning Adjustment, as established by Subtitle C § 1001.2.

Inclusionary Unit: A dwelling unit set aside for sale or rental to eligible households as required by Subtitle C, Chapter 10, Inclusionary Zoning, or as established by an order of the Zoning Commission or of the Board of Zoning Adjustment.

Inclusionary Zoning Act (IZ Act): The Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275, as amended; D.C. Official Code § 6-1041.01, *et seq.*). References to the IZ Act include any Mayor’s Order, agency rule (including Chapter 22 of the Housing Regulations (Title 14 of the DCMR)), or administrative issuance promulgated pursuant to that legislation.

...

Subtitle C, GENERAL RULES, is amended as follows:

Chapter 10, INCLUSIONARY ZONING, is amended as follows:

² 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.

Subsection 1000.2 of § 1000, INTRODUCTION, is amended to read as follows:

1000.2 It is the intent of the Zoning Commission to promulgate only such regulations as are necessary to establish the minimum obligations of property owners applying for building permits or certificates of occupancy under the IZ Program. All other aspects of the IZ Program, including the setting of maximum purchase prices and rents, the minimum size of the units, the selection and obligations of eligible households, administrative flexibility to ensure occupancy, and the establishment of enforcement mechanisms such as covenants and certifications, shall be governed by the IZ Act.

Section 1001, APPLICABILITY, is amended to revise §§ 1001.1 through 1001.6, adding new §§ 1001.8 and 1001.9, to read as follows:

1001.1 Achievable bonus density is the amount of the permitted bonus density that is utilized within a particular Inclusionary Development provided in Subtitle C § 1002.

1001.2 Except as provided in Subtitle C § 1001.5, the requirements of this chapter shall apply to, and the modifications to certain development standards and bonus density of this chapter shall be available to, developments in zones in which this chapter is identified as applicable as specified in the individual subtitles of this title; provided the development falls into one of the following categories:

- (a) A “Mandatory Inclusionary Development” – a development that meets one or more of the following criteria:
 - (1) Is proposing new gross floor area beyond that existing at the time of the building permit application that would result in ten (10) or more new dwelling units, including dwelling units located in a cellar or penthouse;
 - (2) Will have ten (10) or more new dwelling units constructed concurrently or in phases, on a lot, on contiguous lots, or on lots divided by an alley, if such lots were under common ownership, control, or affiliation within one (1) year prior to the application for the first building permit; or
 - (3) Consists of a residential building that has penthouse habitable space pursuant to Subtitle C § 1500.11; or
- (b) A “Voluntary Inclusionary Development” – any single household dwelling, row dwelling, flat, or multiple dwelling development not described in Subtitle C § 1001.2(a) if the owner voluntarily agrees to comply with the requirements of Subtitle C, Chapter 10, provided:

- (1) The square footage set aside achieves a minimum of one (1) Inclusionary Unit;
- (2) Modifications to development standards shall only be allowed as specified in the development standards of the individual zones pursuant to Subtitle C § 1002; and
- (3) Any use of the modifications of development standards and bonus density authorized by Subtitle C § 1002 and in the development standards of the individual zones in the R-2, R-3, R-10, R-13, R-17, R-20, RF-1, RF-2, RF-3, RF-4, RF-5, or the RA-1 zones shall require special exception approval pursuant to Subtitle X, Chapter 9 and to Subtitle D § 5206, Subtitle E § 5206, or Subtitle F § 5206, as applicable.

1001.3 If more than one (1) building permit is issued for a development, the number of dwelling units and new gross floor area used to establish the applicability of the IZ requirements, and associated IZ modifications, shall be based on all the building permits issued for the development within a three (3)-year period, starting from the issuance of the first building permit for the development.

1001.4 For existing buildings that become subject to the requirements of this chapter pursuant to Subtitle C § 1001.2, the requirements of Subtitle C §§ 1003.1 and 1003.2 and the available modifications to applicable development standards shall apply:

- (a) To both the existing and new gross floor area if the new gross floor area:
 - (1) Utilizes the bonus density provided by Subtitle C § 1002; or
 - (2) Results in an increase of fifty percent (50%) or more in the building’s existing gross floor area; and
- (b) To only the new gross floor area if it:
 - (1) Does not utilize the bonus density provided by Subtitle C § 1002; and
 - (2) Does not result in an increase of fifty percent (50%) or more in the building’s existing gross floor area.

1001.5 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the requirements of this chapter shall not apply to hotels, motels, or inns.

1001.6 The requirements of this chapter shall not apply to:

- (a) Any development subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District law or financial subsidies funded in whole or in part by the Federal or District Government and administered and/or monitored by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA); provided:
 - (1) ...
 - (3) The Exempt Affordable Units shall be sold or rented in accordance with the Inclusionary Zoning Program (as defined by the IZ Act) upon the expiration of the affordable housing requirements of the District law or financial subsidies administered by DHCD, DCHFA, or DCHA;
 - (4) The requirements set forth in subparagraphs (1), (2), and (3) of this paragraph shall be stated as declarations within a covenant approved by the District of Columbia; and
 - (5) The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include buildings with only one (1) dwelling unit, the covenant shall be recorded before the first purchase agreement or lease is executed;
- (b) Boarding houses, assisted living facilities, community residence facilities, youth residential care homes, substance abusers' homes, community based institutional facilities, or single room occupancy projects within a single building;
- (c) Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff; and
- (d) Housing that is owned or leased by foreign missions exclusively for diplomatic or official staff.

...

1001.8 If a development exempted from this chapter under Subtitle C §§ 1001.5 and 1001.6(b)-(d) is converted to a residential use not listed in Subtitle C §§ 1001.5 and 1001.6, the conversion shall be subject to the requirements of this chapter if the first building permit application for the conversion is filed within five (5) years of the issuance of the first building permit for the exempted development, unless the conversion is otherwise exempted.

- 1001.9 IZ units or square footage required by an order of the Zoning Commission or the Board of Zoning Adjustment that exceeds IZ requirements shall comply with the requirements of this chapter, unless otherwise specified in the order.
- 1001.10 The requirements of this chapter shall automatically terminate if title to the mortgage property is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in the first position, or a mortgage in the first position is assigned to the Secretary of the U.S. Department of Housing and Urban Development (HUD).

The title of § 1002, BONUSES AND ADJUSTMENTS TO INCENTIVIZE INCLUSIONARY ZONING, is amended to read as follows:

1002 MODIFICATIONS OF DEVELOPMENT STANDARDS AND BONUSES TO INCENTIVIZE INCLUSIONARY ZONING

Section 1002 is amended by deleting § 1002.4 and renumbering §§ 1002.5 and 1002.6 as §§ 1002.4 and 1002.5, and by revising the remaining subsections, to read as follows:

1002 MODIFICATIONS OF DEVELOPMENT STANDARDS AND BONUSES TO INCENTIVIZE INCLUSIONARY ZONING

- 1002.1 Developments subject to the Inclusionary Zoning (IZ) provisions of this chapter are eligible for the modifications of development standards and bonus density established in this section.
- 1002.2 An Inclusionary Development is eligible for modifications to certain development standards as indicated in the specific development standards of each zone; provided that a Voluntary Inclusionary Development may only utilize these modifications pursuant to Subtitle C § 1001.2(b) if applicable.
- 1002.3 Inclusionary Developments, except those located in the R, RF, SEFC, HE, StE, and WR zones, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right (“bonus density”) as reflected in the zone-specific development standards and subject to all other zoning requirements (as may be modified by the zone) and the limitations established by the Height Act.
- 1002.4 An Inclusionary Development that has met its IZ set-aside requirements and used all the bonus density permitted by IZ may be eligible for other bonus density permitted by other chapters of this title, provided the Inclusionary Development’s total density does not exceed the FAR-maximum associated with the zone permitting that additional bonus density.
- 1002.5 A development exempted by Subtitle C § 1001.6(a) may, nevertheless, utilize bonus density and zoning modifications provided for in this section.

Section 1003, SET-ASIDE REQUIREMENTS, is amended to add a new § 1003.4, to delete § 1003.8, and renumber §§ 1003.9 through 1003.11 as §§ 1003.8 through 1003.10, and to revise the remaining subsections, to read as follows:

1003.1 An Inclusionary Development which does not employ Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit, exclusive of any bonus height, of fifty feet (50 ft.) or less shall set aside for Inclusionary Units the sum of the following:

- (a) The greater of ten percent (10%) of the gross floor area dedicated to residential use excluding penthouse habitable space or seventy-five percent (75%) of the bonus density utilized; and
- (b) An area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1500.11.

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § 1003.4.

1003.2 An Inclusionary Development which employs Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units, or which is located in a zone with a by-right height limit, exclusive of any bonus height, that is greater than fifty feet (50 ft.), shall set aside for Inclusionary Units the sum of the following:

- (a) The greater of eight percent (8%) of the gross floor area dedicated to residential use excluding penthouse habitable space or fifty percent (50%) of the bonus density utilized; and
- (b) An area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1500.11.

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § 1003.4.

1003.3 Except as provided in Subtitle C §§ 1003.5 and 1003.6, Inclusionary Units resulting from the set-asides required by Subtitle C §§ 1003.1 and 1003.2 shall be reserved for households earning equal to or less than:

- (a) Sixty percent (60%) of the MFI for rental units; and
- (b) Eighty percent (80%) of the MFI for ownership units.

- 1003.4 The square footage required to be set-aside for Inclusionary Units pursuant to Subtitle C §§ 1003.1 and 1003.2 shall be converted to net square footage based on the ratio of net residential floor area to gross residential floor area. For purposes of this chapter, “net residential floor area” means:
- (a) For flats and multiple dwellings, the area of a unit that is bounded by the inside finished surface of the perimeter wall of each unit including all interior walls and columns; and
 - (b) For all other types of dwelling units and penthouse habitable space, the gross floor area.
- 1003.5 An Inclusionary Development that results from a conversion of a single dwelling unit or flat to a multiple dwelling unit development in an RF zone for four (4) or more dwelling units approved by the Board of Zoning Adjustment shall set aside every even numbered dwelling unit beginning at the fourth (4th) unit as an Inclusionary Unit.
- 1003.6 An Inclusionary Development that results from a conversion of a single dwelling unit or flat to a multiple dwelling unit development in an RF zone for four (4) or more dwelling units approved by the Board of Zoning Adjustment shall set aside one hundred percent (100%) of Inclusionary Units for eligible households earning equal to or less than eighty percent (80%) of the MFI.
- 1003.7 Notwithstanding Subtitle C § 1003.3, one hundred percent (100%) of Inclusionary Units resulting from the set-aside required for penthouse habitable space shall be set aside for eligible household earning equal to or less than fifty percent (50%) of the MFI.
- 1003.8 An Inclusionary Development’s entire residential floor area including dwelling units located in cellar space or enclosed building projections that extend into public space, shall be included for purposes of calculating the minimum set-aside requirements of Subtitle C §§ 1003.1 and 1003.2.
- 1003.9 The square footage set aside applicable to an Inclusionary Development that is exclusively comprised of ownership units shall be reduced by twenty percent (20%) provided all the units are set aside to households earning equal to or less than sixty percent (60%) of the MFI.
- 1003.10 Increases in FAR as a result of variances granted by the Board of Zoning Adjustment shall be included within gross floor area for the purposes of calculating the maximum IZ set-aside requirement.

Section 1005, DEVELOPMENT STANDARDS REGARDING INCLUSIONARY UNITS, is amended to revise §§ 1005.1 through 1005.6 and to add new §§ 1005.7 and 1005.8, to read as follows:

- 1005.1 Where the set-aside requirement of Subtitle C § 1003 (excluding any set-aside requirement satisfied by providing a contribution to a housing trust fund pursuant to Subtitle C § 1006.10) is eight hundred fifty (850) square feet or more, the first Inclusionary Unit shall be a unit with at least two (2) bedrooms, and subsequent Inclusionary Units shall be allocated such that:
- (a) The percentage of all Inclusionary Units that are studios shall not exceed the percentage of all market-rate units that are studios; and
 - (b) The percentage of all Inclusionary Units that have only one (1) bedroom shall not exceed the percentage of all market-rate units that have only one (1) bedroom.
- 1005.2 All Inclusionary Units shall be comparable in exterior design, materials, and finishes to market-rate units.
- 1005.3 The interior amenities of Inclusionary Units, such as finishes and appliances, shall be comparable to the market-rate units but may consist of less expensive materials and equipment, provided the interior amenities are durable, of good quality, and consistent with contemporary standards for new housing.
- 1005.4 All Inclusionary Units in an Inclusionary Development shall be constructed prior to or concurrently with the construction of market-rate units, except that in a phased development, the Inclusionary Units shall be constructed at a pace that is proportional to the construction of the market-rate units.
- 1005.5 Inclusionary Units shall not be overly concentrated by tenure, dwelling type, including single dwelling units, flats, or multiple dwellings, or on any floor of a project.
- 1005.6 In an Inclusionary Development subject to Subtitle C § 1001.4, Inclusionary Units may be located solely in the new gross floor area provided all the existing units were occupied at the date of application for the building permit for the new gross floor area and all other requirements of this chapter are met.
- 1005.7 Inclusionary Units in apartment houses shall not be located in cellar space.
- 1005.8 For Inclusionary Developments, a bedroom shall mean a habitable room with immediate access to an exterior window and a closet that is designated as a “bedroom” or “sleeping room” on construction plans submitted in an application for a building permit.

Subsection 1006.10, of Section 1006, OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING, of Chapter 10, INCLUSIONARY ZONING, is amended to read as follows:

1006.10 Inclusionary Units resulting from the set-aside required for penthouse habitable space as described in Subtitle C § 1500.11 shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to a housing trust fund, consistent with the provisions of Subtitle C §§ 1505.13 through 1505.16, except that the calculation of Subtitle C § 1505.15 shall be based on the maximum permitted residential FAR, when:

- (a) ...
- (c) The building is not otherwise required to provide Inclusionary Units for eligible households earning equal to or less than fifty percent (50%) of the MFI and the amount of penthouse habitable space would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

Chapter 15, PENTHOUSES, is amended as follows:

Subsection 1505.1, of Section 1505, AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE, of is amended to read as follows:

1505.1 The owner of a non-residential building proposing to construct penthouse habitable space shall produce or financially assist in the production of residential uses that are affordable to households earning equal to or less than the income limits established by Subtitle C § 1003.7, in accordance with this section.

Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

Subsection 105.1, of Section 105, INCLUSIONARY ZONING, is amended to read as follows:

105.1 The Inclusionary Zoning (IZ) requirements and the available IZ modifications to certain development standards, shall apply to the R-2, R-3 (except for the portion in the Anacostia Historic District), R-10, R-13, R-17, and R-20 zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle.

Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, is amended as follows:

Section 302, DENSITY – LOT DIMENSIONS, is amended to revise § 302.1 and to add new §§ 302.2 through 302.5, to read as follows:

302.1 Except as provided in other provisions of this title, the minimum dimensions of lots in the R-1-A, R-1-B, R-2, and R-3 zones shall be as set forth in the following table:

TABLE D § 302.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-1-A	75	7,500
R-1-B	50	5,000
R-2	30 (semi-detached)	3,000 (semi-detached)
	40 (all other structures)	4,000 (all other structures)
R-3	30 (semi-detached)	3,000 (semi-detached)
	20 (row)	2,000 (row)
	40 (all other structures)	4,000 (all other structures)

302.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall not apply to the R-1-A and R-1-B zones, or to that portion of the Anacostia Historic District within the R-3 zone.

302.3 Except as provided in Subtitle D § 302.4, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-2 and R-3 (other than that portion in the Anacostia Historic District) zones, shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

TABLE D § 302.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-2	40 (detached)	3,200 (detached)
	30 (semi-detached)	2,500 (semi-detached)
R-3	20	1,600

302.4 The minimum lot width for Mandatory Inclusionary Developments in the R-2 and R-3 (other than that portion in the Anacostia Historic District) zones may be reduced to no less than as set forth in the following table if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.

TABLE D § 302.4: MINIMUM LOT WIDTH BY SPECIAL EXCEPTION FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)
R-2	32 (detached) 25 (semi-detached)
R-3	16

302.5 Voluntary Inclusionary Developments in the R-2 and R-3 (other than that portion in the Anacostia Historic District) zones shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize the following IZ modifications, authorized by Subtitle C § 1002.2:

TABLE D § 302.5: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR VOLUNTARY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-2	32 (detached) 25 (semi-detached)	3,200 (detached) 2,500 (semi-detached)
R-3	16	1,600

Chapter 4, TREE AND SLOPE PROTECTION RESIDENTIAL HOUSE ZONES – R-6 AND R-7, is amended as follows:

A new § 402.2 is added to § 402, DENSITY – LOT DIMENSIONS, to read as follows:

402.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-6 and R-7 zones.

The title of Chapter 5, FOREST HILLS TREE AND SLOPE RESIDENTIAL HOUSE ZONES – R-8, R-9, AND R-10, is amended to read as follows:

**CHAPTER 5 FOREST HILLS TREE AND SLOPE PROTECTION
RESIDENTIAL HOUSE ZONES – R-8, R-9, AND R-10**

Section 502, DENSITY – LOT DIMENSIONS, is amended to revise § 502.1 and to add new §§ 502.2 through 502.5, to read as follows:

502.1 Except as provided in other provisions of this title, the minimum dimensions of lots in the R-8, R-9, and R-10 zones shall be as set forth in the following table:

TABLE D § 502.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-8	75	9,500 for lots in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282 7,500 for all other lots
R-9	50	5,000
R-10	30 (semi-detached) 40 (all other structures)	3,000 (semi-detached) 4,000 (all other structures)

502.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-8 and R-9 zones.

502.3 Except as provided in Subtitle D § 502.4, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-10 zone, shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

TABLE D § 502.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-10	40 (detached) 30 (semi-detached)	3,200 (detached) 2,500 (semi-detached)

502.4 The minimum lot width for Mandatory Inclusionary Developments in the R-10 zone may be reduced to no less than as set forth in the following table if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.

TABLE D § 502.4: MINIMUM LOT WIDTH BY SPECIAL EXCEPTION FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)
R-10	32 (detached) 25 (semi-detached)

502.5 Voluntary Inclusionary Developments in the R-10 zone shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize the following IZ modifications authorized by Subtitle C § 1002.2:

TABLE D § 502.5: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR VOLUNTARY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-10	32 (detached)	3,200 (detached)
	25 (semi-detached)	2,500 (semi-detached)

The title of Chapter 6, NAVAL OBSERVATORY/TREE AND SLOPE RESIDENTIAL HOUSE ZONE – R-11, is amended to read as follows:

CHAPTER 6 NAVAL OBSERVATORY/TREE AND SLOPE PROTECTION RESIDENTIAL HOUSE ZONE – R-11

A new § 602.2 is added to § 602, DENSITY – LOT DIMENSIONS, to read as follows:

602.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-11 zone.

Chapter 7, NAVAL OBSERVATORY RESIDENTIAL HOUSE ZONES – R-12 AND R-13, is amended as follows:

Section 702, DENSITY – LOT DIMENSIONS, is amended to revise § 702.1 and to add new §§ 702.2 through 702.5, to read as follows:

702.1 Except as provided in other provisions of this title, the minimum dimensions of lots in the R-12 and R-13 zones shall be as set forth in the following table:

TABLE D § 702.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-12	50	5,000
R-13	30 (semi-detached)	3,000 (semi-detached)
	20 (row)	2,000 (row)
	40 (all other structures)	4,000 (all other structures)

702.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-12 zone.

702.3 Except as provided for in Subtitle D § 702.4, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-13 zone shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

TABLE D § 702.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-13	20	1,600

702.4 The minimum lot width for Mandatory Inclusionary Developments in the R-13 zone may be reduced to no less than sixteen feet (16 ft.) if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.

702.5 Voluntary Inclusionary Developments in the R-13 zone shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize any of the following IZ modifications authorized by Subtitle C § 1002.2:

TABLE D § 702.5: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR VOLUNTARY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-13	16	1,600

Chapter 8, WESLEY HEIGHTS RESIDENTIAL HOUSE ZONES – R-14 AND R-15, is amended as follows:

A new § 802.2 is added to § 802, DENSITY – LOT DIMENSIONS, to read as follows:

802.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-14 and R-15 zones.

Chapter 9, SIXTEENTH STREET HEIGHTS RESIDENTIAL HOUSE ZONE – R-16, is amended as follows:

A new § 902.2 is added to § 902, DENSITY – LOT DIMENSIONS, to read as follows:

902.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-16 zone.

Chapter 10, FOGGY BOTTOM RESIDENTIAL HOUSE ZONE – R-17, is amended as follows:

Section 1002, DENSITY – LOT DIMENSIONS, is amended to revise § 1002.1 and to add new §§ 1002.2 through 1002.4, to read as follows:

1002.1 Except as provided in other provisions of this title, the minimum dimensions of lots in the R-17 zone shall be as set forth in the following table:

TABLE D § 1002.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-17	30 (semi-detached)	3,000 (semi-detached)
	20 (row)	2,000 (row)
	40 (all other structures)	4,000 (all other structures)

1002.2 Except as provided in Subtitle D § 1002.3, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-17 zone shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

TABLE D § 1002.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-17	20	1,600

1002.3 The minimum lot width for Mandatory Inclusionary Developments in the R-17 zone may be reduced to no less than sixteen feet (16 ft.) if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.

1002.4 Voluntary Inclusionary Developments in the R-17 zone shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize any of the following IZ modifications, authorized by Subtitle C § 1002.2:

TABLE D § 1002.4: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR VOLUNTARY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-17	16	1,600

Chapter 12, GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20, is amended as follows:

Section 1202, DENSITY – LOT DIMENSIONS, is amended to revise § 1202.1 and to add new §§ 1202.2 through 1202.5, to read as follows:

1202.1 Except as provided in other provisions of this title, the minimum dimensions of lots in the R-19 and R-20 zones shall be as set forth in the following table:

TABLE D § 1202.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-19	50	5,000
R-20	30 (semi-detached)	3,000 (semi-detached)
	20 (row)	2,000 (row)

	40 (all other structures)	4,000 (all other structures)
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1202.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-19 zone.

1202.3 Except as provided in Subtitle D § 1202.4, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-20 zone shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

TABLE D § 1202.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-20	20	1,600

1202.4 The minimum lot width for Mandatory Inclusionary Developments in the R-20 zone may be reduced to no less than sixteen feet (16 ft.) if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.

1202.5 Voluntary Inclusionary Developments in the R-20 zone shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize any of the following modifications authorized by Subtitle C § 1002.2:

TABLE D § 1202.5: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR VOLUNTARY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-20	16	1,600

Chapter 13, CHAIN BRIDGE ROAD/UNIVERSITY TERRACE RESIDENTIAL HOUSE ZONE – R-21, is amended as follows:

A new § 1302.2 is added to § 1302, DENSITY – LOT DIMENSIONS, to read as follows:

1302.2 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-21 zone.

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

CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS (R)

A new § 5206, SPECIAL EXCEPTIONS FOR MODIFICATIONS FOR INCLUSIONARY DEVELOPMENTS, is added to read as follows:

5206 SPECIAL EXCEPTIONS FOR MODIFICATIONS FOR INCLUSIONARY DEVELOPMENTS

5206.1 For Mandatory Inclusionary Developments in the R-2, R-3 (except that portion in the Anacostia Historic District), R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.4, 502.4, 702.4, 1002.3, and 1202.4.

5206.2 For Voluntary Inclusionary Developments in the R-2, R-3 (except that portion in the Anacostia Historic District), R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width and lot area requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.5, 502.5, 702.5, 1002.4, and 1202.5. Relief granted pursuant to this subsection shall not require additional relief pursuant to Subtitle D § 5206.1.

Subtitle E, RESIDENTIAL FLATS (RF) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO RESIDENTIAL FLATS (RF) ZONES, is amended as follows:

Section 105, INCLUSIONARY ZONING, is amended by revising § 105.1 and deleting § 105.2, to read as follows:

105.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications to certain development standards, shall apply to all RF zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle.

Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), is amended as follows:

Section 201, DENSITY – LOT DIMENSIONS, is amended to revise § 201.1, to renumber §§ 201.2 through 201.4 as §§ 201.5 through 201.7, and to add new §§ 201.2 through 201.4, to read as follows:

201.1 Except as provided in other provisions of this subtitle, the minimum dimensions of lots in the RF zones shall be as set forth in the following table:

TABLE E § 201.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
RF	18 (row dwelling or flat)	1,800 (row dwelling or flat)
	30 (semi-detached dwelling)	3,000 (semi-detached dwelling)
	40 (all other structures)	4,000 (all other structures)

201.2 Except as provided for in Subtitle E § 201.3, the minimum dimensions of lots for Mandatory Inclusionary Developments in the RF zones shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

TABLE E § 201.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR MANDATORY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
RF	18	1,500

201.3 The minimum lot width for Mandatory Inclusionary Developments in the RF zones may be reduced to no less than sixteen feet (16 ft.) if granted as a special exception pursuant to Subtitle E § 5206.1 by the Board of Zoning Adjustment.

201.4 Voluntary Inclusionary Developments in the RF zones shall require special exception relief pursuant to Subtitle E § 5206.2 to utilize any of the following IZ modifications authorized by Subtitle C § 1002.2:

TABLE E § 201.4: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR VOLUNTARY INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
RF	16	1,500

201.5 First floor or basement areas designed and used for parking space or for ...

201.6 A building or structure subject to the provisions of this chapter ...

201.7 An apartment house in an RF-1, RF-2, or RF-3 zone, whether existing ...

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

CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS (RF)

A new § 5206, SPECIAL EXCEPTIONS FOR MODIFICATIONS FOR INCLUSIONARY DEVELOPMENTS, is added to read as follows:

5206 SPECIAL EXCEPTIONS FOR MODIFICATIONS FOR INCLUSIONARY DEVELOPMENTS

5206.1 For Mandatory Inclusionary Developments in the RF zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle E § 201.3.

5206.2 For Voluntary Inclusionary Developments in the RF zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width and lot area requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle E § 201.4. Relief granted pursuant to this subsection shall not require additional relief pursuant to Subtitle E § 5206.1.

Subtitle F, RESIDENTIAL APARTMENTS (RA) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO RESIDENTIAL APARTMENTS (RA) ZONES, is amended as follows:

Section 105, INCLUSIONARY ZONING, is amended to read as follows:

105.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications to certain development standards and bonus density, shall apply to all RA zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and the zone-specific development standards of this subtitle, except for the RA-5 and RA-10 zones in which the IZ requirements, modifications, and bonus density shall not apply.

Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4 AND RA-5, is amended as follows:

Section 302, DENSITY – FLOOR AREA RATIO (FAR), is amended to revise § 302.1 and to add new §§ 302.2 and 302.3, to read as follows:

302.1 Except as provided in other provisions of this subtitle and in Subtitle C, Chapter 15, Penthouses, the maximum permitted FAR in the RA-1 through RA-5 zones shall be as set forth in the following table:

TABLE F § 302.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR
RA-1	0.9
RA-2	1.8
RA-3	3.0
RA-4	3.5

Zone	Maximum FAR
RA-5	5.0 6.0 for an apartment house or hotel

302.2 The Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the RA-5 zone.

302.3 The maximum permitted FAR for Inclusionary Developments in the RA-1 through RA-4 zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table; provided that in the RA-1 zone Voluntary Inclusionary Developments shall require special exception relief pursuant to Subtitle F § 5206.1 to utilize this modification:

TABLE F § 302.3: MAXIMUM PERMITTED FLOOR AREA RATIO FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-1	1.08 (Voluntary Inclusionary Developments require special exception relief under Subtitle F § 5206.1)
RA-2	2.16
RA-3	3.6
RA-4	4.2

Chapter 4, NAVAL OBSERVATORY RESIDENTIAL APARTMENT ZONES – RA-6, is amended as follows:

Section 402, DENSITY – FLOOR AREA RATIO (FAR), is amended to read as follows:

402.1 The maximum permitted FAR in the RA-6 zone shall be 0.9, or 1.08 for Inclusionary Developments, incorporating the bonus density authorized by Subtitle C § 1002.3.

Chapter 5, CAPITOL PRECINCT RESIDENTIAL APARTMENT ZONE – RA-7, is amended as follows:

Section 502, DENSITY – FLOOR AREA RATIO (FAR), is amended to read as follows:

502.1 The maximum permitted FAR in the RA-7 zone shall be 1.8, or 2.16 for Inclusionary Developments, incorporating the IZ bonus density authorized by Subtitle C § 1002.3.

Section 504, LOT OCCUPANCY, is amended to read as follows:

504.1 The maximum permitted lot occupancy in the RA-7 zone shall be sixty percent (60%), or seventy-five percent (75%) for Inclusionary Developments, incorporating the IZ bonus density authorized by Subtitle C § 1002.3.

Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, is amended as follows:

Section 602, DENSITY – FLOOR AREA RATIO (FAR), is amended to revise § 602.1 and to add new §§ 602.2 and 602.3, to read as follows:

602.1 Except as provided in other provisions of this subtitle and in Subtitle C, Chapter 15, Penthouses, the maximum permitted FAR in the RA-8, RA-9, and RA-10 zones shall be as set forth in the following table:

TABLE F § 602.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR
RA-8	1.8
RA-9	3.5
RA-10	5.0 6.0 for an apartment house or hotel

602.2 The Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the RA-10 zone.

602.3 The maximum permitted FAR for Inclusionary Developments in the RA-8 and RA-9 zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table:

TABLE F § 602.2: MAXIMUM PERMITTED FLOOR AREA RATIO FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-8	2.16
RA-9	4.2

Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS (RA), is amended as follows:

A new § 5206, SPECIAL EXCEPTIONS FOR INCLUSIONARY DEVELOPMENTS (RA-1), is added to read as follows:

5206 SPECIAL EXCEPTIONS FOR INCLUSIONARY DEVELOPMENTS (RA-1)

5206.1 For Voluntary Inclusionary Developments in the RA-1 zone, the Board of Zoning Adjustment may grant special exception relief from maximum permitted floor area ratio requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle F § 302.3.

Subtitle G, MIXED-USE (MU) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, is amended as follows:

Subsection 104.1, of Section 104, INCLUSIONARY ZONING, is amended to read as follows:

104.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all MU zones, except for the portion of the MU-13 zone in the Georgetown Historic District and the MU-27 zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that new penthouse habitable space, as described in Subtitle C § 1500.11, that is located in the portion of the MU-13 zone in the Georgetown Historic District or in the MU-27 zone shall be subject to the IZ requirements.

Chapter 3, MIXED-USE ZONES – MU-1 AND MU-2, is amended as follows:

Subsection 304.1, of Section 304, LOT OCCUPANCY, is amended to read as follows:

304.1 The maximum permitted lot occupancy for residential use in the MU-1 and MU-2 zones shall be as set forth in the following table:

TABLE G § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy for Residential Use (%)
MU-1	80
MU-2	80 90 (IZ)

Chapter 4, MIXED-USE ZONES – MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, MU-10, AND MU-30, is amended as follows:

Subsection 403.1 of § 403, HEIGHT, is amended to read as follows:

403.1 The maximum permitted building height and number of stories, not including the penthouse, in the MU-3 through MU-10 zones and the MU-30 zone shall be as set forth in the following table, except as provided in Subtitle G § 403.2:

TABLE G § 403.1: MAXIMUM PERMITTED BUILDING HEIGHT AND STORIES

Zone	Maximum Height (ft.)	Maximum Stories
MU-3A	40	3
MU-3B	50	4
MU-4	50	N/A

Zone	Maximum Height (ft.)	Maximum Stories
MU-5-A	65 70 (IZ)	N/A
MU-5-B	75	N/A
MU-6	90 100 (IZ)	N/A
MU-7	65	N/A
MU-8	70	N/A
MU-9 MU-10	90 100 (IZ)	N/A
MU-30	110	N/A

Subsection 404.1 of § 404, LOT OCCUPANCY, is amended to read as follows:

404.1 The maximum permitted lot occupancy for residential use in the MU-3 through MU-10 zones and the MU-30 zone shall be as set forth in the following table:

TABLE G § 404.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy for Residential Use (%)
MU-3A MU-3B	60
MU-4	60 75 (IZ)
MU-5-A MU-5-B	80
MU-6 MU-7	75 80 (IZ)
MU-8 MU-9	N/A
MU-10	75 80 (IZ)
MU-30	N/A

Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, is amended to read as follows:

Subsection 502.1 of § 502, DENSITY – FLOOR AREA RATIO (FAR), is amended to read as follows:

502.1 The maximum permitted FAR of buildings, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G §§ 502.2 and 502.3:

TABLE G § 502.1: MAXIMUM PERMITTED LOT FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-11	0.5	0.5
MU-12	2.5 3.0 (IZ)	1.0
MU-13	4.0	2.0
MU-14	6.0 7.2 (IZ)	5.0

Subsection 503.1 of § 503, HEIGHT, is amended to read as follows:

503.1 The maximum permitted building height, not including the penthouse, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G § 503.3:

TABLE G § 503.1: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Height (ft.)
MU-11	40
MU-12	45 50 (IZ)
MU-13	60
MU-14	90 100 (IZ)

Section 504, LOT OCCUPANCY, is amended to revise Subsection 504.1 and to add a new § 504.3, to read as follows:

504.1 The maximum permitted lot occupancy for residential use of buildings in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G § 504.2:

TABLE G § 504.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy for Residential Use (%)
MU-11	25
MU-12	80
MU-13	75
MU-14	75 80 (IZ)

504.2 ...

504.3 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall not apply to the portion of the MU-13 zone in the Georgetown Historic District.

Chapter 6, DUPONT CIRCLE MIXED-USE ZONES – MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21, AND MU-22, is amended as follows:

Subsection 604.1, of Section 604, LOT OCCUPANCY, is amended to read as follows:

604.1 The maximum permitted lot occupancy for residential use in the MU-15 through MU-22 zones shall be as set forth in the following table:

TABLE G § 604.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy for Residential Use (%)
MU-15	80
MU-16	80 90 (IZ)
MU-17	60 75 (IZ)
MU-18	80
MU-19	80 90 (IZ)
MU-20 MU-21	N/A
MU-22	75 80 (IZ)

Chapter 7, CAPITOL INTEREST AND CAPITOL HILL COMMERCIAL MIXED-USE ZONES – MU-23, MU-24, MU-25, AND MU-26, is amended as follows:

Subsection 704.1, of Section 704, LOT OCCUPANCY, is amended to read as follows:

704.1 The maximum permitted lot occupancy for residential use in the MU-23 through MU-26 zones shall be as set forth in the following table:

TABLE G § 704.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy for Residential Use (%)
MU-23	80 90 (IZ)

MU-24	60
MU-25	75 (IZ)
MU-26	

Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, is amended as follows:

A new § 804.2 is added to § 804, LOT OCCUPANCY, to read as follows:

804.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the MU-27 zone.

Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is amended as follows:

Chapter 1, INTRODUCTION TO NEIGHBORHOOD MIXED USE (NC) ZONES, is amended as follows:

Subsection 103.1, of Section 103, INCLUSIONARY ZONING, is amended to read as follows:

103.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all NC zones except the NC-6 zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that new penthouse habitable space as described in Subtitle C § 1500.11 in the NC-6 zone shall be subject to the IZ requirements.

Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, is amended as follows:

A new § 702.2 is added to § 702, DENSITY – FLOOR AREA RATIO (FAR), to read as follows:

702.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the NC-6 zone.

Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:

Chapter 2, SOUTHEAST FEDERAL CENTER ZONES – SEFC-1 THROUGH SEFC-4, is amended as follows:

Subsection 200.12 of § 200, GENERAL PROVISIONS (SEFC), is amended to read as follows:

- 200.12 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to the SEFC zones except for:
 - (a) Properties subject to a land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing; provided that these properties shall be subject to IZ requirements for new penthouse habitable space as described in Subtitle C § 1500.11; and
 - (b) Penthouses in residential rental buildings.

Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, is amended as follows:

A new § 500.6 is added to § 500, GENERAL PROVISIONS (CG), to read as follows:

- 500.6 The Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the CG-1 zone; provided that the IZ bonus density of Subtitle C § 1002.3 is available for Voluntary Inclusionary Developments in the CG-1 zone.

Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, is amended as follows:

Subsections 501.3 and 501.6 of § 501, DEVELOPMENT STANDARDS (CG-1), are amended to read as follows:

- 501.1 The CG-1 zone is intended ...
- ...
- 501.3 The maximum permitted floor area ratio (FAR) in the CG-1 zone shall be 6.0.
- 501.4 The maximum permitted building height...
- ...
- 501.6 The maximum permitted lot occupancy for residential use in the CG-1 zone shall be seventy-five percent (75%).

501.7 A minimum rear yard of fifteen feet ...

Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, is amended as follows:

A new § 607.3 is added to § 607, INCLUSIONARY ZONING (STE), to read as follows:

607.3 An inclusionary development in an StE zone shall devote no less than ten percent (10%) of the gross floor area being devoted to residential use for Inclusionary Units.

Chapter 7, REED-COOKE ZONES -- RC-1 THROUGH RC-3, is amended as follows:

Subsection 702.2 of § 702, HEIGHT AND PENTHOUSE REGULATIONS (RC), is amended to read as follows:

702.2 In the RC-3 zone, a building shall be permitted a maximum height of fifty feet (50 ft.), not including the penthouse, provided fifty percent (50%) of the additional gross floor area made possible by the height bonus is devoted to Inclusionary Units.

Subtitle X, GENERAL PROCEDURES, is amended as follows:

Chapter 3, PLANNED UNIT DEVELOPMENTS, is amended as follows:

Subsection 305.5(g) of § 305, PLANNED UNIT DEVELOPMENT PUBLIC BENEFITS, is amended as follows:

305.5 Public benefits of the proposed PUD may be exhibited and documented in any of the following or additional categories:

- (a) ...
- (g) Affordable housing; except that:
 - (1) Affordable housing provided in compliance with the Inclusionary Zoning requirements of Subtitle C, Chapter 10, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning. In determining whether this standard has been met, the Zoning Commission shall balance any net gain in gross floor area against any loss of gross floor area that would have been set-aside for Inclusionary Units in compliance with the Inclusionary Zoning requirements of Subtitle C, Chapter 10; and

- (2) A PUD application proposing Inclusionary Units with deeper affordability than what would be required by IZ for the existing zone, or for the proposed zone if a map amendment is sought, shall propose only a household income level published in the Rent and Price Schedule established by the IZ Act that is in effect as of the date the PUD application was filed;

(h) ...

In accordance with Subtitle Z § 604.9, the text amendments shall become effective upon publication of this notice in the *D.C. Register*, that is on October 18, 2019.

DISTRICT DEPARTMENT OF MOTOR VEHICLES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 107 of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.07) hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 30 (Adjudication and Enforcement) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rule establishes certain standards for the issuance of notice of infractions resulting from an automated parking enforcement device and notices of infractions issued after a motor vehicle operator leaves the site of a violation before a notice of infraction can be affixed to the car or personally served to the driver.

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

Chapter 30, ADJUDICATION AND ENFORCEMENT, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 3002, ISSUANCE OF PARKING VIOLATIONS ONLY, is amended as follows:

Subsection 3002.9 and 3002.10 are amended to read as follows:

3002.9 Except for tickets issued through the use of a hand-held electronic device and tickets issued in situations described in §§ 3002.11 and 3002.12, the original ticket shall be submitted to the Department of Motor Vehicles within fifteen (15) calendar days of issuance.

3002.10 Except for tickets issued by certified mail pursuant to § 3004.9(b) and tickets issued in situations described in §§ 3002.11 and 3002.12, the ticket information for tickets issued through the use of a hand-held electronic device shall be submitted within one (1) business day.

New Subsections 3002.11 and 3002.12 are added to read as follows:

3002.11 When the operator of a motor vehicle leaves the site of a violation before personal service or service by affixing a notice to the vehicle can be effectuated, the original ticket or the ticket information for a ticket issued through the use of a hand-held electronic device shall be submitted to the Department of Motor Vehicles within twenty-five (25) days after the date of the violation.

3002.12 When a violation is detected by an automated parking enforcement device, the relevant ticket information shall be transmitted to the Department of Motor Vehicles within twenty-five (25) days after the date the violation is detected.

Section 3003, ISSUANCE OF MOVING AND NON-MOVING VIOLATIONS, is amended as follows:

Subsections 3003.3 and 3003.4 are amended to read as follows

3003.3 When information is entered on the ticket manually, the provisions of § 3002.3 through 3002.5, 3002.9, and 3002.10 shall apply.

3003.4 When a hand-held electronic device is used, the provisions of §§ 3002.6 through 3002.7, 3002.10, and 3002.11 shall apply.

A new Subsection 3003.8 is added to read as follows:

3003.8 When a violation is detected by an automated parking enforcement device, the provisions of § 3002.12 shall apply.

Section 3004, SERVICE OF THE NOTICE OF INFRACTION, is amended as follows:

Subsection 3004.3 is amended as follows:

Paragraph (b) is amended to read as follows:

- (b) Where the notice of infraction is issued by an automated parking enforcement system, the appropriate copy of the notice shall be mailed to the registered owner of the vehicle within twenty-five (25) days after the date of violation.

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

- (c) When the operator of a motor vehicle leaves the site of a violation before personal service or service by affixing a notice to the vehicle can be effectuated, the notice shall be mailed to the registered owner of the vehicle within twenty-five (25) days after the date of violation.

Subsection 3004.4 is amended to read as follows:

- 3004.4
- (a) Service of notice by affixation to the vehicle, or by mail for notices issued by an automated parking enforcement system, shall have the same force and effect as personal service.
 - (b) Service of notice by affixation to the vehicle, or by mail for notices issued by an automated parking enforcement system or when the operator of a motor vehicle leaves the site of a violation before personal service or service by affixing a notice to the vehicle can be effectuated, shall have the same force and effect as personal service.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, with David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024, dmvpubliccomments@dc.gov, or online at www.dcregs.dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposed rulemaking may be obtained, at cost, by writing to the above address.

**DISTRICT OF COLUMBIA
OFFICE OF TAX AND REVENUE
HEALTH BENEFIT EXCHANGE AUTHORITY
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (“OTR”) of the Office of the Chief Financial Officer, the Executive Director of the District of Columbia Health Benefit Exchange Authority (“Authority”), and the Commissioner of the Department of Insurance, Securities and Banking (“DISB”), hereby jointly give notice of their intent to adopt amendments to the following regulations relating to the District’s minimum health insurance coverage requirement, including Chapter 39 (Shared Responsibility Payment) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (“DCMR”); Chapter 89 (Individual Responsibility Requirement) to Title 26 DCMR (Insurance, Securities, and Banking), Subtitle A (Insurance); and Chapter 2 (Affordability and Hardship Exemptions) to Title 26 DCMR (Insurance, Securities, and Banking), Subtitle D (Health Benefit Exchange), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

This proposed joint rulemaking is issued pursuant to the authority set forth in Section 5002(b) of the Individual Health Insurance Requirement Amendment Act of 2018 (“Health Act”), effective October 30, 2018 (D.C. Law 22-168; to be codified at D.C. Official Code § 47-5109(2)), among the other authorities described below as applicable to each entity. These regulations will repeal and replace the federal regulations implementing Section 5000A of the Internal Revenue Code of 1986, effective March 23, 2010 (124 Stat. 244; 26 USC § 5000A), and federal guidance interpreting these federal regulations, Section 5002(a)(1) of the Health Act incorporated these federal regulations and accompanying guidance, as they were in effect on December 15, 2017, into the DCMR.

The Deputy Chief Financial Officer of OTR will take rulemaking action to add a new Chapter 39 (Shared Responsibility Payments) to Title 9 DCMR (Taxation and Assessments), pursuant to the authority stated in Section 5002(b) of the Health Act, Section 201(a) of the District of Columbia Home Rule Act, approved October 16, 2006 (120 Stat. 2029; D.C. Official Code § 1-204.24d (2016 Repl.)), and Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000. This new chapter will provide guidance related to the shared responsibility payment required under the Health Act when certain taxpayers fail to comply with the individual health insurance coverage requirement established in the Health Act. The guidance in these regulations is necessary to provide clarity to taxpayers attempting to comply with District law.

The Executive Director of the Authority will take rulemaking action to add a new Chapter 2 (Affordability and Hardship Exemptions) to Title 26-D DCMR (Health Benefit Exchange) pursuant to the authority set forth in Section 5002 of the Health Act and Section 18 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.17 (2013 Repl.)). District law generally includes the same

affordability and hardship exemptions from the shared responsibility payment that existed under federal law (26 USC § 5000A) until December 31, 2018. These regulations set out the process for applying for and obtaining these exemptions.

The Commissioner of the Department of Insurance, Securities and Banking (“DISB”), pursuant to the authority set forth in Section 5002(b) of the Health Act, Section 101(c) of the Federal Health Reform Implementation and Omnibus Amendment Act of 2014, effective May 2, 2015 (D.C. Law 20-265; D.C. Official Code § 31-3461(c) (2013 Repl. & 2019 Supp.)), Section 207 of the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3302.07 (2013 Repl.)), and Mayor’s Order 2019-001, dated January 4, 2019, will take rulemaking action to add a new Chapter 89 (Individual Responsibility Requirement) to Title 26 - A DCMR (Insurance). This new chapter will establish the criteria for exemptions from the minimum health insurance coverage requirement contained in District law.

Applicability of Certain Federal Regulations and Guidance Under the District’s Individual Taxpayer Health Insurance Responsibility Requirement

- A. The District regulations implementing Section 5000A of the Internal Revenue Code of 1986, effective March 23, 2010 (124 Stat. 244; 26 USC § 5000A) that were incorporated by reference into the District of Columbia Municipal Regulations by D.C. Official Code § 47-5109(a)(1) are repealed.
- B. All District guidance interpreting the federal regulations implementing Section 5000A of the Internal Revenue Code of 1986, effective March 23, 2010 (124 Stat. 244; 26 U.S.C. § 5000A) that were made applicable to Chapter 51 of Title 47 of the District of Columbia Official Code pursuant to D.C. Official Code § 47-5109(a)(1) are repealed.

A new Chapter 39, SHARED RESPONSIBILITY PAYMENT, is added to Title 9 DCMR, TAXATION AND ASSESSMENTS, to read as follows:

CHAPTER 39 SHARED RESPONSIBILITY PAYMENT

3900 GENERAL PROVISIONS

- 3900.1 The provisions of this chapter are adopted under authority of D.C. Official Code § 47-5109(2).
- 3900.2 The provisions of this chapter shall be in effect with respect to taxable years commencing after December 31, 2018.

3901 REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE

- 3901.1 A nonexempt individual, and any dependent of the individual who is a nonexempt individual, must have minimum essential coverage or pay the District shared responsibility payment for each month beginning after December 31, 2018.

3901.2 An individual has minimum essential coverage for each month in which the individual is enrolled in, for at least one day during the month, a program or plan identified as minimum essential coverage.

3902 IMPOSITION OF DISTRICT SHARED RESPONSIBILITY PAYMENT

3902.1 Except as provided in § 3903, a District shared responsibility payment is imposed on an individual for any month for which:

- (a) The individual is a nonexempt individual who does not have minimum essential coverage; or
- (b) A dependent that may be claimed on the individual's District income tax return for the taxable year, except as provided in § 3903.5, is a nonexempt individual who does not have minimum essential coverage.

3902.2 In addition to § 3902.1, the following rules apply:

- (a) If a nonexempt individual may be claimed as a dependent by more than one taxpayer in the same taxable year and those taxpayers do not file a joint District income tax return, only one taxpayer may claim the nonexempt individual as a dependent and the District shared responsibility payment attributable to that dependent shall be imposed on the taxpayer who claims the dependent for that taxable year on his or her District income tax return.
- (b) If no taxpayer claims the nonexempt individual as a dependent, the District shared responsibility payment attributable to that dependent shall be imposed on the taxpayer with priority under the rules of § 152 of the Internal Revenue Code to claim the individual as a dependent on his or her District Income tax return.

3902.3 In addition to § 3902.1 and § 3902.2, the following rules apply with regard to a dependent who is adopted during the taxable year:

- (a) If a taxpayer adopts a nonexempt dependent, or accepts a dependent who is an eligible foster child as defined in § 152(f)(1)(C) of the Internal Revenue Code during the taxable year, and is otherwise liable for a District shared responsibility payment attributable to that nonexempt dependent under this section, the District shared responsibility payment imposed on that taxpayer shall only be for the months in the taxable year that follow the month in which the adoption or acceptance occurs.
- (b) If a taxpayer who is otherwise liable for a District shared responsibility payment attributable to a nonexempt dependent under this section places

or, by operation of law, must place, the dependent for adoption or foster care during the taxable year, the District shared responsibility payment is imposed on that taxpayer only for the full months in the taxable year that precede the month in which the adoption or foster care placement occurs.

- (c) If a taxpayer has accepted a dependent who is an eligible foster child as defined in § 152(f)(1)(C) of the Internal Revenue Code, and the foster care placement for that child is terminated during the taxable year, the taxpayer that has accepted the foster child as a dependent shall not be liable for a District shared responsibility for months following the month in which the foster care placement terminated.

3903 EXEMPT INDIVIDUALS

3903.1 An individual is an exempt individual for a month that includes a day with respect to which the individual has received from the Authority, pursuant to Chapter 2 of Title 26-D DCMR, the following:

- (a) An affordability exemption determination certificate; or
(b) A hardship exemption determination certificate.

3903.2 An individual is an exempt individual for a month that includes a day with respect to which an individual, or a taxpayer who properly claims the individual as a dependent, self-certifies that the individual:

- (a) Was not a resident of the District of Columbia; or
(b) Is exempt pursuant to one or more of the exemptions listed in 26-A DCMR § 8901.1.

3903.3 An individual is exempt for an entire tax year with respect to which a taxpayer self-certifies that the individual is exempt pursuant to one or more of the exemptions listed in 26-A DCMR § 8901.5.

3903.4 A taxpayer who certifies that he or she or any of his or her dependents are exempt pursuant to Subsections 3903.2 or 3903.3 shall be subject to the procedures set forth in § 3905, including audit, to verify that any such exemptions were properly claimed.

3903.5 An individual is an exempt individual for any taxable year with respect to which the individual, or a taxpayer who properly claims the individual as a dependent, files a sworn affidavit on a form prescribed by the Chief Financial Officer attesting that the individual did not have minimum essential coverage on the basis of a sincerely held religious belief during the entire taxable year.

3903.6 An individual, and any dependents properly claimed by that individual, are exempt individuals for any taxable year if that individual's gross income is below the applicable filing threshold to file a District income tax return, as defined in § 3999.1(b). Notwithstanding the foregoing, an individual who is properly claimed as a dependent by a taxpayer whose gross income meets or exceeds the applicable filing threshold to file a District income tax return is not an exempt individual even if the dependent's gross income is otherwise below the applicable filing threshold to file a District income tax return, as defined in § 3999.1(b).

3904 COMPUTATION OF DISTRICT SHARED RESPONSIBILITY PAYMENT

3904.1 The District shared responsibility payment imposed on a taxpayer in accordance with § 3902 is –

- (a) The lesser of:
 - (1) The sum of the monthly penalty amounts; or
 - (2) The sum of the monthly District's average bronze plan premiums for the shared responsibility family;
- (b) Less the amount of any federal shared responsibility payment imposed on the taxpayer pursuant to § 5000A of the Internal Revenue Code for the same taxable year.

3904.2 "Monthly penalty amount" means, for a month that a nonexempt individual is not covered under minimum essential coverage, 1/12 multiplied by the greater of:

- (a) The flat dollar amount; or
- (b) The excess income amount.

3904.3 "Flat dollar amount" means the lesser of:

- (a) The sum of the applicable dollar amounts for all individuals included in the taxpayer's shared responsibility family; or
- (b) Three hundred percent (300%) of the applicable dollar amount (determined without applying § 3904.4(b)) for the taxable year.

3904.4 "**Applicable dollar amount**" means:

- (a) For a nonexempt individual who has attained the age of eighteen (18) before the first day of a month, an amount equal to six hundred ninety-five dollars (\$695) for the tax year beginning after December 31, 2018, increased annually, beginning with the tax year commencing after

December 31, 2019, by the cost-of-living adjustment (if the adjustment does not result in a multiple of fifty dollars (\$50), rounded down to the next lowest multiple of \$50); or

- (b) For a nonexempt individual who has not attained the age of 18 before the first day of a month, an amount equal to one-half of the applicable dollar amount in paragraph (a) of this section for the taxable year in which the month occurs. For purposes of this paragraph (b), an individual attains the age of 18 on the anniversary of the date when the individual was born. For example, an individual born on March 1, 2001, attains the age of 18 on March 1, 2019.

3904.5 **“Excess income amount”** means 2.5 percent of the excess of the taxpayer's household income, as defined in § 3999.1(k), that exceeds the taxpayer's applicable filing threshold.

3904.6 **“Monthly District’s average bronze plan premium”** means, for a month for which a shared responsibility payment is imposed, 1/12 of the annual average premium for qualified health plans offered through the District’s individual market health benefit exchange established pursuant to Section 5 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.04(a)(1)), that have a bronze level of coverage, and would provide coverage for the taxpayer, and if applicable, the taxpayer’s spouse, registered domestic partner, or dependents for plan years beginning in the calendar year within which the taxable year ends.

3905 ADMINISTRATION AND PROCEDURE

3905.1 A taxpayer's liability for the District shared responsibility payment shall be reported on the forms and in the manner prescribed by the Chief Financial Officer.

3905.2 The time and place for filing all returns reporting the District shared responsibility payment for the preceding taxable year, including any extensions, shall be the same as prescribed by D.C. Official Code § 47-1805.03(a)(2) and (b).

3905.3 A taxpayer must file a return or other form prescribed by the Chief Financial Officer to claim any of the exemptions described in § 3903 except that a taxpayer need not file any return or form to claim the exemptions described in § 3903.6. If a taxpayer has a gross income below the applicable filing threshold and nevertheless files a return, the taxpayer is eligible for the exemption described in § 3903.6 on the return.

3905.4 If a taxpayer files a District income tax return with the filing status of married filing jointly, registered domestic partners filing jointly, married filing separate on the same return or registered domestic partners filing separate on the same return,

pursuant to D.C. Official Code § 47-1805.01 for a taxable year, the taxpayer and the taxpayer's spouse or registered domestic partner must jointly report a District shared responsibility payment on the prescribed form for that taxable year if either spouse or domestic partner is liable for a District shared responsibility payment.

- 3905.5 Taxpayers who report a joint District shared responsibility payment on the prescribed form for a taxable year are jointly liable for any District shared responsibility payment incurred by either taxpayer for a month included in the taxable year.
- 3905.6 Except as otherwise provided in § 3905.8, a taxpayer who fails to pay the District shared responsibility payment shall be subject to all collection, enforcement, and administrative provisions applicable to unpaid taxes or fees as provided under Chapter 18, Chapter 42, Chapter 43, and Chapter 44 of Title 47 of the District of Columbia Official Code, including but not limited to the deficiency protest procedures set for in D.C. Official Code § 47-4312.
- 3905.7 The period of limitations for assessing the District shared responsibility payment is the same as that prescribed by D.C. Official Code § 47-4301.
- 3905.8 Notwithstanding any other provision of law, a taxpayer shall not be subject to the following enforcement provisions for failure to pay the District shared responsibility payment:
- (a) Liens or levies pursuant to Subtitles II and VI of Chapter 44 of Title 47 of the District of Columbia Official Code; or.
 - (b) Criminal prosecution pursuant to Chapter 41 of Title 47 of the District of Columbia Official Code.

3999 DEFINITIONS

- 3999.1 For the purposes of this chapter, the following words, terms, and phrases shall have the following meanings, unless otherwise required by the context of this chapter:

“Applicable entity” means:

- (1) An employer or other sponsor of an employment-based health plan;
- (2) The Department of Health Care Finance; or
- (3) An insurance carrier licensed or otherwise authorized to offer minimum essential coverage.

“**Applicable filing threshold**” means the amount of gross income that would trigger an individual's requirement to file a District income tax return pursuant to D.C. Official Code § 47-1805.02.

“**Authority**” means the District of Columbia Health Benefit Exchange Authority established under D.C. Official Code § 31-3171.02.

“**Base year**” means the calendar year beginning January 1, 2018.

“**Chief Financial Officer**” has the same meaning as under D.C. Official Code § 1-204.24a(a)(1).

“**Cost-of-living adjustment**” means the ratio of CPI for the preceding calendar year and the CPI for the base year.

“**CPI**” means, for any calendar year, the average of the Consumer Price Index for the Washington-Metropolitan Statistical Area for All-Urban Consumers published by the Department of Labor, or any successor index, as of the close of the 12-month period ending on July 31 of such calendar year.

“**Department of Health Care Finance**” means the District of Columbia Department of Health Care Finance established under section 3 of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.02).

“**Dependent**” means a dependent as defined under § 501(c)(3) of the Internal Revenue Code.

“**Federal adjusted gross income**” has the same meaning as under § 62 of the Internal Revenue Code.

“**Household income**” means:

- (1) the federal adjusted gross income reported by a taxpayer on his or her federal individual or separate income tax return; or
- (2) the federal adjusted gross income reported by taxpayers on their federal joint return.

“**Internal Revenue Code**” has the same meaning as under D.C. Official Code § 47-1801.04(28).

“**Minimum essential coverage**” has the same meaning as under 26-A DCMR § 8999.1(j).

“**Month**” means a calendar month.

“**Resident**” has the same meaning as under D.C. Official Code § 47-1801.04(42).

“**Shared responsibility family**” means all nonexempt individuals for whom the taxpayer (and the taxpayer's spouse or registered domestic partner) is liable for the shared responsibility payment imposed under § 3902 of this chapter.

“**Taxable year**” has the same meaning as under D.C. Official Code § 47-1801.04(51).

A new Chapter 2, AFFORDABILITY AND HARDSHIP EXEMPTIONS, is added to Subtitle D, HEALTH BENEFIT EXCHANGE, of Title 26 DCMR, INSURANCE, SECURITIES AND BANKING, to read as follows:

CHAPTER 2 AFFORDABILITY AND HARDSHIP EXEMPTIONS

200 GENERAL

- 200.1 This chapter shall apply with respect to taxable years commencing after December 31, 2018.
- 200.2 The purpose of this chapter is to establish the procedures and criteria for District residents to apply for and be determined eligible for an exemption prospectively or retrospectively from the requirement to maintain minimum essential coverage as described in D.C. Official Code § 47-5102.
- 200.3 District residents may apply for:
- (a) An affordability or hardship exemption for the current tax year;
 - (b) An affordability or hardship exemption for a prior tax year, up to three (3) years prior to the year of application; or
 - (c) An affordability or hardship exemption for the next tax year, if the application is submitted in the months of October, November, or December preceding the tax year for which an affordability or hardship exemption is sought.
- 200.4 An individual is eligible for an exemption for any month for which the Authority determines that the individual meets the requirements for an affordability or hardship exemption described in this chapter for at least one (1) day of the month.
- 200.5 The Authority shall issue an exemption determination certificate to an individual granted an exemption. The certificate shall have a unique exemption determination certificate number.

- 200.6 If an individual receives an exemption based on hardship and the information used to make the determination changes prior to the termination of the exemption, the individual shall report the new information to the Authority.
- (a) An individual shall report a change in circumstances, within thirty (30) days of the change occurring, via any method listed as a permissible method for submitting an application in § 230.3.
 - (b) The Authority shall verify reported changes in accordance with § 240 and shall notify the individual of any redetermination in eligibility.
- 200.7 The Authority shall implement a change resulting from a redetermination under this section for the month or months after the month in which the redetermination occurs, such that an original exemption determination certificate remains effective for the month in which the redetermination occurs, the month following the month that the redetermination occurs, and for prior months.

201 AFFORDABILITY EXEMPTIONS

- 201.1 An individual is an exempt individual for a month that includes a day with respect to which the individual lacks affordable coverage. For purposes of this section, an individual lacks affordable coverage in a month if the individual's required contribution (determined on an annual basis) for minimum essential coverage for the month exceeds the required contribution percentage of the individual's household income.
- 201.2 An individual's required contribution percentage shall be determined as follows:
- (a) The required contribution percentage for tax year 2019 is eight and three tenths percent (8.3%).
 - (b) For tax years after 2019, the required contribution percentage shall be equal to the amount under 26 USC § 5000A(a)(1).
 - (c) The Authority shall annually publish on its website the required contribution percentage before September 30 of the applicable tax year.
- 201.3 Affordability exemption determinations for individuals or related individuals who are eligible for coverage through a plan offered by an employer shall be determined as follows:
- (a) An individual's eligibility for coverage through an employer-sponsored plan shall be determined as follows:

- (1) Except as provided in paragraph (a)(2), an employee or related individual shall be treated as eligible for coverage under an employer-sponsored plan for a month during a plan year if the employee could have enrolled in the plan for any day in that month during an open or special enrollment period, regardless of whether the employee or related individual is eligible for any other type of minimum essential coverage. An employer-sponsored plan shall only be considered eligible if it meets the minimum value standard described in 42 CFR § 156.145.
 - (2) An employee eligible for coverage both under an eligible employer-sponsored plan offered by their own employer's plan and as a related individual on another eligible employer-sponsored plan (for example, an eligible employer-sponsored plan offered by the employer of the employee's spouse) for any month, shall be treated only as eligible under their own employer's plan and not as an eligible related individual for that month.
 - (3) A former employee or an individual related to a former employee, who may enroll in continuation coverage required under federal law or a District or state law that provides comparable continuation coverage, or in retiree coverage under an eligible employer-sponsored plan, shall be treated as eligible for coverage under an eligible employer-sponsored plan only if the individual enrolls in the coverage.
- (b) The required contribution for individuals eligible for employer-sponsored coverage shall be as follows:
- (1) Annual Enrollment
 - (A) For employees eligible for enrollment in an employer-sponsored plan, the required contribution shall be the portion of the annual premium that the employee would pay, whether through salary reduction or otherwise, for the lowest cost self-only coverage.
 - (B) For related individuals who are eligible for coverage under an eligible employer-sponsored plan because of a relationship to an employee, and for whom a personal exemption deduction under § 151 of the Internal Revenue Code is claimed, or considered under this paragraph to have been claimed, on the employee's Federal income tax return, the required contribution shall be the portion of the annual premium that the employee would pay, whether through salary reduction or otherwise, for the lowest cost family

coverage that would cover the employee and all related individuals who are included in the employee's nonexempt family but not an exempt individual under 9 DCMR § 3903.

- (i) An employee shall be considered to have claimed a personal exemption deduction for himself or herself for a taxable year if the employee files an income tax return for the year and does not qualify as a dependent of another taxpayer under § 152 of the Internal Revenue Code for the year; or
- (ii) A employee shall be considered to have claimed a personal exemption deduction for an individual other than the employee if the employee is allowed a personal exemption deduction for the employee (taking into account § 151(d)(5)(B) of the Internal Revenue Code) and lists the individual's name and Tax Identification Number on Form 1040, U.S. Individual Income Tax Return, or Form 1040NR, U.S. Nonresident Alien Income Tax Return, the taxpayer files for the year.

(2) Partial Year Enrollment

- (A) The affordability of an employer-sponsored plan shall be determined separately for each employment period that is less than a full calendar year or for the portions of a year that fall in different taxable years of the individual.
- (B) Coverage under an eligible employer-sponsored plan shall be considered affordable for a part-year period if the annualized required contribution for self-only coverage (in the case of the employee) or family coverage (in the case of a related individual) under the plan for the part-year period does not exceed the required contribution percentage of the individual's household income for the taxable year.
- (C) The annualized required contribution shall be the required contribution determined under paragraph (b) for the part-year period times a fraction, the numerator of which is twelve (12) and the denominator of which is the number of months in the part-year period during the individual's taxable year. Only full calendar months are included in the computation under this paragraph.

(3) Employer Contributions to Health Reimbursement Arrangements

- (A) Amounts newly made available for the current plan year under a health reimbursement arrangement that an employee may use to pay premiums, or cost-sharing or benefits not covered by the primary plan in addition to premiums, shall be counted toward the employee's required contribution if the health reimbursement arrangement would be integrated, as that term is used in Internal Revenue Service Notice 2013-54 (2013-40 IRB 287), with an eligible employer-sponsored plan for an employee enrolled in the plan.
- (B) The eligible employer-sponsored plan and the health reimbursement arrangement must be offered by the same employer.
- (C) Employer contributions to a health reimbursement arrangement shall count toward an employee's required contribution only to the extent the amount of the annual contribution is required under the terms of the plan or otherwise determinable within a reasonable time before the employee must decide whether to enroll in the eligible employer-sponsored plan.

(4) Employer Contributions to Cafeteria Plans

Amounts made available for the current plan year under a cafeteria plan, within the meaning of Internal Revenue Code § 125, are counted as reducing an employee's or a related individual's required contribution if:

- (A) The employee may not opt to receive the amount as a taxable benefit;
- (B) The employee may use the amount to pay for minimum essential coverage; and
- (C) The employee may use the amount exclusively to pay for medical care, within the meaning of Internal Revenue Code § 213.

(5) Wellness Program Incentives

- (A) Nondiscriminatory wellness program incentives, within the meaning of 26 CFR § 54.9802-1(f), offered by an eligible

employer-sponsored plan that affect premiums shall be treated as earned in determining an employee's required contribution for purposes of affordability of an eligible employer-sponsored plan to the extent the incentives relate exclusively to tobacco use.

- (B) Wellness program incentives that do not relate to tobacco use or that include a component unrelated to tobacco use shall be treated as not earned for this purpose. For the purposes of this section, the term wellness program incentive has the same meaning as the term reward in 26 CFR § 54.9802-1(f)(1)(i).

201.4 Affordability exemption eligibility for individuals or related individuals who are not eligible for coverage through a plan offered by an employer shall be determined as follows.

- (a) The required contribution shall be the annual premium for the applicable qualified health plan, reduced by the maximum amount of any credit allowable under Internal Revenue Code § 36B for the taxable year, determined as if the individual was covered for the entire taxable year by a qualified health plan offered through the Exchange established pursuant to D.C. Official Code § 31-3171.04(a)(1).
- (b) For each individual who applies for an exemption for a period of less than twelve (12) months, eligibility shall be determined separately for each period. Coverage under a plan shall be considered affordable for a part-year period if the annualized required contribution for coverage under the plan for the part-year period does not exceed the required contribution percentage of the individual's household income for the taxable year.
- (c) The annualized required contribution shall be the required contribution determined under paragraph (a) for the part-year period times a fraction, the numerator of which is twelve (12) and the denominator of which is the number of months in the part-year period during the individual's taxable year. Only full calendar months are included in the computation under this paragraph.

202 **HARDSHIP EXEMPTIONS**

202.1 An individual shall be exempt from the District shared responsibility payment for a month in which the Authority determines that individual has suffered a hardship with respect to the ability to obtain coverage under a qualified health plan.

- 202.2 The Authority shall grant a hardship exemption if it determines any of the following based on the information submitted on the hardship application published by the Authority:
- (a) The applicant has experienced financial or domestic circumstances, including an unexpected natural or human-caused event, resulting in a significant, unexpected increase in essential expenses that prevented the applicant from obtaining coverage under a qualified health plan;
 - (b) The expense of purchasing a qualified health plan would have caused the applicant to experience serious deprivation of food, shelter, clothing or other necessities; or
 - (c) Another circumstance prevented the applicant from obtaining coverage under a qualified health plan.
- 202.3 Each hardship exemption shall be granted for at least the month before, the month or months during, and the month after a specific event or circumstances that qualified the individual for the exemption. A single approval shall not span more than one taxable year. Instead, an individual may submit separate applications for separate taxable years pursuant to § 230.2.

203 APPLICATION PROCESS

- 203.1 Individuals shall apply for an affordability or hardship exemption using the designated applications published by the Authority.
- 203.2 The individual shall submit a separate application for each taxable year for which the individual is seeking an exemption.
- 203.3 The application shall be filed through one of the following methods:
- (a) By electronic mail, using the procedure described on the application.
 - (b) By mail, to the address listed on the application.
 - (c) Another method described on the application.
- 203.4 Individuals shall adhere to all instructions contained in the application. This includes:
- (a) Submitting all documents required for each hardship category;
 - (b) Signing the application, attesting that that the answers and documents provided are an accurate representation of the information that should be used to determine their eligibility for an exemption; and

- (c) For individuals applying for an affordability exemption, accurately completing an Insurance Affordability Program application through the online platform maintained by the Authority.

203.5 If an individual submits an application that does not include sufficient information for the Authority to conduct an eligibility determination for an affordability or hardship exemption:

- (a) The Authority shall send a notice to the applicant indicating that information necessary to complete an eligibility determination is missing, specifying the missing information, and providing instructions on how to provide the missing information.
- (b) The notice shall provide the applicant with a period of no less than thirty (30) and no more than ninety (90) days, in the sole discretion of the Authority, from the date the notice is sent to the applicant to provide the information needed to complete the application. During this time, the Authority shall not proceed with the applicant's eligibility determination.
- (c) If the Exchange does not receive the requested information within the time allotted in paragraph (b), the Authority shall send a notice to the applicant denying the application. That notice shall inform the applicant of the right to appeal pursuant to § 260.

204 ELIGIBILITY VERIFICATION

204.1 The Authority shall use the information attested to by the individual on the application, documents provided by the individual, and other information known to the Authority to determine the individual's eligibility for an exemption.

204.2 The Authority shall review income documentation using the procedures related to eligibility for advance payments of the premium tax credit, as specified in 45 CFR, Part 155, Subpart D, except that:

- (a) The Authority shall accept an individual's attestation on the application regarding eligibility for minimum essential coverage other than through an eligible employer-sponsored plan, instead of following the procedures specified in 45 CFR § 155.320(b);
- (b) The Authority shall use federal and local electronic data sources together with other information provided by the applicant and other information in the records of the Authority to verify income information. This information shall be considered reasonably compatible with an applicant's attestation if any difference or discrepancy does not impact the eligibility

of the applicant for the exemption or exemptions for which he or she applied; and

- (c) If information the Authority obtains is not reasonably compatible with the information on the application, the Authority shall send the individual a notice following the procedure outlined in § 230.5. If documentation needed to resolve the inconsistency does not exist or is not reasonably available to the applicant, and the Authority is unable to otherwise resolve the inconsistency, the Authority on a case-by-case basis may accept an applicant's attestation to the information which cannot otherwise be verified along with an explanation of circumstances as to why the applicant does not have the documentation.

205 REPORTING

205.1 If the Authority grants an exemption determination certificate in accordance with this chapter, the Authority shall periodically transmit to the Chief Financial Officer:

- (a) The individual's name, Social Security number or Tax Identification Number and exemption determination certificate number; and
- (b) Other information based on consultation between the Authority and the Chief Financial Officer.

206 APPEALS

206.1 All eligibility determinations or redeterminations under this chapter shall include notice of the right to appeal and instructions regarding how to file an appeal.

206.2 An individual has the right to appeal an eligibility determination for an exemption made in accordance with this chapter, including:

- (a) Initial eligibility determinations;
- (b) Redeterminations based on reported changes under § 200.6; and
- (c) In the case of a hardship exemption approval, the duration of the approval under § 220.3.

206.3 An appeal of an eligibility determination for an exemption under this section shall be treated as other exchange eligibility determination appeals pursuant to 45 CFR, Part 155, Subpart F, except that the decision of the exchange appeals entity may not be further appealed under 45 CFR § 155.520(c).

Section 9900, DEFINITIONS, of Title 26-D, HEALTH BENEFIT EXCHANGE, is amended to read as follows:

9900 DEFINITIONS

9900.1 When used in this chapter, the following terms shall have the meanings ascribed:

“Applicable plan” - means the lowest cost bronze plan available in the individual market through the exchange established pursuant to D.C. Official Code § 31-3171.04(a)(1), without regard to whether the individual purchased that plan, or any plan, that would cover all individuals in the individual's nonexempt family, not including individuals treated as eligible for coverage under an eligible employer-sponsored plan under § 210.3. The premium for the applicable plan takes into account rating factors (for example an individual's age) that the Authority would use to determine the cost of coverage.

“Authority” means the District of Columbia Health Benefit Exchange Authority established pursuant to D.C. Official Code § 31-3171.02.

“Consumer Price Index or CPI” has the same meaning as provided in 9 DCMR § 3999.1

“Exchange” means the Health Benefit Exchange established under section 5 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.04).

“Health carrier” has the same meaning as provided in D.C. Official Code § 31-3171.01(6).

“Household Income” means:

- (1) For affordability exemption determinations under § 210.3, household income has the same meaning as provided in 9 DCMR § 3999.1.
- (2) For affordability exemption determinations under § 210.4, household income has the same meaning as provided in 9 DCMR § 3999.1 increased by any amount of the required contribution made through a salary reduction arrangement that is excluded from gross income.

“Maximum amount of any credit allowable under Section 36B” means the maximum amount of the credit that would be allowable to the individual, or to the taxpayer who can properly claim the individual as a dependent,

under Internal Revenue Code § 36B if all members of the individual's family enrolled in a qualified health plan through the Exchange.

“Nonexempt family” means:

- (1) For individuals not listed as tax dependents for the applicable tax year, the individual and all individuals listed with the individual on their tax return, but not including individuals who are otherwise exempt under 9 DCMR § 3903.
- (2) For individuals listed as tax dependents for the applicable tax year, the individual and all individuals listed with the individual on the tax return for the individual that claims them, but not including individuals who are otherwise exempt under 9 DCMR § 3903.

“Plan Year” means the eligible employer-sponsored plan's regular twelve month (12-month) coverage period, or for a new employee or an individual who enrolls during a special enrollment period, the remainder of a twelve month (12-month) coverage period.

A new Chapter 89, INDIVIDUAL RESPONSIBILITY REQUIREMENT, is added to Subtitle A, INSURANCE, of Title 26 DCMR, INSURANCE, SECURITIES, AND BANKING, to read as follows:

8900 GENERAL PROVISIONS

- 8900.1 The provisions of this chapter are adopted under authority of D.C. Official Code §§ 47-5101 *et seq.*
- 8900.2 The provisions of this chapter shall become effective with respect to taxable years commencing after December 31, 2018.

8901 EXEMPT INDIVIDUALS

- 8901.1 An individual is an exempt individual, and is not required to maintain the minimum essential coverage specified in D.C. Official Code § 47-5102(a), for a month that includes a day with respect to which the individual:
- (a) Was a non-citizen of the United States, meaning the individual was not a U.S. citizen or U.S. national for any day during the month and was either:
 - (1) A nonresident alien (within the meaning of Section 26 USC § 7701(b)(1)(B)) for the taxable year that includes the month; or
 - (2) Not lawfully present (within the meaning of 45 CFR § 155.20) on any day in the month;

- (b) Was a U.S. citizen or a resident alien who was physically present in a foreign country or countries for at least three hundred thirty (330) full days during any period of twelve (12) consecutive months that included the applicable tax year;
- (c) Was incarcerated;
- (d) Was a member of an Indian tribe;
- (e) Was enrolled in the D.C. HealthCare Alliance;
- (f) Was a member of a health care sharing ministry;
- (g) Was a member of a religious sect or division that is recognized by the United States Social Security Administration as conscientiously opposed to accepting any insurance benefits, including Social Security and Medicare; or
- (h) Had a short coverage gap.

8901.2 An individual is treated as having minimum essential coverage for an entire month in which an individual is exempt under § 8901.1.

8901.3 If a calendar year includes more than one short coverage gap, the exemption provided by § 8901.1(h) only applies to the earliest short coverage gap.

8901.4 For purposes of applying § 8901.3 to the first taxable year, the months in the second taxable year included in the continuous period are disregarded. For purposes of applying § 8901.3 to the second taxable year, the months in the first taxable year included in the continuous period are taken into account.

8901.5 An individual is exempt from the District shared responsibility payment for the entire tax year if that individual is:

- (a) A taxpayer who is:
 - (1) Twenty-one (21) years of age or older as of the last date of the tax year and whose household income, as defined in 9 DCMR § 3999.1(k), for the taxable year is equal to or less than an amount equal to two hundred twenty-two percent (222%) (or a percentage determined by the Mayor pursuant to D.C. Official Code § 47-5102(b)(2)(C)) of the applicable federal poverty level as published annually by the Authority; or

- (2) Twenty (20) years of age or younger as of the last date of the tax year and not claimed as a dependent by another taxpayer and whose household income, as defined in 9-A DCMR § 3999.1(k), for the taxable year is equal to or less than an amount equal to three hundred twenty-four percent (324%) (or a percentage determined by the Mayor pursuant to D.C. Official Code § 47-5102(b)(2)(C)) of the applicable federal poverty level as published annually by the Authority; or
- (b) A dependent who is:
- (1) Twenty-one (21) years of age or older as of the last date of the tax year and who can be claimed by a dependent of a taxpayer whose household income, as defined in 9 DCMR § 3999.1(k), for the taxable year is equal to or less than an amount equal to two hundred twenty-two percent (222%) (or a percentage determined by the Mayor pursuant to D.C. Official Code § 47-5102(b)(2)(C)) of the applicable federal poverty level as published by the Authority; or
 - (2) Twenty (20) years of age or younger as of the last date of the tax year and who can be claimed by a dependent of a District taxpayer whose household income, as defined in 9 DCMR § 3999.1(k), for the taxable year is equal to or less than an amount equal to three hundred twenty-four percent (324%) (or a percentage determined by the Mayor pursuant to D.C. Official Code § 47-5102(b)(2)(C)) of the applicable federal poverty level as published by the Authority.
- (c) For purposes of determining the applicable federal poverty level for this section, the number of persons in a family shall include:
- (1) For taxpayers with the District income tax filing status of single, head-of-household, qualifying widow(er) or married filing separately, the taxpayer and all dependents claimed by the taxpayer; or
 - (2) For taxpayers with the District income tax filing status of married filing jointly, registered domestic partners filing jointly, married filing separately on the same return, and registered domestic partners filing separately on the same return, the taxpayer, the taxpayer's spouse or registered domestic partner, and all dependents claimed by the taxpayer and his or her spouse or registered domestic partner.

8902 MEC PLANS BY FEDERAL APPROVAL PRIOR TO 2018

8902.1 Sponsors that sought recognition for the specific plans listed as minimum essential coverage (“MEC”) from the U.S. Secretary of Health and Human Services and received recognition on or before December 15, 2017, shall have plans recognized as having the MEC, unless and until the plan sponsor makes a substantial change to the benefits provided (*e.g.*, a reduction in benefits, increase in cost sharing, or the plan no longer complies with a requirement of Title I of the Affordable Care Act that applies to non-grandfathered, individual health insurance coverage as of December 15, 2017). The listing of approved plans can be accessed through the Centers for Medicare and Medicaid Services at the following web address: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/minimum-essential-coverage.html>.

8999 DEFINITIONS

8999.1 For the purposes of this chapter, the following words, terms, and phrases shall have the following meanings, unless otherwise required by the context of this chapter:

“**D.C. HealthCare Alliance**” means the program established pursuant to Section 7 of the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1405).

“**Eligible employer-sponsored plan**” means, with respect to any employee:

- (1) Group health insurance coverage offered by, or on behalf of, an employer to the employee that is:
 - (A) A governmental plan (within the meaning of Section 2791(d)(8) of the Public Health Service Act (42 USC § 300gg-91(d)(8));
 - (B) Any other plan or coverage offered in the small or large group market within the District or a State; or
 - (C) A grandfathered health plan offered in a group market; or
- (2) A self-insured group health plan under which coverage is offered by, or on behalf of, an employer to the employee.

“**Government-sponsored program**” means any of the following:

- (1) The Medicare program under part A of Title XVIII of the Social Security Act (42 USC § 1395c and following sections);

- (2) The Medicaid program under Title XIX of the Social Security Act (42 USC § 1396 and following sections);
- (3) The Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act (42 USC § 1397aa and following sections);
- (4) Medical coverage under Chapter 55 of Title 10 USC, including coverage under the TRICARE program;
- (5) The following health care programs under Chapters 17 or 18 of Title 38 USC:
 - (A) The medical benefits package authorized for eligible veterans under 38 U.S.C. §§ 1705 and 1710;
 - (B) The Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) authorized under 38 USC § 1781; and
 - (C) The comprehensive health care program authorized under 38 USC §§ 1803 and 1821 for certain children of Vietnam Veterans and Veterans of covered service in Korea who are suffering from spina bifida.
- (6) A health plan under Section 2504(e) of Title 22 USC (relating to Peace Corps volunteers); and
- (7) The Non-appropriated Fund Health Benefits Program of the Department of Defense, established under Section 349 of the National Defense Authorization Act for Fiscal Year 1995, approved October 5, 1994 (108 Stat. 2727; 10 USC § 1587, note).
- (8) Government-sponsored program” does not mean any of the following:
 - (A) Optional coverage of family planning services under Section 1902(a)(10)(A)(ii)(XXI) of the Social Security Act (42 USC § 1396a(a)(10)(A)(ii)(XXI));
 - (B) Optional coverage of tuberculosis-related services under Section 1902(a)(10)(A)(ii)(XII) of the Social Security Act (42 USC § 1396a(a)(10)(A)(ii)(XII));
 - (C) Coverage of pregnancy-related services under Sections 1902(a)(10)(A)(i)(IV) and (a)(10)(A)(ii)(IX) of the Social

- Security Act (42 USC §§ 1396a(a)(10)(A)(i)(IV), (a)(10)(A)(ii)(IX));
- (D) Coverage limited to treatment of emergency medical conditions in accordance with 8 USC § 1611(b)(1)(A), as authorized by Section 1903(v) of the Social Security Act (42 USC § 1396b(v));
 - (E) Coverage for medically needy individuals under Section 1902(a)(10)(C) of the Social Security Act (42 USC § 1396a(a)(10)(C)) and 42 CFR § 435.300 and following sections;
 - (F) Coverage authorized under Section 1115(a) of the Social Security Act (42 USC § 1315(a));
 - (G) Coverage under Sections 1079(a), 1086(c)(1), or 1086(d)(1) of Title 10 USC, that is solely limited to space available care in a facility of the uniformed services for individuals excluded from TRICARE coverage for care from private sector providers; or
 - (H) Coverage under Sections 1074a and 1074b of title 10 USC, for an injury, illness, or disease incurred or aggravated in the line of duty for individuals who are not on active duty.
- (9) Except for the program identified in § 8999.1(c)(7), a government-sponsored program described in this section is not an eligible employer-sponsored plan.

“Grandfathered health plan” means any group health plan or group health insurance coverage to which section 1251 of the Affordable Care Act (42 USC § 18011) applies.

“Health care sharing ministry” means an organization that:

- (1) Is described in § 501(c)(3) of the Internal Revenue Code and is exempt from tax under § 501(a) of the Internal Revenue Code;
- (2) Has (or its predecessor has) been in existence at all times since December 31, 1999;
- (3) Conducts an annual audit performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and makes the annual audit report available to the public upon request; and

- (4) Has members that:
- (A) Share a common set of ethical or religious beliefs and share medical expenses among themselves in accordance with those beliefs and without regard to the District or state in which a member resides or is employed;
 - (B) Retain membership even after they develop a medical condition; and
 - (C) Have shared medical expenses continuously and without interruption since at least December 31, 1999.

“Immigrant Children’s Program” means the program established pursuant to Section 2202(b) of the Medical Assistance Expansion Program Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code § 1-307.03(b)).

“Incarcerated” means confined, after the disposition of charges, in a jail, prison, or similar penal institution or correctional facility.

“Indian tribe” means a group or community described in § 45A(c)(6) of the Internal Revenue Code.

“Internal Revenue Code” has the same meaning as under D.C. Official Code § 47-1801.04(28).

“Minimum essential coverage” means coverage under the following plans or programs:

- (1) The following plans or programs:
 - (A) A government-sponsored program;
 - (B) An eligible employer-sponsored plan;
 - (C) A plan in the individual market; or
 - (D) A grandfathered health plan.
- (2) The following plans or programs, as defined by 45 CFR § 156.602, as that section was in effect on December 15, 2017:
 - (A) Refugee Medical Assistance supported by the Administration for Children and Families;
 - (B) Medicare Advantage Plans, pursuant to Part C of Title XVIII of the Social Security Act; or
 - (C) State high risk pool coverage established on or before November 26, 2014 in the District or any State;
- (3) Any plan or arrangement under § 8902.1.

- (4) The Immigrant Children’s Program; or
- (5) Any plan or arrangement recognized by the Mayor by rule as minimum essential coverage.
- (6) “Minimum essential coverage” does not include:
 - (A) Any coverage that consists solely of excepted benefits described in Section 2791(c)(1), (c)(2), (c)(3), or (c)(4) of the Public Health Service Act (42 USC § 300gg-91(c)).
 - (B) Health coverage provided under multiple employer welfare arrangement if the multiple employer welfare arrangement did not provide coverage in the District on December 15, 2017, or it does not comply with federal law and regulations applicable to multiple employer welfare arrangements that were in place as of December 15, 2017.

“**Month**” means a calendar month.

“**Multiple employer welfare arrangement**” shall have the same meaning as provided in Section 3(40) of the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 833; 29 USC § 1002(40)).

“**Plan in the individual market**” means health insurance coverage offered to individuals in the individual market within the District or a state, other than short-term limited duration insurance within the meaning of Section 2791(b)(5) of the Public Health Service Act (42 USC § 300gg-91(b)(5)). A qualified health plan offered by an Exchange is a plan in the individual market. If a territory of the United States elects to establish an Exchange under Section 1323(a)(1) and (b) of the Affordable Care Act (42 USC § 18043(a)(1), (b)), a qualified health plan offered by that Exchange is a plan in the individual market.

“**Short coverage gap**” means a continuous period of less than three (3) months in which the individual is not covered under minimum essential coverage. If the individual does not have minimum essential coverage for a continuous period of three (3) or more months, none of the months included in the continuous period are treated as included in a short coverage gap.

Persons desiring to comment on any portion of these proposed rules may submit comments to the Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue of the Office of the Chief Financial Officer, the District of Columbia Health Benefit Exchange

Authority, or the Department of Insurance, Securities and Banking electronically to the joint email address: srpregs@dc.gov. Comments on any portion of these proposed rules may also be submitted to all three agencies in writing to the address: DC Health Benefit Exchange Authority, 1225 Eye Street, N.W., Washington, D.C. 20005, Attn: Alexander Alonso. Comments must be received not later than thirty (30) days after publication of this notice in the *D.C. Register*.

Copies of these proposed rules may be obtained from the Office of Tax and Revenue at 1101 Fourth Street, S.W., Suite W750 West, Washington, D.C. 20024, the Department of Insurance, Securities and Banking at 1050 First Street, N.E., Suite 801, Washington, D.C. 20002, or the Health Benefit Exchange at 1225 Eye Street, N.W., Washington, D.C. 20005.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

Z.C. Case No. 18-10

(High Street, LLC – Zoning Map Amendment @ Square 579, Lot 976)

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), hereby gives notice of its intent to amend the Zoning Map to rezone Lot 976 in Square 579 (Property) from the R-3 to the RA-2 zone consistent with the Future Land Use Map (“FLUM”), which identifies Lot 976 in Square 579 as appropriate for moderate density residential uses.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed:

The Zoning Map of the District of Columbia is amended as follows:

SQUARE	LOT	Map Amendment
579	976	R-3 to RA-2

Public Comment

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF SECOND EMERGENCY RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, and pursuant to the authority established in Mayor's Orders 2008-92, dated June 26, 2008 and 2019-033, dated May 7, 2019; Chapter 36 of Title 47 of the District of Columbia Official Code; and the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-601.01 *et seq.* (2016 Repl. & 2019 Supp.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 26 (Defined Contribution Pension Plan) of Title 6 (Personnel), Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking amends Sections 2601 through 2607 of, and adds new Sections 2608 and 2609 to, Title 6-B DCMR Chapter 26, to align the language of the existing regulations governing the defined contribution program (401(a) Plan) with current statutory requirements. Amendments include: an alignment of the percentage of the District's minimum contribution to 401(a) Plan participants' accounts to five percent (5%) of an employee's basic annual salary for regular participants, and not less than five and a half percent (5.5%) of an employee's basic annual salary for detention officers; providing clarification that participants in the plan become partially vested after two (2) years of creditable service instead of five (5) years; the addition of new graded vesting schedule requirements; and revisions of outdated language in the existing provisions to be consistent with the defined contribution plan and existing law.

This rulemaking also adds Sections 2610 through 2619 to Chapter 26 to implement the District's deferred compensation plan (457(b) Plan). These new sections include automatic enrollment provisions that will require newly hired employees and rehired employees who are eligible to participate in the 457(b) Plan to be automatically enrolled as participants effective the date of their employment. All participants will be enrolled at five percent (5%) of their annual base salary as pre-tax contributions, until the participant elects to increase, reduce, or cease their contribution amount under the plan.

Finally, this rulemaking updates Section 2699 (Definitions) to revise existing definitions related to the 401(a) Plan and add new terms related to the 457(b) Plan.

A Notice of Emergency Rulemaking was published in the *D.C. Register* on June 7, 2019 at 66 DCR 006978. That emergency rulemaking expired on September 21, 2019. Emergency action continues to be necessary for the immediate preservation of the health, safety, and welfare of District employees. The retirement benefits program includes financial instruments designed to help District employees after they stop working. These rules will continue to provide guidance to District employees, providers, beneficiaries, and other stakeholders as the District expands and clarify provisions on the existing retirement program and implements the new 457(b) Plan automatic enrollment program that will assist in preserving the health, safety, and welfare of employees covered under this program. The proposed rulemaking is under review by the Council of the District of Columbia (Council) (District Retirement Benefits Program Proposed Remaking

Approval Resolution of 2019 (PR23-0343). Final adoption of the final rulemaking awaits Council review of the proposed rulemaking.

The emergency rules were adopted on September 20, 2019 and took effect on that date. The emergency rules will remain in effect for one hundred and twenty (120) days or until January 17, 2020, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Chapter 26, DEFINED CONTRIBUTION PENSION PLAN, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

The chapter heading is amended to read as follows:

CHAPTER 26 RETIREMENT BENEFITS

Sections 2601 through 2607 are amended to read as follows:

2601 DISTRICT RETIREMENT BENEFITS PROGRAM

2601.1 The District retirement benefits program (“Program”) consists of:

- (a) A defined contribution plan pursuant to § 401(a) of the Internal Revenue Code (“IRC”);
- (b) A deferred compensation plan benefit, as provided in § 457(b) of the IRC; and
- (c) Social Security, as provided in Chapter 7 of Title 42 of the U.S. Code.

2601.2 Except for positions excluded by § 2603.10, the following employees who were first employed in the District government (“District”) after September 30, 1987, are eligible to participate in the Program:

- (a) All full-time permanent employees;
- (b) Part-time permanent employees who work at least thirty (30) hours per week; and
- (c) Term appointees of more than twelve (12) months.

2601.3 This chapter and the Program shall be implemented consistent with controlling provisions in the IRC and regulations issued to implement the IRC (federal regulations”). If any provision in this chapter conflicts with the IRC and federal regulations, the IRC and federal regulations shall control.

2602 DISTRICT OF COLUMBIA DEFINED CONTRIBUTION PLAN

2602.1 The District of Columbia Defined Contribution Plan (“401(a) Plan”) is designed to comply with the requirements §§ 401(a) and 501(a) of the IRC and the District

of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-626.01 *et seq.*) (the “Act”).

- 2602.2 There shall be established an irrevocable trust called the § 401(a) Trust (“Trust”), that shall be managed so as to be exempt from income tax under § 501(a) of the IRC. The funds contributed by the District under the 401(a) Plan shall be placed in the Trust. The assets of the Trust shall be administered by the Mayor.
- 2602.3 Contributions made to the Trust by the District are for the purpose of distributing the Trust’s principal and income to employees in accordance with the 401(a) Plan.
- 2602.4 The 401(a) Plan shall be maintained for the exclusive benefit of employees or their beneficiaries covered under the Trust. There shall be no part of the principal or income of the Trust used for any other purpose before the satisfaction of 401(a) Plan liabilities.
- 2602.5 With the consent of the Administrator, the Trustee, or the Trustee’s designee may accept rollover contributions to be held for the benefit of any participant in accordance with the 401(a) Plan Document.

2603 PARTICIPATION IN THE PLAN

- 2603.1 Eligible employees (employees who are first employed in the District after September 30, 1987, in a benefit-eligible position in a covered employment as defined in § 2699 and who are not excluded from participation by law or regulation) are covered under the 401(a) Plan.
- 2603.2 The personnel authority shall enroll each eligible employee into the 401(a) Plan as a participant at the beginning of the first pay period immediately following the employee’s completion of one (1) year of creditable service, provided the employee first completes the 401(a) Plan enrollment forms.
- 2603.3 A participant shall have a vested interest in his or her benefits in the 401(a) Plan as outlined in § 2605.1.
- 2603.4 A participant who ceases to be an eligible employee but remains employed with the District, shall resume participation in the 401(a) Plan on the first day of the first pay period that commences after he or she resumes service as an eligible employee.
- 2603.5 The Administrator shall suspend the participation in the 401(a) Plan of any participant who separates from service for more than three (3) workdays in accordance with the 401(a) Plan Document. The participant shall resume participation in the 401(a) Plan if reinstated, restored to duty or reemployed by the District in accordance with §§ 2603.7, 2603.8, or 2603.9. If a participant is not reemployed with the District within one (1) year of separation, except as provided in 2603.8 and 2603.9, he or she shall be terminated from participation in the

401(a) Plan pursuant to 2603.6 and his or her inactive account shall be forfeited and disposed of pursuant to 2606.8.

- 2603.6 The Administrator shall terminate the participation in the 401(a) Plan for:
- (a) Each participant who does not have a vested interest in his or her benefits in accordance with § 2605.1 and who is separated from service for more than one (1) year, unless the participant is reemployed by the District in accordance with §§ 2603.8 or 2603.9; and
 - (b) Each participant or former participant who has a vested interest in his or her benefits in accordance with § 2605.1, or his or her beneficiary, upon receipt of all benefits in his or her active or inactive account.
- 2603.7 A participant in the Plan who is removed or suspended without pay and later reinstated or restored to duty on the grounds that the removal or suspension was unwarranted or unjustified, shall be entitled to immediately resume accruing creditable service for purposes of vesting in the 401(a) Plan, or to resume participation in the 401(a) Plan, whichever is applicable, and to receive any creditable service which otherwise would have been credited pursuant to §§ 2604.1, 2604.2, and 2604.3. Appropriate increases shall be made in the Trust to reflect the District contributions that would have been made had the employee not been removed or suspended.
- 2603.8 A former employee who is reemployed by the District within one (1) year of the date of separation shall resume participation in the 401(a) Plan immediately, without a loss of prior creditable service or forfeiture of any contributions and income allocated to his or her basic contribution account, during that period of separation from service. If a vested participant receives any or all his or her benefits during the separation from service, then he or she shall be vested only for the following amounts upon reemployment:
- (a) Any remaining benefits in his or her basic contribution account;
 - (b) Any income allocated to his or her basic contribution account during the period of separation; and
 - (c) Any contributions and income allocated to his or her basic contribution account after the reemployment.
- 2603.9 Except as provided in § 2603.7, a participant, whether or not his or her interest in benefits has vested, who is reemployed by the District after a separation from service for more than one (1) year, must satisfy the requirements of §§ 2603.1 and 2603.2 to become eligible to participate in the 401(a) Plan, and must also satisfy the requirements of § 2605.1 to become vested in the 401(a) Plan with respect to any contributions and income allocated to his or her basic contribution account after such reemployment. If an employee has met the vesting schedule requirements in accordance with § 2605.1 prior to the separation from service,

then he or she shall remain vested as to any remaining benefits, and income thereon, in his or her basic contribution account at the time of such reemployment.

2603.10 The following types of employment are “non-covered employment” for purposes of the 401(a) Plan:

- (a) Any position when the employee serves under an appointment of one (1) year or less, except when the appointment follows service in a covered position by a break in service of three (3) days or less;
- (b) Any position when the employee serves without an assigned tour of duty;
- (c) Any position held by a summer youth employee;
- (d) Any position that is not paid according to a District pay schedule and that is held by a patient or a resident in a hospital, home, or penal or mental institution of the District;
- (e) Any position when the employee is paid on a contract or fee basis;
- (f) Any student-employee who receives a stipend and is assigned or attached primarily for training purposes to a hospital, clinic, or laboratory operated by the District;
- (g) A police officer or firefighter who is covered under the D.C. Police and Firefighters’ Retirement Plan pursuant to D.C. Official Code § 5-701(1)(A) (2019 Repl.);
- (h) An employee who is covered under the D.C. Teachers’ Retirement Plan as specified in D.C. Official Code § 38-2021.13 (2019 Repl.);
- (i) An employee at the University of the District of Columbia (University) who is covered under the University’s IRC § 403(b) savings plan;
- (j) A substitute or evening school teacher, pursuant to D.C. Official Code § 38-2021.13 (2019 Repl.);
- (k) A judge or Executive Officer employed at the District of Columbia Court of Appeals or the Superior Court, or the former Juvenile Court of the District of Columbia, District of Columbia Tax Court, Police Court, Municipal Court, Municipal Court of Appeals, or District of Columbia Court of General Sessions; and
- (l) Any other service performed in a position deemed to be non-covered employment pursuant to the Act, this chapter, or the 401(a) Plan Document.

2603.11 Each participant's account shall be charged with its proportionate share of any expenses paid from the 401(a) Plan and shall also include any functional subaccounts as may be established by the Administrator from time to time. To the extent that the Administrator determines that a functional subaccount no longer needs to be maintained, such functional subaccount may be combined with another functional subaccount. The functional subaccounts are as follows: (1) Basic Contribution Account or (2) Rollover Contribution Account.

2604 CREDITABLE SERVICE

2604.1 Creditable service shall be measured for an eligible employee from the date the employee's eligible service under § 2601.2 begins until the date of the employee's separation from that eligible service.

2604.2 Eligibility and vesting in the 401(a) Plan shall be based on a participant's total number of years and months of creditable service, including any fractional parts of a calendar month. With respect to any fractional parts of a calendar month, thirty (30) calendar days shall equal one (1) calendar month.

2604.3 Service in any covered employment for less than twelve (12) months shall be counted as creditable service towards satisfying the one (1) year of creditable service for participation in the 401(a) Plan if the employee is placed in another position that qualifies as eligible service under § 2601.2 within three (3) workdays of terminating service in the previous covered position.

2604.4 An employee shall accrue creditable service for all the following purposes:

- (a) To qualify for 401(a) Plan participation, in accordance with §§ 2603.1 and 2603.2;
- (b) To determine when the interest of an employee in his or her account shall vest in accordance with § 2605.1; and
- (c) To determine when contributions are to be paid to the Trust on behalf of an employee in accordance with §§ 2603.1 and 2606.1.

2604.5 Creditable service shall not include any of the following:

- (a) When an employee is removed or suspended from service or is in an unauthorized leave without pay status for a period that exceeds thirty (30) workdays in a calendar year, except as specified in § 2603.7;
- (b) Any portion of an authorized leave of absence without pay that exceeds two (2) years, except for military leave or furlough as authorized under applicable law or regulations;

- (c) Any service performed in non-covered employment, as defined by § 2603.10;
- (d) Any prior service of an employee who was employed less than one (1) year if the employee was separated from service for more than three (3) workdays, except as provided in §§ 2603.7 and 2603.8;
- (e) Any prior service of an employee participant reemployed by the District after a separation from service of more than one (1) year, except as provided for in § 2603.9;
- (f) Any annual or sick leave accrued by an employee prior to his or her separation from service; and
- (g) Any service otherwise excluded from creditable service by law, regulations, or the 401(a) Plan Document.

2605 VESTING REQUIREMENTS

2605.1 A participant shall become fully vested in his or her benefits in the 401(a) Plan when the employee:

- (a) Attains age sixty-five (65) and separates prior to meeting the vesting requirement;
- (b) Becomes entitled to disability benefits under the Social Security Act;
- (c) Dies while employed with the District; or
- (d) Prior to December 8, 2009, completes five (5) years of creditable service in covered employment.

2605.2 Effective December 8, 2009, a participant who is not vested in the 401(a) Plan under the terms set out in § 2605.1, shall become partially and fully vested in his or her benefits in the Plan according to the following schedule:

Years of Creditable Service	Vested Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5 or more	100%

2606 DISTRICT CONTRIBUTIONS TO THE TRUST

- 2606.1 The District shall make contributions on no less than a quarterly basis to the Trust in an amount equal to the sum of the amounts calculated in accordance with §§ 2606.2 and 2606.3, which shall be allocated to the active account of each participant subject to the limitations on contributions as established by 26 U.S.C. § 415.
- 2606.2 The District shall contribute to the Trust an amount equal to five percent (5%) of the base salary of each employee participating in the 401(a) Plan, except in the case of detention officers, the District shall contribute no less than five and a half percent (5.5%) of the base salary of each participant.
- 2606.3 The District shall only make contributions that are consistent with the Act, this chapter, and the 401(a) Plan Document. The District shall not make contributions for any of the following:
- (a) Employees who have not attained one (1) year of creditable service;
 - (b) Any period when the participant performs service in non-covered employment, as defined by § 2603.10;
 - (c) Any period when a participant is in a non-pay status;
 - (d) Any period when a participant has been removed or suspended from service without pay, except as provided for in § 2603.7;
 - (e) Any period when the participant is separated from service in excess of three (3) workdays, except as provided in §§ 2603.7 and 2603.8; and
 - (f) Any participant whose is not eligible to participate in the 401(a) Plan pursuant to the Act, this chapter, or 401(a) Plan Document.
- 2606.4 A participant is neither required nor permitted to make payments to the Trust.
- 2606.5 A participant shall have no right to any contributions or income allocated to his or her active account, until the participant becomes vested in accordance with § 2605.
- 2606.6 If a participant separates from the District prior to attaining the vesting requirements of § 2605, no contributions shall be allocated to his or her active account during the period of separation, and all contributions and income previously allocated to his or her active account shall be transferred to an inactive account during the period of separation.
- 2606.7 If the former participant is reemployed with the District in accordance with § 2603.7 or § 2603.8, all contributions and income transferred to an inactive

account shall be reinstated to the participant and transferred back to an active account.

2606.8 If a participant separates from the District prior to attaining the vesting requirements of § 2605 and is not reemployed in the District in accordance with §§ 2603.7 or § 2603.8, then his or her contributions and income that were transferred to an inactive account shall be forfeited.

2606.9 The Trustee shall return to the District contributions that were made to the Trust, and any income thereon, if:

- (a) The 401(a) Plan does not qualify under IRC §§ 401(a) and 501(a);
- (b) The contributions or income have been allocated to any active or inactive account under a mistake of fact; or
- (c) Any funds remain in the Trust after the 401(a) Plan has terminated and all liabilities of the Trust have been satisfied.

2606.10 No contributions to the Trust, nor any income earned thereon, shall be used for or diverted for purposes other than the exclusive benefit of the participants, former participants, and their beneficiaries, prior to the satisfaction of all liabilities to the participants, former participants, and beneficiaries.

2607 DISTRIBUTION AND FORFEITURE OF BENEFITS UNDER THE 401(a) PLAN

2607.1 Except as provided in Subsection 2607.2, a participant who has separated from the District and who has not met the two (2) years of creditable service required for vesting in a 401(a) Plan account under § 2605, shall have those contributions forfeited and shall not receive a distribution of benefits. The contributions shall be restored if the participant is rehired within one (1) year after the date of separation, as provided in § 2603.8.

2607.2 A participant who has separated from the District and who has not met the two (2) years of creditable service required for vesting in a 401(a) Plan account under § 2605, but who has attained age sixty-five (65) prior to separating from the District, separated from the District due to disability, or has separated from the District due to the participant's death, shall become fully vested as a participant.

2607.3 Upon written request, a vested participant or former participant, or beneficiary, who separates from service, becomes disabled, or dies shall receive vested 401(a) Plan benefits distributed in a lump sum payment unless a different distribution option is elected pursuant to § 2607.5. The lump sum payment shall be made as soon as administratively feasible after satisfactory proof has been submitted, but in no more than sixty (60) days after the end of the quarter during which the separation from service, disability, or death occurs.

- 2607.4 If a participant dies prior to the commencement of a distribution of benefits, the benefits shall be distributed to the beneficiary in accordance with the 401(a) Plan Document.
- 2607.5 A vested participant, former participant, or beneficiary, may elect to have vested 401(a) Plan benefits distributed, as provided by the 401(a) Plan, pursuant to the limitations set forth in IRC § 401(a)(9), in one or a combination of the following:
- (a) Single life annuity;
 - (b) Joint and survivor annuity made over the joint lives of the participant and a beneficiary;
 - (c) Periodic annuity for a certain number of years without a life contingency;
 - (d) Installments of substantially equal amounts for a specific period, not to exceed the life expectancy of the employee or beneficiary; or
 - (e) A lump sum.
- 2607.6 Notwithstanding any other provisions of the 401(a) Plan Document, distributions under § 2607.5 shall be in accordance with § 2607.3 and IRC § 401(a)(9).
- 2607.7 A vested participant, former participant, or beneficiary of a 401(a) Plan account (excluding rollover contribution) of one thousand dollars (\$1,000) or more, must submit a written request for distribution of benefits. A 401(a) Plan account of less than one thousand dollars (\$1,000) (excluding rollover contributions) may be paid out without the participant's or beneficiary's consent.
- 2607.8 In no event shall the distribution of benefits to a participant or former participant, commence later than April 1 of the calendar year following the year in which he or she retires or terminates employment, or attains the age of seventy and one-half (70½), or by such other age, if any, that the Internal Revenue Service (IRS) may establish which is applicable to qualified plans under IRC § 401(a).
- 2607.9 Prior to any distribution of benefits from the 401(a) Plan to a former employee, the former participant must attest to his or her employment status with the District government and his or her marital or domestic partnership status and, if married or in a domestic partnership, submit written consent, witnessed by a notary public, from his or her spouse or domestic partner, to any distribution of benefits, unless it is established to the satisfaction of the Administrator that this consent cannot be obtained due to incompetence, incapacitation, or unavailability of the spouse or domestic partner.
- 2607.10 If a participant, former participant, or beneficiary elects to have benefits distributed in accordance with § 2607.5, his or her active account shall be

transferred to an inactive account during the period for which benefits are to be distributed.

- 2607.11 If a former participant dies after the commencement of a distribution of benefits, distribution of any remaining benefits shall be to the beneficiary of the former participant in accordance with the 401(a) Plan Document.
- 2607.12 If a participant becomes disabled prior to a separation from service, benefits shall be distributed to the employee in accordance with the 401(a) Plan Document.
- 2607.13 If a participant or former participant dies without designating a beneficiary, distribution of any remaining benefits shall be in accordance with the 401(a) Plan Document.
- 2607.14 A participant or former participant who is married or in a domestic partnership may only designate a beneficiary other than his or her spouse or domestic partner upon the written attested consent of the spouse or domestic partner, unless it is established to the satisfaction of the Administrator that this consent cannot be obtained due to incompetence, incapacitation, or unavailability of the spouse or domestic partner.
- 2607.15 A participant who dies while performing qualified military service (as defined in 26 USC § 414(u)(5)) on or after January 1, 2007, shall be treated as if the participant resumed employment the day before death and terminated employment on the actual date of death. The account shall be payable to designated beneficiary.
- 2607.16 An employee of the Fire and Emergency Medical Services Department holding a valid certificate as a paramedic, serving as an emergency medical technician, or serving as a hazards or emergency medical services specialist, who is appointed to serve as a uniformed firefighter position may elect to transfer his or her 401(a) Plan account to the D.C. Police Officers' and Firefighters' Retirement Fund.
- 2607.17 A participant who is at least age seventy and a half (70½) years may request a non-hardship withdrawal from his or her 401(a) Plan account as follows:
- (a) The withdrawal request may be made at any time;
 - (b) A minimum amount of one hundred dollars (\$100.00) may be withdrawn; unless the amount available is less than \$100.00; and
 - (c) The amount withdrawn shall be distributed from the participant's investment funds designated by the participant, provided that the designated investment funds hold a balance as of the withdrawal date sufficient to pay the full amount of the withdrawal request.

New Sections 2608 through 2620 are added to read as follows:

2608 DEFINED CONTRIBUTION PLAN ADMINISTRATION

2608.1 The 401(a) Plan is administered by the Chief Financial Officer for the District of Columbia (CFO). The Plan Document is available online at <https://www.icmarc.org/dc/forms-and-publications/publications.html> and contains the official summary description of the plan, its terms, and conditions.

2609 MISCELLANEOUS PROVISIONS

2609.1 Any payment of, or right to, benefits shall be non-assignable and non-alienable, except as provided in the 401(a) Plan Document or in § 2609.2.

2609.2 The payment of, or right to, benefits under the 401(a) Plan may be assigned to a non-participant pursuant to a legally enforceable qualified domestic relations order.

2609.3 The liability of the 401(a) Plan to any employee, former employee, or beneficiary with respect to the distribution of benefits shall be limited to his or her active or inactive account balance on the date of separation from service, disability, or death, and including any interest earned on the account balance.

2609.4 The District may amend or terminate the 401(a) Plan, provided that any amendment or termination shall not impair the rights of a vested employee or former employee, or his or her beneficiary, to receive any contributions, or interest earned on the account balance, allocated to his or her active or inactive account prior to the date of the termination or amendment of the 401(a) Plan.

2609.5 No vested benefits of participants, former participants, or beneficiaries shall be forfeited upon the termination of the 401(a) Plan.

2609.6 Direct transfer of eligible rollover distributions shall be made in accordance with 26 USC § 401(a)(31).

2610 DISTRICT OF COLUMBIA DEFERRED COMPENSATION PLAN

2610.1 The District established the District of Columbia Deferred Compensation Plan (“457(b) Plan”), which is an eligible deferred compensation plan under § 457(b) of the IRC.

2610.2 The 457(b) Plan is a tax-advantage retirement savings account that allows eligible employees to set aside a portion of their salary through payroll deductions on a pre-tax or after-tax basis into an account that is invested at the discretion of the employee in a manner approved by the District.

2611 DEFERRED COMPENSATION – ELIGIBILITY

2611.1 Except for positions excluded in § 2611.2, the following employees are eligible to participate in the 457(b) Plan:

- (a) All full-time permanent employees;
- (b) Part-time permanent employees who work at least thirty (30) hours per week; and
- (c) Term appointments of more than twelve (12) months.

2611.2 The following types of employees are in “non-covered employment” for purposes of the 457(b) Plan:

- (a) Employees serving in a temporary appointment of one (1) year or less;
- (b) Members of a board or commission whose pay is set under D.C. Official Code § 1-611.08;
- (c) Judges and Executive Officers employed by the District of Columbia Court of Appeals or the Superior Court, or the former Juvenile Court of the District of Columbia, District of Columbia Tax Court, Police Court, Municipal Court, Municipal Court of Appeals, or District of Columbia Court of General Sessions;
- (d) Summer youth employees;
- (e) Student employees who receive a stipend and are assigned or attached primarily for training purposes to a hospital, clinic, or laboratory operated by the District government; and
- (f) Employees and other individuals who are paid on a contract or fee basis.

2612 AUTOMATIC ENROLLMENT

2612.1 All eligible employees newly hired or rehired (those employees who have had a break in service of three (3) consecutive workdays or more) on or after June 10, 2019, shall be automatically enrolled in the 457(b) Plan. All eligible employees hired or rehired before June 10, 2019, may elect to enroll in the 457(b) Plan as provided in § 2613.2.

2612.2 All participants who are automatically enrolled shall be deemed to have elected to defer five percent (5%) of their annual base salary, as pre-tax deferrals (“Default Deferrals”).

2612.3 Participants who are automatically enrolled may increase, reduce, or cease the amount of their deferrals to the 457(b) Plan at any time. An automatically

enrolled participant who elects to cease deferrals during the first thirty (30) days of employment shall be entitled to a distribution under § 2612.6.

2612.4 Automatically enrolled participants shall be provided with written notification of the 457(b) Plan Automatic Enrollment policy by the effective date of their appointment. The notice shall explain:

- (a) The employee's rights under the 457(b) Plan to designate how deferrals and earnings will be invested;
- (b) How, in the absence of an investment election by the employee, such deferrals and earnings will be invested;
- (c) The percentage of the employee's base salary that will be deferred to the program;
- (d) The employee's right to increase, reduce, or cease his or her deferrals to the program;
- (e) How an employee may elect investments and change or cease deferral amounts under the 457(b) Plan; and
- (f) The employee's right to make a permissive withdrawal from the Default Deferrals, and the procedures governing such withdrawals.

2612.5 Each automatically enrolled participant shall sign an acknowledgement that he or she received the written policy as specified in § 2612.4 of this section. A legal guardian's signature is needed if the eligible participant is under eighteen (18) years of age.

2612.6 Automatically enrolled participants may elect, within thirty (30) calendar days after the first day of employment, to withdraw the Default Deferrals (as adjusted for gains and losses to the date of distribution) made on his or her behalf to the 457(b) Plan. The withdrawal shall be processed, and any amounts owed shall be distributed to the participant, within sixty (60) calendar days after receipt of a request to withdraw the Default Deferrals. Any such withdrawal request will be treated as an affirmative election by the automatically enrolled participant to cease having Default Deferrals made on his or her behalf as of the date of the withdrawal request.

2612.7 Any deferrals, as adjusted for gains and losses, made by the District pursuant to § 2612.1 with respect to any Default Deferrals being withdrawn pursuant to § 2612.6 shall be forfeited.

2612.8 Default Deferrals made on behalf of automatically enrolled participants shall begin no later than the first pay period after the effective date of appointment.

2613 ELECTIVE ENROLLMENT; MODIFICATIONS TO ENROLLMENT

- 2613.1 An employee who opts out of automatic enrollment under § 2612 may elect to participate in the 457(b) Plan after the end of the thirty (30) calendar days after the first day of employment. An employee who was not automatically enrolled in the 457(b) Plan may elect to participate in the 457(b) Plan at any time after the employee's date of hire.
- 2613.2 To participant, complete the Salary Deferral Agreement through the Employee Self-Service (ESS) in the PeopleSoft System. The agreement shall include:
- (a) The option of selecting pre-tax deferrals or after-tax (Roth) deferrals;
 - (b) Amount of compensation to be deferred; and
 - (c) Investment elections.
- 2613.3 An employee enrolled in the 457(b) Plan may change his or her deferral amounts by completing the Salary Deferral Agreement. The change to the deferral amounts shall take effect not earlier than the first day of the first pay period following the date when the Salary Deferral Agreement is executed.
- 2613.4 Participants shall have the option of electing through payroll deduction to make either pre-tax deferrals that will reduce their taxable income for the year, or after-tax deferrals (Roth deferrals) that will not reduce their taxable income for the year.
- 2613.5 Participants may elect to defer a minimum of twenty dollars (\$20) per pay period or forty-three dollars (\$43) per month.
- 2613.6 The maximum amount of compensation that a participant may defer through pre-tax and Roth deferrals under the 457(b) Plan in any taxable year shall not exceed the lesser of:
- (a) The applicable dollar amount under § 457(b)(2)(A) of the IRC, or
 - (b) One hundred percent (100%) of the participant's base salary, as provided for in § 457(b)(2)(B) of the IRC.
- 2613.7 The 457(b) Plan special catch-up limitation allows a participant, for the last three (3) taxable years ending before a participant attains normal retirement age, to make contributions in excess of the limits set forth in § 2613.6. The maximum catch-up deferral amount shall be the lesser of:
- (a) Twice the maximum deferral dollar amount in effect under § 2613.6, or
 - (b) An amount equal to:

- (1) The aggregate § 2613.6 limitation for the current year, plus, and
- (2) The portion of the primary limitation amount not utilized in prior taxable years in which the participant was eligible to participate in the 457(b) Plan. A participant may use a prior year only if the deferrals under the 457(b) Plan in existence during that year were subject to a maximum deferral amount.

2613.8 All participants who have attained age fifty (50) or over before the close of the 457(b) Plan year shall be eligible to make additional deferrals that exceed the maximum limitation for the 457(b) Plan year, in accordance with, and subject to the limitation of, 26 CFR § 1.414(v).

2613.9 Any deferrals to the 457(b) Plan account that exceed the amounts authorized by § 2613.6 shall be refunded to the participant in accordance with 26 CFR § 1.457-4(e).

2614 VOLUNTARY TERMINATION OF ENROLLMENT

2614.1 A participant may cancel his or her participation in the 457(b) Plan at any time. This participant shall provide notification of his or her cancellation through the Employee Self Service function in the PeopleSoft system. A participant's cancellation shall take effect on the date of the request. An employee who previously cancelled his or her participation in the 457(b) Plan may subsequently recommence participation by completing the Salary Deferral Agreement through the Employee Self Service function in the PeopleSoft system.

2615 DISTRICT MATCHING CONTRIBUTION

2615.1 For participants employed by the Council of the District of Columbia, Office of the District of Columbia Auditor, and the Office of Advisory Neighborhood Commissions, the District shall contribute an amount equal to an employee's deferrals to the 401(a) Plan each pay period not to exceed three percent (3%) of his or her base salary. The District does not make matching contributions to the 401(a) Plan accounts of other employees.

2615.2 Within forty-five (45) days after the end of each pay period, the District shall contribute deferrals to the Trust.

2616 INVESTMENTS

2616.1 Participants shall be given an opportunity to direct investment of their respective 457(b) Plan accounts in one (1) or more of the investment funds offered by the 457(b) Plan.

2616.2 When a participant makes deferrals to the 457(b) Plan and has not directed that those deferrals be invested in any specific fund(s), his or her deferrals shall be

invested in the default fund selected by the 457(b) Plan provider until additional instructions are provided by the participant.

2617 TRANSFERRING INVESTMENTS FROM OTHER ACCOUNTS

2617.1 Participants in the 457(b) Plan may transfer amounts from other eligible 457(b) plans or 401(k) plans into their 457(b) Plan account.

2618 DISTRIBUTION OF BENEFITS

2618.1 Participants may not withdraw funds from their account, except in the case of:

- (a) Separation from the District;
- (b) Death;
- (c) Attainment of age seventy and one-half (70½); or
- (d) A severe financial hardship, pursuant to § 2618.3.

2618.2 Roth deferrals and associated earnings can be withdrawn tax free if:

- (a) Five (5) years have passed since January 1 of the year of the participant's first Roth deferrals; and
- (b) The participant is at least fifty-nine and one-half (59½) years old (or disabled or deceased).

2618.3 Participants may request a distribution due to a severe financial hardship by applying for an emergency withdrawal using the "District of Columbia 457(b) Deferred Compensation Plan, Application for Unforeseeable Emergency Withdrawal Form," available at <http://www.dcretire.com>.

2618.4 Participants may elect the time when distributions under the 457(b) Plan will begin by designating the month and year the first distribution is to be made. The first distribution date that may be elected by the participant shall be the earlier of:

- (a) Thirty-one (31) days after separation from the District, or
- (b) The date the participant attains age seventy and a half (70½).

2618.5 Notwithstanding § 2618.4, a distribution of a participant's account must be made no later than the first (1st) day of April following the calendar year in which the participant separates from the District or attains age seventy and a half (70½).

2618.6 Participants eligible to receive a distribution may choose from the following payment options:

- (a) Lump sum payment;
- (b) Installment payments for a designated period, including monthly, quarterly, semi-annual, and annual installment payments;
- (c) Annuity payments; or
- (d) Direct rollover to another employer-sponsored, eligible retirement plan or to a traditional IRA.

2618.7 If a participant dies before distribution of his or her account, then the beneficiary must submit a death certificate proving the death of the participant before distribution of the participant's account pursuant to § 2618.6.

2619 TERMINATING ENROLLMENT

2619.1 A person's enrollment in the 457(b) Plan shall terminate when one (1) of the following occurs:

- (a) The participant terminates employment with the District, or
- (b) The participant ceases to be eligible to participate in the 457(b) Plan.

2619.2 A participant who ceases to be eligible to participate in the 457(b) Plan, but who remains an employee of the District, shall be entitled to withdraw all of the funds from his or her account upon termination of employment.

2620 DISTRICT OF COLUMBIA DEFERRED COMPENSATION PLAN ADMINISTRATION

2620.1 The 457(b) Plan is jointly administered by the D.C. Department of Human Resources (DCHR) and the D.C. Office of the Chief Financial Officer, Office of Finance and Treasury (CFO).

2620.2 The 457(b) Plan Administrator provides for the administration of the plan, which includes but is not limited to:

- (a) Enrollment of eligible employees as participants;
- (b) The maintenance of accounts and other records;
- (c) Periodic reports to participants; and
- (d) The distribution of benefits to Participants.

2620.3 The 457(b) Plan Administrator shall serve as an agent of the District for purposes of providing direction to the custodian of any custodial account from time to time

as to the investment of the funds held in the custodial account, and the transfer of assets to or from the custodial account.

- 2620.4 Each Participant's account shall be charged with its proportionate share of any expenses paid from the 457(b) Plan and shall also include any functional subaccounts as may be established by the Administrator from time to time. To the extent that the Administrator determines that a functional subaccount no longer needs to be maintained, such functional subaccount may be combined with another functional subaccount. The functional subaccounts are as follows: (1) Basic Contribution Account or (2) Rollover Contribution Account.

Section 2699, DEFINITION, is being amended to read as follows:

2699 DEFINITIONS

- 2699.1 As used in this chapter the following meanings apply –

Active account – the bookkeeping account maintained for each participant to record his or her allocable share of contributions and deferrals, and related income earned, and administrative expenses, which has not been designated as an inactive account.

Act – the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139, D.C. Official Code §§ 1-601.01 *et seq.* (2016 Repl.)).

Administrative expenses – the costs of administering the 401(a) and 457(b) Plans, including but not limited to any Trust expenses.

Administrator –the Chief Financial Officer (CFO) or the employees of the CFO who have the power to act for the CFO with respect to the administration of the 401(a) or the 457 Plan, as the context requires.

Automatically Enrolled Participant – a participant in the 457(b) Plan who is first hired or rehired on or after June 10, 2019.

Base salary – the base rate of pay paid to a participant, as established by a District of Columbia salary schedule, by statute or by the Mayor, excluding overtime, holiday, Sunday, compensatory time, hazard pay, environmental, or night-shift differential pay, upon which contributions to the Plan shall be determined.

Beneficiary – the person(s) or legal entity or entities designated by the participant or former participant to receive any undistributed benefits that become payable in the event of the death of the participant or former participant.

Benefits – the amount in the active or inactive account of a vested participant or former participant, or his or her beneficiary, which is available for distribution upon separation from service, disability, or death.

Benefit commencement date – the date selected by the participant or beneficiary by designating the month and year during which the first distribution is to be made.

Contribution – the amount the District deposits into the Trust in accordance with § 2606.1 of this chapter.

Covered employment – service by any employee in any position, not specifically excluded as “non-covered employment,” pursuant to § 2603.10, which is:

- (a) Under the personnel authority of the Mayor;
- (b) Under the independent personnel authority of an executive agency that reports to the Mayor;
- (c) Under the personnel authority of the District of Columbia Courts when such courts participate in the 401(a) and 457(b) Plans with the approval of the Mayor; or
- (d) Under the personnel authority of an independent agency as defined in D.C. Official Code § 1-603.01 (2016 Repl.) when the independent agency participates in the 401(a) and 457(b) Plans with the approval of the Mayor.

Covered position – a permanent or term appointment of more than twelve (12) months position in the District government that includes benefits (*i.e.* health, life, retirement).

Creditable service – the period of employment to be recognized for purposes of eligibility for retirement benefits, as defined by § 2604.

Detention officer – an employee who is not covered by the Police and Fire Retirement System, whose duties are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against, or violation of, the laws of the United States or the District of Columbia, and whose duties may require frequent contact, supervision, inspection, training, employment, care, transportation, or rehabilitation of individuals in detention. The term includes:

- (a) Employees engaged in the activities listed above whom are transferred to a supervisory or administrative position;

- (b) Employees of the Department of Corrections, its industries, and utilities who are engaged in the activities listed above;
- (c) Employees of the Department of Youth Rehabilitation Services who are engaged in the activities listed above; and
- (d) Members of the Board of Parole, parole officers, and probation officers who are engaged in the activities listed above.

Deferral – the annual amount of compensation designated as a pre-tax deferral or after-tax (Roth) deferral that a participant elects to defer in the 457(b) Plan pursuant to a properly executed Salary Deferral Agreement.

Disabled – a condition which results in a participant being entitled to disability benefits within the meaning of the Social Security Act (42 USC §§ 416(i) and 423(d)).

District – the District government, including (a) subordinate agencies under the Mayor; (b) the District of Columbia Courts, and (c) any independent agency, if the courts or any independent agency duly accept 401(a) and/or 457(b) Plan(s), with the approval of the Mayor.

District of Columbia Deferred Compensation Plan – 457(b) Plan as provided pursuant to D.C. Official Code § 1-626.05(2) (2016 Repl.).

District of Columbia Defined Contribution Plan – 401(a) Plan as provided pursuant to D.C. Official Code § 1-626.05(3) (2016 Repl.).

Domestic partner – a person with whom an individual maintains a committed relationship as defined in D.C. Official Code § 32-702(a) (2019 Repl.).

Employee – an individual who performs a function of the District government and who receives compensation for the performance of such services.

Former employee – an employee who has separated from District government service.

Inactive account – the bookkeeping account maintained for each former participant for whom contributions and deferrals are no longer being made, and for each former participant or beneficiary who receives distributions, that records his or her allocable share of income and administrative expenses.

Income – the net increase or decrease of the Trust, as of each valuation date, resulting from realized and unrealized gains or losses, interest, dividends, and other investment earnings.

Internal Revenue Code or IRC - the Tax Reform Act of 1986, approved October 22, 1986 (100 Stat. 2085; 26 USC §§ 1 *et seq.*), as amended.

Plan account – a 401(a) or 457(b) account established and maintained for each participant to reflect the contributions and deferrals made by or for the benefit of the participant and the allocated or attributable income, gains and losses (whether or not realized).

Plan document – the 401(a) or 457(b) Plan document, as applicable, that outlines the process of how the District of Columbia Defined Contribution Plan or District of Columbia Deferred Compensation Plan is managed and maintained by the Administrator.

Section 401(a) Trust – a trust that qualifies under §§ 401(a) and 501(a) of the IRC, into which the District government’s contributions are deposited.

Separation from service – lawful termination of the employment relationship between an employee and the District government.

Trustee – the Chief Financial Officer (CFO), or any entity designated by the CFO to serve as trustee under the Trust. The term “Trustee” shall include custodian designated by the CFO under any custodial account.

Comments on these emergency regulations should be submitted, in writing, within thirty (30) days of the date of the publication of this notice to the D.C. Department of Human Resources, Policy and Compliance Administration. Comments may be submitted by mail to 1015 Half Street, Southeast, 9th Floor, Washington, D.C. 20003, or by e-mail to dchr.policy@dc.gov.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CEASE AND DESIST AGENDA - CLASS B LICENSEES

WEDNESDAY, OCTOBER 23, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The ABC Board will be issuing Orders to Cease and Desist to the following Licensees for the reasons outlined below.

ABRA-082766 – **Mark's Market** – Retail - Grocery – B - 3933 14TH ST NW
[Licensee did not pay their third year payment.]

ABRA-091196 – **Georgia Line Convenience Store** – Retail - Grocery – B - 5125 GEORGIA AVE NW
[Licensee did not pay their third year payment.]

ABRA-101367 – **A & S Grocery** – Retail - Grocery – B - 4748 SHERIFF RD NE
[Licensee did not pay their third year payment.]

ABRA-102578 – **Soapstone Market** – Retail - Full Service Grocery – B - 4465 CONNECTICUT AVE NW
[Licensee did not pay their third year payment.]

ABRA-103721 – **Wine Advise** – Wholesaler – B - 2820 PENNSYLVANIA AVE NW
[Licensee did not pay their third year payment.]

ABRA-105815 – **The Wine Outlet** – Beer and Wine – B - 3210 Grace ST NW, #150
[Licensee did not pay their third year payment.]

ABRA-105990 – **wine and butter** – Retail - Class B – B - 1023 EAST CAPITOL ST SE
[Licensee did not pay their third year payment.]

ABRA-107325 – **Anchor** – Retail - Class B – B - 709 Wharf ST SW
[Licensee did not pay their third year payment.]

ABRA-108000 – **Lawrence Boone Selections** – Wholesaler – B - 4221 Connecticut AVE NW
[Licensee did not pay their third year payment.]

ABRA-108439 – **Gee's Market** – Retail - Class B – B - 3583 WARDER ST NW
[Licensee did not pay their third year payment.]

ABRA-108479 – **Food 7 Store** – Retail - Grocery – B - 1830 BENNING RD NE
[Licensee did not pay their third year payment.]

ABRA-109402 – **Open Door Market** – Beer and Wine – B - 2160 CALIFORNIA ST NW
[Licensee did not pay their third year payment.]

ABRA-110414 – **Tap Rebels** – Internet – B - 1701 FLORIDA AVE NW
[Licensee did not pay their third year payment.]

ABRA-111181 – **Dubai Market** – Beer and Wine – B - 3443 14TH ST NW
[Licensee did not pay their third year payment.]

ABRA-111995 – **Union Kitchen** – Retail - Full Service Grocery – B - 1301 K ST NW
[Licensee did not pay their third year payment.]

ABRA-111996 – **Union Kitchen** – Retail - Full Service Grocery – B - 1924 8th ST NW, STE
155
[Licensee did not pay their third year payment.]

ABRA-112240 – **My Houeland** – Wholesaler – B - 301 New York AVE NE
[Licensee did not pay their third year payment.]

ABRA-112501 – **Dent Place Market** – Retail - Grocery – B - 1643 34TH ST NW
[Licensee did not pay their third year payment.]

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CEASE AND DESIST AGENDA – C LICENSEES

WEDNESDAY, OCTOBER 23, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The ABC Board will be issuing Orders to Cease and Desist to the following Licensees for the reasons outlined below:

ABRA-000785 - **Dan's Cafe** – C - Tavern – 2315 18TH ST NW
[Licensee Did Not Renew.]

ABRA-009267– **Jr's Bar and Grill** – C - Tavern – 1519 17TH ST NW
[Licensee Did Not Renew.]

ABRA-060380– **Twin Jazz** – C - Tavern – 1344 U ST NW
[Licensee Did Not Renew.]

ABRA-070520– **Billy Goat Tavern & Grill** – C - Tavern – 500 NEW JERSEY AVE NW
[Licensee Did Not Renew.]

ABRA-071088– **MPIRE Club** – C - Nightclub – 1819 M ST NW
[Licensee Did Not Renew.]

ABRA-072734– **12 Twelve DC/ Kyss Kyss** – C - Tavern – 1210 H ST NE
[Licensee Did Not Renew.]

ABRA-072777– **Rock N Roll Hotel** – C - Tavern – 1353 H ST NE
[Licensee Did Not Renew.]

ABRA-073166– **The Pug/Toki Underground** – C - Tavern – 1234 H ST NE
[Licensee Did Not Renew.]

ABRA-073821– **Cleveland Park Bar & Grill** – C - Tavern – 3421 CONNECTICUT AVE NW
[Licensee Did Not Renew.]

ABRA-074767– **Ultrabar/Chroma** – C - Nightclub – 911 F ST NW
[Licensee Did Not Renew.]

ABRA-079568– **Room 11** – C - Tavern – 3234 11TH ST NW
[Licensee Did Not Renew.]

ABRA-081479– **French Bistro Bistro B Lounge** – C - Tavern – 1727 CONNECTICUT AVE
NW
[Licensee Did Not Renew.]

ABRA-082039– **Barcode** – C - Tavern – 1101 17TH ST NW
[Licensee Did Not Renew.]

ABRA-082211– **Maple** – C - Tavern – 3418 11TH ST NW
[Licensee Did Not Renew.]

ABRA-083133– **Eye Bar/Garden of Eden** – C - Nightclub – 1716 I ST NW
[Licensee Did Not Renew.]

ABRA-083264– **Music & Arts Club/Tropicalia** – C - Nightclub – 2001 14TH ST NW
[Licensee Did Not Renew.]

ABRA-083919– **Dirty Martini Inn Bar/Dirty Bar** – C - Nightclub – 1223 CONNECTICUT
AVE NW
[Licensee Did Not Renew.]

ABRA-084731– **Desperados Pizza** – C - Tavern – 1342 U ST NW
[Licensee Did Not Renew.]

ABRA-086141– **Lola's** – C - Tavern – 711 8TH ST SE
[Licensee Did Not Renew.]

ABRA-086384– **Bar Roubaix** – C - Tavern – 1400 IRVING ST NW
[Licensee Did Not Renew.]

ABRA-086424– **Sankofa Cafe** – C - Tavern – 2714 Georgia AVE NW
[Licensee Did Not Renew.]

ABRA-087106– **Larrys Lounge** – C - Tavern – 1840 18th ST NW
[Licensee Did Not Renew.]

ABRA-087398– **The Big Board** – C - Tavern – 421 H ST NE
[Licensee Did Not Renew.]

ABRA-087875– **Cloakroom** – C - Nightclub – 476 K ST NW
[Licensee Did Not Renew.]

ABRA-088333– **The Pinch** – C - Tavern – 3548 14TH ST NW
[Licensee Did Not Renew.]

ABRA-088603– **Impala Cantina Y Taqueria** – C - Tavern – 1358 H ST NE
[Licensee Did Not Renew.]

ABRA-088772– **Smoke & Barrel** – C - Tavern – 2471 18TH ST NW
[Licensee Did Not Renew.]

ABRA-090196– **Civil** – C - Tavern – 5335 WISCONSIN AVE NW
[Licensee Did Not Renew.]

ABRA-090250– **Echostage** – C - Nightclub – 2135 QUEENS CHAPEL RD NE
[Licensee Did Not Renew.]

ABRA-091276– **Kabin** – C - Tavern – 1337 CONNECTICUT AVE NW
[Licensee Did Not Renew.]

ABRA-091432– **Juanita's Restaurant** – C - Tavern – 3521 14TH ST NW
[Licensee Did Not Renew.]

ABRA-091602– **Eat The Rich/Southern Efficiency** – C - Tavern – 1839 7TH ST NW
[Licensee Did Not Renew.]

ABRA-091646– **Petworth Citizen** – C - Tavern – 829 UPSHUR ST NW
[Licensee Did Not Renew.]

ABRA-091682– **BIN-1301** – C - Tavern – 1301 U ST NW
[Licensee Did Not Renew.]

ABRA-092192– **Sol Mexican Grill** – C - Tavern – 1251 H ST NE
[Licensee Did Not Renew.]

ABRA-092705– **Sandovan Restaurant & Lounge** – C - Tavern – 4809 GEORGIA AVE NW
[Licensee Did Not Renew.]

ABRA-094002– **Napoli Pasta Bar** – C - Tavern – 2737 SHERMAN AVE NW
[Licensee Did Not Renew.]

ABRA-094011– **Steel Plate** – C - Tavern – 3523 12th ST NE
[Licensee Did Not Renew.]

ABRA-094099– **Umaya** – C - Tavern – 733 10TH ST NW
[Licensee Did Not Renew.]

ABRA-094107– **Halftime Sports Bar** – C - Tavern – 1427 H ST NE
[Licensee Did Not Renew.]

ABRA-094244– **Stadium Club** – C - Nightclub – 2127 QUEENS CHAPEL RD NE
[Licensee Did Not Renew.]

ABRA-094424– **Smith Public Trust** – C - Tavern – 3514 12th ST NE
[Licensee Did Not Renew.]

ABRA-095107– **The Pitch** – C - Tavern – 4015 GEORGIA AVE NW
[Licensee Did Not Renew.]

ABRA-095913– **The Sovereign** – C - Tavern – 1206 WISCONSIN AVE NW
[Licensee Did Not Renew.]

ABRA-097687– **Philos Mezze & Wine Bar** – C - Tavern – 401 MASSACHUSETTS AVE NW
[Licensee Did Not Renew.]

ABRA-098536– **Soundcheck** – C - Nightclub – 1420 K ST NW
[Licensee Did Not Renew.]

ABRA-098584– **Broccoli Bar** – C - Tavern – 1817 7th ST NW
[Licensee Did Not Renew.]

ABRA-099263– **Sakerum** – C - Tavern – 2204 14TH ST NW
[Licensee Did Not Renew.]

ABRA-099536– **The Manor** – C - Tavern – 1327 Connecticut AVE NW
[Licensee Did Not Renew.]

ABRA-099684– **Left Door** – C - Tavern – 1345 S ST NW
[Licensee Did Not Renew.]

ABRA-099695– **L8** – C - Nightclub – 727 15TH ST NW
[Licensee Did Not Renew.]

ABRA-099949– **Sugar Factory** – C - Tavern – 50 MASSACHUSETTS AVE NE
[Licensee Did Not Renew.]

ABRA-100259– **Costello Restaurant and Lounge** – C - Tavern – 5201 GEORGIA AVE NW
[Licensee Did Not Renew.]

ABRA-100517– **District Anchor** – C - Nightclub – 1900 M ST NW
[Licensee Did Not Renew.]

ABRA-100573– **The Passenger** – C - Tavern – 1539 7TH ST NW
[Licensee Did Not Renew.]

ABRA-102933– **Proper 21** – C - Tavern – 1319 F ST NW
[Licensee Did Not Renew.]

ABRA-103087– **Elle** – C - Tavern – 3221 MOUNT PLEASANT ST NW, #B
[Licensee Did Not Renew.]

ABRA-103505– **Decades** – C - Nightclub – 1219 CONNECTICUT AVE NW
[Licensee Did Not Renew.]

ABRA-103871– **Chateau Remix** – C - Tavern – 3439 BENNING RD NE
[Licensee Did Not Renew.]

ABRA-104058– **Lesly's Grill** – C - Tavern – 4811 GEORGIA AVE NW
[Licensee Did Not Renew.]

ABRA-104987– **Chatter** – C - Tavern – 5247 Wisconsin AVE NW
[Licensee Did Not Renew.]

ABRA-105645– **Mola** – C - Tavern – 3155 MOUNT PLEASANT ST NW, STE 101
[Licensee Did Not Renew.]

ABRA-105922– **Vivid** – C - Tavern – 1334 U ST NW
[Licensee Did Not Renew.]

ABRA-106136– **French Quarter Brasserie** – C - Tavern – 1544 9TH ST NW
[Licensee Did Not Renew.]

ABRA-106194– **Dynamix Lounge** – C - Tavern – 1220 H ST NE
[Licensee Did Not Renew.]

ABRA-106554– **Potomac Distilling Company** – C - Tavern – 1130 Maine AVE SW
[Licensee Did Not Renew.]

ABRA-106695– **On the Rocks** – C - Tavern – 1242 H ST NE
[Licensee Did Not Renew.]

ABRA-107182– **Rewind** – C - Nightclub – 1219 CONNECTICUT AVE NW
[Licensee Did Not Renew.]

ABRA-107244– **Columbus Club** – C - Tavern – 50 MASSACHUSETTS AVE NE
[Licensee Did Not Renew.]

ABRA-108211– **Gonzaga College High School** – C - Tavern – 19 I ST NW
[Licensee Did Not Renew.]

ABRA-108602– **Truth DC 78** – C - Tavern – 1220 H ST NE
[Licensee Did Not Renew.]

ABRA-108950– **Engine Company 12 & Spark at 12** – C - Tavern – 1626 North Capitol ST
NW
[Licensee Did Not Renew.]

ABRA-109076– **Taqueria Local** – C - Tavern – 1627 K ST NW
[Licensee Did Not Renew.]

ABRA-109420– **Sign of the Whale** – C - Tavern – 1825 M ST NW
[Licensee Did Not Renew.]

ABRA-109651– **The Caged Bird** – C - Tavern – 1723 CONNECTICUT AVE NW
[Licensee Did Not Renew.]

ABRA-109778– **Bricklane Restaurant** – C - Tavern – 517 8TH ST SE
[Licensee Did Not Renew.]

ABRA-109856– **Heller & Wilde** – C - Tavern – 2519 PENNSYLVANIA AVE NW
[Licensee Did Not Renew.]

ABRA-110889– **The Outsider** – C - Tavern – 1357 H ST NE
[Licensee Did Not Renew.]

ABRA-111822– **The Village Cafe** – C - Tavern – 1272 5TH ST NE
[Licensee Did Not Renew.]

ABRA-112100– **Tokyo Pearl** – C - Tavern – 1301 CONNECTICUT AVE NW
[Licensee Did Not Renew.]

ABRA-112932– **Philly Wing Fry** – C - Tavern – 1309 5TH ST NE, STE 420
[Licensee Did Not Renew.]

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, OCTOBER 23, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On Wednesday, October 23, 2019 at 4:00 pm., the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.” “This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.”

1. Case# 19-CMP-00155, The Brixton, 901 U Street N.W., Retailer CT, License # ABRA-082871

2. Case# 19-CMP-00154, The Brixton, 901 U Street N.W., Retailer CT, License # ABRA-082871

3. Case# 19-CMP-00152, Roofer’s Union – Jug and Table, 2442-2446 18th Street N.W., Retailer CT, License # ABRA-093592

4. Case# 19-CMP-00156, The Dirty Goose, 913 U Street N.W., Retailer CT, License # ABRA-101299

5. Case# 19-CMP-00161, Dolan Uyghur Restaurant, 3518 Connecticut Avenue N.W., Retailer CR, License # ABRA-104335

6. Case# 19-CC-00133, S & G Wine & Liquors, 5421 Georgia Avenue N.W. Retailer A, License # ABRA-111012

7. Case# 19-MGR-00013, ABC Manager, Michael Tsegay, License # ABRA-114027

8. Case# 19-CMP-00150, El Rey, 919-921 U Street N.W., Retailer CT, License # ABRA-0866604

9. Case# 19-CMP-00151, Eye Bar/Garden of Eden, 1716 I Street N.W., Retailer CN, License # ABRA-083133

10. Case# 19-CMP-00157, Plan B Burger Bar, 801 Pennsylvania Avenue N.W., Retailer CR, License # ABRA-095796

11. Case# 19-CMP-00166, Nellie's Restaurant & Sports Bar, 900 U Street N.W., Retailer CT, License # ABRA-075240

12. Case# 19-CMP-00167, Nellie's Restaurant & Sports Bar, 900 U Street N.W., Retailer CT, License # ABRA-075240

13. Case# 19-19-CC-00069, East St. Café, 50 Massachusetts Avenue N.E., Retailer CR, License # ABRA-025040

14. Case# 19-CMP-00149, Café 8, 424 8th Street S.E., Retailer CR, License # ABRA-077797

15. Case# 19-CMP-00165, District Taco, 1309 F Street N.W., Retailer DR, License # ABRA-090757

16. Case# 19-CMP-00164, Penn Quarter Sports Tavern, 639 Indiana Avenue N.W., Retailer CT, License # ABRA-076039

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, OCTOBER 23, 2019 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Dino's Grotto*, 1914 9th Street NW, Retailer CT, License No. 095003.

2. Review Request to Extend Safekeeping of License – Number of Extensions Requests Unknown. Original Safekeeping Date: 5/28/2010. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Heat*, No Location, Retailer CN, License No. 084620.

3. Review Request to Extend Safekeeping of License – Eighth Request. Original Safekeeping Date: 12/23/2013. ANC 3E. SMD 3E01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Dancing Crab*, 4615 41st Street NW, Retailer CR, License No. 090297.

4. Review Request to Extend Safekeeping of License – Eighth Request. Original Safekeeping Date: 3/1/2013. ANC 1D. SMD 1D02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Sangria Café*, 3636 16th Street NW A, Retailer CR, License No. 090781.

5. Review Request to Extend Safekeeping of License – Seventh Request. Original Safekeeping Date: 3/2/2016. ANC 3B. SMD 3B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Rosebud*, 2348 Wisconsin Avenue NW, Retailer CR, License No. 113804.

6. Review Request to Extend Safekeeping of License – Seventh Request. Original Safekeeping Date: 3/30/2016. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **FreshDirect**, No Location, Retailer A Internet, License No. 104699.
-
7. Review Request to Extend Safekeeping of License – Fifth Request. Original Safekeeping Date: 2/2/2017. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **TBD (64 High, LLC)**, No Location, Retailer B, License No. 107282.
-
8. Review Request to Extend Safekeeping of License – Fifth Request. Original Safekeeping Date: 3/22/2017. ANC 3B. SMD 3B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Fresh Fields Whole Foods Market**, 2323 Wisconsin Avenue NW, Retailer DR, License No. 086069.
-
9. Review Request to Extend Safekeeping of License – Fifth Request. Original Safekeeping Date: 3/22/2017. ANC 3B. SMD 3B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Fresh Fields Whole Foods Market**, 2323 Wisconsin Avenue NW, Retailer B Grocery, License No. 022045.
-
10. Review Request to Extend Safekeeping of License – Fifth Request. Original Safekeeping Date: 3/29/2017. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **TBD (VD3, LLC - Formerly Brown Street Market)**, No Location, Retailer A Liquor Store, License No. 108288.
-
11. Review Request to Extend Safekeeping of License – Fifth Request. Original Safekeeping Date: 6/7/2017. ANC 2A. SMD 2A08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Marvin Center**, 800 21st Street NW, Retailer CX, License No. 001070.
-

12. Review Request to Extend Safekeeping of License – Fourth Request. Original Safekeeping Date: 8/19/2017. ANC 6B. SMD 6B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Capitol Hill Tandoor and Grill**, 419 8th Street SE, Retailer CR, License No. 060689.

13. Review Request to Extend Safekeeping of License – Fourth Request. Original Safekeeping Date: 7/26/2017. ANC 2E. SMD 2E03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Formerly Smith Point**, 1338 Wisconsin Avenue NW, Retailer CT, License No. 110803.

14. Review Request to Extend Safekeeping of License – Third Request. Original Safekeeping Date: 2/28/2018. ANC 5E. SMD 5E07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Han's Market**, 1942 1st Street NW, Retailer B Grocery, License No. 103200.

15. Review Request to Extend Safekeeping of License – Second Request. Original Safekeeping Date: 11/28/2018. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Marrakech/Aura Lounge**, 2147 P Street NW, Retailer CT, License No. 090204.

16. Review Request to Extend Safekeeping of License – Second Request. Original Safekeeping Date: 8/1/2018. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Five to One**, 903 U Street NW, Retailer CT, License No. 105948.

17. Review Request to Extend Safekeeping of License – First Request. Original Safekeeping Date: 4/24/2019. ANC 6B. SMD 6B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **EatBar**, 413 8th Street SE, Retailer CR, License No. 099210.

18. Review Request to Extend Safekeeping of License – First Request. Original Safekeeping Date: 4/24/2019. ANC 6A. SMD 6A01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Ben's Chili Bowl/Ben's Upstairs/Ten 01***, 1001 H Street NE, Retailer CR, License No. 093103.
-
19. Review Request to Extend Safekeeping of License – First Request. Original Safekeeping Date: 7/17/2019. ANC 4C. SMD 4C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Simple Bar and Grill***, 5828 Georgia Avenue NW, Retailer CT, License No. 092423.
-
20. Review Request to Extend Safekeeping of License – First Request. Original Safekeeping Date: 7/17/2019. ANC 3B. SMD 3B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Sprig & Sprout***, 2317 Wisconsin Avenue NW, Retailer CR, License No. 089362.
-
21. Review Application for Change of Hours for Summer Garden. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:*** Saturday-Sunday 11am to 10pm, Monday-Friday 4pm to 10pm. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:*** Saturday 11am-12am, Sunday 11am to 11pm, Monday-Thursday 2pm to 11pm, Friday 2pm to 12am. ANC. SMD. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Dos Mami's***, 819 Upshur Street NW, Retailer CT, License No. 114133.
-
22. Review Application for a Sports Wagering Substantial Change to offer two wagering devices and access to phone wagering applications on premises. ANC 3G. SMD 3G06. The Establishment has outstanding fines/citations. No Settlement Agreement. ***Arucola***, 5534 Connecticut Avenue NW, Retailer CR, License No. 106151.
-
23. Review Application for a Sports Wagering Substantial Change to offer four wagering devices and access to phone wagering applications on premises. ANC 3G. SMD 3G06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***The Avenue***, 5540 Connecticut Avenue NW, Retailer CR, License No. 101007.

24. Review Application for new Class C Multipurpose Facility license. ANC 7B. SMD 7B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Conflict with Settlement Agreement. *Highland Community Entertainment Hall*, 2533 Pennsylvania Avenue SE, Retailer CX, License No. 115394.

25. Review Application for Tasting Permit. ANC 7B. SMD 7B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Lee's Liquor*, 2339 Pennsylvania Avenue SE, Retailer A Liquor Store, License No. 095751.

***In accordance with D.C. Official Code §2-547(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend. This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA - SAFEKEEPING

WEDNESDAY, OCTOBER 23, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

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

ABRA-104866 – **Smokin’ Pig** – Retail – C – Tavern – 1123 H Street NE
[Safekeeping][Licensee did not request to extend Safekeeping.]

ABRA-060423 – **Capitol City Wine & Spirits** – Retail – A – Liquor Store – 500 K Street NW
[Safekeeping][Licensee did not request to extend Safekeeping.]

ABRA-088282 – **Café Romeo’s** – Retail – D – Restaurant – 2132 Wisconsin Avenue NW
[Safekeeping][Licensee did not request to extend Safekeeping.]

ABRA-083822 – **Atlas Arcade/Idle Hands** – Retail – C – Tavern – 1236 H Street NE
[Safekeeping][Licensee did not request to extend Safekeeping.]

ABRA-024489 – **DCJCC** – Retail – D – Restaurant – 1529 16th Street NW
[Safekeeping][Licensee did not request to extend Safekeeping.]

ABRA-114272 – **Formerly JJ Restaurant** – Retail – C – Restaurant – 3931 14th Street NW
[Safekeeping][Licensee did not request to extend Safekeeping.]

ABRA-084925 – **Morgan’s Seafood Bar & Grill** – Retail – C – Restaurant – 3200 Georgia Avenue NW
[Safekeeping][Licensee did not request to extend Safekeeping.]

ABRA-100620 – **Zenebe Shewayene** – Retail – B – No Location
[Safekeeping][Licensee did not request to extend Safekeeping.]

**CHILD SUPPORT SERVICES DIVISION
DISTRICT OF COLUMBIA CHILD SUPPORT GUIDELINE COMMISSION**

NOTICE OF A PUBLIC MEETING

The District of Columbia's Child Support Guideline Commission's meeting

Thursday, October 24, 2019, at 4:00 P.M. in 11th Floor Conference Room 1117
Office of the Attorney General for the District of Columbia
441 4th Street N.W
Washington, D.C. 20001

Conference Call Option: 1 (605) 313-5671
Access Code: 117839 #

The District of Columbia Child Support Guidelines Commission (Commission) announces meeting in which it will discuss proposed changes to the District's Child Support Guideline (Guideline). The Commission's mission is to review the Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the Guideline. In order to achieve its objective, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend its meeting.

Persons wishing to review the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at www.dc.gov.

Individuals who wish to attend should contact: LaShelle Williams-Franklin, Chairperson, at (202) 904-2323, or by e-mail at lashelle.williams-franklin@dcbc.dc.gov by Tuesday, October 22, 2019. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to attend. Persons wishing to comment should send nine (9) copies of their written commentary to the Office of the Attorney General for the District of Columbia at the address below.

Individuals who wish to submit their comments as part of the official record should send copies of written statements no later than 4:00 p.m., Wednesday, October 23, 2019 to:

David E Martinez, Assistant Attorney General
Office of the Attorney General for the District of Columbia
Child Support Service Division
441 4th Street, N.W.
Suite 550 North
Washington, D.C. 20001
davide.martinez@dc.gov

D.C. CRIMINAL CODE REFORM COMMISSION**NOTICE OF PUBLIC MEETING**

WEDNESDAY, NOVEMBER 6, 2019 AT 10:00 AM
441 4TH STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001

D.C. Criminal Code Reform Commission
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001
(202) 442-8715 www.ccrdc.dc.gov

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, November 6, 2019 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11th Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

MEETING AGENDA

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments on Draft Reports:
 - (A) First Draft of Report #39, *Weapon Offenses and Related Provisions*; and
 - (B) First Draft of Report #40, *Self-Defense Sprays*.
- III. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
 - (A) First Draft of Report #41, Ordinal Ranking of Maximum Imprisonment Penalties;
 - (B) Advisory Group Memorandum #26, D.C. Code Statutory Penalties and Voluntary Sentencing Guidelines; and
 - (C) Advisory Group Memorandum #27, Public Opinion Surveys on Ordinal Ranking of Offenses.
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

D.C. BILINGUAL PUBLIC CHARTER SCHOOL**NOTICE: FOR REQUEST FOR PROPOSAL**

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for SY19.20:

- Security Services

Proposal Submission

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **4:00 p.m. EST on Friday, October 25, 2019**. Proposals should be emailed to bids@dcbilingual.org

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT**

**ANNOUNCES OCTOBER 17, 2019 PUBLIC MEETING
FOR THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT
ENHANCEMENT COMMITTEE**

The Office of the State Superintendent of Education (OSSE) hereby announces that it will hold a public meeting for the District of Columbia Public Charter School Credit Enhancement Committee as follows:

**12:30 p.m. – 2:00 p.m.
Thursday October 17, 2019
1050 First St. NE, Washington, DC 20002
Conference Room 535 (Capitol Hill)**

For additional information, please contact:

Debra Roane, Financial Program Specialist
Office of Public Charter School Financing and Support
Office of the State Superintendent of Education
1050 First St. NE, Fifth Floor
Washington, DC 20002
(202) 478-5940
Debra.Roane@dc.gov

The draft agenda for the above-referenced meeting will be:

- I. Call to Order
- II. Approval of agenda for the October 17, 2019, committee meeting
- III. Approval of minutes from September 19, 2019, committee meeting
- IV. Review Conflict of Interest – Transaction Disclosure Checklist
- V. Kingsman Academy PCS - \$2,000,000 direct loan
- VI. Charter School Incubator Initiative (Birney School) - \$1,637,494 funded credit enhancement
- VII. Charter School Incubator Initiative (PR Harris School)- Approval of \$300,000 in short-term Building Hope debt.

Any changes made to the agenda that are unable to be submitted to the DC Register in time for publication prior to the meeting will be posted on the [public meetings calendar](#) no later than two (2) business days prior to the meeting.

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there are vacancies in four (4) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1B07, 3F07, 4A05, and 7F07

Petition Circulation Period: **Monday, October 21, 2019 thru Tuesday, November 12, 2019**
Petition Challenge Period: **Friday, November 15, 2019 thru Thursday, November 21, 2019**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
1015 - Half Street, SE, Suite 750
Washington, DC 20003**

For more information, the public may call **727-2525**.

DISTRICT OF COLUMBIA
BOARD OF ELECTIONS

Certification of Filling a Vacancy
In Advisory Neighborhood Commissions

Pursuant to D.C. Official Code §1-309.06(d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections “Board” from the affected Advisory Neighborhood Commission, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

John V. Zottoli
Single-Member District 6E04

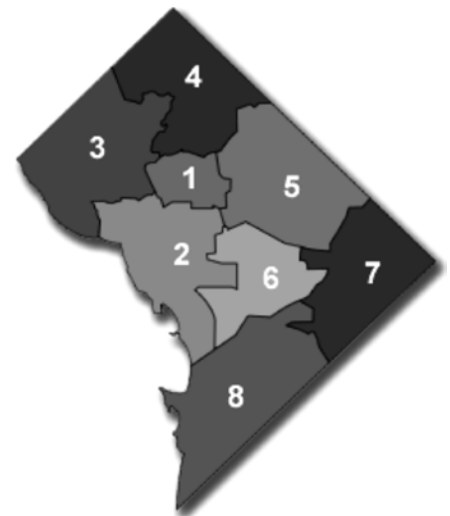
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	48,505	2,977	610	250	179	12,115	64,636
2	32,534	5,642	248	251	140	11,425	50,240
3	39,926	6,003	355	226	131	11,674	58,315
4	50,691	2,205	545	144	166	9,550	63,301
5	55,527	2,506	596	231	243	10,530	69,633
6	59,549	7,902	502	388	240	15,354	83,935
7	50,445	1,383	448	112	201	7,821	60,410
8	48,531	1,524	476	121	201	8,589	59,442
Totals	385,708	30,142	3,780	1,723	1,501	87,058	509,912
Percentage By Party	75.64%	5.91%	.74%	.34%	.29%	17.07%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF SEPTEMBER 30, 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 SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,741	36	11	7	7	303	2,105
22	4,044	415	26	21	11	1,080	5,597
23	3,079	223	40	19	13	824	4,198
24	2,819	259	30	30	9	831	3,978
25	4,062	431	49	22	11	1,099	5,674
35	3,898	200	55	21	11	856	5,041
36	4,545	237	46	18	17	1,074	5,937
37	3,856	189	35	20	24	925	5,049
38	3,100	145	39	16	13	804	4,117
39	4,311	182	71	15	12	1,011	5,602
40	4,010	189	77	16	14	1,051	5,357
41	3,979	200	76	21	18	1,102	5,396
42	1,933	94	26	9	9	508	2,579
43	1,936	72	23	8	7	386	2,432
137	1,192	105	6	7	3	261	1,574
TOTALS	48,505	2,977	610	250	179	12,115	64,636

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	951	170	8	7	7	534	1,677
3	1,843	367	12	17	9	726	2,974
4	2,122	533	12	13	11	840	3,531
5	2,148	593	17	29	9	833	3,629
6	2,477	766	17	20	16	1,325	4,621
13	1,332	223	6	8	6	443	2,018
14	2,994	451	25	26	8	990	4,494
15	3,201	362	38	28	11	937	4,577
16	3,528	451	28	25	15	950	4,997
17	5,017	603	33	39	22	1,557	7,271
129	2,601	416	15	13	9	970	4,024
141	2,622	324	21	14	8	684	3,673
143	1,698	383	16	12	9	636	2,754
TOTALS	32,534	5,642	248	251	140	11,425	50,240

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,343	399	10	11	5	591	2,359
8	2,477	598	22	9	9	842	3,957
9	1,262	480	9	10	8	522	2,291
10	1,935	380	19	15	9	720	3,078
11	3,655	769	43	45	17	1,330	5,859
12	501	167	1	4	3	223	899
26	3,133	350	23	14	8	917	4,445
27	2,514	239	20	10	2	581	3,366
28	2,597	431	32	17	14	810	3,901
29	1,390	176	14	10	6	424	2,020
30	1,288	187	11	4	4	314	1,808
31	2,507	297	20	11	11	587	3,433
32	2,854	285	28	7	10	628	3,812
33	3,000	260	25	10	3	693	3,991
34	4,056	384	39	11	7	1,133	5,630
50	2,282	283	18	14	8	565	3,170
136	928	69	8	3	1	273	1,282
138	2,204	249	13	21	6	521	3,014
TOTALS	39,926	6,003	355	226	131	11,674	58,315

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,401	59	27	12	7	395	2,901
46	2,923	98	35	11	13	522	3,602
47	3,576	146	47	10	16	776	4,571
48	2,886	123	33	6	3	577	3,628
49	935	41	14	3	8	225	1,226
51	3,427	500	22	11	11	659	4,630
52	1,257	142	10	4	4	234	1,651
53	1,269	71	23	3	4	260	1,630
54	2,397	86	31	4	8	466	2,992
55	2,513	76	22	4	16	457	3,088
56	3,307	98	40	19	14	669	4,147
57	2,554	64	26	8	10	541	3,203
58	2,290	63	21	4	5	390	2,773
59	2,625	78	23	9	7	431	3,173
60	2,256	74	26	8	10	642	3,016
61	1,669	59	16	5	5	314	2,068
62	3,238	125	20	5	3	432	3,823
63	3,938	143	56	6	14	735	4,892
64	2,390	72	20	5	7	403	2,897
65	2,840	87	33	7	1	422	3,390
Totals	50,691	2,205	545	144	166	9,550	63,301

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,739	228	67	28	21	1,064	6,147
44	2,914	213	28	14	14	691	3,874
66	4,759	117	40	16	17	708	5,657
67	2,913	104	22	7	8	470	3,524
68	2,024	166	23	12	12	424	2,661
69	2,156	77	19	7	10	300	2,569
70	1,547	67	24	2	5	255	1,900
71	2,516	72	24	9	10	412	3,043
72	4,545	155	37	19	27	794	5,577
73	1,991	97	23	9	8	376	2,504
74	5,053	285	62	23	20	1,086	6,529
75	4,335	240	44	26	19	889	5,553
76	1,830	118	27	11	12	442	2,440
77	3,047	119	33	11	12	602	3,824
78	3,059	103	44	9	15	538	3,768
79	2,209	88	24	5	12	446	2,784
135	3,185	171	38	17	15	644	4,070
139	2,705	86	17	6	6	389	3,209
TOTALS	55,527	2,506	596	231	243	10,530	69,633

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,861	619	39	35	18	1,436	7,008
18	5,061	378	45	25	15	1,207	6,731
21	1,242	61	10	10	1	266	1,590
81	4,791	381	44	20	22	1,021	6,279
82	2,605	280	27	16	4	646	3,578
83	6,461	858	47	60	27	1,744	9,197
84	2,037	418	19	14	9	560	3,057
85	2,763	512	18	12	5	769	4,079
86	2,271	260	17	8	8	433	2,997
87	2,745	296	19	11	18	628	3,717
88	2,145	291	24	9	7	498	2,974
89	2,772	630	22	23	12	821	4,280
90	1,680	228	14	9	15	496	2,442
91	4,308	438	32	23	20	1,009	5,830
127	4,316	323	46	22	20	961	5,688
128	2,689	233	24	14	9	672	3,641
130	780	299	6	5	4	275	1,369
131	3,904	1,101	35	47	19	1,294	6,400
142	2,118	296	14	25	7	618	3,078
TOTALS	59,549	7,902	502	388	240	15,354	83,935

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,460	89	16	5	7	297	1,874
92	1,587	37	14	2	5	256	1,901
93	1,674	47	21	2	9	277	2,030
94	2,085	61	20	8	6	313	2,493
95	1,746	54	13	2	4	288	2,107
96	2,493	68	16	1	12	388	2,978
97	1,446	54	15	3	6	248	1,772
98	2,029	49	21	6	15	317	2,437
99	1,679	54	18	9	14	333	2,107
100	2,632	42	19	5	8	375	3,081
101	1,599	39	16	7	4	210	1,875
102	2,571	67	18	4	14	371	3,045
103	3,693	86	37	9	13	569	4,407
104	3,390	86	37	3	20	555	4,091
105	2,559	77	19	8	10	452	3,125
106	2,949	65	26	5	11	429	3,485
107	1,802	53	15	3	8	264	2,145
108	1,092	34	4	0	2	145	1,277
109	972	37	3	3	1	124	1,140
110	3,897	106	24	8	11	488	4,534
111	2,583	64	37	7	7	451	3,149
113	2,309	59	22	4	8	309	2,711
132	2,198	55	17	8	6	362	2,646
TOTALS	50,445	1,383	448	112	201	7,821	60,410

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of SEPTEMBER 30, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,270	61	19	1	11	371	2,733
114	4,089	164	51	20	24	841	5,189
115	2,900	93	27	7	11	677	3,715
116	4,272	101	42	10	16	704	5,145
117	2,290	56	20	7	9	417	2,799
118	2,967	84	40	5	16	489	3,601
119	2,691	100	29	8	17	491	3,336
120	2,212	49	12	6	5	348	2,632
121	3,538	84	25	12	7	549	4,215
122	1,882	58	22	2	9	314	2,287
123	2,528	201	28	18	19	486	3,280
124	2,659	70	23	5	10	407	3,174
125	4,614	105	43	5	16	828	5,611
126	4,074	136	50	9	16	822	5,107
133	1,347	42	8	1	0	195	1,593
134	2,263	56	24	2	4	335	2,684
140	1,935	64	13	3	11	315	2,341
TOTALS	48,531	1,524	476	121	201	8,589	59,442

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 8/31/2019 and 9/30/2019

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	396,304	31,534	3,895	1,759	1,581	89,998	525,071
Board of Elections Over the Counter	9	0	0	1	0	4	14
Board of Elections by Mail	79	5	0	1	0	36	121
Board of Elections Online Registration	85	7	1	3	2	24	122
Department of Motor Vehicle	596	87	5	8	2	378	1,076
Department of Disability Services	0	0	0	0	0	0	0
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	1	0	0	0	0	0	1
Department of Corrections	0	0	0	0	0	0	0
Department of Human Services	0	0	0	0	0	2	2
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	73	5	3	1	0	32	114
+Total New Registrations	843	104	9	14	4	476	1,450

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	220	13	2	0	2	44	281
Administrative Corrections	2	0	0	4	0	0	6
+TOTAL ACTIVATIONS	222	13	2	4	2	44	287

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	9,794	1,167	107	55	66	2,886	14,075
Moved Out of District (Deleted)	0	0	0	0	0	0	0
Felon (Deleted)	16	0	1	1	0	5	23
Deceased (Deleted)	197	11	1	0	1	19	229
Administrative Corrections	1,731	311	13	3	12	748	2,818
-TOTAL DEACTIVATIONS	11,738	1,489	122	59	79	3,658	17,145

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	363	75	23	15	5	517	
- Changed From Party	-286	-95	-27	-10	-12	-319	
ENDING TOTALS	385,708	30,142	3,780	1,723	1,501	87,058	509,912

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 2, 2019 meeting in relocating Precinct #14, Ward 2 Polling Place.

The public is advised that the proposed voting area for Precinct #14 will be changed from:

**M.A.A. Carriage House Meeting Space
1781 Church Street, N.W.
“Meeting Room”**

and moved to:

**St. Thomas Episcopal Church Parish
3500 R Street, N.W.
“Multi-Purpose Room”**

This relocation was proposed because the Board learned that the facility would be available for use on the dates requested due to completed renovations.

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, November 12, 2020** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 13, 2019. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 2, 2019 meeting in relocating Precinct #27, Ward 3 Polling Place.

The public is advised that the proposed voting area for Precinct #27 will be changed from:

**Eaton Elementary School
3301 Lowell Street, N.W.
“Auditorium”**

and moved to:

**Cleveland Park Library
3310 Connecticut Avenue, N.W.
“Multi-Purpose Room”**

This relocation was proposed because the Board learned that the facility would not be available for the Presidential Primary and General Elections in 2020 because of scheduled renovations and construction.

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, November 12, 2020** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 13, 2019. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 2, 2019 meeting in relocating Precinct #40, Ward 1 Polling Place.

The public is advised that the proposed voting area for Precinct #40 will be changed from:

**Mt. Pleasant Neighborhood Library
3160 16th Street, N.W.
“Large Meeting Room”**

and moved to:

**Bancroft Elementary School
1755 Newton Street, N.W.
“Gymnasium”**

This relocation was proposed because the Board learned that the facility would be available for use on the dates requested due to completed renovations.

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, November 12, 2020** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 13, 2019. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 2, 2019 meeting in relocating Precinct #54, Ward 4 Polling Place.

The public is advised that the proposed voting area for Precinct #54 will be changed from:

**West Education Campus
1338 Farragut Street, N.W.
“Gymnasium”**

and moved to:

**St. Luke Baptist Church
1415 Gallatin Street, S.E.
“Church Hall”**

This relocation was proposed because the Board learned that the facility would not be available for the Presidential Primary and General Elections in 2020 because of scheduled renovations and construction.

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, November 12, 2020** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 13, 2019. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 2, 2019 meeting in relocating Precinct #57, Ward 4 Polling Place.

The public is advised that the proposed voting area for Precinct #57 will be changed from:

**Hattie Holmes Senior Wellness Center
324 Kennedy Street, N.W.
“Multi-Purpose Room”**

and moved to:

**Washington Latin Public Charter School
5200 2nd Street, N.W.
“Gymnasium”**

This relocation was proposed when the Board of Elections learned that the facility requested to be designated as a new polling place after the charter school’s renovations were completed.

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, November 12, 2020** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 13, 2019. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 2, 2019 meeting in relocating Precinct #89, Ward 6 Polling Place.

The public is advised that the proposed voting area for Precinct #89 will be changed from:

**Eastern Market
225 7th Street, S.E.
“North Hall”**

and moved to:

**Capitol Hill United Methodist Church
421 Seward Square, S.E.
“Fellowship Hall”**

This relocation was proposed to address polling place deficiencies and inadequacies after the 2018 General Election

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, November 12, 2020** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 13, 2019. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its October 2, 2019 meeting in relocating Precinct #99, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #99 will be changed from:

**Smothers Elementary School
4400 Brooks Street, N.E.
“Multi-Purpose Room”**

and moved to:

**Ward Memorial AME Church
241 42nd Street, N.E.
“Fellowship Hall”**

This relocation was proposed because the Board learned that the facility would be available for use on the dates requested due to completed renovations.

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, November 12, 2020** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, November 13, 2019. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

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

Watershed Stewardship Program for District Residents

The Department of Energy and Environment (DOEE) is requesting proposals to provide comprehensive watershed protection stewardship program to at least 20 District residents. The program should educate and empower residents to address the historic and ongoing degradation of local waterways and watersheds from pollution, urbanization, and stormwater runoff. The proposal should describe the curriculum for a semester-long, hands-on watershed stewardship program that equips participants with the knowledge and resources to address pollution problems and improve the health of local waterways. The program must include at least 8 interactive training sessions, capstone project(s), alumni engagement, and networking and community service opportunities. Engaging, educating, and empowering District residents to become stewards for District's waters and the Chesapeake Bay are important facets of this RFA. The project period is 1 year, with funding up to \$32,000. DOEE may extend the grant for another 2 additional years, if funding is available.

Beginning 10/18/2019, 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 2019WatershedStewardGrantRFA@dc.gov with "Request copy of RFA 2019-2002-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 Kara Pennino at (202) 654-6131 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Kara Pennino RE:2019-2002-WPD" on the outside of the envelope.

The deadline for application submissions is 12/2/2019, at 4:30 p.m. Five hard copies must be submitted to the above address or a complete electronic copy must be e-mailed to 2019WatershedStewardGrantRFA@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:
2019WatershedStewardGrantRFA@dc.gov.

DEPARTMENT OF HEALTH CARE FINANCE**PUBLIC NOTICE****MEDICAID FEE SCHEDULE UPDATES FOR CPT-HCPCS CODES**

The Department of Health Care Finance (DHCF), in accordance with the requirements set forth in Section 988 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations, published January 1, 2016 (63 DCR 40), announces changes to the codes and rates for reimbursement of medical services and procedures billed by physicians and other health care providers that will go into effect January 1, 2020.

Each year, the national HCPCS code changes are released in early to mid-November, and Medicare publishes updated fee schedules in November and December for medical services billed by physicians and other health care providers, including but not limited to physician services, physician-administered drugs, laboratory services, anesthesia, and Durable Medical Equipment (DME). Under the District of Columbia's State Plan for Medical Assistance, these services, with the exception of physician-administered chemotherapy drugs, primary care services, and certain DME items, are reimbursed at eighty percent (80%) of the Medicare rate as established by the Centers for Medicare and Medicaid Services. Due to the timing of the publications of the HCPCS code changes and Medicare fee schedules, DHCF will not be able to provide a listing of the changes to the Medicaid fee schedule thirty (30) days in advance of the changes. However, DHCF will provide a comprehensive listing of all changes on the DC Medicaid website <http://www.dc-medicaid.com> and through a transmittal no later than February 29, 2020.

For further information or questions regarding this fee schedule update, please contact Amy Xing, Reimbursement Analyst, Department of Health Care Finance, at amy.xing2@dc.gov, or via telephone at (202) 481-3375.

GOVERNMENT OF THE DISTRICT OF COLUMBIA**Limited Equity Cooperative Task Force Meeting Agenda**

Wednesday, October 30, 2019

6:00 pm to 8:00 pm

DC Housing Finance Agency

815 Florida Ave NW

Washington, DC 20001

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

1. Call to Order
2. Approval of Agenda
3. Discussion of LEC Coop Governance and Management Issues
4. Discussion of a potential Coop Day in DC
5. Discussion of LEC Property Abatement
6. Discussion of British Columbia Housing Coops
7. Other Business
8. Adjourn

I DREAM ACADEMY DC
REQUEST FOR PROPOSALS (RFP)

Project Manager, Pre-Construction & General Contracting Services

I Dream Academy DC hereby provides notice of its intent to solicit proposals for the following services: (1) Project Manager for Charter School Facilities Project; and (2) Pre-Construction & General Contracting Services for Charter School Facilities Project. We will be receiving proposals for both scopes of work until 5 p.m. on October 25, 2019. Please contact Janine Gomez at jgomez@idreamacademydc.org or (919) 308-7814 with any questions or to request an RFP document.

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**DISTRICT OF COLUMBIA FINANCIAL LITERACY COUNCIL****NOTICE OF PUBLIC MEETING**

The Members of the District of Columbia Financial Literacy Council (DCFLC) will hold a meeting 3:00 PM, Thursday, October 24, 2019. The meeting will be held at the DC Department of Insurance, Securities and Banking, 1050 First Street, NE, 8th Floor Conference Room, Washington, D.C. 20002. Below is the draft agenda for this meeting. A final agenda will be posted to the Department of Insurance, Securities, and Banking's website at <http://disb.dc.gov>. Please RSVP to Idriys J. Abdullah, idriys.abdullah@dc.gov, for additional information call (202) 442-7832 or e-mail idriys.abdullah@dc.gov

DRAFT AGENDA

- I.** Call to Order
- II.** Welcoming Remarks
- III.** Minutes of the Previous Meeting
- IV.** Unfinished Business
 - DC Financial Literacy Council Bi-Monthly E-Newsletter
 - DC Financial Literacy Council Website Content Update
 - DC Financial Literacy Council Recommendations Report
- V.** New Business
 - DC Financial Literacy Conference
- VI.** Adjournment

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after November 15, 2019.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on October 18, 2019. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Recommendations for Appointments as DC Notaries PublicEffective: November 15, 2019
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Ahmad	Kamal S.	Mesk Travel 1875 I Street, NW	20006
Akinola	Taye	U.S. Securities and Exchange Commission 100 F Street, NE	20549
Andren	Valentina	Hogan Lovells US LLP 555 13th Street, NW	20004
Andrews	Robin L. C.	Mayer Brown, LLP 1999 K Street, NW	20006
Austin	Jacklyn	Strategic Risk Solutions 1444 I Street, NW, Suite 950	20005
Barnes	Jarriene R.	United States Senate Disbursing Office 127 Hart Senate Office Building Street, NE	20510
Brougham	Bryan	RLAH, Real Estate 1108 H Street, NE, 2nd Floor	20002
Brown	Felicia	Treasury Department FCU 1101 2nd Street, NE	20002
Brown	Shelvee L.	Self 5700 Nannie Helen Burroughs Avenue, NE	20019
Cauthen	Gwendolyn M.	Independent Petroleum Association of America 1201 15th Street, NW, Suite 300	20005
Cole	Deja	Wells Fargo Bank N.A 1200 First Street, NE	20001
Cuadra	Veracruz	Suntrust Bank 2250 M Street, NW	20037
Duarte	Jessica P.	Population Connection 2120 L Street, NW, Suite 500	20037

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Flory	Jason	Federal Advocates Inc. 1666 K Street, NW, Suite 1110	20006
Ford	Tracey D.	Nixon Peabody LLP 799 9th Street, NW, 500	20001
Gill	Dominique F.	Chase Bank NA 1401 New York Avenue, NW, 1st floor	20005
Greer	Jesse V.	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Gurneau	Patricia	Federal Deposit Insurance Corporation 550 17th Street, NW, F-1064	20429
Guzman	Sandra E.	Summit Commercial Real Estate 1990 M Street, NW, Suite 250	20036
Hardy	Charmice Lynesha	Freedom House 1850 M Street, NW, Suite 1100	20036
Harriday	Stephanie	Stoladi Property Group 1636 Connecticut Avenue, NW	20009
Hicks	Eva	Laurel Strategies 2101 L Street, NW	20037
Hubert	M. Sanders	Denton LLP, US 1900 K Street, NW	20006
Hutchinson	Laketa	Department of Energy and Environment 1200 First Street, NE, 5th Floor	20002
Ingram	Corday	Chase Bank N.A. 1401 New York Avenue, NW, Floor 01	20005
Jackson	Patricia	Edward Jones 600 Pennsylvania Avenue, SE	20003
Jacome	Natasha Marisa	Woodrow Wilson Center 1300 Pennsylvania Avenue, NW	20004

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Jean-Baptiste	Keisha	Medstar Health 110 Irving Street, NW	20010
Jimenez	Stacey L.	Navy Federal Credit Union 9th and M Street, SE, Bldg. 218	20374
John	Ryan C.	United States Senate Disbursing Office 127 Hart Senate Office Building Street, NE	20510
Johnson	Curtistine Yvette	Self 2412 Elvans Road, SE, #301	20020
Johnson	Sylvia L.	The Washington Center for Internships and Academic Seminars 1333 16th Street, NW	20036
Johnson	Tonya Denese	Self 3805 Jay Street, NE, #4	20019
Joyner	Glenna	Lincoln Property Co 400/444 North Capitol Street, NW, Suite 108	20001
Kelly	Renee G.	Housing Counseling Services 2410 17th Street, NW, Suite 100	20009
King	Lindsay Nicole	Wiggin and Dana 800 17th Street, NW, Suite 520	20006
King	Margaret	United Nations Federal Credit Union 1775 Pennsylvania Avenue, NW	20006
Kulprasertrat	Melissa	Dykema Gossett PLLC 1301 K Street, NW, Suite 1100 West	20005
Lee	Harriett Lynn	Zurich Insurance Company 1201 F Street, NW, Suite 950	20004
Lilly	Emily M.	Monument Realty 750 17th Street, NW, Suite 1100	20006

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Linehan	Pamela K.	Amis, Patel & Brewer, LLP 1399 New York Avenue, NW, Suite 701	20005
Marx	Julia	Strategic Realty Advisors, Inc. 2831 29th Street, NW	20008
Mayberry	Anne L.	Department of Agriculture, Rural Utilities Service 1400 Independence Avenue, SW, 5144	20250
McCathern	Brandon Alston	Self (Dual) 1477 Newton Street, NW, #202	20010
McLeod	Annette A.	United Nations Federal Credit Union 1775 Pennsylvania Avenue, NW, Gr2	20006
McMillan	Jamie T.	Fair Labor Association 1111 19th Street, NW, Suite 401	20036
Moreno	Oscar N.	Self 6676 Georgia Avenue, NW, #203	20012
Mosca	Raymond	U.S. Chamber of Commerce 1615 H Street, NW	20062
Orellana	Jeannette V.	Stanton View Development 1054 31st Street, NW, Suite 290	20007
Parker	Audrey V.	Opportunity Finance Network 1100 Connecticut Avenue, NW	20036
Parsons	Terri L	Duncan & Allen 1730 Rhode Island Avenue, NW, Suite 700	20036
Portney	Alexandra Sivan	Thomas, Thomas & Hafer, LLP 1025 Connecticut Avenue, NW, 608	20036
Proctor	Michaela N.	JP Morgan Chase Bank 1401 New York Avenue, NW, FL 1	20005
Reynolds	Kyle	Guidehouse 1730 Pennsylvania Avenue, NW	20006

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Ridgeway	Brandy L.	National Endowment for the Arts 400 7th Street, SW	20506
Roddy	Carolyn Tatum	US Department of Agriculture 1400 Independence Avenue, SW, Room 5135	20250
Rodegast	Emily Cole	Capital City Public Charter School 100 Peabody Street, NW	20011
Rucker	Michael	Public Defender Service For Washington, DC 633 Indiana Avenue, NW	20004
Shanks	Jacqueline	MedStar Washington Hospital Center 110 Irving Street, NW, East Building Room 3124	20010
Sharpe	Stephanie	Rhodes Construction 2217 Chester Street, SE	20020
Soto	Cindy N.	Millennium Challenge Corporation 1099 14th Street, NW	20005
Steuber	Curtis	Department of the Interior 1849 C Street, NW	20240
Stevenson	Christina Jovan	Carr Workplaces 1701 Pennsylvania Avenue, NW, Suite 200	20006
Stewart	Sheri Chanta	Veritext Legal Solutions 1250 Eye Street, NW, 350	20005
Stone	Monica L.	O'Connell & Glock 1634 Eye Street, NW, Suite 205	20006
Tabarias	Samantha	HelperBell, LLC 1101 Connecticut Avenue, NW, Suite 410	20036
Thompson	Jackie C.	Dykema Gossett, PLLC 1301 K Street, NW, Suite 1100 West	20005

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Tromp	Maria	Bank of America 1835 Columbia Road, NW	20009
Weaver	Melisa K.	Womble Bond Dickinson (US), LLP 1200 19th Nineteenth Street, NW, Suite 500	20036
Wilson	Maggie L.	Self 4502 14th Street, NW	20011
Yates-Glenn	Wanda	Self 909 Valley Avenue, SE	20032

DISTRICT OF COLUMBIA SENTENCING COMMISSION**NOTICE OF PUBLIC MEETING**

The Commission meeting will be held on Tuesday, October 15, 2019 at 5:00 p.m. The meeting will be held at 441 4th Street, N.W. Suite 430S Washington, DC 20001. Below is the planned agenda for the meeting. The final agenda will be posted on the agency's website at <http://sentencing.dc.gov>

For additional information, please contact: Mia Hebb, Staff Assistant, at (202) 727-8822 or email mia.hebb@dc.gov

Agenda

1. Review and Approval of the Minutes from the September 17, 2019 Meeting - Action Item, Judge Lee.
2. Review and Approval of Issue Paper "Long Split Sentences," - Action Item, Mehmet Ergun, Statistician.
3. Three-Year Outreach Strategy– Discussion Item, Miatta Sesay, Outreach Specialist, Barbara Tombs-Souvey, and Judge Lee.
4. Presentation and Discussion of Title 16 Sentences:
 - a. Overview of court cases related to Title 16 Offenders – Kara Dansky, General Council.
 - b. Presentation of Title 16 Sentencing Data – Taylor Tarnalicki, Research Analyst.
5. Schedule Next Meeting – November 19, 2019
6. Adjourn.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF PUBLIC MEETING

The District Department of Transportation (DDOT) will hold two public meetings regarding the DC Smart Street Lighting Project. Each meeting will present the same information about the project scope. These meetings will be held in open house format and comments will be collected.

No.	Location	Date
1	Georgetown Library – Meeting Room 3260 R Street NW Washington, DC 20007	Tuesday, November 5, 2019 6:30 – 8:00 PM
2	Roosevelt High School – Auditorium 4301 13 th Street NW Washington, DC 20011	Wednesday, November 6, 2019 6:00 – 7:30 PM

The Project will include an assessment of effects on historic and cultural resources in accordance with the Section 106 of the National Historic Preservation Act of 1966. DDOT has initiated Section 106 consultation with the District of Columbia Historic Preservation Office and anticipates a finding of No Adverse Effect on historic properties. All Advisory Neighborhood Commissions are being considered as consulting parties under Section 106.

If you cannot attend one of the public meetings, please send written comments to StreetlightP3@dc.gov by Friday, November 8, 2019. Materials from the meetings will be posted to the Project website at www.ddot.dc.gov/streetlightp3.

About the DC Smart Street Lighting Project

The Project will modernize the District's more than 75,000 streetlights by converting them to energy-efficient LED technology with remote monitoring and control capabilities. The Project will improve the assets in the streetlight network to a state of good repair. It will also include a limited expansion of the District broadband Wi-Fi network, in coordination with the Office of the Chief Technology Officer. It is anticipated that the selected developer will obtain private financing for the Project and operate and maintain the existing and improved lighting systems under a long-term, performance-based contract.

The DC Office of Public-Private Partnerships is providing procurement support for the Project. Under Section 107 of the P3 Act, a Request for Qualifications was released for the Project. The District received responses from 11 teams and announced the three most highly qualified teams this year. Only those shortlisted proposers will be allowed to submit proposals in response to the Request for Proposals (RFP). If approved by the DC Council, the District will issue the final RFP to the shortlisted proposers and select a preferred proposer.

Getting to the Meetings

Georgetown Library is accessible via the 30N, 30S, 31, 33, D1, and D2 Metro Buses and via the Georgetown-Union Station Circulator route. Roosevelt High School is accessible via the yellow and green Metro Rail lines at the Georgia Ave-Petworth station and via the 52, 54, 62, 63, and 70 Metro Buses. Be sure to check out www.goDCgo.com to learn about transportation options for getting to the meetings.

Do you need assistance to participate?

The District Department of Transportation (DDOT) is committed to ensuring that no person is excluded from participation in, or denied the benefits of, its projects, programs, activities, and services on the basis of race, color, national origin, gender, age, or disability as provided by Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and other related statutes. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code sec. 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, status as a victim of an intrafamily offense, 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 is a violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

If you need special accommodations please contact Cesar Barreto at 202-671-2829 or Cesar.Barreto@dc.gov 72 hours in advance of the meeting.

If you need language assistance services (translation or interpretation), please contact Karen Randolph at 202-671-2620 or Karen.Randolph@dc.gov 72 hours in advance of the meeting. These services will be provided free of charge.

AYUDA EN SU IDIOMA

Si necesita ayuda en Español, por favor llame al 202-671-2700 para proporcionarle un intérprete de manera gratuita.

AVISO IMPORTANTE

Este documento contiene información importante. Si necesita ayuda en Español o si tiene alguna pregunta sobre este aviso, por favor llame al 202-671-2620. Infórmele al representante de atención al cliente el idioma que habla para que le proporcione un intérprete sin costo para usted. Gracias.

AIDE LINGUISTIQUE

Si vous avez besoin d'aide en Français appelez-le 202-671-2700 et l'assistance d'un interprète vous sera fournie gratuitement.

AVIS IMPORTANT

Ce document contient des informations importantes. Si vous avez besoin d'aide en Français ou si vous avez des questions au sujet du présent avis, veuillez appeler le 202-671-2700. Dites au représentant de service quelle langue vous parlez et l'assistance d'un interprète vous sera fournie gratuitement. Merci.

GIÚP ĐỖ VÈ NGÔN NGỮ

Nếu quý vị cần giúp đỡ về tiếng Việt, xin gọi 202-671-2700 để chúng tôi thu xếp có thông dịch viên đến giúp quý vị miễn phí.

THÔNG BÁO QUAN TRỌNG

Tài liệu này có nhiều thông tin quan trọng. Nếu quý vị cần giúp đỡ về tiếng Việt, hoặc có thắc mắc về thông báo này, xin gọi 202-671-2700. Nói với người trả lời điện thoại là quý vị muốn nói chuyện bằng tiếng Việt để chúng tôi thu xếp có thông dịch viên đến giúp quý vị mà không tốn đồng nào. Xin cảm ơn.

የቋንቋ እርዳታ

በአሚሪኛ እርዳታ ከፈለጉ በ 202-671-2700 ይደውሉ። የነፃ አስተርጓሚ መደብልዎታል።

ጠቃሚ መረጃዎች

ይህ ሰነድ ጠቃሚ መረጃ ይዟል። በአሚሪኛ እርዳታ ከፈለጉ ወይም ስለ ዘህ መረጃ ጥያቄ ካለዎት በ 202-671-2700 ይደውሉ። የትኛውን ቋንቋ እንደሚናገሩ ለደንበኞች አገልግሎት ተወካይ ይንገሩ። ያለምንም ክፍያ አስተርጓሚ መደብልዎታል። እና መስጫ ነው።

언어 지원

한국어로 언어 지원이 필요하신 경우 202-671-2700로 연락을 주시면 무료로 통역이 제공됩니다.

안내

이 안내문은 중요한 내용을 담고 있습니다. 한국어로 언어 지원이 필요하시거나 질문이 있으실 경우 202-671-2700 로 연락을 주십시오. 필요하신 경우, 고객 서비스 담당원에게 지원 받고자 하는 언어를 알려주시면, 무료로 통역 서비스가 제공됩니다. 감사합니다.

語言協助

如果您需要用（中文）接受幫助，請電洽202-671-2700，將免費向您提供口譯員服務

重要通知

本文件包含重要資訊。如果您需要用（中文）接受幫助或者對本通知有疑問，請電洽202-671-2700。請告訴客戶服務部代表您所說的語言，會免費向您提供口譯員服務。謝謝！

TWO RIVERS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Executive Search Firm

Two Rivers is seeking to procure the services of an Executive Search Firm capable of conducting a search for candidates qualified to serve in executive- and director-level roles. For a copy of the RFP, please email Liz Riddle at procurement@tworiverspcs.org.

WASHINGTON LATIN PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Issued: 10/18/2019

The Washington Latin Public Charter School solicits expressions of interest in the form of proposals with references from a qualified vendor for:

- Legal Counsel – to support commercial or capital market loan refinancing. Preferably has experience with new market tax credit financing.
- Teacher Residency Program Partner – to co-provide robust curriculum and classroom experiences for teachers-to-be.

Questions and proposals may be e-mailed to Ms. Eman Abdur-Rahman at eabdurrahman@latinpcs.org with the type of service in the subject line. Deadline for submissions is **COB November 1, 2019**. No phone calls please.

E-mail is the preferred method for responding but you can also mail (must arrive by deadline) proposals and supporting documents to the following address:

Washington Latin Public Charter School
Attn: Finance Office
5200 2nd Street NW
Washington, DC 20011

WASHINGTON LATIN PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

Issued: 10/18/2019

The Washington Latin Public Charter School solicits expressions of interest in the form of proposals with references from a qualified vendor for:

- Psychological Evaluations – including scheduling, materials, testing, reporting, recommendations, goals and objectives, and administrative duties for approximately 40 students.

Questions and proposals may be e-mailed to eabdurrahman@latinpcs.org with the type of service in the subject line. Deadline for submissions is **COB November 1, 2019**. No phone calls please.

E-mail is the preferred method for responding but you can also mail (must arrive by deadline) proposals and supporting documents to the following address:

Washington Latin Public Charter School
Attn: Finance Office
5200 2nd Street NW
Washington, DC 20011

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 Tuesday, November 5, 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 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. 18471-B of Universalist National Memorial Church, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to conditions No. 1 and No. 2, in BZA Order No. 18471A in order to permit an increase in the total number of performances allowed per year and to modify the time limit of the Order from 6 years to ten years, in an existing building in the RA-8 Zone at premises 1810 16th Street N.W. (Square 177, Lot 802).

HEARING DATE (18471-A):	March 22, 2016
DECISION DATE (18471-A):	March 22, 2016
ORDER ISSUANCE DATE (18471-A):	March 29, 2016
MODIFICATION DECISION DATE:	October 2, 2019

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

Original Application. On March 22, 2016, in Application No. 18471-A, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by Universalist National Memorial Church (the “Applicant”) for a use variance to allow the continued use of theater performances on the basement level of a church.¹ The Board granted the relief subject to 10 conditions.

Proposed Modification. On July 2, 2019, the Applicant submitted a request for modification of consequence to the conditions imposed by the Board in Order No. 18471-A. (Exhibit 4B.) Specifically the Applicant requests to modify Conditions No. 1 and 2 as follows:

Condition No. 1: This approval shall be for a period of **TEN (10)** ~~SIX (6)~~ YEARS beginning on the date upon which the order became final.

Condition No. 2: The total number of “performances” by the residential theater shall be limited to **96** ~~60~~ per year. Performances shall include only formal theater-sponsored and benefitted scheduled events in which tickets are advertised and offered in advance to the general public. Performances shall not include Church-sponsored and benefitted events, theater auditions, rehearsals, and dress rehearsals which are not open to the public and tickets are not sold or offered, and other small scale and customary theater developmental activities, including free workshops, readings, open houses and other fundraising activities and other development activities for theater professionals and the public.

Notice of the Request for Modification. Pursuant to Subtitle Y §§ 703.8-703.9, the Applicant provided proper and timely notice of the request for modification of consequence.

¹ The Applicant was originally granted use variance relief for a theater use for a three-year period in BZA Order No. 18471 in 2013.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 11, 2019, at which a quorum was present, the ANC voted 9-0-0 to support the request. (Exhibit 10.)

OP Report. Office of Planning submitted a report recommending approval of the proposed modification of consequence. (Exhibit 7.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the proposed modification of consequence. (Exhibit 8.)

Request for Modification of Consequence

The Applicant seeks a modification of consequence under Subtitle Y § 703.4 to Conditions No. 1 and No. 2 in BZA Order No. 18471-A in order to permit an increase in the total number of performances allowed per year and to modify the time limit of the Order from 6 years to ten years, in an existing building in the RA-8 Zone at premises 1810 16th Street N.W.

The Applicant's request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a modification of consequence, the Applicant has met its burden of proof under as directed by 11 DCMR Subtitle Y § 703.4.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of consequence of the Board's approval in Application No. 18471-A is hereby **GRANTED AND, SUBJECT TO THE FOLLOWING CONDITIONS, AS MODIFIED:**

1. This approval shall be for a period of **TEN (10) YEARS** beginning on the date upon which this order became final.
2. The total number of "performances" by the residential theater shall be limited to 96 per year. Performances shall include only formal theater-sponsored and benefitted scheduled events in which tickets are advertised and offered in advance to the general public. Performances shall not include Church-sponsored and benefitted events, theater auditions, rehearsals, and dress rehearsals which are not open to the public and tickets are not sold or offered, and other small scale and customary theater developmental activities,

BZA APPLICATION NO. 18471-B

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including free workshops, readings, open houses and other fundraising activities and other development activities for theater professionals and the public.

3. For outside residential theater performances, seating shall be limited to 75.
4. The current residential theater, Spooky Action Theater, or any subsequent residential theater, shall not sublet this space to other theaters or organizations. Such restriction shall be included in the lease between the Applicant and the residential theater.
5. Public access to the theater for the general public, staff and performers shall be limited to the main entrance to the Church on 16th Street. Access from the alley shall be limited for ADA purposes and service activities.
6. For Friday and Saturday night performances, the residential theater shall seek to make arrangements for off-street parking for staff, performers, and patrons.
7. During the times of residential theater performances, the Applicant shall ensure that the gathering of people outside the premises of the Church during pre-performance waiting, intermissions, smoke-breaks, or post-performance socializing shall not disturb the peace, order, or quiet of the residential neighborhood.
8. The Applicant shall remove any trash associated with the residential theater performances no later than the day after the performance.
9. The Church shall meet with the ANC annually to discuss any concerns and the need to implement any new mitigation measures.
10. The Church shall create a mission for charitable and educational activity in which the rental theater shall be a participant.

In all other respects, Order No. 18471-A remains unchanged.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE; one Board seat vacant)

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

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

FINAL DATE OF ORDER: October 4, 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.

BZA APPLICATION NO. 18471-B
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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19751 of MED Developers, LLC, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 203.1(f) to allow a continuing care retirement community use in the R-1-B Zone at premises 2619-2623 Wisconsin Avenue, N.W. (Square 1935, Lots 33, 34, and 44).^{1, 2}

HEARING DATES: May 23, June 6, June 27, September 26, November 14, and
December 19, 2018³
DECISION DATE: January 30, 2019

DECISION AND ORDER

Pursuant to notice, the Board of Zoning Adjustment (the “**Board**”) considered a self-certified application, as amended (the “**Application**”), filed by MED Developers, LLC (the “**Applicant**”) requesting a special exception to allow a continuing care retirement community use under Subtitle U § 203.1(f) of Title 11 of the D.C. Municipal Regulations (Zoning Regulations of 2016, the “**Zoning Regulations**,” to which all references are made unless otherwise specified) for premises 2619-2623 Wisconsin Avenue, N.W. (Square 1935, Lots 33, 34, and 44) (the “**Property**”) in the R-1-B zone. The Board conducted the public hearing and considered the Application in accordance with the provisions of Subtitle Y. For the reasons explained below, at its January 30, 2019 public meeting, the Board voted to **APPROVE** the Application.

FINDINGS OF FACT

Notice of Application and Notice of Hearing

1. By memoranda dated April 3, 2018, the Office of Zoning (“**OZ**”) provided notice of the Application to:
 - the Office of Planning (“**OP**”);
 - the District Department of Transportation (“**DDOT**”);
 - the Department of Human Services (“**DHS**”);
 - the Councilmember for Ward 3, as well as the Chairman and the four at-large members of the D.C. Council;

¹ Lots 33 and 34 are also known as Lot 812 for tax and assessment purposes.

² The caption has been modified to reflect the relief granted. In its original application, the Applicant also requested relief pursuant to Subtitle C § 703.2 to permit a reduction in the number of required minimum number of parking spaces, but withdrew that request after it submitted a revised proposal that contained the required minimum number of off-street parking spaces.

³ The hearing was originally scheduled for May 23, 2018, but postponed four times at the request of the parties.

- Advisory Neighborhood Commissions (“ANC”) 3C and 3B, which are both “affected ANCs” per Subtitle Y § 101.8; and
 - Single Member District Commissioner for ANC 3C08.
2. Pursuant to Subtitle Y § 402.1, on April 3, 2018 OZ mailed letters providing notice of the hearing to the Applicant, the Councilmember for Ward 3, ANC 3C, and the owners of all property within 200 feet of the Property. Notice was published in the *D.C. Register* on April 13, 2018 (65 DCR 3923) as well as through the calendar on OZ’s website.

Party Status

3. In addition to the Applicant, ANCs 3C and 3B were automatically parties in this proceeding pursuant to Subtitle Y § 403.5.
4. The Board granted a request for party status in opposition to the Application from Massachusetts Avenue Heights Citizens’ Association (“MAHCA”), an association representing a group of residents living near the Property.⁴ MAHCA was represented by its president, Paul Cunningham, and its authorized agent, Andrea Ferster.

MAHCA’s Motion to Dismiss

5. On September 24, 2018, MAHCA filed a Motion to Dismiss or, in the Alternative, to Postpone the hearing scheduled for September 26, 2018. (Ex. 155.) In the motion, MAHCA argued the Board should dismiss the case because the Applicant had not provided the names and addresses of all the property owners within 200 feet of the Property as required by Subtitle Y § 300.8(g). MAHCA argued that the Application concerned two parcels of property, Lot 44 and Lot 812 in Square 1935, but that the Applicant had only submitted a list of persons owning property within 200 feet of Lot 44.
6. The Board considered MAHCA’s motion at a public hearing held on September 26, 2018. The Board found that Lots 44 and Lot 812 adjoin each other, and notice to all property owners within 200 feet of Lot 44 would be adequate to provide notice to the broader community, given that the surrounding community had actual notice of the Application due to the high level of interest in the Application from the surrounding community, and from the other forms of public notice provided, which included publication of notice in the *D.C. Register* and the public hearing notice posted at the Property. The Board denied MAHCA’s Motion to Dismiss by a vote of 5-0-0.
7. At the September 26, 2018 public hearing, the Board also granted MAHCA’s request for a further postponement of the hearing, scheduled the further hearing for November 14, 2018, and suggested that the Applicant supplement its notice to include all properties within 200 feet of Lot 812 before the continued hearing. The Applicant submitted evidence that it provided an updated list of all property owners located within 200 feet of Lots 44 and 812 prior to the continued hearing. (Ex. 261.)

⁴ MAHCA’s party status request was untimely because it was filed after the deadline established by Subtitle Y § 404.4, but the Board waived this rule and granted the party status request.

The Property

8. The Property consists of three lots of record – Lots 33, 34, and 44 – the first two of which have been consolidated for assessment and taxation purposes into a single tax lot 812.
9. The Property has a total land area of 19,113 square feet.
10. The Property is a corner lot with frontage on Wisconsin Avenue, N.W. to the west and frontage on Edmunds Street, N.W. to the north. The Property is bounded on the east by an alley that is 15 feet in width (the “Alley”), (Ex. 13,) and on the south by another lot with a residential building.⁵ The Alley can be accessed from Davis Street, N.W. or Edmunds Street, N.W.
11. The Property has no curb cut and is only accessible from the Alley.
12. The Property’s topography slopes downward from north to south.
13. Lots 33 and 34 are vacant and unimproved. Lot 44 is improved with a single-family detached principal dwelling that has an accessory garage to the rear.
14. There is a 15-foot-wide building restriction line along the Property’s western and northern lot lines. (Ex. 3.)
15. The Property is located in the Observatory Circle neighborhood of upper Wisconsin Avenue, N.W. The Russian Embassy complex is directly across Wisconsin Avenue from the Property. To the south of the Property, the Wisconsin Avenue corridor is comprised of commercial establishments, including a hotel, bars and restaurants. To the north of the Property on Wisconsin Avenue are several high-density apartment buildings. Farther north is the St. Albans School and Church, as well as the National Cathedral.
16. To the east and northeast of the Property between Wisconsin Avenue and Massachusetts Avenue are primarily low-density neighborhoods with detached, single-family homes.
17. The Property is not located in an historic district.
18. There is a bus stop directly in front of the Property at the corner of Wisconsin Avenue and Edmunds Street, N.W., which services bus lines 30N, 30S, 31, and 33. Additional bus lines can be accessed within 0.4 miles of the Property, including D1, D2, N2, N3, N4, and N6. There are two Capital Bikeshare stations located within 0.5 miles of the Property. There is ample access to car-sharing services near the Property as well.
19. There are three private parking garages within one-half-mile of the Property. (Ex. 107.)

⁵ MAHCA disputed the width of the Alley; however, the Baist Map filed with the Application reflects that the Alley is 15 feet in width.

20. The Property is located in the R-1-B zone.
21. The Zoning Regulations state that “[t]he Residential House (R) zones are residential zones, designed to provide for stable, low- to moderate-density residential areas for family life and supporting uses.” (Subtitle D § 100.1.)
22. Under the R-1-B regulations, the Property could be developed with three single-family detached principal dwellings, or with three clerical and religious group residences for up to 15 persons, as a matter of right. (Subtitle U § 201.1.) If developed with three single-family detached dwellings, each could contain an accessory apartment, (Subtitle U § 253,) and have an accessory garage. (Subtitle U § 250.)
23. Other matter-of-right uses for the R-1-B zone, subject to any applicable conditions, include institutional religious-based uses; local government uses; public education buildings and structures, public recreation and community centers, and public libraries; and child development or elderly development centers located in a D.C. public school or a public recreation center operated by the District government. (Subtitle U § 202.1.)

The Application

24. The Applicant, the contract purchaser of the Property,⁶ propose to subdivide Lots 44 and 812 into a single record lot and to raze the existing single-family home and accessory garage in order to construct a 34-room memory care facility (the “**Facility**,” Ex. 41.)

Memory/Continuing Care Retirement Community Use

25. The country’s population is aging, and it is expected that there will be an increase of 10 million people with Alzheimer’s Disease over the next 22 years. (Transcript of November 14, 2018 Hearing [“**Nov. 14 Tr.**”] at 256; Ex. 162.) The District’s Comprehensive Plan reflects this need to serve senior citizens by providing more assisted living housing. (Nov. 14 Tr. at 73; Ex. 41B.)
26. Memory care is a subset of assisted living that provides specialized programming for seniors with forms of dementia, including Alzheimer’s Disease. (Ex. 41.) Memory care programs offer broader assistance with daily living activities, including dressing, bathing and grooming. (Nov. 14 Tr. at 54.) It is not the same as an assisted living facility that offers more generalized medical care. (Nov. 14 Tr. at 254.)

⁶ At the time of the filing of the Application, the Property was owned by Mary Rubino and the Marital Trust U/Schaeffer Family Trust. The property owners submitted a written statement authorizing Glover Park Developers LLC, a contract purchaser of the Property, to be their agent in connection with this application. (Ex. 10.) Bruce Finland signed the application on behalf of Glover Park Developers LLC. (Ex. 1.) Glover Park Developers LLC submitted a letter authorizing Meredith Moldenhauer of the law firm of Cozen O’Connor to serve as its agent, and further authorized Ms. Moldenhauer to serve as the agent for MED Developers, LLC. (Ex. 9.) The written statement submitted with the Application identified MED Developers LLC as the Applicant, and stated that MED Developers, LLC was the contract purchaser of the Property. (Ex. 15.) A contract purchaser is often an authorized agent for the owner for an application for zoning relief.

27. In addition to assistance with daily living activities, the memory care program will offer cognitive therapy activities, such as music therapy, sensory stimulation, virtual outings, exercise classes, and aroma therapy. (Nov. 14 Tr. at 54-55; Ex. 41.)
28. There will be planned off-site activities approximately two to three times a week. (Ex. 41.) Residents would be transported to off-site activities by private community van. (Ex. 41.)
29. There will be in-house staff that does housekeeping and laundry. (Ex. 41.) Laundry facilities are located on-site.
30. Guest Services Senior Living (“GSSL”) will be the provider for the Facility. (Ex. 41.) As the provider, GSSL will be in charge of operating the memory care program, including hiring staff.
31. John Gonzales, the President of GSSL, has worked in the senior services industry for over 30 years, concluding operating dozens of memory care facilities. (Ex. 41, 41C; Nov. 14 Tr. at 227.)
32. GSSL will obtain a license from the D.C. Department of Health in order to operate the Facility. (Nov. 14 Tr. at 240.)
33. The Facility will be staffed in accordance with District law. (Ex. 41.) It is expected that there will be a maximum of 18⁷ staff on-site at a given time. (Ex. 41, Nov. 14 Tr. at 85.) Staff will be comprised of direct care staff, including nurses, certified nursing assistants and certified medical assistants, as well as administrative staff. (Ex. 41.) The residents’ needs for personal aids will be reduced because the Facility will employ a “universal worker model” where staff members are expected to provide extensive services that may not be available in similar facilities. (Nov. 14 Tr. at 254.) Staffing schedules will be staggered throughout the day, so that not all staff would be leaving at the same time. (Ex. 41; Nov. 14 Tr. at 85, 273.)
34. The Facility is designed to be self-contained, with a majority of programming occurring within the Facility. The Facility will offer residents access to a fitness center, a beauty salon, and recreational space. All meals will be prepared on-site in the commercial kitchen, and the Facility will have in-house laundry facilities. The Facility has also been designed to incorporate extensive safety measures for residents, including a front desk that will be staffed during much of the day. (Nov. 14 Tr. at 62, 230-231, 258-259.)

⁷ The Applicant stated that there will be a maximum number of 18 staff on-site at a time in its pre-hearing statement (Ex. 41), and its traffic expert testified 18 was the correct number at the hearing. (Nov. 14 Tr. at 285.) Mr. Gonzalez testified that the maximum number of staff on-site at a given time would be 17 at the hearing. (Nov. 14 Tr. at 272.) The Board finds the higher number of 18 is correct for purposes of this Order.

The Facility

35. The Facility will be three stories plus a cellar level and mechanical penthouse. (Ex. 483A.) The height of the Facility will be 40 feet. The maximum permitted building height, not including the penthouse, in the R-1-B zone is 40 feet and the maximum number of stories is three stories. (Subtitle D § 303.1.) The mechanical penthouse will be one story with a height of 12 feet. The maximum permitted height of a penthouse for this type of structure in the R-1-B zone is 12 feet and the maximum number of stories is one. (Subtitle D § 303.2.)
36. The main entrance to the Facility is from Wisconsin Avenue, N.W. (Ex. 483A.) The ground level will have eight dwelling units, as well as a reception area and a recreational/library space. (Ex. 483A.)
37. The second and third levels have the same floor layout and will feature 13 dwelling units, including a double occupancy unit on each floor. (Ex. 483A.) Each floor will also have common space and a staff nook. (Ex. 483A.)
38. The cellar level features common space, including a commercial kitchen, dining facilities, a fitness center, and a trash room. (Ex. 483A.) The cellar level offers direct access to a garden area to the rear of the Facility.
39. The garden area will be surrounded by a fence that is approximately 6 to 6.5 feet in height. (Ex. 483A; Transcript of December 19, 2018 Hearing [“Dec. 19 Tr.”] at 50.) The Facility will also feature a planted buffer between the garden area and the Alley. (Ex. 483A.)
40. The Facility will have a lot occupancy of 40%. The maximum lot occupancy for this type of structure in the R-1-B zone is 40%. (Subtitle D § 304.1.)
41. The Facility will provide a 27-foot, 10-inch rear yard. The required rear yard is 25 feet. (Subtitle D § 306.1.)
42. The Facility will provide a 10-foot, 8-inch southern side yard and a 15-foot northern side yard. Subtitle D § 206.2 requires a two eight-foot side yards.
43. The Facility will have side yards and a rear yard that exceed the minimum requirements in the R-1-B zone. (Ex. 483A.)
44. While residents will be able to utilize an outdoor garden area, the space will be circumscribed by a 6 to 6.5-foot tall fence. (Dec. 19 Tr. at 25.) There will also be a 14-foot-wide planted buffer between the garden area and the Alley. (Dec. 19 Tr. at 27.) The Alley itself provides an additional buffer for neighboring properties to the east. (Ex. 483A.)

45. With respect to the neighboring property directly to the south of the Property, the property will be buffered from the Facility as a result of the 10-foot, 8-inch southern side yard, and landscaping elements for that side yard. (Nov. 14 Tr. at 64; Ex. 483A, 483G.) The laundry facilities will vent in the direction of Edmunds Street, N.W. as opposed to the neighboring property to the south.
46. In response to comments by opponents and Commissioner Miller's request at the November 14 hearing, the Applicant revised the architectural plans (the "**Revised Plans**") for the Facility to incorporate a below-grade garage with 19 parking spaces. (Dec. 19 Tr. At 25; Ex. 483A.)
47. The Revised Plans also moved the proposed 50-foot by 10-foot loading area for deliveries and trash removal to the northeastern corner of the Property perpendicular to the Alley. A service entrance is directly adjacent to the loading area. (Ex. 483A.)
48. The garage level and loading area are accessed from the Alley, which separates the garage entrance from the properties to the east. (Ex. 483A.)
49. The garage level will also have administrative offices, laundry facilities, mechanical equipment and a bicycle storage room. The Revised Plans include an internal trash room for storing trash and recyclables. (Ex. 483A.)

Relief Requested

50. On March 26, 2018, the Applicant submitted the self-certified Application seeking special exception relief for a Continuing Care Retirement Community ("**CCRC**") use (Subtitle U § 203.1(f)) and from the requirements for vehicular parking. (Subtitle C § 701.5.)
51. When the Applicant agreed to provide the required 19 parking spaces, as requested by opponents and Commissioner Miller at the November 14, 2019 public hearing, the Applicant submitted the Revised Plans including the 19 parking spaces and withdrew its request for relief from Subtitle C § 701.5 on November 26, 2018. (Ex. 483B.)
52. The Applicant provided the following expert witnesses:
 - John Gonzales, the President of GSSL, testified regarding operations and management of senior housing facilities; (Ex. 41A, Tab C)
 - Erwin Andres of Gorove/Slade Associates ("**Gorove/Slade**"), an expert in traffic and transportation, testified regarding traffic, parking, loading and related transportation issues; (Ex. 39, Tab B)
 - Stephen Varga, an expert in land use and planning, regarding the Facility's consistency with planning policies in the Comprehensive Plan and the R-1-B zone; (Ex. 41A, Tab B)
 - Claire Dickey, The Facility's architect, spoke in an expert capacity regarding

design elements of the Facility. (Ex. 41A, Tab D.)

53. The Applicant provided two additional expert witnesses, based on issues addressed on rebuttal:
- Dr. Jeffrey Keller testified as an expert in memory care facilities; (Ex. 399)
 - Thomas Gale testified as an expert in financing memory care and senior living facilities. (Ex. 399.)

Parking, Loading, and Traffic Impacts

54. Residents of the Facility will not have personal vehicles. (Ex. 107; Nov. 14 Tr. at 66.)
55. Residents would be transported to off-site activities by private community van. (Ex. 41.)
56. Mr. Gonzales testified that, based on his experience in the field, the number of visitors on a given day is equivalent to 10% or less of the total number of units. (Nov. 14 Tr. at 245). Based on this projection, it is expected that the Facility would have approximately two to four visitors per day. (Nov. 14 Tr. at 225, 245.)
57. Pursuant to Subtitle C § 701.5, the Facility is required to have one parking space per two dwelling units, which would be a total of 17 vehicular parking spaces.
58. It is expected that there will be a maximum of 18 staff on-site at a given time. (Ex. 41, Nov. 14 Tr. at 85.)
59. Approximately 45% of staff will use non-auto transit to commute to the Facility based on industry standard and census tract data. (Ex. 107.)
60. The staggering of staff schedules will limit the occasions where multiple staff are exiting or entering the Facility at the same time. (Nov. 14 Tr. at 85-86.)
61. The Applicant submitted two parking studies, conducted on four different days of the week. (Ex. 39, 399A.) The parking studies determined that there are over 100 on-street parking spaces available during the study period. (Ex. 39, 399A; Nov. 14 Tr. at 67-68.)
62. The Applicant proposed a Transportation Demand Management (“**TDM**”) Plan to limit the impact of the Facility on parking and traffic in the surrounding area. The elements of the plan have been incorporated as conditions of this Order. They are:
- a. Applicant will offer full-time and shift employees a transit subsidy of no less than \$10 per week, which equates to 50% of the weekly cost of a standard Metrobus or Capital Bikeshare commute.
 - b. Applicant will identify a TDM leader to work with employees to distribute and market transportation alternatives.
 - c. Applicant will work with DDOT and goDCgo to implement TDM measures.
 - d. Applicant will share the full contact information of the TDM leader with DDOT

- and goDCgo.
- e. Applicant will provide staff who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments.
 - f. Applicant will install a Transportation Information Center Display within the lobby of the Facility that contains information related to local transportation alternatives.
 - g. Applicant will identify nearby parking garage facilities that can provide additional parking for guests and staff.
63. The Applicant submitted AutoTURN™ diagrams illustrating the turning radii necessary for vehicles accessing the Property via the Alley. One shows that a 30-foot truck can access the loading area by entering the Alley via Davis Street, N.W., turn into the loading area, and exit the Alley to Edmunds Street, N.W. (Ex. 483C.) A second diagram shows there is enough room for vehicles to enter and exit the parking garage from the Alley. (Ex. 483C.)
64. DDOT required the Applicant to provide loading access, if any, via the Alley. (Nov. 14 Tr. at 233, 264). DDOT's Design and Engineering Manual dictates that if a property abuts an alley, loading access should be provided through that alley. (Nov. 14 Tr. at 233.)
65. The Board expects the use of the loading area will be comprised of food deliveries, waste and recycling removal, mail, routine incidental deliveries of the same type that are made to nearby residences, and ambulances as needed for the medical treatment of the residents. (Nov. 14 Tr. at 55, 232-237; Ex. 41.)
66. Ambulance visits will not be limited to using the loading area at the rear but will also occur from the front facing Wisconsin Avenue, which is a principal arterial street, the most intensive, non-freeway designation. (Nov. 14 Tr. at 70, 242.)
67. The Applicant proposed a loading management plan to limit the loading impact of the Facility. The elements of the plan have been incorporated as conditions of this Order. They are:
- a. A loading manager will be designated by the Facility's management. The manager will schedule deliveries and will be on duty during delivery hours.
 - b. The loading manager will coordinate with trash service to help the loading of trash move expeditiously between the service area inside the Facility and the loading area.
 - c. Trucks using the loading area will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including, but not limited to, DCMR Title 20, Chapter 9, Section 900, the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.
 - d. The loading manager will be responsible for disseminating DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed in

order to encourage compliance with District laws and DDOT's truck routes. The loading manager will also post these documents in a prominent location within the service area.

Impacts on Light and Air

68. There are existing accessory buildings and mature trees on other properties abutting the Alley. (Dec. 19 Tr. at 31.)
69. The Applicant submitted a sun study that shows that the Facility will create shadowing on neighboring properties only during the late-afternoon hours and that for a majority of the day, the Facility projects a shadow on the Wisconsin Avenue, N.W. right-of-way. (Ex. 483F.)

OP Reports

70. OP submitted two reports in this case.
71. OP's first report, dated September 14, 2018, (the "**First OP Report**") recommended approval of the Application, which at that time included a request for a reduction in the number of required parking spaces for the Facility. (Ex. 50.) The First OP Report recommended that the approval include a condition requiring that any change in use, including to a different form of Continuing Care Retirement Community, would require a new application to the Board of Zoning Adjustment for re-evaluation against the relevant regulations. At the November 14, 2018 public hearing, OP recommended approval of the Application. (Nov. 14 Tr. at 168.)
72. OP's second report, dated December 14, 2018, (the "**Second OP Report**") analyzed the revised Facility design submitted by the Applicant that included 19 underground parking spaces. (Ex. 486.) The Second OP Report also recommended approval of the Application.
73. OP recommended approval of the Application at the continued hearing on December 19, 2018. (Dec. 19 Tr. at 68.)

DDOT Reports

74. DDOT submitted three reports.
75. The first DDOT Report, dated September 14, 2018 (the "**First DDOT Report**,") stated that DDOT analyzed the Applicant's proposed site design, travel assumptions, transportation analysis, and proposed transportation mitigations. (Ex. 45.) The First DDOT Report also stated that it anticipated the Facility would lead to a "minor increase" in the number of vehicle, transit, pedestrian, and bicycle trips, and that the Application would also have the potential to generate "minor impacts to on street parking conditions in the area, including a slight increase in vehicular parking demand, and higher level of parking utilization in the immediate area." Nonetheless, DDOT concluded in the report that it had "no objection to the approval of the requested relief on the condition that the

Applicant” enhance its proffered TDM plan by offering full-time and shift employees a transit subsidy of no less than \$10 a week and either satisfy the bicycle parking requirements or request relief from them (and stated that DDOT would support such a waiver under the circumstances).

76. The second DDOT report, dated November 26, 2018, was submitted after the first full hearing (the “**Second DDOT Report**”). (Ex. 481.) The Second DDOT Report stated that DDOT reviewed the additional TDM measures the Applicant offered after DDOT submitted its first report, and that DDOT is “in concurrence with it so long as it is included as a condition in addition to the original transit subsidy.” The Second DDOT Report also attached a copy of the letter DDOT sent to Councilmember Mary Cheh responding to the issues she raised to DDOT about the Facility and providing further information to support its recommendation of “no objection,” based on DDOT’s review of potential impacts on “on-street parking, traffic operations, and usage of the public alley.”
77. The third DDOT report, dated December 18, 2018, was submitted just before the second full hearing (the “**Third DDOT Report**”). (Ex. 488.) The Third DDOT Report stated that DDOT understood that the Applicant had removed the vehicular parking relief from their Application and that DDOT had reviewed the Applicant’s revised plans showing 19 vehicular parking spaces on-site. The Third DDOT Report concluded that the new design met DDOT standards and best practices, including for loading, trash storage, and parking entrances, and that as a result DDOT had no objection to the relief, provided that the Applicant met the conditions recited in DDOT’s previous reports.

ANC Reports

78. ANC 3B did not submit a written report for this Application.
79. ANC 3C submitted a written report, dated September 17, 2018 (the “**ANC 3C Report**,” Ex. 146), asserting that the Applicant had not sustained its burden of proof, and listed the following issues and concerns about the Facility:
- the loading dock is insufficiently buffered relative to nearby residences;
 - the restriction or removal of on-street parking spaces to facilitate access to the Alley for trucks serving the Facility;
 - light and noise from the Facility affecting use and enjoyment of nearby properties;
 - the lack of a landscape or buffering plan for directly adjacent properties;
 - the design and mass of the Facility is similar to the apartment buildings across Wisconsin Avenue rather than the single-family neighborhood that surrounds it;
 - the Application requires additional parking relief in addition to the special exception to permit the CCRC use, and the special exception standards for the CCRC use include a finding that there will be sufficient off-street parking spaces for employees, residents and visitors; and

- the Applicant and the First DDOT Report did not sufficiently analyze the number of visitors and staff that will drive to the site and that there will be greater demand for the parking spaces on the street than are available.⁸

80. The ANC 3C Report authorized the Chair, Commissioner Nancy MacWood, to represent the ANC on this matter. Commissioner MacWood participated in the public hearing on November 14, 2018 on behalf of the ANC.

Party in Opposition

81. MAHCA argued that the Applicant had not sustained its burden of proof for several reasons:

- the Applicant's proposed use did not meet the definition of a CCRC facility;
- the Applicant was not qualified to operate such a facility, and the facility would be "inviabile;"
- the Applicant had not met all the elements of the applicable specific and general special exception tests; and
- the OP and DDOT reports, as well as the Applicant's case, were not credible.

82. MAHCA submitted a sun study, which did not include surrounding buildings or vegetation. (Ex. 484; Dec. 19 Tr. at 32-35.)

83. MAHCA submitted expert statements and expert testimony from:

- Joe Mehra regarding traffic, parking and loading (Ex. 472);
- Dr. Nathan Billig, an expert in geriatric psychiatry, regarding design and staffing of a memory care facility (Ex. 473);⁹ and
- John Cunningham, an expert in financing memory care facilities, regarding the financial viability of the Facility.¹⁰ (Ex. 470.)

84. MAHCA also provided testimony from witnesses, Anita Crabtree and Robert McDiarmid. (Nov. 14 Tr. at 130-133, 147-149.)

Persons in Support

85. The Board received letters of support for the Application. (Ex. 48, 162, 165, 462.) GSSL, the proposed operator of the Facility, submitted a letter regarding its support for the Facility. (Ex. 48.) Dr. Jeffrey Keller submitted a letter of support regarding the growing

⁸ The Board condensed the issues and concerns stated in the ANC's report here for the sake of brevity and clarity.

⁹ The Applicant objected to MAHCA's request to qualify Dr. Billig as an expert in "the operational characteristics of the memory care facility from a patient care perspective." (Nov. 14 Tr. at 113-116.) The Applicant and MAHCA agreed to qualify Dr. Billig as an expert in geriatric psychiatry, which the Board accepted. (Nov. 14 Tr. at 116.)

¹⁰ The Applicant objected to MAHCA's request to qualify Mr. Cunningham as an expert witness based on relevancy of the proposed testimony and Mr. Cunningham's qualifications. (Nov. 14 Tr. at 134-137.) The Board accepted Mr. Cunningham as an expert witness in financing memory care facilities. (Nov. 14 Tr. at 145.) However, the Board determined that Mr. Cunningham's testimony was not relevant to the special exception standard or the Application before the Board.

need for memory care facilities across the country, and the viability of a small community similar to the Facility. (Ex. 162.) Other letters noted general support for the Facility and that the design would have a limited impact on the neighborhood. (Ex. 165, 462.)

Persons in Opposition

86. The Board received numerous letters and testimony from persons in opposition to the Application. A majority of the letters are identical form letters with the same objections to the Facility. Persons in opposition objected to the proposed off-street parking plan, the negative impacts the Facility would have on noise, light, the environment, and privacy. The letters also asserted that the Applicant and GSSL did not have experience running a memory care program. Other persons in opposition noted increases to traffic from the Facility and negative effects to the on-street parking supply.
87. At the hearing on November 14, 2018, 10 individuals testified in opposition and expressed their concern that the proposed facility would produce the following objectionable conditions and adverse impacts:
- hazards to pedestrians, including children, in the Alley;
 - significant increase in vehicular traffic including delivery trucks and emergency vehicles such as ambulances and fire trucks;
 - increased vehicular noise and exhaust fumes that could be funneled into neighbors' backyards and remain trapped in the Alley;
 - loss of privacy and natural light;
 - excessive lighting at night, needed in order to secure the perimeter of the property, which would shine on neighboring homes;
 - change in neighborhood character that is not in keeping with the R-1-B zone; and
 - increased trash and rodents from the operation.
- (Nov. 14 Tr. at 186-206, 209-217.)

Public Hearings

88. The public hearing, originally scheduled for May 23, 2018, was postponed several times. The first postponement was requested by the ANC, (Ex. 31,) and the hearing was postponed to June 6, 2018. The Applicant then requested two postponements, (Ex. 35, 37,) and the hearing was postponed to September 26, 2018.
89. On September 26, 2018, as discussed above, the Board convened the hearing, granted party status to MAHCA, denied MAHCA's motion to dismiss the case, and granted MAHCA's request to further postpone the hearing.

90. On November 14, 2018, the Board held a full public hearing on the Application.¹¹ At the end of the hearing, the Board requested additional information¹² and continued the hearing to December 19, 2018.
91. At the close of the Board's hearing on November 14, 2018, the Board scheduled a continued hearing on the Application for December 19, 2018. The Board explicitly stated that the December 19th hearing would be "a continued hearing date," which was acknowledged by the parties. (Nov. 14 Tr. at 294-295.) The Board requested that the Applicant provide additional information prior to the hearing, including a revised building plan that included on-site parking for 17 vehicles.
92. On November 26, 2018, the Applicant submitted the additional information requested by the Board, including revised plans for the Facility with below grade parking for 19 vehicles, as well as sun and shadow studies. The Applicant revised its request for relief to remove the request for parking relief. (Ex. 483.)
93. On December 3, 2018, MAHCA submitted a response to the Applicant's submission, requesting:
- (1) that DDOT evaluate the new plan and provide a new report;
 - (2) that OP evaluate the new plan and provide a new report;
 - (3) that MAHCA be given time for its traffic expert to review and opine on the new plan and testify at the December 19, 2018 hearing;
 - (4) that MAHCA be given time for an architect to review the new plans and either testify about them at the December 19 hearing or submit a written report; and
 - (5) that MAHCA have the opportunity to cross-examine any witnesses testifying about the new plan at the December 19 hearing. (Ex. 485.)
94. The Board found that all of the procedural requests listed in MAHCA's December 3 response were satisfied as follows:
- (1) OP filed the Second OP Report prior to the continued hearing; (Ex. 486)
 - (2) DDOT filed the Third DDOT Report prior to the continued hearing; (Ex. 488)
 - (3), (4) the Board found at the beginning of the December 19, 2018 hearing that MAHCA had already had sufficient time for its traffic expert and architect to each review the revised plans, and that they would be given an opportunity to testify about the revised plans and to cross-examine the Applicant's witnesses at the continued hearing; (Dec. 19 Tr. at 17-18); and

¹¹ The Board permitted MAHCA to cross-examine all the witnesses who were present. At times, the Board's presiding officer did not permit continued cross-examination pursuant to his authority under Subtitle Y § 408.5, which provides the presiding officer may place "reasonable restrictions on cross-examination, including limitation on the scope of cross-examination," and Subtitle Y § 408.6, which provides that the "presiding officer may rule a question out of order when it is irrelevant, immaterial, or unduly repetitious, or otherwise outside the scope of cross-examination."

¹² Among the items the Board requested was a revised plan that included on-site parking for 17 vehicles. The reason for this request was, in part, because one of the Board members indicated that he did not believe the Applicant had met its burden of showing the original design had sufficient off-street parking spaces. (Nov. 14 Tr. at 287.)

- (5) the Board granted MAHCA the opportunity to cross-examine the Applicant's witnesses at the continued hearing.
95. At the December 19, 2018 continued hearing, MAHCA made two oral Motions to Strike.
96. The first Motion to Strike concerned the Third DDOT Report. (Dec. 19 Tr. at 20.) MAHCA argued that "DDOT is not present for the hearing," and that MAHCA did not have sufficient time to review the Third DDOT Report prior to the hearing. (Dec. 19 Tr. at 20.) The Board denied the Motion, noting that MAHCA's traffic expert, Mr. Mehra, was not present at the December 19th hearing; (Dec. 19 Tr. at 23-24;); that the Second OP Report had referenced DDOT's concerns regarding the revised plans; and that MAHCA had an opportunity to cross-examine the Applicant regarding the revised plans with the parking garage. (Dec. 19 Tr. at 20-21, 23-24.)
97. MAHCA's second Motion to Strike "the testimony" argued that the Applicant's response to MAHCA's sun study testimony was not filed in the record and was "untimely and prejudicial." (Dec. 19 Tr. at 39.) The Board denied the Motion to Strike and allowed the evidence because the Board had continued the hearing for the purpose of accepting evidence and testimony, including testimony regarding the sun studies, and MAHCA had the opportunity to cross-examine the Applicant and to present its own witnesses during the continued hearing. (Dec. 19 Tr. at 41-42.)
98. MAHCA elected not to present any witnesses or make a presentation at the December 19, 2018 hearing. (Dec. 19 Tr. at 67-68.) In lieu of a presentation, counsel for MAHCA stated that it would make a closing statement. (Dec. 19 Tr. at 16-17, 68.) Under Subtitle Y § 409.1, the Board is not required to allow a Party in Opposition to make a closing statement; however, the Board authorized MAHCA to make a closing statement to ensure that the Board would spend "sufficient time to be able to go through the material that has been submitted." (Dec. 19 Tr. at 16.) The Board provided MAHCA 15 minutes for its closing statement, which is the same length of time provided for the Applicant to make its presentation. (Dec. 19 Tr. at 19-20, 72-73.)
99. MAHCA requested at the December 19, 2018, hearing that the parties be able to submit proposed findings of fact and conclusions of law. (Dec. 19 Tr. at 14.) Over the objection of the Applicant, which called it "unnecessary," the Board requested that the parties submit proposed findings of fact and conclusions of law.
100. After the continued hearing on December 19, 2018, the Board closed the record and scheduled the Application for a decision meeting on January 30, 2019.

CONCLUSIONS OF LAW AND OPINION

1. The Applicant seeks a special exception under Subtitle U § 203.1(f), to allow a Continuing Care Retirement Community use in the R-1-B zone at premises 2619-2623 Wisconsin Avenue N.W. (Square 1935, Lots 33, 34, and 44).
2. 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.
3. For the relief requested by the Application, the “specific conditions” are those of Subtitle U § 203.1(f), as quoted below.¹³
4. 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)).
5. For the reasons discussed below, the Board concludes that the Applicant has met these special conditions and is therefore entitled to relief for the CCRC use in the R-1-B zone.
6. The Board will address MAHCA’s argument that the proposed use is not a CCRC first, then the specific special exception criteria of Subtitle U § 203.1(f), followed by the

¹³ Pursuant to Subtitle U § 203.1(f), the Applicant must prove that the use includes one or more of the following services: (A) Dwelling units for independent living; (B) Assisted living facilities; or (C) A licensed skilled nursing care facility (Subtitle U § 203.1(f)(1)); if the use does not include assisted living or skilled nursing facilities, the number of residents shall not exceed eight (8) (Subtitle U § 203.1(f)(2)); the use may include ancillary uses for the further enjoyment, service, or care of the residents (Subtitle U § 203.1(f)(3)); the use and related facilities shall provide sufficient off-street parking spaces for employees, residents, and visitors (Subtitle U § 203.1(f)(4)); the use, including any outdoor spaces provided, shall be located and designed so that it is not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions (Subtitle U § 203.1(f)(5)); and “[t]he Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties.” (Subtitle U § 203.1(f).)

general criteria of Subtitle X § 901.2, and lastly, MAHCA's argument that the Application should be denied because the business is not viable.

Definition of Continuing Care Retirement Community Use

7. MAHCA claimed that the Application did not meet the definition of a CCRC and therefore was not entitled to the relief. In support of this contention, MAHCA relied on statements made at the hearing by the Applicant's counsel that there will be no "medical directors in our facility" and the Applicant's expert witness that the Applicant will not be providing "medical care" at the facility.
8. A CCRC is defined in the Zoning Regulations as:
A building or group of buildings providing a continuity of residential occupancy **and health care** for elderly persons. This facility includes dwelling units for independent living, assisted living facilities, or a skilled nursing care facility of a suitable size to provide treatment or care of the residents; it may also include ancillary facilities for the further enjoyment, service, or care of the residents. The facility is restricted to persons sixty (60) years of age or older or married couples or domestic partners where either the spouse or domestic partner is sixty (60) years of age or older.
Subtitle B § 100.2 ("Continuing Care Retirement Community") (bold underline added).
9. The Board does not find MAHCA's argument persuasive because the record contains ample evidence that the Applicant is proposing a residential memory care facility providing assisted living and services to seniors with various forms of dementia. These services will include assistance with daily living activities, as well as cognitive therapy activities, such as music therapy, sensory stimulation, virtual outings, exercise classes, and aroma therapy. The Board concludes that these services meet the requirement in the definition of CCRC for "health care."

Subtitle U § 203.1(f) – Relief to Establish a Continuing Care Retirement Community Use

10. To qualify for a special exception under Subtitle U § 203.1(f), to allow a CCRC in the R-1-B zone, the Applicant must demonstrate that the Application satisfies the following conditions of Subtitle U § 203.1(f):

Subtitle U § 203.1(f)(1): *The use includes one or more of the following services:*

- (A) *Dwelling units for independent living;*
- (B) *Assisted living facilities; or*
- (C) *A licensed skilled nursing care facility;*

11. The Board concludes the Applicant has met this requirement because the Facility will include "assisted living facilities."

11. The term “assisted living facilities” is not defined in the Zoning Regulations. Therefore, the words have the meanings given in Webster's Unabridged Dictionary. (Subtitle B § 100.1(g).)
12. Webster’s Unabridged Dictionary Defines “assisted living” in relevant part as “a system of housing and limited care that is designed for senior citizens who need some assistance with daily activities but do not require care in a nursing home;” and “facility” in relevant part as, “something (such as a hospital) that is built, installed, or established to serve a particular purpose.”
13. The Facility will be comprised of a residential building in which it will provide a memory care program to all of the residents, who will be seniors with various forms of dementia, including Alzheimer’s Disease. The program will include assistance with daily living activities and cognitive therapy activities. The Board concludes that this meets the definition of “assisted living facilities,” and therefore meets the criterion of Subtitle U § 203.1(f)(1).

Subtitle U § 203.1(f)(2): *If the use does not include assisted living or skilled nursing facilities, the number of residents shall not exceed eight (8);*

14. The Board concludes this requirement is not applicable because the Board finds the use will include assisted living facilities, as described above.

Subtitle U § 203.1(f)(3): *The use may include ancillary uses for the further enjoyment, service, or care of the residents;*

15. This section states that the use “may” include ancillary uses. The Board therefore concludes this section is permissive, allowing ancillary uses, not requiring them. Thus, providing “ancillary uses” is not required for approval.
16. The Facility will include ancillary uses, namely recreation space, dining facilities, a fitness center, and barber/beauty salon, and these ancillary uses are permitted.

Subtitle U § 203.1(f)(4): *The use and related facilities shall provide sufficient off-street parking spaces for employees, residents, and visitors;*

17. The Board concludes that the Applicant has met this requirement because the Facility will provide 19 parking spaces, exceeding its zoning requirements of 17 parking spaces. The parking schedule set forth in Subtitle C § 701.5 is instructive of the amount of parking spaces that is “sufficient” because the schedule is designed to guide the appropriate amount of parking needed for a particular use. The proposed use for the Facility is a “residential” use, as that term is defined in Subtitle B § 200.2(bb), and, therefore, the Facility is subject to the parking requirements for a residential use.

18. This is not dispositive, however, because the special exception standard requires the Board to separately analyze whether this Application provides “sufficient” off-street parking for employees, residents and visitors, rather than merely relying on the off-street parking requirements elsewhere in the Zoning Regulations.
19. The term “sufficient” is not defined in the Zoning Regulations, therefore the word has the meaning given in Webster’s Unabridged Dictionary. (Subtitle B § 100.1(g).) Webster’s Unabridged Dictionary Defines “sufficient” in relevant part as, “enough to meet the needs of a situation or a proposed end.” The Board interprets this to mean that a “sufficient” amount of parking for purposes of applying this regulation is enough off-street parking for employees, residents and guests to meet the anticipated day-to-day needs of the use without causing an adverse impact on neighbors. This is a flexible, subjective standard. It does not require that the Applicant provide an off-street parking space for all employees, residents, and visitors who may choose to park at the site at any particular time.
20. The Board applied that standard to consider the evidence presented about the anticipated day-to-day parking needs of the Facility and concludes that the Applicant has met its burden of proof.
21. In doing so, the Board assessed the anticipated day-to-day parking demands of employees. The Board found the Applicant’s testimony credible that there will be a maximum of 18 employees on site at any given time during the first and second shifts and that number will drop down to three employees on site for the third shift (from 11:00 PM to 7:00 AM). MAHCA asserts that this total number of employees does not include additional vendors/contractors who are likely to come to the facility on a regular basis. The Applicant testified that because of its staffing method, the maximum number of workers on the site is indeed likely to be 18. The Board therefore concludes the Applicant’s estimate of a maximum of 18 employees at any given time to be a credible estimate for purposes of calculating parking demand.
22. The Applicant anticipates that not all employees will drive to work and use an on-site parking space. The Applicant’s traffic expert testified that he believed 55% of the of the staff will drive to work, with the remaining 45% traveling to and from the site by public transportation, bicycle, or walking. He arrived at this “mode split” based on census tract data and the Property’s location. This approval is conditioned upon the Applicant complying with a transportation demand management plan that requires it to provide incentives to employees to use public transportation, bike or walk. The Board therefore finds the Applicant’s estimate that 55% of its employees will be parking at the site on a day-to-day basis credible.
23. Applying this “mode split” to the anticipated number of employees on site during the first and second shifts, yields an expected employee parking demand of 10 spaces.

24. Next, the Board considered the parking demand of residents. The Facility's residents will not drive because of their dementia condition, so the anticipated demand for resident parking is zero. The record contains evidence that there will be a community van to provide transportation to residents.
25. Finally, the Board considered visitors. Anticipating the number of off-street parking spaces that is "sufficient" for visitors is quite speculative. The Board found the testimony of John Gonzales highly credible that the expected number of visitors is two to four per day, although not all visitors would be at the facility at the same time.
26. Considering the anticipated parking demands of the employees, residents, and visitors, the Board concludes the Facility provides sufficient off-street parking. The anticipated day-to-day demand for parking spaces is 12-14 spaces, plus a space for the community van¹⁴. The Facility includes 19 spaces. The Board concludes that this amount is sufficient.

Subtitle U § 203.1(f)(5): *The use, including any outdoor spaces provided, shall be located and designed so that it is not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions;*

27. The Board interprets this to mean that the use shall be located in a place, and designed in such a way, that in the Board's view, a reasonable person would not find the noise, traffic, or other aspects of the use "objectionable." The term "objectionable" is not defined in the Zoning Regulations, therefore the word has the meaning given in Webster's Unabridged Dictionary. (Subtitle B § 100.1(g).) Webster's Unabridged Dictionary Defines "objectionable" in relevant part as, "undesirable, offensive."
28. The Board concludes the Applicant has met this requirement. The Board credits the testimony and evidence from Ms. Dickey, the Facility architect, and Mr. Gonzales of GSSL that the Facility has been designed and will be programmed to minimize impacts on neighboring properties, such that a reasonable person would not find it objectionable.
29. The Facility is designed to be self-contained, with the majority of programming occurring within the Facility, including a fitness center, a beauty salon and recreational space. All meals will be prepared on-site in the commercial kitchen, and the Facility will have in-house laundry facilities. The Facility has also been designed to incorporate extensive safety measures for residents, including a front desk that will be staffed during much of the day. (Nov. 14 Tr. at 62, 230-231, 258-259).

¹⁴ The Applicant's traffic expert testified that based on the Institute of Transportation Engineers manual, the expected parking demand for the Project is seven spaces. (Nov. 14 Tr. at 85.) The Board did not find this to be a credible estimate of the parking demand of the Project given that it was so far below the Zoning Regulations parking standards.

30. The only programming planned to occur outside the Facility is the outdoor garden space and outings in a private community van. The Board concludes the Facility's outdoor garden space is adequately buffered from neighboring properties. The space will be circumscribed by a 6 to 6.5-foot tall fence. (Dec. 19 Tr. at 25.) There will also be a 14-foot-wide planted buffer between the garden area and the Alley. (Dec. 19 Tr. at 27.) The loading area for the van will be discussed below.
31. The Property is a corner lot that only directly abuts one residential property, located to the south of the Facility. The Board concludes that the neighboring property to the south will be adequately buffered from the Facility by the 10-foot, 8-inch southern side yard as well as the proposed landscaping elements for that side yard (Nov. 14 Tr. at 64; Ex. 483A, 483G,) such that any noise, traffic, or other conditions will not be objectionable.
32. The Board also notes that the Applicant revised its plans in several ways to reduce potential impacts on the neighboring property to the south that were discussed at the first full hearing when the Applicant presented an earlier iteration of the Facility. The Applicant moved the Facility's generator and laundry so that the generator will be inside the Facility, and so the laundry facility will vent in the direction of Edmunds Street, N.W. as opposed to the neighboring property to the south. The Applicant also moved the proposed loading area at the rear of the Property from the southeast corner to the northeast corner of the site in the Revised Plans. (Dec. 19 Tr. at 25.)
33. There were several potentially objectionable conditions identified by the Board, MAHCA, and other opponents.
34. First, concerns were raised about potential noise or other impacts from the outdoor garden space at the rear of the Facility. As discussed above, the Board concludes that outdoor garden space will not be objectionable to neighboring properties because of the fence surrounding it and planted buffer areas behind it.
35. Next, concerns were raised about the potential impacts of vehicles entering and exiting the garage entrance and loading area. These included an inability for vehicles, particularly trucks, to safely turn into and exit the Alley. MAHCA and other opponents cited increases in traffic in the Alley, potential conflicts between the new traffic and other users of the Alley, and potential conflicts between the Facility's traffic in the Alley and the hotel use across Davis Street as objectionable conditions. The Board concludes that these impacts will not rise to an "objectionable" level. The Applicant provided evidence in the form of AutoTURN™ diagrams in showing that personal vehicles will be able to enter and exit the parking garage through the Alley with a sufficient turning radius to do so safely. (Ex. 483C.) The AutoTURN™ diagrams also establish that a 30-foot truck can access the loading area from Davis Street, N.W. and exit via Edmunds Street, N.W. with a sufficient turning radius to do so safely. (Ex. 483C.) In reaching this conclusion, the Board inferred the likely number of vehicular trips and deliveries generated by the Facility from the testimony and evidence regarding parking demand generated by the

Facility by employees, residents, and visitors, as well as the testimony regarding the expected use of the loading area. Potential conflicts between the vehicles utilizing the Alley to access the Facility and other users of the Alley are inevitable, and there will be an increase in traffic in the Alley; however, the Board concludes the conflicts and increase in traffic will not rise to an objectionable level, given the likely number of trips generated by the Facility. The Board also credits the reports and recommendations from DDOT, as DDOT reviewed the Application and concluded that the usage of the Alley is appropriate for the proposed use.

36. The Board recognizes that the Facility will likely generate a somewhat greater amount of vehicular traffic related to shift changes from employees, but the number of employees at the Property is low enough that the light and noise generated by employee shift changes will not be sufficient to create an adverse effect on neighboring properties.
37. MAHCA and other opponents alleged that noise and lights from emergency vehicles called to the Facility would create a potentially objectionable condition for neighboring properties. The Board concludes they will not. The Board considered the likely number of emergency vehicles trips that would be called to a memory care facility¹⁵ of this size relative to the number of trips that would likely to be called to the Property if it were developed to the maximum extent permitted as a matter of right. The Board recognizes that it is likely that there will be a higher number of ambulance visits to the facility given the nature of the residents' health circumstances and ages. However, the Board concludes that given the total number of residents at the facility, the number of ambulance visits will not be sufficient to create an adverse effect on neighboring properties. The Board also considered the testimony presented at the hearing that emergency vehicles would access the Facility both from the Alley at the rear of the Property, and by parking on Wisconsin Avenue, thereby splitting and diffusing the impact of these visits.
38. MAHCA and other opponents also alleged that noise and exhaust from vehicles and trucks accessing the Facility would cause objectionable noise, light, and air pollution. The Board concludes they will not. In reaching this conclusion, the Board considered the number and type of vehicular trips and deliveries likely to occur, and the number and type that would be generated by development of the Property with matter-of-right uses, as described in Findings of Fact 22 and 23. The Board expects the use of the loading area will be comprised of food deliveries, waste and recycling removal, mail, routine incidental deliveries of the same type that are made to nearby residences, and ambulances as needed for the medical treatment of the residents. The Board concludes that the number and type of vehicular trips and deliveries to the Facility will not be that much greater than what could potentially occur under a matter-of-right development that it rises to the level of a potentially objectionable condition. The Board also considered that this

¹⁵ The Board notes that the Project is a memory care facility, not a traditional assisted living facility that offers more generalized medical care. Accordingly, its resident population is not likely to generate the same amount of ambulance traffic as one would expect at a traditional assisted living facility.

Order contains several conditions related to loading management to further reduce the impacts of the loading area on neighboring properties, namely, the loading plan requires a loading manager to be on site and to coordinate with trash service. Trucks will not be permitted to idle in the loading area.

39. The Board also considered whether the expected use of the loading area is likely to become objectionable to neighboring properties. The loading area is in the northeast corner of the Site, separated from adjacent properties to the east only by the Alley; however, there are several reasons that it is not likely to become objectionable to neighboring properties. First, the Board considered the number and type of deliveries likely to occur in the loading area, and the number and type that would be generated by development of the Site with matter-of-right uses, and concludes that the intensity of the Facility will not be that much greater than what could potentially occur under a matter-of-right development. Second, the Board concludes that the Facility has been designed to reduce the impact of these deliveries. A service entrance is directly adjacent to the loading area, allowing deliveries to be directly loaded into the Facility. The plans include an internal trash room for storing trash and recyclables. This Order contains several conditions related to loading management to further reduce the impacts of the loading area on neighboring properties, namely, the loading plan requires a loading manager to be on site and to coordinate with trash service. Trucks will not be permitted to idle in the loading area. Considering these elements together, the Board concludes the expected use of the loading area is not likely to become objectionable to neighboring properties.
40. MAHCA and other opponents alleged that lighting at the rear of the Facility needed to facilitate loading of people and deliveries in the rear loading area was another potentially objectionable condition. Matter-of-right development at the Property could also include this same type of lighting. The Board therefore concludes that this is not an objectionable condition of the zoning relief requested to allow the Facility.
41. Opponents of the Application also cited concerns about an increase in trash and rodents as potentially objectionable conditions. The Board notes that the Facility includes an internal trash and recycling room, and the loading plan requires a loading manager to be on site to coordinate with trash service. The Board concludes that the Applicant has taken precautions to mitigate those concerns, and therefore, an increase in trash and rodents will not create objectionable conditions.
42. MAHCA and other opponents also cited the height of the Facility as a potentially objectionable condition. The Board notes that the mass and height of the Facility are permitted in the R-1-B zone by the Zoning Regulations and conclude that it does not constitute an objectionable condition.
43. MAHCA and other opponents raised issues pertaining to impacts on light and air, privacy, storm water management, and the “viability” of the Facility.

44. As to light and air, the Applicant submitted a sun study reflecting that the Facility will create a shadow on neighboring properties only during the late-afternoon hours. (Ex. 483F.) For most of the day, the Facility projects a shadow on the Wisconsin Avenue, N.W. right-of-way. This will not affect neighboring properties. There are existing two-story structures and thick vegetation along the Alley that already create shadows for neighboring properties to the east. Accordingly, the Board concludes that the Facility will have a limited impact on light and air for a relatively short portion of the year.
45. MAHCA also produced a sun study. (Ex. 484.) After review of MAHCA's sun study, the Board does not find MAHCA's sun study to be accurate or persuasive. The Board heard testimony from Ms. Dickey, the Facility's architect, regarding the appropriate method for generating the sun studies. The Board credits Ms. Dickey's testimony in finding that MAHCA rendered its sun study without including surrounding buildings or vegetation. (Dec. 19 Tr. at 32-35.) As such, the Board relies on the findings of the Applicant's sun study over that of MAHCA's sun study.
46. As to privacy impacts, the Board concludes that the Facility will not adversely affect the privacy of neighboring properties, as alleged by MAHCA. The Facility directly abuts only one adjacent property. The side yard separating the Facility from this property is larger than that required by the Zoning Regulations. The Board concludes the larger side yard is a sufficient buffer to ensure that the Facility will not cause a loss of privacy for this neighboring property. The Facility is separated from other adjacent properties by Wisconsin Avenue, Edmunds Street, and the Alley. The Board concludes that these public spaces ensure that the Facility will not cause an objectionable condition related to a loss of privacy for other surrounding properties.
47. As to stormwater management, the Board notes that in addition to the pervious surface requirement of Subtitle D § 308, the District Department of the Environment ("DOEE") regulates stormwater management, with which requirements the Facility must comply. Therefore, the Board concludes that the pervious surface requirement and DOEE's regulatory scheme are adequate to ensure that the Facility will not adversely affect the use of neighboring properties.
48. MAHCA and other opponents alleged that the Facility was not designed to be a memory care facility as a further potentially objectionable condition. The Board concludes that the Applicant presented sufficient evidence for it to conclude the Facility has been adequately designed to be a memory care facility, such that the design does not constitute an objectionable condition of the Facility. The Facility was designed to be self-contained, with a majority of programming occurring within the Facility, and to incorporate extensive safety measures for residents.
49. MAHCA maintains that the Facility is not "viable" because the Applicant did not provide evidence of its financial viability and because of the Applicant's alleged lack of experience and preparation in running a memory care center. Further, MAHCA argues

that this lack of financial viability is an undue adverse impact for neighboring properties because it believes that the contemplated project will fail, resulting in the repurposing of the Building.

50. The Board concludes that a particular project's economic "viability" and an applicant's business experience are not germane to the special exception standard. The Board's inquiry is limited to a finding as to "whether the exception sought meets the requirements of the regulations." See *First Baptist Church of Washington v. D.C. Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (D.C. 1981). Neither the general special exception standard, nor the special conditions under Subtitle U § 203.1(f), require consideration of "viability" in order for the Board to find that the Application can be approved. Thus, the Board rejects MAHCA's arguments concerning the viability of the Facility.
51. Notwithstanding this lack of relevance, and contrary to MAHCA's assertions, the Board finds there is substantial evidence in the record as to GSSL's lengthy experience operating memory care facilities, as well as extensive evidence and testimony from expert witnesses, including Dr. Keller and Mr. Gale, regarding the viability of the Facility from both a programmatic perspective and a financial perspective. Dr. Keller testified regarding the growing need for memory care facilities as a result of the increasing rate of dementia across the country. (Nov. 14 Tr. at 256.) As Dr. Keller concluded, the Facility "will have a waiting list before it's opened." (Nov. 14 Tr. at 253.) The Board found this testimony credible.
52. Based on these considerations, the Board concludes that the CCRC use will be located and designed so that it is not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions and thus Subtitle U § 203.1(f)(5) is met.

Subtitle U § 203.1(f)(6): *The Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties.*

53. As allowed by this provision, the Board has imposed several conditions to protect adjacent and nearby properties. The Board has adopted OP's recommended condition that any change in use, including to a different type of CCRC, would require a new application to the Board for evaluation against the applicable criteria. The Board has also required compliance with the TDM conditions recommended by DDOT and has required compliance with a loading management plan.

General Special Exception Relief – Subtitle X § 901

54. The Application, in addition to meeting the specific conditions of Subtitle U § 203.1(f), must also meet 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.

Subtitle X § 901.2(a): *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

55. The Board concludes that the proposed CCRC use is in harmony with the Zoning Regulations and Maps, as this use is allowed in the R-1-B zone and because the Facility complies with all the applicable development standards in the R-1-B zone.
56. The Zoning Regulations state that “[t]he Residential House (R) zones are residential zones, designed to provide for stable, low- to moderate-density residential areas for family life and supporting uses.” (Subtitle D § 100.1.)
57. MAHCA argued that the Facility will not be in keeping with the residential, single-family homes in the neighborhood because the Facility will be a commercial, institutional, and secured healthcare facility. MAHCA further asserted that the Facility would increase the density of the lots on which it will be located. Instead of the lots being developed with two to three single-family homes, they will be developed with one three story building with a cellar and penthouse, spanning two lots, and which will house 36 residents and accommodate employees, contractors, vendors and visitors.
58. The Board does not find MAHCA’s arguments persuasive because the CCRC use proposed by the Application is a use permitted by special exception in the R-1-B zone and is therefore one of the “few additional and compatibles uses” permitted by the Zoning Regulations in the R-1-B zone. Furthermore, Subtitle B § 200.2 lists “assisted living facility” as an example of a “residential” use. While the Board acknowledges MAHCA’s concerns regarding the density, mass, and height of the Facility, the Board concludes that the mass and height of the Facility are permitted in the R-1-B zone by the Zoning Regulations and therefore are not inconsistent with the zone plan.

Subtitle X § 901.2(b): *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

59. The Board concludes that the proposed use will not affect adversely the use of neighboring property for the same reasons that the Board concludes that the Application satisfied Subtitle U § 203.1(f)(5)’s requirement that the Facility be designed to not likely to become objectionable to neighboring properties, as discussed above (Conclusions of Law [“CL”] 27-48.)
60. For the reasons articulated above the Board concludes that approval of the requested special exception relief will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property.

61. Therefore, the Board concludes that the Applicant has met the general special exception standard under Subtitle X § 901.2 and the special conditions pursuant to Subtitle U § 203.1(f) for a Continuing Care Retirement Community use in the R-1-B zone.

“Great Weight” to the Recommendations of OP

62. 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.)
63. The Board concludes that the OP Reports, which provided an in-depth analysis of how the Application met each of the requirements for the requested special exception relief, and OP’s testimony at the public hearing are persuasive and concurs with OP’s recommendation that the Application be approved.

“Great Weight” to the Written Report of the ANC

64. The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)) 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).
65. The ANC 3C Report (Ex. 146) asserted that the Applicant had not sustained its burden of proof, and listed a number of issues and concerns about the Facility. The Board does not find the specific concerns raised by the ANC 3C Report persuasive for the following reasons:

Concern that the loading dock is insufficiently buffered relative to nearby residences.

The Board does not find this concern persuasive for the reasons discussed above (CL 35) that led the Board to conclude that the loading area would not create an objectionable condition.

Concern about restriction or removal of on-street parking spaces to facilitate access to the Alley for trucks serving the Facility.

The ANC 3C Report was submitted before the Applicant redesigned the Facility to include 19 on-site parking spaces and withdrew its request for parking relief. For the reasons discussed above (CL 17-26), the Board concludes that the Facility, as revised to include the additional spaces on-site, contains a sufficient number of parking spaces that it will not create a significant additional demand for on-street spaces, and therefore the impact of removing two on-street spaces to facilitate access to the Alley will not adversely affect the use of neighboring properties.

Concern about light and noise from the Facility affecting use and enjoyment of nearby properties.

The Board does not find this concern persuasive for the reasons discussed above (CL 30-40) because the Board believes that the light and noise from the Facility will be similar to that of neighboring properties in most respects.

Concern about the lack of a landscape or buffering plan for directly adjacent properties.

The Board also is not persuaded by the ANC 3C Report's concerns regarding the lack of a landscape plan or its adequacy. As discussed above (CL 30-31), based on the Applicant's plans and renderings that reflect the expected plantings at the Property, the Board concludes that the Facility will have an adequately planted buffer along the Alley, as well as fencing around the garden area. (Ex. 41A, 483E, 483G, Nov. 14 Tr. at 64, Dec. 19 Tr. at 25, 27). These design features, in addition to the rear and side yards, will offer a sufficient buffer for neighboring uses.

Concern that the design and mass of the Facility is similar to the apartment buildings across Wisconsin Avenue rather than the single-family neighborhood that surrounds it.

The Board does not find the ANC 3C Report's concerns with the mass and design of the Facility persuasive. The Facility conforms with matter-of-right zoning limits pertaining to its building envelope that limit the structure's mass, including height, lot occupancy, and yard setbacks. The Board finds that Facility's design is appropriate for the site.

Concern that the application requires additional parking relief in addition to the special exception to permit the CCRC use, and the special exception standards for the CCRC use include a finding that there will be sufficient off-street parking spaces for employees, residents and visitors.

The Board does not find this concern persuasive for the same reasons discussed above (CL 17-26) because the Applicant amended its Application and revised the design of the Facility to provide the required number of parking spaces on the Property, such that the Applicant withdrew its request for the parking relief. As a result of this change, the Board finds that there will be a sufficient number of off-street parking spaces for employees, residents, and visitors.

Concern that the Applicant and the First DDOT report (Ex. 45) did not sufficiently analyze the number of visitors and staff that will drive to the site and that there will be greater demand for the parking spaces on the street than are available.

As discussed above (CL 17-26), the Board concludes the Applicant and DDOT (in its three reports) provided sufficient analysis of the number of visitors and staff and demand for parking at the site, including additional analysis in the Second and Third DDOT Reports submitted after the submission of the ANC 3C Report. In light of the Applicant's modification of the plans to include 19 parking spaces and withdrawal of the request for parking relief, the Board concludes that the Facility will not have an adverse impact on the availability of parking in the area.

DECISION

Based on the case record, the testimony at the hearing, and the Findings of Fact and Conclusions of Law, the Board concludes that the Applicant has satisfied the burden of proof and therefore **APPROVES** the Application for a special exception to allow a continuing care retirement community use in the R-1-B Zone at 2619-2623 Wisconsin Avenue, N.W. (Square 1935, Lots 33, 34, and 44), subject to the following **CONDITIONS**:

1. Pursuant to Subtitle Y § 604.10, the Facility shall be built only in accordance with the approved plans¹⁶ at Exhibit 483A and consistent with the fencing and landscaping shown in Exhibits 483E and 483G.
2. Any change in use, including to a different form of Continuing Care Retirement Community, shall require a new application to the Board of Zoning Adjustment for re-evaluation against the relevant regulations.
3. The Applicant shall offer full-time and shift employees a transit subsidy of no less than \$10 per week, which equates to 50% of the weekly cost of a standard Metrobus or Capital Bikeshare commute.
4. The Applicant shall identify a TDM leader to work with employees to distribute and market transportation alternatives.
5. The Applicant shall work with DDOT and goDCgo to implement TDM measures.
6. The Applicant shall share the full contact information of the TDM leader with DDOT and goDCgo.
7. The Applicant shall provide staff who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments.
8. The Applicant shall install a Transportation Information Center Display within the lobby of the Facility that contains information related to local transportation alternatives.
9. The Applicant shall identify nearby parking garage facilities that can provide additional parking for guests and staff.

¹⁶ Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. (Ex. 483B.) 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 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.

10. A loading manager shall be designated by Facility's management. The manager shall schedule deliveries and shall be on duty during delivery hours.
11. The loading manager shall coordinate with trash service to help the loading of trash move expeditiously between the service area inside the Facility and the loading area.
12. Trucks using the loading area shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including, but not limited to, DCMR Title 20, Chapter 9, Section 900; the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document; and the primary access routes listed in the DDOT Truck and Bus Route System.
13. The loading manager shall be responsible for disseminating DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed in order to encourage compliance with District laws and DDOT's truck routes. The loading manager shall also post these documents in a prominent location within the service area.

VOTE: 4-0-1 (Carlton E. Hart, Lorna L. John, Robert E. Miller, and Lesylleé M. White to Approve; Frederick L. Hill not participating.)

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

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

FINAL DATE OF ORDER: October 9, 2019

PURSUANT TO 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 SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 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)

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OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 19832 of Yasmine Sikder, as amended¹ pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the side yard requirements of Subtitle D § 307.1, and the common division wall requirement of Subtitle D § 307.4, to construct a new semi-detached principal dwelling unit in the R-2 zone at premises 308 62nd Street, N.E. (Square 5267, Lot 44).

HEARING DATES: October 24, 2018; November 14, 2018; January 16, 2019
DECISION DATE: February 6, 2019

DECISION AND ORDER

Yasmine Sikder (the “**Applicant**”) filed an application with the Board of Zoning Adjustment (the “**Board**”) on June 22, 2018, which was subsequently amended to request area variances under Subtitle X, Chapter 10 of Title 11 of the DCMR (the “**Zoning Regulations**”, to which all references are made unless otherwise specified) from the minimum side yard requirements of Subtitle D § 307.1 and from the common division wall requirement of Subtitle D § 307.4 (the “**Application**”), to construct a new semi-detached principal dwelling unit in the R-2 zone at premises 308 62nd Street, N.E. (Square 5267, Lot 44) (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 October 24, 2018 hearing by a September 14, 2018 letter to the Applicant; Advisory Neighborhood Commission (“**ANC**”) 7C, the ANC for the area within which the Property is located; the Single Member District (“**SMD**”) Commissioner for 7C05; the Office of ANCs; the Office of Planning (“**OP**”); the District Department of Transportation (“**DDOT**”); the Councilmember for Ward 7; the Chairman of the Council; the At-Large Councilmembers; and the owners of all property within 200 feet of the Property. (Ex. 15-27.)
2. OZ also published notice of the October 24, 2018 public hearing in the *D.C. Register* on August 31, 2018 (65 DCR 9034) as well as through the calendar on OZ’s website.

¹ The Applicant amended the application (Ex. 32) to add a variance from the common division wall requirements of Subtitle D § 307.4 the original request for relief. The Applicant further amended the Application by removing a request for a variance from the lot dimension requirements of Subtitle D § 302.1. (Ex. 46).

Parties

3. The Applicant and ANC 7C were automatically parties in this proceeding per Subtitle Y § 403.5. No request for party status was filed.

The Property

4. The Property is 140 feet long by 22 feet wide and contains 3,080 square feet of land area. (Ex. 44.)
5. The Property is rectangular and fronts on 62nd Street, N.E. to the east. The Property abuts a 15-foot wide alley to the south and a 20-foot alley to the west. (Ex. 29 and 44.)
6. Several lots to the rear of the Property, particularly Lots 54 through 58, are also extremely narrow. However, these lots are currently developed with existing, attached row dwellings. (Ex. 44.)
7. The lot to the north of the Property is under separate ownership and currently improved with an existing two-story apartment house. (Ex. 29.)
8. The Property is currently undeveloped. (Ex. 47.)
9. Several other existing buildings in the surrounding neighborhood are also nonconforming in terms of side yard. (Ex. 29 and 44.)
10. The surrounding neighborhood is primarily developed with small apartment houses and some detached and semi-detached principal dwelling units. (Ex. 29.)
11. The Property is located in the R-2 zone.
12. Pursuant to Subtitle D § 300.5, the purpose and intent of the R-2 zone is to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings.

The Application

13. The Application proposed to construct a new, two-story, detached principal dwelling unit (the “**Building**”) on a vacant lot. The Applicant revised the initial plans to change the Building’s façade. (Ex. 44 and 47.)
14. The Application proposed to provide a three-foot side yard between the Building and the southern property line.
15. The Application proposed to provide no side yard between the Building and the northern property line. (Ex. 44 and 45.)

Zoning Relief

16. Subtitle D § 307.4 requires that a development in the R-2 zone provide a side yard where the development does not share a common division wall with a building on an adjacent property.
17. Subtitle D § 307.4 requires that each required side yard in the R-2 zone is at least eight feet wide.²
18. In order to provide no side yard between the Building and the northern property line and a three-foot side yard between the Building and the southern property line, the Application requested area variances under Subtitle X § 1000 from:
 - (a) the common division wall requirements of Subtitle D § 307.4; and
 - (b) the eight-foot side yard requirement of Subtitle D § 307.1. (Ex. 44-46.)
19. The Application asserted that the Building met the standard for the requested variances because of the Property's narrow lot width is an exceptional condition that could not be mitigated because the Property is bounded by a public alley to the south and a separately owned residential property to the north and, as a result, the Applicant cannot expand the lot. The Application asserted that due to this exceptional condition, if the Property did not receive zoning relief, the Applicant would have practical difficulties as the Property would be incapable of being developed. (Ex. 45.)

OP Report

20. OP submitted a report dated October 12, 2018 (the "**OP Report**") and determined that the Application met the variance standard and recommended approval of the Application. (Ex. 29.)
21. The OP Report stated the exceptional condition justifying the variance is the width of the existing lot, which is exceptionally narrow at 22 feet. The OP Report also noted that the adjacent property is separately owned, and as a result, the Applicant cannot create a conforming lot by combining properties.
22. The OP Report found that the condition of the lot width results in a practical difficulty because requiring the Applicant to provide the eight-foot side yards on either side of the proposed building would result in the Applicant being limited to constructing a six-foot wide structure. OP concluded that this would effectively prevent the Applicant from developing the Property.

² Although the Zoning Commission deleted Subtitle D § 307.4 and moved Subtitle D § 307.1 to Subtitle D § 206.3 in Z.C. Case No. 17-23, effective February 22, 2019, per Subtitle A § 301.7, the Application was granted under the Zoning Regulations in effect at the time of the Board's February 6, 2019 vote.

23. The OP Report concluded that the development will not result in any adverse impacts to the light and air available to neighboring properties due to the existence of a side yard on the property to the north and the 15-foot alley to the south.
24. The OP Report concluded that granting the variance will result in no harm to public good because the development would infill an “undeveloped gap” on a residential street, thereby “reinforcing the residential character” of the surrounding neighborhood. OP noted that many of the existing, detached and semi-detached buildings in the neighborhood do not provide compliant side yards and so the Building would not be out of context with the surrounding structures.
25. The OP Report concluded that the proposed development will not result in any substantial harm to the Zoning Regulations. OP noted that the intent of the side yard standards is to ensure sufficient open space between adjacent uses. Due to the existing side yard between the Property and the existing apartment house to the North, and given the proposed three-foot side yard to the south, OP believed that open space will be sufficiently maintained. OP also noted that the proposed development is consistent with prior development in the neighborhood which provided minimal side yards, if any, between uses.

DDOT Report

26. DDOT submitted a report dated October 5, 2018 (the “**DDOT Report**”) stating that it had no objection to the Application. DDOT concluded that the proposed development would not result in any adverse impacts to the District transportation network. DDOT did not raise any concerns regarding the development’s impact on the adjacent public alleys. (Ex. 30.)

ANC Report

27. ANC 7C submitted a written report (the “**First ANC Report**”) stating that at a duly noticed and scheduled public meeting on November 8, 2018, at which a quorum was present, the ANC voted to oppose the Application. (Ex. 43.)
28. The First ANC Report noted two main concerns with the Application:
 - (a) The lack of space in the existing alleys and the impact that the proposed development would have on the ability of emergency response vehicles to access the alleys.
 - (b) The proposed three-story building would be out of character with the surrounding two-story buildings in the neighborhood.³

³ All plans submitted for Board review, both original and revised, show a two-story building, but the revised plans did change the façade design.(Ex. 7, 38 and 44).

29. The ANC submitted a subsequent written report (the “**Second ANC Report**”) stating that at a duly noticed and scheduled public meeting on January 10, 2019, at which a quorum was present, the ANC voted again to oppose the Application. (Ex. 52.)
30. The Second ANC Report did not repeat its previous concern about the Building’s negative impact on the character of the neighborhood. However, the Second ANC Report reiterated the ANC’s previous concerns regarding the alleys and the maneuverability of emergency vehicles.

Persons in Opposition

31. The Board received a letter in opposition from Vonda James, the owner of the adjacent property to the north, 312 62nd Street, N.E., who opposed the Application because of the belief that the Property “was not conducive for the proposed structure” and that the Building would not “flow” with the other structures in the neighborhood. (Ex. 51.)
32. Mary Gaffney, ANC Commissioner for SMD 7C05, submitted a letter in opposition on behalf of the neighbors of 62nd Street, N.E. and the members of the Northeast Boundary Civic Association stating their concerns that the development would restrict the ability of Fire and EMS vehicles and garbage trucks from accessing the alley and that the Building would be out of character with the existing buildings in the neighborhood. (Ex. 50.)
33. Commissioner Gaffney testified at the January 16, 2019 hearing on behalf of the ANC and contended that the opinion of the ANC was that the existing property was simply too narrow to accommodate the Building and that the Board should deny the variance on that basis.
34. The ANC did not submit a written report adopting Commissioner Gaffney’s testimony as that of the ANC, as required to be granted great weight by the Board. (*See* 11-Y DCMR § 406.6; D.C. Official Code 1-309.10(d)(4).)

CONCLUSIONS OF LAW

1. The Board is authorized to grant variances from the requirements of the Zoning Regulations where:
 - (i) “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,”
 - (ii) the strict application of any zoning regulation “would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property,” and granting the requested variance would not cause
 - (iii) “substantial detriment to the public good” or

- (iv) “substantial impairment to the intent, purpose, and integrity of the Zone plan as embodied in the Zoning Regulations and Map.” (Section 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (2018 Repl.); Subtitle X § 1000.1.)
2. The Application’s request for relief from the side yard requirements of Subtitle D §§ 307.1 and 307.4 qualify as area variances because they are requirements “that affect the size, location, and placement of buildings and other structures ...”. (Subtitle X § 1001.3(a).) An applicant for an area variance must prove that an extraordinary condition of the property would result in “peculiar and exceptional practical difficulties” by demonstrating first that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. (*Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990); Subtitle X § 1002.1(a).)
3. “The ‘exceptional condition’ requirement may be satisfied by a characteristic of the land, *see Fleischman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561 (D.C. 2011); ‘[a] condition inherent in the structures built upon the land,’ *Capitol Hill Restoration Soc’y, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987); or prior zoning actions regarding the property, *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097–98, 1100 (D.C. 1979). ‘The extraordinary or exceptional conditions affecting a property can arise from a confluence of factors; however, the critical requirement is that the extraordinary or exceptional condition must affect a single property.’ *Metropole Condo. Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1082–83 (D.C. 2016).” *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment*, 148 A.3d 1211, 1217 (D.C. 2016).

Exceptional Condition

4. The Board concurs with OP’s analysis and concludes that the preexisting and unusually narrow shape of the lot presents an exceptional condition satisfying the variance requirement. While other lots in the vicinity of the Property are also narrow, the Property is unique in that it is currently vacant and is therefore, not covered by the provisions governing existing nonconforming structures.

Practical Difficulty

5. The Board concludes that the exceptional condition of the narrow, vacant lot creates practical difficulties because compliance with Subtitle D §§ 307.1 and 307.4 would require the Applicant to provide 16 feet solely for side yards, thereby limiting the proposed structure to only six feet in width. This would in essence preclude any meaningful residential development on the site.

No Substantial Detriment to the Public Good

6. The Board concludes that the existence of a side yard on the property to the north, and the alley to the south, would provide adequate separation for the Property and mitigate any potential impacts to light and air.

7. The Board accepts the conclusions of the OP Report that many of the existing properties in the surrounding neighborhood also have nonconforming side yards and, as such, the Property would not be out of character with surrounding development.

No Substantial Impairment to the Zoning Regulations

8. The Board concurs with OP's analysis that the intent of the side yard regulations is to ensure that sufficient open space is provided between uses. Given the configuration of the existing site including the deep rear yard and the side yard provided by the property to the north, the Board feels that an adequate amount of open space will be maintained.
9. The Board also concludes that the Applicant's proposed development would fill in an undeveloped lot with a semi-detached residential structure, which meets the intent of the R-2 zone.

"Great Weight" to the Recommendations of OP

10. 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.)
11. The Board concludes that the OP Report, which provided an in-depth analysis of how the Application met each of the requirements for the requested area variance relief, is persuasive and concurs with OP's recommendation that the Application be approved, as discussed above.

"Great Weight" to the Written Report of the ANC

12. 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 7C. (§ 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).
13. The Board concludes that the concerns raised by the ANC Reports that the Building would limit the space available on the alley did not constitute "legally relevant issues" as regulation of the public rights of way is beyond the scope of the Board's authority. The Board notes that the DDOT Report did not raise any concerns regarding the impact of the proposed development on the alleys. The Board also credits the testimony of both the Applicant and OP that the proposed Building would be constructed solely on the Property and would not encroach onto the existing alleys as per the plans at Exhibit 44.

14. The First ANC Report also raised the concern that the Building did not conform with the two-story buildings in the neighborhood. The Board does not find this concern persuasive because the Application consistently proposed a two-story building, not a three-story building as stated in the First ANC Report, and the plans approved by this Order, with which any development must comply, show the Building with only two stories. The Board accepts the conclusions of OP that other buildings in the vicinity are nonconforming with regards to side yards.

DECISION

Based on the case record, the testimony at the hearing, and the Findings of Fact and Conclusions of Law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for area variances from the minimum side yard requirements of Subtitle D § 307.1 and from the common division wall requirement of Subtitle D § 307.4.

It is therefore **ORDERED** that this application is hereby **GRANTED**, subject to the following **CONDITION**:

1. Development of the Property that uses the relief granted in this Order shall comply with the approved plans at Exhibit 44⁴ as required by Subtitle Y § 604.10.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Lesylleé M. White, and Robert E. Miller to APPROVE; Carlton E. Hart 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: October 8, 2019

PURSUANT TO 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 SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE

⁴ Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6 (Exhibit 46). In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes 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 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 such application that would require additional or different zoning relief from that is granted by this Order.

PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20088 of GPD, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and from the rear yard requirements of Subtitle E § 306.1 to construct a two-story rear addition and to convert an existing attached dwelling unit into a flat in the RF-1 Zone at premises 1261 Owen Place N.E. (Square 4060, Lot 197).

HEARING DATE: October 9, 2019

DECISION DATE: October 9, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 15 (Final Revised); Exhibit 13 (Corrected); Exhibit 7 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5D.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on July 2, 2019, at which a quorum was present, the ANC voted 5-0-0 to support the application. (Exhibit 41.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 39.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 40.)

Persons in Support. The Board received two letters in support from the owners of 1265 Owen Place, N.E. and 1259 Owen Place, N.E. (Exhibit 8 and 9.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and from the rear yard requirements of Subtitle E § 306.1 to construct a two-story rear addition and to convert an existing attached dwelling unit into a flat in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS¹ AT EXHIBIT 14.**

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Peter G. May to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: October 10, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y

¹ Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

§ 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20098 of Richard Bodack and Vincent Savoia, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy provisions of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a rear addition to an existing, attached principal dwelling unit in the RF-1 Zone at premises 3618 13th Street N.W. (Square 2828, Lot 78).

HEARING DATES: September 11, 2019 and October 2, 2019
DECISION DATE: October 2, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 43 (Revised); Exhibit 12 (Original).)¹

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 11, 2019, at which a quorum was present, the ANC voted 11-0-0 to support the application. (Exhibit 40.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 41.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 39.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of

¹ The application was revised by adding relief from the rear yard requirements of Subtitle E § 306.1. (Exhibit 43.)

Subtitle E § 306.1, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a rear addition to an existing, attached principal dwelling unit in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS² AT EXHIBIT 15 – UPDATED ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE; one Board seat vacant).

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

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

FINAL DATE OF ORDER: October 7, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY

² In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20105 of Joanne Pascale, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 5007.1 and 5201 from the accessory building rear yard requirements of Subtitle E § 5004.1, to construct an accessory structure at the rear of the existing, attached principal dwelling unit in the RF-1 Zone at premises 3564 11th Street, N.W. (Square 2833, Lot 76).

HEARING DATES: September 11 and October 2, 2019
DECISION DATE: October 2, 2019

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 4.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 11, 2019, at which a quorum was present, the ANC voted 11-0-0 to support the application. (Exhibit 43.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 44.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 45.)

Persons in Support. Three letters were submitted in support of the application from neighbors at 3552 11th Street, N.W. (Exhibit 33), 3562, and 3566 11th Street, N.W. (Exhibit 46.)

Other Public Input. One letter from two neighbors at 3566 11th Street, N.W. (one of whom had initially expressed support) – expressed opposition to the current application unless two suggested conditions were met. (Exhibit 47.) The Board adopted one of the conditions as part of its approval.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle E §§ 5007.1 and 5201 from the accessory building rear yard requirements of Subtitle E § 5004.1, to construct an accessory structure at the rear of the existing, attached principal dwelling unit in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 5 – ARCHITECTURAL PLANS AND ELEVATIONS AND EXHIBIT 39 – DEMO AND NEW FLOOR PLAN; SUBJECT** to the following **CONDITION**:

1. The Applicant shall install a motion detector light on subject property.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE; one Board seat vacant).

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

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

FINAL DATE OF ORDER: October 8, 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.

BZA APPLICATION NO. 20105
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PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITION IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITION IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BZA APPLICATION NO. 20105

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

Application No. 20107 of Mary Kangethe, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the residential conversion provisions of Subtitle U § 320.2, including a waiver from the rooftop architectural element requirement of Subtitle U § 320.2(h), and under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C §§ 1502.1(b) and 1502.1(c)(2) to construct a third-story, rear, and side addition to convert a semi-detached principal dwelling unit into a three-unit apartment house with rooftop access penthouse in the RF-1 Zone at premises 641 Quebec Place N.W. (Square 3034, Lot 167).

HEARING DATES: September 11, 2019 and October 2, 2019¹
DECISION DATE: October 2, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 49 (Final Revised); Exhibits 15 and 42 (Revised); Exhibit 4 (Original).)²

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 11, 2019, at which a quorum was present, the ANC voted 11-0-0 to support the application but raised two concerns. (Exhibit 54.) The ANC Report noted first that the side addition will change the pattern and design on the row and may set an undesirable precedent and, second, that penthouse will make the home appear larger when viewed from east. The Board considered the ANC's concerns but ultimately concluded that the addition and penthouse would not substantially visually intrude upon the character, scale and pattern of houses as viewed from the street or alley. The Board credited the Office of Planning testimony that, because of the property's location at the end of the row and on an alley, the project would have less of an impact on the pattern of houses and be consistent with the massing of the

¹ The public hearing on this application was postponed from September 11, 2019 at the request of ANC 1A.

² The Applicant amended the application to withdraw a request for relief from the general penthouse requirements of Subtitle C § 1500.4 and to add the requested relief from the penthouse setback requirements of Subtitle C §§ 1502.1(b) and 1502.1(c)(2). The Board also clarified with the Applicant at the public hearing that the application also seeks a waiver from the rooftop architectural element requirement of Subtitle U § 320.2(h), as permitted by Subtitle U § 320.2(l).

property across the alley to the west. The Board did not find that that the project would create a precedent for future development.

OP Report. The Office of Planning submitted a report recommending approval of the application, subject to the Applicant's submission of supplemental information. (Exhibit 41.) The Applicant filed the requested documents to the record.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 40.)

Persons in Support. The Board received five letters in support from neighbors. (Exhibits 43, 50, and 51-53.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under the residential conversion provisions of Subtitle U § 320.2, including a waiver from the rooftop architectural element requirement of Subtitle U § 320.2(h), and under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C §§ 1502.1(b) and 1502.1(c)(2) to construct a third-story, rear, and side addition to convert a semi-detached principal dwelling unit into a three-unit apartment house with rooftop access penthouse in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS³ AT EXHIBIT 46.**

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE; one Board seat vacant.)

³ Self-certification: In granting the self-certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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

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

FINAL DATE OF ORDER: October 7, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BZA APPLICATION NO. 20107

PAGE NO. 3

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

Application No. 20116 of Elee and Joseph Wakim, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion use permissions of Subtitle U § 320.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the residential conversion requirements of Subtitle U § 320.2(d), and the minimum parking size and layout requirements of Subtitle C § 712.5, to convert an existing flat into a three-unit apartment house in the RF-1 Zone at premises 2705 11th Street, N.W. (Square 2858, Lot 18).

HEARING DATE: October 2, 2019

DECISION DATE: October 2, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 12, 2019, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 44.)

OP Report. The Office of Planning submitted a report, dated September 20, 2019, recommending approval of the application. (Exhibit 46.)

DDOT Report. The District Department of Transportation submitted a report, dated September 17, 2019, indicating that it had no objection to the application. (Exhibit 47.)

Persons in Support. The Board received letters from eight neighbors expressing support for the application. (Exhibits 32-37, 39, and 40.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for area variances from the residential conversion requirements of Subtitle U § 320.2(d), and the minimum parking size and layout requirements of Subtitle C § 712.5.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the residential conversion use permissions of Subtitle U § 320.2.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS¹ AT EXHIBIT 5.**

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: October 4, 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.

¹Self-certification: In granting the self-certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20116-A of Elee and Joseph Wakim, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion use permissions of Subtitle U § 320.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the residential conversion requirements of Subtitle U § 320.2(d), and the minimum parking size and layout requirements of Subtitle C § 712.3, to convert an existing flat into a three-unit apartment house in the RF-1 Zone at premises 2705 11th Street, N.W. (Square 2858, Lot 18).

HEARING DATE: October 2, 2019

DECISION DATE: October 2, 2019

CORRECTED¹ SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 12, 2019, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 44.)

OP Report. The Office of Planning submitted a report, dated September 20, 2019, recommending approval of the application. (Exhibit 46.)

DDOT Report. The District Department of Transportation submitted a report, dated September 17, 2019, indicating that it had no objection to the application. (Exhibit 47.)

¹ This Corrected Summary Order has been issued to revise the citation to the relief for the minimum parking size and layout. The prior caption incorrectly cited Subtitle C § 712.5, instead of Subtitle C § 712.3. Though the application was advertised with this discrepancy, the Applicant raised the issue at the public hearing and the Board determined that re-noticing of the application was not required. No other changes have been made to the Order.

Persons in Support. The Board received letters from eight neighbors expressing support for the application. (Exhibits 32-37, 39, and 40.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for area variances from the residential conversion requirements of Subtitle U § 320.2(d), and the minimum parking size and layout requirements of Subtitle C § 712.3.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the residential conversion use permissions of Subtitle U § 320.2.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS² AT EXHIBIT 5.**

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro to APPROVE; one Board seat vacant.)

²Self-certification: In granting the self-certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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

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

FINAL DATE OF ORDER: October 4, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**BZA APPLICATION NO. 20116-A
PAGE NO. 3**

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

Application No. 20118 of Demetra Weir, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a two-story flat in the RF-1 Zone at premises 645 16th Street, N.E. (Square 4540, Lot 292).

HEARING DATE: October 2, 2019

DECISION DATE: October 2, 2019

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 3.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6A.

ANC Report. The ANC did not submit a written report for the record in this case. The Applicant testified that she reached out to the ANC but received no response.

OP Report. The Office of Planning ("OP") submitted a report, dated September 20, 2019, recommending approval of the application. (Exhibit 36.)

DDOT Report. The District Department of Transportation submitted a report, dated September 13, 2019, indicating that it had no objection to the application. (Exhibit 33.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a two-story flat in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will

not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6.**

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Peter A. Shapiro to APPROVE; one Board seat vacant.)

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

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

ATTESTED BY: _____
SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: October 8, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR

STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20119 of Eric F. Goldstein Trustee and Katherine A. Douglass Trustee, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1, to construct a new roof deck and access stair on an existing, detached accessory garage building in the RF-1 Zone at 1800 Kenyon Street, N.W. (Square 2598, Lot 46).

HEARING DATE: October 9, 2019
DECISION DATE: October 9, 2019

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 10.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1D.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 24, 2019, at which a quorum was present, the ANC voted 4-0-0 to support the application. (Exhibit 31.)

OP Report. The Office of Planning submitted a report, dated September 27, 2019, recommending approval of the application. (Exhibit 33.)

DDOT Report. The District Department of Transportation submitted a report, dated September 25, 2019, indicating that it had no objection to the application. (Exhibit 36.)

Persons in Support. The Board received two letters from neighbors in support of the application. (Exhibits 34 and 35.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1, to construct a new roof deck and access stair on an existing, detached accessory garage building in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6.**

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Peter G. May to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: October 10, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING

BZA APPLICATION NO. 20119

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THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-13B**

Z.C. Case No. 15-13B

Watkins Alley, LLC

**(Technical Corrections to Z.C. Order No. 15-13 - Consolidated PUD and Related Zoning
Map Amendment @ Square 1043, Lots 142, 849-851, and 859)
September 23, 2019**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on September 23, 2019 to consider a request by 1309 E Street, LLC (the “Applicant”) for technical corrections (the “Application”) to Z.C. Order No. 15-13 (the “Original Order”) that approved the consolidated review and approval of a planned unit development (“PUD”) and related Zoning Map amendment from the C-M-1 and R-4 Zone Districts to the R-5-B Zone District¹ for Square 1043, Lots 142, 849-851, and 859 (the “Property”).² 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, subject to the conditions below.

FINDINGS OF FACT

Background

1. Pursuant to the Original Order, the Commission granted the Applicant³ consolidated approval for a PUD on the Property, effective October 21, 2016 (the “Approved PUD”).
2. The Applicant filed an application for a Modification of Consequence on June 21, 2018, which was assigned as Z.C. Case No. 15-13A. The Applicant withdrew this request for a Modification of Consequence on July 27, 2018.

Parties

3. The only party to Z.C. Case No. 15-13 other than the Applicant was Advisory Neighborhood Commission (“ANC”) 6B, the “affected” ANC pursuant to Subtitle Z § 101.8.

The Application

4. On September 16, 2019, the Applicant filed the Application requesting Technical Corrections to the Original Order to replace the six instances of “condo” and “condominium” as follows:

¹ The Commission’s approval in the Original Order, including the Zone Districts, was a vested project under the 1958 Zoning Regulations that were repealed and replaced effective on September 6, 2016 because the Commission had set down the application approved by the Original Order prior to that date pursuant to Subtitle A § 102.3(c).

² Record lot 142 and tax lots 849-851 were subdivided into a new record lot 168, as recorded with the Office of the D.C. Surveyor at S.O. 17-24810 (January 31, 2018).

³ The Applicant to the Original Order, Watkins Alley, LLC, transferred its interest to the Applicant.

- Finding of Fact 29, p. 4 – “ownership units” for “condominiums”;
 - Finding of Fact 42(i), p. 8 – “owners’ association” for “condominium association”;
 - Decision B(1)(b), p. 23 – “Ownership” for “Condo” in both instances in the table; and
 - Decision B(2)(e), p. 25 – “ownership association” for “condominium association” in both instances in the paragraph.
5. The Applicant requested these technical corrections to the Original Order to clarify that the Commission’s approval of the Approved PUD was not conditioned upon the type of ownership structure used in marketing the units, whether a condominium or homeownership association. The Applicant confirmed that all units would be for sale, as established in the Original Order.
 6. The Applicant asserted that the Zoning Regulations do not distinguish between types of ownership, but only between ownership and rental tenures, and do not define “condo” and “condominium” or use them other than anecdotally to refer to for-sale units to distinguish from rental units.
 7. The Applicant served the Application on September 16, 2019 on ANC 6B, as well as the Office of Planning (“OP”) and the Office of the Attorney General, as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 2.)
 8. ANC 6B did not submit anything to the record, but the ANC Single Member District (SMD) 6B06 Commissioner filed a letter on his own behalf in support of the Application, stating that the ANC and community were only concerned with the distinction between ownership and rental use, not between types of ownership structure. (Ex. 4.)
 9. OP submitted a report dated September 17, 2019, stating no objection to the Application being considered as a Technical Correction and recommending approval of the Application, as OP concluded that it would not change the material facts on which the Commission had based its approval of the Approved PUD. (Ex. 3.)

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Technical Corrections to final orders and approved plans without a public hearing.
2. 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 6B.
3. The Commission concludes that the Application qualifies as a Technical Correction within the meaning of Subtitle Z § 703.1, as a request that did not change the material facts upon which the Commission had based its approval of the Approved PUD.

4. The Commission finds that the Zoning Regulations only distinguish between ownership and rental units, not between types of ownership structures, and only use “condo” and “condominium” in the following limited and non-substantive manner:
 - For public notice requirements; (Subtitle Y § 402.1; Subtitle Z §§ 401.3 & 402.1.)
 - As an element justifying relief from Inclusionary Zoning (IZ) requirements (high condo fees as justification to allow off-site or reduced IZ requirements – Subtitle C §§ 1006.2 and 1007.3); and
 - To delineate zone boundaries (referring to specific existing condominiums to define the Foggy Bottom/R-17 zone - Subtitle W § 108).
5. The Commission concludes that the requested technical corrections – to replace “condo” and “condominium” with “ownership,” “ownership unit,” or “ownership association” – will not change the Commission’s approval of the Approved PUD, as the type of ownership structure is not governed by the Zoning Regulations.
6. The Commission concludes that the technical corrections proposed by the Application are consistent with the Approved PUD because the Application does not change the project amenities or 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

7. 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.
8. The Commission found OP’s recommendation that the Commission approve the Application persuasive and concurred in that judgment.

“Great Weight” to the Written Report of the ANC

9. D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.) and Subtitle Z §406.2 require the Commission to give “great weight” to the issues and concerns contained in the written report of an affected ANC. 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).)
10. As the ANC did not file a report, there is no written report to which the Commission can give great weight. The Commission did note that the letter from the ANC SMD 6B06 Commissioner supported the Application and the Applicant’s justification for the Application.

DECISION

At its public meeting on September 23, 2019, in consideration of the case record and the Findings of Fact and Conclusions of Law herein, upon the motion of Commissioner May, as seconded by Commissioner Shapiro, the Zoning Commission of the District of Columbia took action to **APPROVE** the requested technical corrections to Z.C. Order No. 15-13 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).

Z.C. Order No. 15-13, and its conditions, remain unchanged, except that for the following revisions (deletions shown in ~~**bold and strikethrough**~~ text; additions shown in **bold and underlined** text):

FINDINGS OF FACT

29. The Project will have three components, but all structures will be connected so that they will be one building for zoning purposes. The north portion of the Property closest to E Street will contain a block of approximately 10 four-story townhouse-like ~~**condominiums ownership units**~~ with recessed fourth floors. Seven of these townhouse-like units will front on E Street ...
42. As detailed in the Applicant's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits:
- a. Urban design, architecture, and landscaping ...
 - i. Uses of special value, including:
 - i. The Applicant will incorporate into the ~~**condominium owners'**~~ **association** documents a requirement that the owners' association will plow snow from the alley system adjacent to the project site and out to E Street;

DECISION**B. Public Benefits**

1. **For the life of the Project**, the Applicant shall provide the following housing and affordable housing:
 - a. The Project shall provide ...
 - b. The affordable housing shall be provided in accordance with the following:

Residential Unit Type	GFA / Percentage of Total	Units*	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	87,703/100%	44				
Market Rate	78,933/90%	39				
IZ (50% AMI)	Approximately 6,665/7.6%	4	50% AMI	Life of the Project	Condo Ownership	
IZ (80% AMI)	Approximately 2,105/2.4%	1	80% AMI	Life of the Project	Condo Ownership	

c. The affordable housing units ...

...

2. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall complete or provide the following:

a. The Applicant will improve and enhance ...

...

e. The Applicant will ensure that snow in the rear alley is plowed by incorporating into the **condominium owners'** association documents for the Project a requirement that the **condominium owners' association** will plow snow from the alley system adjacent to the project site and leading out to E Street any time there is a more than three inches of snow from a single event;

...

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on October 18, 2019.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 19-19
(Terrace Manor Redevelopment, LP – Consolidated PUD @ Square 5894)
September 30, 2019**

THIS CASE IS OF INTEREST TO ANCs 8E and 8B

On September 26, 2019, the Office of Zoning received an application from Terrace Manor Redevelopment, LP (the “Applicant”) for approval of a consolidated planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Lot 63 in Square 5894 in southeast Washington, D.C. (Ward 8), on property located at 3301 23rd Street, S.E. The property is zoned RA-1.

The property is currently improved with the Terrace Manor apartment complex, which consists of 12 buildings with 61 dwelling units. The Applicant proposes to construct one building with 130 units affordable at the 60% median family income (“MFI”) level. The building will have a maximum height of 47 feet, seven inches, consist of 127,400 square feet of gross floor area (with density of a 1.27 floor area ratio (“FAR”), and will occupy 31.6% of the lot.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

