

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public oversight roundtable on the “Review of the Department of Employment Services’ Workforce Development Programs: Project Empowerment and DC Career Connections”
- Department of Energy and Environment seeks partners to control and prevent sources of polluted runoff to the District of Columbia waters and the Chesapeake Bay
- Department of Housing and Community Development schedules a public hearing and solicits public comment on the District’s use of federal funds to meet the District’s housing and community development needs
- Judicial Nomination Commission clarifies procedures for the Commission to follow when the US Senate fails to confirm or returns a nomination for a District of Columbia Court
- The Mayor of the District of Columbia delegates authority to the Chief of the Fire and Emergency Medical Services Department to conduct the 2019 United States Marine Corps Toys for Tots Campaign (Mayor’s Order 2019-115)
- Office of the Secretary extends application submission deadline for the Grant to Promote District of Columbia Voting Rights and Statehood
- Department of Small and Local Business Development seeks partners to conduct market analyses for six new DC Main Streets Programs

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. LAWS

L23-25 Close Relative Caregiver Subsidy Pilot Program Establishment Temporary Amendment Act of 2019..... 015181

L23-26 Medical Marijuana Program Patient Employment Protection Temporary Amendment Act of 2019 015182

RESOLUTIONS

Res 23-248 Contract DCRL-2017-R-0049 Modification Nos. 11, 12, and 13 with Lutheran Social Services of the National Capital Area Approval and Payment Authorization Emergency Declaration Resolution of 2019015183 - 015184

Res 23-249 Modifications to Contract No. DCRL-2017-H-0091 Approval and Payment Authorization Emergency Declaration Resolution of 2019.....015185 - 015186

Res 23-250 Local Rent Supplement Program Contract No. 2018-LRSP-04A Approval Resolution of 2019 015187

Res 23-251 Local Rent Supplement Program Contract No. 2018-LRSP-03A Approval Resolution of 2019 015188

Res 23-252 Contract No. DCCB-2019-C-0011 Approval and Payment Authorization Emergency Declaration Resolution of 2019015189 - 015190

Res 23-254 St. Elizabeths East Parcel 15 Disposition Approval Resolution of 2019015191 - 015193

Res 23-270 Federal Worker Housing Relief Extension Emergency Declaration Resolution of 2019 015194

Res 23-271 Community Harassment Prevention Emergency Declaration Resolution of 2019..... 015195

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

BILLS INTRODUCED AND PROPOSED RESOLUTIONS

Notice of Intent to Act on New Legislation -

Bills B23-528 through B23-541, and
Proposed Resolutions PR23-555, PR23-556,
and PR23-557.....015196 - 015198

COUNCIL HEARINGS

Notice of Public Hearings -

B23-434 Strengthening Reproductive Health Protections
Amendment Act of 2019 015199

B23-531 Collective Bargaining Fair Compare Amendment
Act of 2019 015200

Notice of Public Oversight Roundtable -

A Review of the Department of Employment Services’
Workforce Development Programs: Project Empowerment
and DC Career Connections (Revised)015201 - 015202

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage Regulation Administration -

1942 DC - ANC 1B - Summer Garden 015203
Bin-1301 Wine Bar - ANC 1B -
Notice to Terminate or Amend Settlement Agreement..... 015204
Bricklane Restaurant - ANC 6B - Renewal - RESCIND 015205
CHASQA - ANC 3B - New 015206
Class C Renewal Placards for November 15, 2019.....015207 - 015210
Creole on 14th - ANC 1A - New..... 015211
Dumplings & Beyond - ANC 3B - New - CORRECTION 015212
Martha Dear - ANC 1D - New 015213
Nero/Zeno - ANC 2B - Expansion - CORRECTION 015214
Nero/Zeno - ANC 2B - Expansion - RESCIND..... 015215

Housing and Community Development, Department of -

Consolidated Annual Performance and Evaluation Plan (CAPER)
District of Columbia’s (DC) Fiscal Year 2019/ HUD Fiscal Year 2018 015216

Zoning Adjustment, Board of - January 15, 2020 - Public Hearing

18744A Patterson SPE LLC - ANC 2B 015217 - 015221
20165 Andrew Dunnaville - ANC 2E 015217 - 015221
20175 57th Street Mews Inc - ANC 5D 015217 - 015221
20176 M Street Five, LLC - ANC 2E 015217 - 015221
20177 Aulona Alia - ANC 5E 015217 - 015221
20179 Eli Richman Kaplan NMP Revocable Trust - ANC 6E 015217 - 015221
20181 Medici Road - ANC 1A 015217 - 015221
20184 Fort Lincoln-Eastern Avenue LLC - ANC 5C 015217 - 015221

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PUBLIC HEARINGS CONT'D

Zoning Commission - Case -

19-23 Wells REIT II 80 M Street, LLC..... 015222 - 015224

FINAL RULEMAKING

Documents and Administrative Issuances, Office of -

Errata notice to amend 11 DCMR (Zoning Regulations of 2016),
Subtitle B (Definitions, Rules of Measurement, and Use Categories),
Ch. 2 (Use Categories), Sec. 200 (Introduction), to replace
“community renewable energy facilities” in the “Utility (basic)”
use category in § 200.2(gg) with “community solar facilities” 015225 - 015226

Documents and Administrative Issuances, Office of -

Errata notice to amend 11 DCMR (Zoning Regulations of 2016),
Subtitle D (Residential House (R) Zones),
Ch. 8 (Wesley Heights Residential House Zones – R-14 and R-15),
Sec. 802 (Density – Lot Dimensions), to add the new subsection to
§ 802 as § 802.3, and to retain the current § 802.2.....015227

Health Care Finance, Department of -

Amend 29 DCMR (Public Welfare),
Ch. 95 (Medicaid Eligibility), to add
Sec. 9512 (Non-MAGI Eligibility Group: TEFRA/Katie Beckett),
and new definitions to Sec. 9599 (Definitions),
to establish the eligibility factors and standards for children
for the TEFRA/Katie Beckett Pathway program 015228 - 015247

Judicial Nomination Commission -

Amend 28 DCMR (Corrections, Courts, and Criminal Justice),
to add Ch. 21 (Judicial Nomination Commission),
Sec. 2101 (Meetings of the Commission),
Sec. 2102 (Applications for Judicial Nominations (Reserved)), and
Sec. 2103 (Recommended Nominees Lists), to clarify ambiguities
in the procedures relating to the status of applicants on judicial
nomination lists.....015248 - 015254

Public Service Commission - RM41-2019-01

Amend 15 DCMR (Public Utilities and Cable Television),
Ch. 41 (District of Columbia Standard Offer Service Rules),
Sec. 4105 (Establishment and Re-Establishment
of Standard Offer Service),
to eliminate minimum stay restrictions to provide
commercial customers with the same customer choice
flexibility as residential customers015255 - 015257

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING

Health Care Finance, Department of -
 Amend 29 DCMR (Public Welfare),
 Ch. 95 (Medicaid Eligibility), to add
 Sec. 9515 (Medically Needy),
 Sec. 9516 (Spend Down for Medically Needy
 Coverage), and to amend
 Sec. 9599 (Definitions),
 Ch. 98 (Financial Eligibility for Long Term Care
 Services), to amend
 Sec. 9804 (Post Eligibility Treatment of Income),
 Sec. 9899 (Definitions), and
 Ch. 101 (Services My Way Program),
 Sec. 10107 (Participant-Directed Services Budget
 Formulation), to provide clarity and
 consistency in the methods and procedures for determining
 Medicaid eligibility for medically needy applicants and
 beneficiaries that wish to obtain medically needy Medicaid
 eligibility through spend down 015258 - 015273

Zoning Commission - Z.C. Case No. 18-10
 Amend the Zoning Map, Lot 976 in Square 5799 (Property),
 to change the zoning from R-3 to the RA-2 zone
 consistent with the Future Land Use Map (“FLUM”);
 to correct the square number to Square 5799 previously
 published as Square 579 on October 18, 2019 at 66 DCR 013770..... 015274

EMERGENCY AND PROPOSED RULEMAKING

Zoning Commission - Z.C. Case No. 19-15
 to amend the following subtitles and chapters of
 11 DCMR (Zoning Regulations of 2016) to authorize
 short-term rentals as accessory uses in zones where
 residential uses are permitted:

Subtitle B (Definitions, Rules of Measurement, and Use Categories),
 Ch. 1 (Definitions), Sec. 100 (Definitions) 015275 - 015285
 Ch. 2 (Use Categories), Sec. 200 (Introduction) 015275 - 015285

Subtitle H (Neighborhood Mixed-Use (NC) Zones),
 Ch. 11 (Use Permissions for NC Zones),
 Sec. 1103 (Matter-of-Right Uses (NC-Use Groups
 A, B, and C)) 015275 - 015285

Subtitle K (Special Purpose Zones),
 Ch. 4 (Hill East Zones – HE-1 through HE-4),
 Sec. 414 (Accessory Uses (HE))..... 015275 - 015285

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

EMERGENCY AND PROPOSED RULEMAKING CONT'D

Zoning Commission - Z.C. Case No. 19-15 - cont'd
to amend the following subtitles and chapters of
11 DCMR (Zoning Regulations of 2016) to authorize
short-term rentals as accessory uses in zones where
residential uses are permitted: cont'd

Subtitle K (Special Purpose Zones), cont'd

Ch. 6 (Saint Elizabeths East Campus Zones – STE-1 through STE-19), Sec. 616 (Accessory Uses (STE)).....	015275 - 015285
Ch. 7 (Reed-Cooke Zones – RC-1 through RC-3), Sec. 712 (Matter-of-Right Uses (RC)).....	015275 - 015285
Ch. 9 (Walter Reed Zones – WR-1 through WR-8), Sec. 911 (Use Permissions (WR))	015275 - 015285

Subtitle U (Use Permissions),

Ch. 2 (Use Permissions Residential House (R) Zones), Sec. 250 (Accessory Uses (R))	015275 - 015285
Ch. 5 (Use Permissions Mixed-Use (MU) Zones), Sec. 505 (Matter-of-Right Uses (MU-Use Group B))	015275 - 015285
Ch. 6 (Use Permissions for Alley Lots), Sec. 600 (Matter-of-Right Uses on Alley Lots (R, RF, and RA))	015275 - 015285

NOTICES, OPINIONS, AND ORDERS

MAYOR'S ORDERS

2019-115 Delegation – Authority to Announce and Support the 2019 United States Marine Corps Toys for Tots Campaign.....	015286
2019-116 Delegation – Authority – Interagency Council on Homelessness Consumer Member Stipends.....	015287
2019-117 Reappointments and Appointments – Comprehensive Homicide Elimination Strategy Task Force (7 members)	015288 - 015289
2019-118 Appointment – Chairperson, Board of Pharmacy (Tamara McCants).....	015290
2019-119 Appointment – Board of Library Trustees (Antonio Williams).....	015291

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES**

African Affairs, Commission on -
 Notice of Commissioners Meeting - November 6, 2019..... 015292

Alcoholic Beverage Regulation Administration -
 ABC Board's 405.1 Rescind Agenda for November 20, 2019..... 015293
 ABC Board's Calendar for November 20, 2019.....015294 - 015296
 ABC Board's Cancellation Agenda for November 20, 2019..... 015297
 ABC Board's Licensing Agenda for November 20, 2019015298 - 015299

Child Support Services Division -
 Child Support Guideline Commission - Meeting Notice -
 November 21, 2019..... 015300

Creative Minds International Public Charter School -
 Request for Proposals - Architectural Design and
 Consulting Services..... 015301

Eagle Academy Public Charter School -
 Notice of Request for Qualifications (RFQ) -
 Architectural Services 015302
 General Contractor 015303
 Owner’s Representative 015304

Education, Office of the State Superintendent of -
 District of Columbia Public Charter School Credit
 Enhancement Committee Meeting - Nov. 21, 2019..... 015305

Elections, Board of -
 Certification of Filling ANC/SMD Vacancy
 in 2A05 (Evelyn Hudson) 015306

Environment, District Department of the -
 Notice of Funding Availability -
 Watershed Restoration and Education Projects 015307

Human Resources, Department of -
 Excepted Service Positions from June 26, 2019
 to August 10, 2019015308 - 015309

KIPP DC Public Charter Schools -
 Request for Proposals - Donor Database and
 Events Management System 015310

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D**

Public Service Commission -

Notice of Final Tariff - PEPRAD 2019-01 and
Formal Case No. 1120 - (Pepco's Residential Aid
Discount Surcharge)015311 - 015313

Notice of Proposed Issuance of Stock or Evidences
of Indebtedness - Formal Case No. 1158 - (Washington
Gas Light Company's Application to Issue and Sell
Debt Securities).....015314 - 015315

Notice of Proposed Issuance of Stock or Evidences
of Indebtedness - Formal Case No. 1161 (Pepco's
Application for Issuance of Debt Securities)015316 - 015317

Notice of Proposed Tariff - Formal Case No.1149 -
(Pepco Senior Citizen and Disabled Resident Rate
Credit Rider).....015318 - 015319

Secretary, Office of the -

Notice of Extension of Submission Deadline - Request
for Applications - Grant to Promote District of Columbia
Voting Rights and Statehood 015333

Small and Local Business Development, Department of -

Notice of Funding Availability - FY2020 DC Main
Streets Market Analysis 015320

University of the District of Columbia -

Notice of the Regular Meeting of the
Board of Trustees - November 19, 2019 015321

Water and Sewer Authority, DC -

Board of Directors Meeting - December 5, 2019..... 015322
Strategic Planning Committee Meeting - December 5, 2019..... 015323

Zoning Adjustment, Board of - Case -

19507-A 1005 First, LLC - ANC 6C - Order.....015324 - 015328

Zoning Adjustment, Board of - Public Meeting Notice - December 18, 2019

19943A The Mills Building Associates, LLC - ANC 2B015329 - 015331

Zoning Commission - Case -

19-24 Children's National at Walter Reed, LLC -
Notice of Filing 015332

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 23-25

"Close Relative Caregiver Subsidy Pilot Program Establishment Temporary Amendment Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-358 on first and second readings June 25, 2019, and July 9, 2019, respectively. Following the signature of the Mayor on September 4, 2019, pursuant to Section 404(e) of the Charter, the bill became Act 23-113 and was published in the September 13, 2019 edition of the D.C. Register (Vol. 66, page 12081). Act 23-113 was transmitted to Congress on September 11, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-113 is now D.C. Law 23-25, effective October 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

September	11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30
October	1, 2, 3, 4, 7, 8, 9, 10, 11, 15, 16, 17, 18, 21, 22, 23

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 23-26

**"Medical Marijuana Program Patient Employment Protection Temporary
Amendment Act of 2019"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-336 on first and second readings June 18, 2019, and July 9, 2019, respectively, pursuant to Section 404(e) of the Charter, the bill became Act 23-114 and was published in the September 13, 2019 edition of the D.C. Register (Vol. 66, page 12086). Act 23-114 was transmitted to Congress on September 11, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-114 is now D.C. Law 23-26, effective October 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

September	11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30
October	1, 2, 3, 4, 7, 8, 9, 10, 11, 15, 16, 17, 18, 21, 22, 23

ENROLLED ORIGINAL

A RESOLUTION

23-248

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To declare the existence of an emergency with respect to the need to approve Modification Nos. 11, 12, and 13 to Contract No. DCRL-2017-R-0049 with Lutheran Social Services of the National Capital Area to provide residential foster care and social services to unaccompanied refugee minors during option year two, and to authorize payment for the services received and to be received under these modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract DCRL-2017-R-0049 Modification Nos. 11, 12, and 13 with Lutheran Social Services of the National Capital Area Approval and Payment Authorization Emergency Declaration Resolution of 2019”.

Sec. 2. (a) There exists a need to approve Modification Nos. 11, 12, and 13 to Contract DCRL-2017-R-0049 with Lutheran Social Services of the National Capital Area to provide residential foster care and social services to unaccompanied refugee minors and to authorize payment for the services received and to be received under these modifications.

(b) On June 19, 2017, the Child and Family Services Agency (“CFSA”) awarded the base year of Contract DCRL-2017-R-0049 to Lutheran Social Services of the National Capital Area to provide residential foster care and social services to unaccompanied refugee minors in the not-to-exceed amount of \$1,271,384.54. Subsequently, CFSA exercised option year one for the period June 19, 2018, through June 18, 2019, in the not-to-exceed amount of \$1,658,547.59.

(c) By Modification No. 11, issued on June 4, 2019, CFSA partially exercised option year two of Contract No. DCRL-2017-R-0049 for the period June 19, 2019, through January 19, 2020, in the not-to-exceed amount of \$998,654.65. By Modification No. 12, issued on September 12, 2019, CFSA reduced the option year two not-to-exceed amount to \$940,672.36.

(d) By Modification No. 13, CFSA proposes to exercise the remainder of option year two for the period January 20, 2010, through June 18, 2020, in the not-to-exceed amount of \$630,353.95, making the total not to exceed amount for option year two \$1,571,026.31.

(e) CFSA now seeks Council approval to increase the total not-to-exceed amount for option year two to \$1,571,026.31.

(f) Council approval is necessary to allow the continuation of these vital services. Without this approval, Lutheran Social Services of the National Capital Area cannot be paid for services provided in excess of \$1 million for the second option year.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DCRL-2017-R-0049 Modification Nos. 11, 12, and 13 with Lutheran Social Services of the National Capital Area Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-249

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To declare the existence of an emergency with respect to the need to approve Modification No. M004 and proposed Modification No. M005 to Contract No. DCRL-2017-H-0091 with Innovative Life Solutions, Inc., to provide developmentally disabled services during option year one, and to authorize payment for the services received and to be received under these modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCRL-2017-H-0091 Approval and Payment Authorization Emergency Declaration Resolution of 2019”.

Sec. 2. (a) There exists a need to approve Modification No. M004 and proposed Modification No. M005 to Contract No. DCRL-2017-H-0091 with Innovative Life Solutions, Inc., to provide developmentally disabled services, and to authorize payment for the services received and to be received under these modifications.

(b) By Modification No. M004, issued on August 7, 2019, the Child and Family Services Agency (“CFSA”) exercised a partial option of option year one of Contract No. DCRL-2017-H-0091 in the not-to-exceed amount of \$505,697.66 for the period August 9, 2019, through January 21, 2020.

(c) By Modification No. M005, CFSA proposes to exercise the remainder of option year one for the period January 22, 2020, through August 8, 2020, in the not-to-exceed amount of \$571,566.92, making the total not-to-exceed amount for option year one \$1,077,264.58.

(d) Council approval is necessary because these modifications increase the total contract amount to more than \$1 million during a 12-month period.

(e) Approval is necessary to allow the continuation of these vital services. Without this approval, Innovative Life Solutions, Inc. cannot be paid for services provided in excess of \$1 million.

ENROLLED ORIGINAL

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that Modifications to Contract No. DCRL-2017-H-0091 with Innovative Life Solutions, Inc. Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-250

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To approve an agreement to enter into a long-term subsidy contract for a multiyear term of 15 years in support of the District’s Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2018-LRSP-04A with 1100 Eastern, LLC for LRSP units at 1100 Eastern Avenue Apartments, located at 1102 Eastern Avenue, N.E.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Local Rent Supplement Program Contract No. 2018-LRSP-04A Approval Resolution of 2019”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves the long-term subsidy contract, Contract No. 2018-LRSP-04A, with 1100 Eastern, LLC to provide an operating subsidy in support of 13 affordable housing units in an initial amount not to exceed \$226,080 annually.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the District of Columbia Housing Authority and the Mayor.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-251

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District’s Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2018-LRSP-03A with PB HanTiv Owner, LLC for program units at Hanover Court Apartments, located at 2400 – 2412 Hartford Street, SE.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Local Rent Supplement Program Contract No. 2018-LRSP-03A Approval Resolution of 2019”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves the long-term subsidy contract, Contract No. 2018-LRSP-03A, with PB HanTiv Owner, LLC to provide an operating subsidy in support 4 affordable housing units in an initial amount not to exceed \$48,000 annually.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the District of Columbia Housing Authority and the Mayor.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-252

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To declare the existence of an emergency with respect to the need to approve multiyear Contract No. DCCB-2019-C-0011 with Sher Edling, LLP and Tycko & Zavareei, LLP to provide outside legal counsel in support of the Office of the Attorney General's investigation and potential litigation against ExxonMobil Corporation, any subsidiary, affiliate or, successor-in-interest, or others responsible for potential violations of the Consumer Protection Procedures Act or other District laws in connection with statements or omissions about the effects of its fossil fuel products on climate change, and to authorize payment for the goods and services to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. DCCB-2019-C-0011 Approval and Payment Authorization Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists a need to approve Contract No. DCCB-2019-C-0011 with Sher Edling, LLP and Tycko & Zavareei, LLP to obtain outside legal counsel in support of the Office of the Attorney General's ("OAG's") investigation and potential litigation against ExxonMobil Corporation, any other subsidiary, affiliate, or successor-in-interest, or others responsible for potential violations of the Consumer Protection Procedures Act ("CPPA") or other District laws. Litigation would be against ExxonMobil and potentially others to secure injunctive relief stopping violations of the CPPA or other District law, as well as securing restitution, penalties, and the costs of any litigation. There is also a need to authorize payment for the goods and services to be received under Contract No. DCCB-2019-C-0011.

(b) Council approval is necessary to allow the OAG to obtain the services of outside legal counsel to assist in its investigation and potential litigation against ExxonMobil Corporation. Contract No. DCCB-2019-C-0011 is a multiyear contract, which has a 9-year base period calculated from July 24, 2019, the date of the award of the letter contract.

(c) Council approval is also necessary because the contract could require the payment of more than \$1 million during a 12-month period. The contract is a contingency fee contract with fees calculated as a percentage of any monetary award obtained by the Sher Edling, LLP and Tycko & Zavareei, LLP on behalf of the District, payable only upon the District's receipt of such an award.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DCCB-2019-C-0011 Approval and Payment Authorization Emergency Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-254

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To approve the disposition of District-owned real property, known as the St. Elizabeths East Parcel 15, located between Sycamore Drive, S.E., and Oak Drive, S.E., and known for taxation and assessment purposes as Lot 810 in Square S-5868.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “St. Elizabeths East Parcel 15 Disposition Approval Resolution of 2019”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “Act” means 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 *et seq.*).

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

(3) “Certified Business Enterprise” means a business enterprise or joint venture certified pursuant to the CBE Act.

(4) “Developer” means STE 15 LLC, a Delaware limited liability company, with a business address of 1627 Eye Street, N.W., Suite 920, Washington, D.C. 20006, managed by a joint venture of an entity controlled by the principals of Redbrick LMD LLC, a District of Columbia limited liability company, with the business address of 1627 Eye Street, N.W., Suite 920, Washington, D.C. 20006, and its successors, assignees, sublessees, or affiliates, as approved by the Mayor, and an entity controlled by the principals of Gragg Cardona Partners LLC, a District of Columbia limited liability company with a business address of 231 Upshur Street, N.W., Washington, D.C. 20001, and its successors, assignees, sublessees, or affiliates, as approved by the Mayor.

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

ENROLLED ORIGINAL

(6) "Project" means a mixed-use commercial project including new office and retail space, a community plaza, a hotel, and residential buildings, and any ancillary uses allowed under applicable law, and as further described in the term sheet submitted with this resolution, in accordance with section 1(b-1) of the Act.

(7) "Property" means the real property and improvements located between Sycamore Drive, S.E., and Oak Drive, S.E., and known for taxation and assessment purposes as Lot 810 in Square S-5868.

Sec. 3. Findings.

(a) The Property consists of approximately 187,000 square feet of land.

(b) The intended use of the Property is a mixed-use development as further described in section 2(6).

(c) The Developer will comply with the requirements of the Act, including dedicating residential units in the Project as affordable housing units pursuant to section 1(b-3) of the Act.

(d) The Developer shall enter into an agreement that shall require the Developer to, at a minimum, contract with Certified Business Enterprises for at least 35% of the contract dollar volume of the Project, and shall require at least 20% equity and 20% development participation of Certified Business Enterprises in the Project, in accordance with section 2349 of the CBE Act and section 1(b)(6) of the Act.

(e) The Developer shall enter into a First Source Agreement.

(f) The proposed method of disposition is a lease for a period of greater than 15 years pursuant to section 1(b)(8)(C) of the Act, as further described in the documents submitted to the Council with this resolution in accordance with section 1(b-1) of the Act.

(g) The District has satisfied the public hearing requirements of section 1(b-2) of the Act.

(h) The Land Disposition and Development Agreement for the disposition of the Property shall not be inconsistent with the substantive business terms of the transaction submitted by the Mayor with this resolution in accordance with section 1(b-1)(2) of the Act, unless revisions to those substantive business terms are approved by Council.

Sec. 4. Approval of disposition.

(a) Pursuant to the Act, the Mayor transmitted to the Council a request for approval of the disposition of the Property to the Developer.

(b) The Council approves the disposition of the Property pursuant to the terms of this resolution.

Sec. 5. Transmittal.

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

Sec. 6. Fiscal impact statement.

ENROLLED ORIGINAL

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 203; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-270

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

To declare the existence of an emergency with respect to the need to extend protections for unpaid federal workers, employees of contractors of the federal government, and household members of federal workers and employees of contractors from eviction, late fees, and foreclosure in the event of another federal government shutdown; and to enable the District of Columbia to be able to address in an orderly manner the needs of any possible local homeless federal workers and contractors resulting from a federal government shutdown.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Federal Worker Housing Relief Extension Emergency Declaration Resolution of 2019”.

Sec. 2. (a) Last January, the country endured the longest government shutdown in the history of our nation. Federal workers and contractors experienced severe financial hardship from the shutdown because of missed paychecks.

(b) These federal workers and contractors were facing eviction, foreclosure, and possible homelessness. The sudden onslaught of large numbers of homeless District residents would create a severe hardship for the unpaid federal workers and would also greatly tax the District’s homeless services system.

(c) On January 22, 2019, the Council passed emergency and temporary legislation to help alleviate the hardship of federal workers and contractors who were not receiving paychecks from eviction, late fees, and foreclosure during a federal government shutdown. As the permanent version of these bills is not yet ready and the specter of another federal shutdown still looms, these bills would continue the protections of the bills passed last January 22nd.

(d) It is important that these bills be enacted to continue to protect federal workers and contractors from the financial hardships thrust upon them in the event of another federal government shutdown. Further, it is important that the District of Columbia be able to address the needs of any possible future homeless federal workers and contractors in an orderly manner.

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 Federal Worker Housing Relief Extension Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-271

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2019

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

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

Sec. 2. (a) On December 18, 2018, the Council passed the Community Harassment Prevention Emergency Amendment Act of 2018, effective February 6, 2019 (D.C. Act 22-644; 66 DCR 2050). The emergency legislation expired on May 7, 2019.

(b) On January 8, 2019, the Council passed the Community Harassment Prevention Temporary Amendment Act of 2019, effective April 11, 2019 (D.C. Law 22-305; 66 DCR 2046). The temporary legislation will expire on November 22, 2019.

(c) This emergency legislation will maintain the provisions of the temporary legislation currently in place while the Committee on the Judiciary and Public Safety considers the permanent legislation.

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

Sec. 3. This resolution shall take effect immediately.

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

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

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

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

- | | |
|---------|--|
| B23-528 | Rental Housing Source of Income Amendment Act of 2019

Intro. 11-5-19 by Councilmembers Cheh, R. White, Evans, Bonds, Todd, Nadeau, Silverman, and T. White and referred to the Committee on Housing and Neighborhood Revitalization |
| <hr/> | |
| B23-529 | Certificate of Stillbirth Amendment Act of 2019

Intro. 11-5-19 by Councilmembers Cheh, R. White, Evans, Bonds, Todd, Nadeau, and Silverman and referred to the Committee on Health |
| <hr/> | |
| B23-530 | Rent Stabilization Affordability Qualification Amendment Act of 2019

Intro. 11-5-19 by Councilmembers Bonds, Nadeau, T. White, Todd, and Cheh and referred to the Committee on Housing and Neighborhood Revitalization |
| <hr/> | |
| B23-531 | Collective Bargaining Fair Compare Amendment Act of 2019

Intro. 11-5-19 by Councilmembers Silverman, Todd, Grosso, R. White, T. White, Nadeau, Allen, Evans, Bonds, and Cheh and referred to the Committee on Labor and Workforce Development |
-

- B23-532 Dr. Montague Cobb Way Designation Act of 2019
Intro. 11-5-19 by Councilmembers Nadeau, Todd, McDuffie, Gray, Grosso, Bonds, T. White, R. White, Allen, and Cheh and referred to the Committee of the Whole
-
- B23-533 Lucy Diggs Slowe Way Designation Act of 2019
Intro. 11-5-19 by Councilmembers Nadeau, Todd, McDuffie, Grosso, Cheh, Bonds, T. White, R. White, and Gray and referred to the Committee of the Whole
-
- B23-534 Lyme Disease Testing Information Disclosure Act of 2019
Intro. 11-5-19 by Councilmembers Todd, Bonds, Evans, and Cheh and referred to the Committee on Health
-
- B23-535 Opioid Labeling Amendment Act of 2019
Intro. 11-5-19 by Councilmembers Todd, R. White, Bonds, Nadeau, T. White, Evans, Cheh, Allen, Gray, and Grosso and referred to the Committee on Health
-
- B23-536 Veterans Employment and Training Study Act of 2019
Intro. 11-5-19 by Councilmembers Todd, R. White, T. White, Gray, Evans, and Grosso and referred to the Committee on Labor and Workforce Development
-
- B23-537 Senior Co-Living Program Establishment Act of 2019
Intro. 11-5-19 by Councilmembers R. White, Bonds, T. White, Cheh, Todd, and Gray and referred to the Committee on Housing and Neighborhood Revitalization
-
- B23-538 Elaine M. Carter Way Designation Act of 2019
Intro. 11-5-19 by Councilmembers T. White, Cheh, Evans, and Silverman and referred to the Committee of the Whole
-

- B23-539 Commission on Recreation Establishment Act of 2019
Intro. 11-5-19 by Councilmembers T. White, R. White, and Bonds and referred to the Committee on Recreation and Youth Affairs
-
- B23-540 Improved Coordination of Mental Health Care for System Involved Youth Act of 2019
Intro. 11-5-19 by Councilmembers T. White, Grosso, Cheh, Nadeau, Bonds, and R. White and referred to the Committee on Recreation and Youth Affairs with comments from the Committee on Health
-
- B23-541 Councilmember Full-Time Employment Charter Amendment Act of 2019
Intro. 11-6-19 by Councilmember McDuffie and referred to the Committee of the Whole
-

PROPOSED RESOLUTIONS

- PR23-555 Sense of the Council Supporting the Protection of Immigrant Families Resolution of 2019
Intro. 11-5-19 by Councilmembers Nadeau, Todd, Gray, R. White, Cheh, McDuffie, Bonds, Silverman, Allen, Evans, Grosso, T. White, and Chairman Mendelson and Retained by the Council
-
- PR23-556 Office of the Chief Medical Examiner Access to Documents and Records Retention Rulemaking Approval Resolution of 2019
Intro. 11-7-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
-
- PR23-557 2020 Unemployment Compensation Maximum Weekly Benefit Amount Increase Approval Resolution of 2019
Intro. 11-8-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development
-

**Council of the District of Columbia
Committee on Government Operations
Notice of a Public Hearing**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 117 Washington, DC 20004

**Councilmember Brandon T. Todd, Chair
Committee on Government Operations
Announces a Public Hearing**

on

B23-434 - Strengthening Reproductive Health Protections Amendment Act of 2019

**Thursday, December 19, 2019, 10:00 A.M.
John A. Wilson Building, Room 123
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004**

Councilmember Brandon T. Todd announces the scheduling of a public hearing by the Committee on Government Operations on *B23-434, the Strengthening Reproductive Health Protections Amendment Act of 2019*. The public hearing is scheduled for Thursday, December 19, 2019 at 10:00 a.m. in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B23-434 prohibits the District government from interfering with reproductive health decisions and from imposing punishments or penalties for a self-managed abortion, miscarriage, or adverse pregnancy outcomes. It also prohibits employment discrimination against healthcare professionals who would participate in abortion or sterilization procedures.

Individuals and representatives of organizations who wish to testify at the public hearing are asked to contact Sam Stephens of the Committee on Government Operations at (202) 724-6663 or by email at GovernmentOperations@dccouncil.us and provide their name(s), address, telephone number, email address, and organizational affiliation, if any, by close of business Tuesday, December 17, 2019. Each witness is requested to bring 10 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 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. The official record will remain open until close of business Tuesday, December 31, 2019. Copies of written statements should be submitted to the Committee on Government Operations, Council of the District of Columbia, Suite 117 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRPERSON ELISSA SILVERMAN
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT**

ANNOUNCES A PUBLIC HEARING ON

B23-531, Collective Bargaining Fair Compare Amendment Act of 2019

**Wednesday, December 4, 2019, 10:00 a.m.
Hearing Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember Elissa Silverman, Chairperson of the Committee on Labor and Workforce Development, announces a public hearing before the Committee on B23-531, Collective Bargaining Fair Compare Amendment Act of 2019. The legislation would amend the comparators that determine what is competitive compensation for the Career, Educational, Legal, Excepted, and Management Supervisory Services. Currently, compensation is competitive if it falls within the range of salaries in the D.C. Standard Metropolitan Statistical Area; under the legislation compensation would be competitive if it falls within the range of compensation of employees in jurisdictions with similar costs of living and working conditions to the District. The hearing will be held at 10 a.m. on Wednesday, December 4, 2019, in Room 500 of the John A. Wilson Building.

Those who wish to testify before the Committee are asked to contact Ms. Charnisa Royster at labor@dccouncil.us or (202) 724-7772 by 5:00 p.m. on Monday, December 2, 2019, to provide their name, address, telephone number, organizational affiliation and title (if any), as well as the language of oral interpretation, if any, they require. Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Labor Committee of the need as soon as possible, but no later than five (5) business days before the proceeding, or by 5:00 p.m. on Tuesday, November 26, 2019. Those wishing to testify are encouraged, but not required, to bring 15 copies of written testimony to the hearing. Those representing organizations will have five minutes to present their testimony, and other individuals will have three minutes to present their testimony; less time will be allowed if there are a large number of witnesses.

If a member of the public is unable to testify at the hearing, written statements will be made a part of the official record. Written statements should be submitted by email to Ms. Royster at labor@dccouncil.us or mailed to the Committee on Labor and Workforce Development, Council of the District of Columbia, Suite 115 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 Wednesday, December 18, 2019.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

****REVISED****

**CHAIRPERSON ELISSA SILVERMAN
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

**A Review of The Department of Employment Services' Workforce Development Programs:
Project Empowerment and DC Career Connections**

**Thursday, November 21, 2019, 11:00 a.m.
Hearing Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember Elissa Silverman, Chair of the Committee on Labor and Workforce Development, announces a public oversight roundtable on the Department of Employment Services' Project Empowerment and DC Career Connections workforce development programs. The roundtable will be held at 11:00 a.m. on Thursday, November 21, 2019, in Room 500 of the John A. Wilson Building. ****This notice has been updated to reflect a new start time of 11:00 a.m.****

The purpose of this roundtable is to discuss and perform oversight of the Department of Employment Services' (DOES') Project Empowerment program, which provides life skills training as well as occupational training or subsidized job placement for DC residents ages 22 to 54 with barriers to employment, and DC Career Connections, which provides services similar to Project Empowerment but does so for District residents ages 20 to 24 who live in targeted Police Service Areas. The Council intends to review these programs' performance to understand past program activities and to help inform its analysis for future budget decisions. In the Fiscal Year 2020 budget, the DC Council partly funded these programs on a one-year basis, placing most of the remaining funds for the three successive budget years in reserve. The Committee will review the programs' budgets as part of the FY2021 budget process. As stated in its FY2020 budget report, "The committee expects that by next year, the agency will be able to provide valid, clear data about the programs' services, outcomes, and successes at both the program and vendor-level." The Committee has requested specific data on program performance from the agency; the request is available at <http://www.elissasilverman.com/workforceroundtables> and the response will be posted when it is received. This roundtable will be the second of two public oversight roundtables in Fall 2019 on DOES' workforce development programs; the Committee held an oversight roundtable on the Local Adult Training program and the DC Infrastructure Academy on Wednesday, October 30, 2019.

Those who wish to testify before the Committee are asked to contact Ms. Charnisa Royster at labor@dccouncil.us or (202) 724-7772 by 5:00 p.m. on Tuesday, November 19, 2019, to provide their name, address, telephone number, organizational affiliation and title (if any), as well as the language of oral interpretation, if any, they require. Witnesses who anticipate needing

language interpretation, including American Sign Language (ASL) interpretation, are requested to inform this office of the need as soon as possible but no later than Thursday, November 14, 2019, at 5:00 pm.

Those wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Those representing organizations will have five minutes to present their testimony, and other individuals will have three minutes to present their testimony; less time will be allowed if there are a large number of witnesses.

If a witness is 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 by email to Ms. Royster at labor@dccouncil.us or mailed to the Committee on Labor and Workforce Development, Council of the District of Columbia, Suite 115 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 Friday, December 6, 2019.

This notice has been updated to reflect a new start time of 11:00 a.m.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 8, 2019
Protest Petition Deadline: December 23, 2019
Roll Call Hearing Date: January 6, 2020

License No.: ABRA-070728
Licensee: Etete Ethiopian Cuisine, Inc.
Trade Name: 1942 DC
License Class: Retailer’s Class “C” Tavern
Address: 1942 9th Street, N.W.
Contact: Yared Tesfaye: (571) 217-9988

WARD 1

ANC 1B

SMD 1B02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on January 6, 2020 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

Requesting to add a Summer Garden with 14 seats.

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

Sunday 11am – 2am, Monday through Thursday 9am – 2am, Friday and Saturday 9am – 3am.

PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTDOOR SUMMER GARDEN

Sunday 11am – 2am, Monday through Thursday 9am – 2am, Friday and Saturday 9am – 3am.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 15, 2019
Protest Petition Deadline: December 30, 2019
Roll Call Hearing Date: January 13, 2020

License No. ABRA-091682
Licensee: SST Management, LLC
Trade Name: BIN-1301 Wine Bar
License Class: Retailer's Class "C" Tavern
Address: 1301 U Street, N.W.
Contact: David Bailey, Agent: (202) 438-4839

WARD: 1 ANC: 1B SMD: 1B12

The Alcoholic Beverage Regulation Administration (ABRA) provides Notice that the Licensee named above has filed a Petition to Amend or Terminate the Settlement Agreement, dated July 19, 2013, attached to its license.

The parties to the settlement agreement(s) are: SST Management, LLC t/a Bin 1301 Wine Bar (Applicant) and the Shaw-DuPont Citizens Alliance, Inc. (SDCA) (Protestant).

A copy of the Petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Objectors are entitled to be heard before the granting of such a request on the Hearing Date, at 2000 14th Street, N.W., 400 South, Washington, D.C., 20002.

Petitions or requests to appear before the Board must be filed on or before the Petition Date.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/1/2019

****RESCIND**

Notice is hereby given that:

License Number: ABRA-109778

License Class/Type: C Tavern

Applicant: EI LLC

Trade Name: Bricklane Restaurant

ANC: 6B03

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

517 8TH ST SE, WASHINGTON, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
12/16/2019

A HEARING WILL BE
12/30/2019

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 12 am	10 am - 12 am	-
Monday:	10 am - 12 am	10 am - 12 am	-
Tuesday:	10 am - 12 am	10 am - 12 am	-
Wednesday:	10 am - 12 am	10 am - 12 am	-
Thursday:	10 am - 12 am	10 am - 12 am	-
Friday:	10 am - 1 am	10 am - 1 am	-
Saturday:	10 am - 1 am	10 am - 1 am	-

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	10 am - 11 pm	10 am - 11 pm
Monday:	10 am - 11 pm	10 am - 11 pm
Tuesday:	10 am - 11 pm	10 am - 11 pm
Wednesday:	10 am - 11 pm	10 am - 11 pm
Thursday:	10 am - 11 pm	10 am - 11 pm
Friday:	10 am - 11 pm	10 am - 11 pm
Saturday:	10 am - 11 pm	10 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 15, 2019
Protest Petition Deadline: December 30, 2019
Roll Call Hearing Date: January 13, 2020
Protest Hearing Date: March 4, 2020

License No.: ABRA-115606
Licensee: Laxmi DC, LLC
Trade Name: CHASQA
License Class: Retailer's Class "C" Restaurant
Address: 2332 Wisconsin Avenue, N.W.
Contact: Dawa Tamang.: (202) 827-4904

WARD 3

ANC 3B

SMD 3B02

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 January 13, 2020 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 March 4, 2020 at 1:30 p.m.

NATURE OF OPERATION

A new Retailer's Class C Restaurant with a seating capacity and Total Occupancy Load of 146.

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

Sunday through Thursday 11am - 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/15/2019

Notice is hereby given that:

License Number: ABRA-109651

License Class/Type: C Tavern

Applicant: Caged Bird 1723, LLC

Trade Name: The Caged Bird

ANC: 2B01

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

1723 CONNECTICUT AVE NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
12/30/2019

A HEARING WILL BE
1/13/2020

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

ENDORSEMENT(S): Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 3 am	11 am - 2am	8 pm - 12am
Monday:	11 am - 3 am	11 am - 2am	8 pm - 12am
Tuesday:	11 am - 3 am	11 am - 2am	8 pm - 12am
Wednesday:	11 am - 3 am	11 am - 2am	8 pm - 12am
Thursday:	11 am - 3 am	11 am - 2am	8 pm - 12am
Friday:	11 am - 4 am	11 am - 3 am	8 pm - 1 am
Saturday:	11 am - 4 am	11 am - 3 am	8 pm - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/15/2019

Notice is hereby given that:

License Number: ABRA-100517

License Class/Type: C Nightclub

Applicant: PFM Restaurants, LLC

Trade Name: District Anchor

ANC: 2B06

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

1900 M ST NW, Washington, DC 20036

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
12/30/2019

A HEARING WILL BE
1/13/2020

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11:30 am - 2 am	11:30 am - 2 am	-
Monday:	11:30 am - 2 am	11:30 am - 2 am	-
Tuesday:	11:30 am - 2 am	11:30 am - 2 am	-
Wednesday:	11:30 am - 2 am	11:30 am - 2 am	-
Thursday:	11:30 am - 2 am	11:30 am - 2 am	-
Friday:	11:30 am - 3 am	11:30 am - 3 am	-
Saturday:	11:30 am - 3 am	11:30 am - 3 am	-

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	11:30 am - 2 am	11:30 am - 2 am
Monday:	11:30 am - 2 am	11:30 am - 2 am
Tuesday:	11:30 am - 2 am	11:30 am - 2 am
Wednesday:	11:30 am - 2 am	11:30 am - 2 am
Thursday:	11:30 am - 2 am	11:30 am - 2 am
Friday:	11:30 am - 3 am	11:30 am - 3 am
Saturday:	11:30 am - 3 am	11:30 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/15/2019

Notice is hereby given that:

License Number: ABRA-086141

License Class/Type: C Tavern

Applicant: Lola's, LLC

Trade Name: Lola's

ANC: 6B03

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

711 8TH ST SE, WASHINGTON, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
12/30/2019

A HEARING WILL BE
1/13/2020

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

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	10 am - 2 am	10 am - 2 am
Monday:	10 am - 2 am	10 am - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am
Thursday:	10 am - 2 am	10 am - 2 am
Friday:	10 am - 3 am	10 am - 3 am
Saturday:	10 am - 3 am	10 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
11/15/2019

Notice is hereby given that:

License Number: ABRA-087106

License Class/Type: C Tavern

Applicant: Pierre LLC

Trade Name: Larrys Lounge

ANC: 2B08

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

1840 18th ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
12/30/2019

A HEARING WILL BE
1/13/2020

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	-
Monday:	11 am - 2 am	11 am - 2 am	-
Tuesday:	11 am - 2 am	11 am - 2 am	-
Wednesday:	11 am - 2 am	11 am - 2 am	-
Thursday:	11 am - 2 am	11 am - 2 am	-
Friday:	11 am - 3 am	11 am - 3 am	-
Saturday:	11 am - 3 am	11 am - 3 am	-

	Hours Of Sidewalk Cafe	Hours Of Sales Sidewalk Cafe
Sunday	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 12 am	11 am - 12 am
Saturday:	11 am - 12 am	11 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 15, 2019
Protest Petition Deadline: December 30, 2019
Roll Call Hearing Date: January 13, 2020
Protest Hearing Date: March 4, 2020

License No.: ABRA-115577
Licensee: Creole on 14th, LLC
Trade Name: Creole on 14th
License Class: Retailer’s Class “C” Restaurant
Address: 3365 14th Street N.W.
Contact: Jeffeary Miskiri, Owner: (202) 910-8348

WARD 1

ANC 1A

SMD 1A05

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 January 13, 2020 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 **March 4, 2020 at 1:30 p.m.**

NATURE OF OPERATION

New Retailer’s Class “C” Restaurant offering Creole cuisine for lunch and dinner. Applicant is applying for an Entertainment Endorsement. Applicant is also applying for a Sidewalk Cafe Endorsement with 18 seats. Total seating inside is 100 with a Total Occupancy Load of 150.

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

Sunday through Wednesday 11am – 1am

Thursday through Saturday 11am – 2am

HOURS OF OPERATION, ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION, AND LIVE ENTERTAINMENT (SIDEWALK CAFE)

Sunday through Thursday 11am – 10pm

Friday and Saturday 11am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: November 8, 2019
 Protest Petition Deadline: December 23, 2019
 Roll Call Hearing Date: January 6, 2020
 Protest Hearing Date: February 26, 2020

License No.: ABRA-115491
 Licensee: Dumplings & Beyond Corporation
 Trade Name: Dumplings & Beyond
 License Class: Retailer’s Class “C” Restaurant
 Address: 2400 Wisconsin Avenue, N.W.
 Contact: Stephen J. O’Brien: (202) 625-7700

WARD 3

ANC 3B

SMD 3B02

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 January 6, 2020 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 26, 2020 at 4:30 p.m.**

NATURE OF OPERATION

A new Retailer’s Class C Restaurant with a seating capacity of 64 and Total Occupancy Load of 69.

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 15, 2019
 Protest Petition Deadline: December 30, 2019
 Roll Call Hearing Date: January 13, 2020
 Protest Hearing Date: March 4, 2020

License No.: ABRA-115608
 Licensee: Mia Spiti, LLC
 Trade Name: Martha Dear
 License Class: Retailer’s Class “C” Restaurant
 Address: 3110 Mt. Pleasant Street, N.W.
 Contact: Stephen J. O’Brien: (202) 625-7700

WARD 1

ANC 1D

SMD 1D04

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 January 13, 2020 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 **March 4, 2020 at 4:30 p.m.**

NATURE OF OPERATION

A new Retailer’s Class C Restaurant with a seating capacity of 50 and a Total Occupancy Load of 99.

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

Sunday through Saturday 12pm – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: October 25, 2019
Protest Petition Deadline: December 9, 2019
Roll Call Hearing Date: December 23, 2019

License No.: ABRA-110949
Licensee: Vega Dupont, LLC
Trade Name: Nero/Zeno
License Class: Retailer’s Class “C” Restaurant
Address: 1323 Connecticut Avenue, N.W.
Contact: Sidon Yohannes: (202) 686-7600

WARD 2 ANC 2B SMD 2B07

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 23, 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 expand the existing basement and first floor by increasing the capacity from 48 to a Total Occupancy Load of 123.

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

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTSIDE IN SIDEWALK CAFE

**Sunday through Saturday 11am – 10:30pm

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: October 25, 2019
Protest Petition Deadline: December 9, 2019
Roll Call Hearing Date: December 23, 2019

License No.: ABRA-110949
Licensee: Vega Dupont, LLC
Trade Name: Nero/Zeno
License Class: Retailer’s Class “C” Restaurant
Address: 1323 Connecticut Avenue, N.W.
Contact: Sidon Yohannes: (202) 686-7600

WARD 2 ANC 2B SMD 2B07

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 23, 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 expand the existing basement and first floor by increasing the capacity from 48 to a Total Occupancy Load of 123.

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

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

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES

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

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

**CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT
(CAPER)
DISTRICT OF COLUMBIA'S (DC) FY 2019/ HUD FY 2018**

PUBLIC HEARING NOTICE

Polly Donaldson, Director, DC Department of Housing and Community Development (DHCD) will conduct a public hearing on Wednesday, November 20, 2019, to discuss the District's Fiscal Year (FY) 2019/ U.S. Department of Housing and Urban Development (HUD) FY 2018 performance in its use of funds received from HUD. DHCD received approximately \$33,658,259 from HUD in DC FY 2019/HUD FY 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, HOME and HTF funds directly; DHCD entered into an agreement with the DC Department of Human Services (DHS) to administer the ESG grant; and transferred the HOPWA grant to the DC Department of Health (DC Health).

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 8, 2019 and will end on December 8, 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 Wednesday, November 20, 2019, at 6:30 pm at DHCD, 1800 Martin Luther King Jr. Avenue, SE, Washington, DC, First Floor Conference Room, Housing Resource Center. 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.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JANUARY 15, 2020
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

18744A **Application of Patterson SPE LLC**, pursuant to 11 DCMR Subtitle Y
ANC 2B § 704, for a modification of significance to the relief approved by BZA
 Order No. 18744 to include a special exception under the use
 permissions of Subtitle U § 504.1(f), to permit the conversion of 31
 units to a lodging use in the MU-15 Zone at premises 15 Dupont
 Circle, N.W. (Square 136, Lot 34).

WARD TWO

20165 **Application of Andrew Dunnville**, pursuant to 11 DCMR Subtitle X,
ANC 2E Chapter 9, for a special exception under Subtitle D §§ 1206.4 and 5201
 from the rear addition requirements of Subtitle D § 1206.3, to construct
 a two-story rear addition to an existing, attached principal dwelling unit
 in the R-20 Zone at premises 3626 T Street N.W. (Square 1306, Lot
 46).

WARD FIVE

20175 **Application of 57th Street Mews Inc.**, pursuant to 11 DCMR Subtitle
ANC 5D X, Chapter 10, for an area variance from the minimum lot width and
 minimum lot area requirements of Subtitle E § 201.1, to permit the
 construction of a three-story attached building containing two dwelling
 units on a vacant lot in the RF-1 Zone at premises 1611 Levis Street
 N.E. (Square 4074, Lot 805).

BZA PUBLIC HEARING NOTICE
JANUARY 15, 2020
PAGE NO. 2

WARD TWO

20176
ANC 2E **Application of M Street Five, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the penthouse use provisions of Subtitle C § 1500.3(c), to construct a roof deck for a bar and restaurant use above an existing attached building in the MU-4 Zone at premises 3219-3221 M Street N.W. (Square 1207, Lot 114).

WARD FIVE

20177
ANC 5E **Application of Aulona Alia**, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the minimum alley width requirements of Subtitle C § 303.3(a), to create a new record lot in the RF-1 Zone at premises 2017 Rear 2nd Street N.E. (Square 3564, Lot 810).

WARD SIX

20179
ANC 6E **Application of Eli Richman Kaplan NMP Revocable Trust**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, to permit an existing rear deck addition to an attached principal building in the RF-1 Zone at premises 1407 5th Street N.W. (Square 511, Lot 99).

WARD ONE

20181
ANC 1A **Application of Medici Road**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the residential conversion regulations of Subtitle U § 320.2, and under Subtitle C § 703.2, from the minimum parking requirement of Subtitle C § 701.5, and pursuant to Subtitle X, Chapter 10, for an area variance from the minimum land area requirements of U § 320.2(d), to convert an existing one-family dwelling into a four-unit apartment house in the RF-1 Zone at premises 1315 Harvard Street NW. (Square 2854, Lot 86).

BZA PUBLIC HEARING NOTICE
JANUARY 15, 2020
PAGE NO. 3

WARD FIVE

20184 **Application of Fort Lincoln-Eastern Avenue LLC**, pursuant to 11
ANC 5C DCMR Subtitle X, Chapter 9, for special exceptions under the
 theoretical lot subdivision requirements of Subtitle C § 305.1, under
 the new residential developments requirements of Subtitle U § 421, and
 under the penthouse requirements of Subtitle C § 1500.4, and pursuant
 to Subtitle X, Chapter 10, for a variance from the vehicular access
 requirements of Subtitle C § 305.3(b), to allow a new residential
 development project of 51 townhouses in the RA-1 and RA-4 Zones at
 premises bounded between Eastern Avenue N.E., Bladensburg Road
 N.E., and Fort Lincoln Drive N.E. (Square 4325, Lots 802 and 44, and
 Parcel 0174/15).

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?

BZA PUBLIC HEARING NOTICE

JANUARY 15, 2020

PAGE NO. 4

Amharic

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

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

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነዚህ አገልግሎቶች የሙከራ ቦርድ ላይ ናቸው።

Chinese

您需要有人帮助参加活动吗?

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

French

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

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿Necesita ayuda para participar?

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

Vietnamese

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

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

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

BZA PUBLIC HEARING NOTICE

JANUARY 15, 2020

PAGE NO. 5

**FREDERICK L. HILL, CHAIRPERSON
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**

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

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

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

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 <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, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact OZ at dcoz@dc.gov or at (202) 727-6311.

Except for an 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 Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from OZ's website at: <https://app.dcoz.dc.gov/Help/Forms.html>.** This form may also be obtained from OZ at the address stated below.

“Great weight” to written report of ANC

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, an ANC that wishes to participate in 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.

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OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2016 Repl.)), hereby gives notice of a correction to the Notice of Final Rulemaking and Zoning Commission Order No. 19-04, issued by the Zoning Commission of the District of Columbia and published in the *D.C. Register* on September 13, 2019, at 66 DCR 12137.

The final rulemaking amended Subtitles B (Definitions, Rules of Measurement, and Use Categories), C (General Rules), H (Neighborhood Mixed Use (NC) Zones), K (Special Purpose Zones), and U (Use Permissions) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

Among other changes, the final rulemaking excluded “community renewable energy facilities” from the “Utility (basic)” use category in § 200.2(gg) of § 200 (Introduction), Chapter 2 (Use Categories) of Subtitle B (Definitions, Rules of Measurement, and Use Categories). This term had been used in the initial Notice of Emergency and Proposed Rulemaking in Z.C. Case No. 19-04 but was replaced by “community solar facilities” in the Notice of Final Rulemaking in that case. The Notice of Final Rulemaking inadvertently retained the outdated “community renewable energy facilities” in § 200.2(gg).

Therefore, the final rulemaking is corrected to amend § 200.2 to read as follows (the corrections to the final rulemaking are made below (additions are shown in **bold** and underline text; deletions are shown in **bold** and ~~strikethrough~~ text)):

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

...

Subsection 200.2 of § 200, INTRODUCTION, of Chapter 2, USE CATEGORIES, is amended as follows:

200.2 When used in this title, the following use categories shall have the following meanings:

(a) Agriculture, Large:

(1) The on site-cultivation ...

...

(gg) Utility (basic):

(1) The commercial or governmental generation ...

...

- (3) Examples include, but are not limited to: electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, methods and facilities for renewable energy generation other than a community ~~renewable energy~~ solar facility, or utility pumping station; and
 - (4) Exceptions: This use category does not include a community ~~renewable energy~~ solar facility use or uses which would typically fall within the antennas or waste-related services use categories;
- (hh) Waste-Related Services:
- (1) A use involving ...

This Errata Notice's correction to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of September 13, 2019.

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

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in § 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2016 Repl.)), hereby gives notice of a correction to the Notice of Final Rulemaking and Zoning Commission Order No. 04-33I, issued by the Zoning Commission of the District of Columbia and published in the *D.C. Register* on October 18, 2019, at 66 DCR 13705.

The final rulemaking amended Subtitles B (Definitions, Rules of Measurement, and Use Categories), C (General Rules), D (Residential (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).

Among other changes, the final rulemaking added a new subsection to § 802 (Density – Lot Dimensions) of Chapter 8 (Wesley Heights Residential House Zones – R-14 and R-15) of Subtitle D (Residential House (R) Zones) but incorrectly numbered the new subsection as 802.2, when a § 802.2 already exists, which was not intended to be deleted and replaced.

Therefore, the final rulemaking is corrected to add the new subsection to § 802 as § 802.3, and to retain the current § 802.2.

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

11-D DCMR, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

...

Chapter 8, WESLEY HEIGHTS RESIDENTIAL HOUSE ZONES – R-14 AND R-15, is amended as follows:**A new § ~~802.2~~ 802.3 is added to § 802, DENSITY – LOT DIMENSIONS, to read as follows:**

802.2 802.3 The Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the R-14 and R-15 zones.

This Errata Notice's correction to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of October 18, 2019.

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

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (“DHCF” or the “Department”), 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 (the Act) for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2016 Repl. & 2019 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 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (“DCMR”) by adding a new Section 9512 (Non-MAGI Eligibility Group: TEFRA/Katie Beckett), and amending Section 9599 (Definitions) to add definitions.

DHCF is the single state agency responsible for the administration of the State Medicaid program under Title XIX of the Act and the Children’s Health Insurance Program under Title XXI of the Act in the District. Pursuant to Section 1902(e) of the Act and Section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, approved September 3, 1982 (Pub. L. 97-248; 42 USC § 1396a) (TEFRA), children with disabilities, who would not be eligible for Medicaid benefits due to their parent's income, may become eligible for Medicaid under the TEFRA/Katie Beckett eligibility group.

Eligibility under the TEFRA/Katie Beckett eligibility group allows the District to waive the deeming of parental income and resources for children who meet certain criteria. To be found eligible for Medicaid through the TEFRA/Katie Beckett eligibility group, a child must meet the following criteria: be age zero (0) through eighteen (18) years old; have income at or below three hundred percent (300%) of the Supplemental Security Income (“SSI”) federal benefit rate; have resources equal to or less than four thousand dollars (\$4,000); have a disability which can be expected to result in death or to last for more than twelve (12) months in accordance with Section 1614(a) of the Act; have a level of care (“LOC”) that is typically provided in either a hospital, intermediate care facility, or skilled nursing facility; be able to safely live at home; not be otherwise eligible for Medicaid; have estimated Medicaid costs of care received at home that do not exceed the estimated Medicaid costs of care received in an institution pursuant to the District’s cost effectiveness methodology; and meet non-financial eligibility factors in accordance with Section 9506 of this chapter.

Accordingly, these rules establish the eligibility factors and standards governing eligibility determinations for children aged zero (0) through eighteen (18) years old who are disabled, and enable them to receive medical care outside of a hospital, intermediate care facility, or nursing facility. Additionally, these rules allow these children to have access to the same set of services, such as early and periodic screening, diagnosis, and treatment (EPSDT) services, which are available to children who are eligible for Medicaid on another basis.

These rules also amend Chapter 95 (Medicaid Eligibility) by amending the definitions section (Section 9599) to add new definitions for the terms active treatment, activities of daily living, acuity level, federal benefit rate, TEFRA/Katie Beckett eligibility group, nursing assistive personnel, single case agreement, skilled nursing, skilled rehabilitation services, and streamlined application for provider enrollment.

A Notice of Proposed Rulemaking was published on February 5, 2016 at 63 DCR 1335. Comments were received from Health Services for Children with Special Needs, Inc. (HSCSN) and substantive changes were made to the rulemaking. A Notice of Emergency and Second Proposed Rulemaking was published on October 5, 2018 at 65 DCR 011064. The following comments were received from Disability Rights DC at University Legal Services (DRDC). Based on review of the comments, DHCF is making technical changes to the rulemaking as set forth below.

Eligibility Criteria for TEFRA/Katie Beckett

DRDC offers comments on the eligibility criteria for TEFRA/Katie Beckett, using an example to clarify their concern. As set forth in Subsection 9512.7(b), a child who requires an intermediate care facility level of care criteria must be referred for an evaluation by a physician. DRDC argues that this requirement has the effect of constraining eligibility criteria so as to limit access to services. DHCF disagrees. In accordance with the federal regulation governing TEFRA/Katie Beckett eligibility at 42 CFR § 435.225, DHCF must determine that the child requires the LOC provided in a hospital, skilled nursing facility, or intermediate care facility to determine eligibility via TEFRA/Katie Beckett. In order for DCHF to make the LOC determination, DHCF must require that the child's needs are properly evaluated, prescribed, ordered, or referred (as appropriate) by licensed practitioners that are acting within the scope of their licenses. DHCF believes this requirement is consistent with federal regulations and District standards governing the scope of a practitioner's license.

DRDC further comments that the rule is unclear how the LOC criteria for TEFRA/Katie Beckett eligibility is determined, *i.e.*, whether the same InterRAI assessment tool is used for assessing eligibility, particularly those individuals who otherwise qualify for nursing facility care. The assessments used to make LOC determinations are nationally recognized tools. Such tools are subject to change based upon clinical or emerging best practices, as identified by the QIO. For this reason, DHCF has chosen not to specify the assessment tools used to determine each LOC in the rulemaking. DHCF is not proposing any amendments at this time.

Intermediate Care Facility LOC

DRDC comments that the preamble of the rule and the incorporation of the LOC criteria in Subsection 1902.4 of Title 29 DCMR rule out children with developmental disabilities or "single diagnoses" and seems to subject all children to the IDD Waiver eligibility criteria, which rely on testing of IQ score and adaptive functioning. DRDC further states that such IQ testing is not feasible for babies and young children who are age-appropriate for TEFRA/Katie Beckett Medicaid. DHCF is providing a technical change to Subsection 9512.7 (the intermediate care facility LOC). The change reflects current practice and clarifies that if a child is under age two

(2), the child must be diagnosed with either one (1) of the deficits or diagnoses listed in Subsection 1902.4, including: (1) mobility deficits; (2) sensory deficits; (3) chronic health problems; (4) behavior problems; (5) autism; (6) cerebral palsy; (7) epilepsy; (8) spina bifida; or (9) prader willi. A child under the age of two (2) is not be subject to IQ tests and measures of adaptive functioning. Current standards of practice assume that IQ testing and measures of adaptive functioning is only required if clinically appropriate to administer to the child based on age.

DRDC also posits that the rule problematically refers to “active treatment” but fails to include that such treatment maintains the level of the individual’s functioning, even if it does not prevent or improve functioning. Subsection 9512.7(c) states that active treatment “is designed to prevent or decelerate the regression or loss of current optimal functional status.” DHCF believes that the description of “active treatment” in Subsection 9512.7(c) and the definition included under Section 9599, as drafted, includes the concept that such treatment maintains the level of the individual’s functioning. As such, DHCF is not proposing any changes at this time.

Subsection 9512.8 of the rulemaking excludes a number of interventions from the scope of specialized services set forth in Subsection 9512.7(c)(4). DRDC comments that DHCF creates a confusing and unworkable standard by excluding from specialized services “physical assistance services for children unable to physically perform tasks but who understand the process needed to do them.” DRDC posits that this is an unworkable standard particularly as applied to babies and young children meet the functional limitation criteria in Subsection 9512.7(c)(6), their service needs must not be excluded under Subsection 9512.8 (c). DHCF does not propose any changes since specialized services described in Subsection 9512.8 are suited for children with complex medical needs as opposed to services described in Subsection 9512.8(c), which would include services such as cueing, redirecting, or supervision.

DRDC further comments that Subsections 9512.9 through 9512.12, which refer to the nursing facility level of care, appear to conflict with Subsection 9512.8(c), which refers to the intermediate care facility LOC. DHCF is not proposing any revision based on this comment since the nursing facility LOC criteria does not require consistency with the intermediate care facilities LOC criteria. The two criteria for nursing facility LOC and intermediate care facility level of care are independent of each other. A child is only required to meet of the three (3) required LOCs to be eligible via TEFRA/Katie Beckett.

Nursing Facility Level of Care

In reference to Subsection 9512.9, DRDC comments that the revised nursing facility LOC criteria adopts vague terms such as “inherently complex based on clinical indications” and rules out individuals with “complex” cognitive conditions that may result from non-physical disabilities. DRDC argues that this makes the rules overly restrictive and internally inconsistent with the eligibility standard tied to diagnoses of intellectual disabilities. DHCF does not agree. DHCF previously revised the LOC criteria based on a comment that was received on the first notice of proposed rulemaking, which stated that nursing facility LOC can be read to require individuals to meet the LOC criteria if those individuals show significant behavioral dyscontrol. The previous commenter recommended that the criteria should be revised to reflect eligibility

based solely on clinical indications. As stated in the emergency and second proposed rulemaking, DHCF incorporated the revisions in order to reinforce that all of the criteria included for the nursing facility LOC are suited for individuals with physical disabilities rather than mental illness or significant behavioral controls in need of a psychiatric treatment facility. Additionally, the nursing facility LOC criteria does not require consistency with the eligibility standard tied to diagnosis of intellectual disabilities under the intermediate care facilities LOC. The two criteria for nursing facility LOC and intermediate care facility level of care are independent of each other, and a child is only required to meet one of the three (3) required LOCs. DHCF is not proposing amendments at this time.

Cost Effectiveness Methodology

Subsection 9512.13 details DHCF's process for determining whether the cost of delivering care to a child outside of an institution exceeds the estimated cost of appropriate institutional care. DRDC comments that the cost effectiveness methodology described in Subsection 9512.13 is confusing while failing to correspond to any Medicaid Waiver methodology. DRDC also comments that none of the Medicaid Waivers in the District include individual cost caps of the sort incorporated in this rule. To clarify, TEFRA/Katie Beckett eligibility is not a waiver program so it is not subject to methodologies used for the District's long term care waiver programs. Further, the methodology set forth in Subsection 9512.13 was deemed appropriate by CMS through its approval of the corresponding State Plan Amendment (SPA). Therefore, DHCF is not proposing any revisions to Subsection 9512.13 at this time.

Notice of Termination and Evaluation of Other Eligibility Groups

DRDC comments that the rules must track the thirty (30) day notice requirements incorporated into the rules governing the home and community-based waiver programs for the individuals with intellectual and developmental disabilities (IDD) and the Elder and Persons with Physical Disabilities (EPD). DRDC additionally states that the notice provisions must include notice provisions for service denials, reductions, and terminations, including instructions for how to access benefits pending appeal for the latter two circumstances. Notice requirements set forth in Section 9508 of Chapter 95 (pertaining to advance notice of eligibility determinations and appeal rights) apply to TEFRA/Katie Beckett applicants and beneficiaries and do not need to be restated in this Section 9512. DHCF is not proposing any revisions based on this comment.

Identification of the Division in DHCF Accepting Applications and Making Determinations

DRDC asserts that the rule should identify the division with DHCF that will accept and make determinations regarding application for TEFRA/Katie Beckett eligibility because reference to completion of a Medicaid application and submission to "the Department" is cryptic, especially in light of the fact that most Medicaid application are submitted to the Department of Human Services (DHS). DRDC further states that if the applicants are assigned to eligibility care workers, that process should be defined as well. Section 9599 of this chapter defines "the Department" as DHCF or its designee. The rulemaking does not refer specifically to agency divisions in the rulemaking because divisions that are currently designated to review specific documentation may change in the future. Detailed information on the application submission

process is maintained in DHCF policy, fact sheets, and Frequently Asked Questions (FAQ) documents. For these reasons, DHCF is not proposing amendments at this time.

DHCF made one additional technical change to the active treatment requirement under the intermediate care facility LOC, Subsection 9512.7(c), by adding an “and” after the criteria provided in § 9512.7(c)(5) in order to further clarify that all six (6) requirements laid out under the active treatment requirement of Subsection 9512.7(c) must be met. DHCF also made technical revisions to certain cross-referenced citations to include section numbers rather than pin-citing specific subsections in order to avoid incorrect cross-referencing in the event the text within the cross-referenced subsections are amended in the future.

The rules also achieve consistency with the District of Columbia State Plan to reflect the methodology in determining cost effectiveness of providing care for the child at home instead of an institution. The corresponding SPA was approved by the Council of the District of Columbia on March 18, 2016 (PR 21-0560), and the U.S. Department of Health and Human Services Centers for Medicaid and Medicare Services on May 27, 2016. This rule amends Chapter 95 of Title 29 DCMR by incorporating the Medicaid eligibility requirements for children to receive reimbursable services through the TEFRA/Katie Beckett eligibility group. The District approximates that there will be no fiscal impact related to these updates.

These rules were adopted November 6, 2019, and shall become effective upon publication in the *D.C. Register*.

Chapter 95, MEDICAID ELIGIBILITY, of Title 29 DCMR, PUBLIC WELFARE, is amended by adding a new Section 9512 to read as follow:

9512 NON-MAGI ELIGIBILITY GROUP: TEFRA/KATIE BECKETT

9512.1 A child below the age of nineteen (19) years old that applies for Medicaid eligibility under the “TEFRA/Katie Beckett eligibility group” shall comply with the following requirements:

- (a) Submit a complete application for Medicaid, in accordance with Section 9501 of this chapter, which shall include but not be limited to supplying information on household income; and
- (b) Be evaluated for Medicaid eligibility based on Modified Adjusted Gross Income (“MAGI Medicaid”) pursuant to the requirements set forth under Section 9506 of this chapter.

9512.2 The District of Columbia (District) shall provide Medicaid benefits under the TEFRA/Katie Beckett eligibility group to eligible children with disabilities who do not qualify for MAGI Medicaid because their income is over the MAGI Medicaid income threshold for children in the District set forth in this section.

9512.3 If an applicant is deemed to be ineligible for MAGI Medicaid because his or her income is over the income threshold set forth in Section 9506, then the Department shall submit notice to the applicant of the applicant's ineligibility for MAGI Medicaid and the applicant's opportunity to be evaluated for Medicaid through the TEFRA/Katie Beckett eligibility group. The Department shall also submit the following documents to the applicant for the applicant's completion to determine the applicant's eligibility for Medicaid under the TEFRA/Katie Beckett eligibility group:

- (a) A TEFRA/Katie Beckett Application Form to be completed by the applicant;
- (b) A Care Plan to be completed by the applicant and the applicant's physician, containing the prescribed or ordered services for the child; and
- (c) Level of Care ("LOC") forms to be completed by the applicant's physician which must be accompanied with documentation that supports a LOC in accordance with Subsection 9512.4(e).

9512.4 In order to be eligible for Medicaid through the TEFRA/Katie Beckett eligibility group, a child shall meet the following non-financial and financial requirements:

- (a) Be age zero (0) through eighteen (18) years old;
- (b) Have individual income at or below three hundred percent (300%) of the Supplemental Security Income ("SSI") federal benefit rate;
- (c) Have individual resources equal to or less than two thousand and six hundred dollars (\$2,600) after application of a disregard of all countable resources between two thousand and six hundred dollars (\$2,600) and four thousand dollars (\$4,000);
- (d) Have a disability which can be expected to result in death or to last for at least twelve (12) months in accordance with Section 1614(a) of the Social Security Act;
- (e) Have a LOC that is typically provided in one of the following settings:
 - (1) A hospital, as described in 42 CFR § 440.10, pursuant to the criteria set forth under Subsection 9512.6;
 - (2) An intermediate care facility, as described in 42 CFR § 440.150, pursuant to the criteria set forth under Subsection 9512.7; or
 - (3) A nursing facility, as described in the "Health Care and

Community Residence License Act of 1983, approved October 28, 1983 (D.C. Law 5-48; D.C. Official Code § 44-501), pursuant to the criteria set forth under Subsection 9512.9;

- (f) Be able to safely live at home;
- (g) Not otherwise be eligible for Medicaid;
- (h) Have estimated Medicaid costs of care received at home that do not exceed the estimated Medicaid costs of care received in an institution pursuant to the cost effectiveness methodology set forth in Subsection 9512.13; and
- (i) Meet non-financial eligibility factors in accordance with Section 9506.

9512.5 Only the income and assets of the child shall be considered in determining financial eligibility under Subsection 9512.4. The parents' income and assets shall not be deemed to be income and assets of the child.

9512.6 A child's needs shall meet a hospital LOC if a child meets all of the following criteria:

- (a) The child has a condition for which room, board, and professional services furnished under the direction of a physician is expected to be medically necessary for a period of forty-eight (48) hours or longer;
- (b) The professional services needed are something other than intermediate care facility and nursing facility services, under Subsections 9512.7 and 9512.9, respectively;
- (c) The child's condition is such that it requires treatment which is ordinarily furnished in an inpatient setting;
- (d) The service that the child needs has been ordered by a physician who is licensed in accordance with District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code Sections §§ 3-1201 *et seq.* (2016 Repl. & 2019 Supp.)) ("HORA") or the licensing requirements of the jurisdiction in which services are furnished, and complies with screening and enrollment requirements set forth under Subsection 9512.17;
- (e) The service that the child receives is furnished either directly by, or under the supervision of, a physician who is licensed pursuant to HORA or the licensing requirements of the jurisdiction in which services are furnished, and is in compliance with screening and enrollment requirements set forth under Subsection 9512.18; and

- (f) The service that the child receives is ordinarily furnished, as a practical matter, in a hospital, certified by the Health Regulation and Licensing Administration (“HRLA”) in the Department of Health pursuant to Sections 2000 – 2099 of Title 22-B of the District of Columbia Municipal Regulations (DCMR), for the care and treatment of individuals with disorders other than mental diseases.

9512.7 A child’s needs shall meet an intermediate care facility’s LOC if a child’s needs meet all of the following criteria:

- (a) If the child is age two (2) years or older, the child has the diagnosis of an intellectual disability that meets one of the level of care criteria set forth under Section 1902 of Title 29 DCMR. If the child is under the age of two (2), the child shall be diagnosed with either one (1) of the following deficits or diagnoses:
 - (1) Mobility deficits;
 - (2) Sensory deficits;
 - (3) Chronic health problems;
 - (4) Behavior problems;
 - (5) Autism;
 - (6) Cerebral Palsy;
 - (7) Epilepsy;
 - (8) Spina Bifida; or
 - (9) Prader Willi;
- (b) The child is referred for an Intermediate Care Facility for Individuals with Intellectual Disabilities (“ICF/IID”) LOC based on a medical evaluation by a physician who is licensed pursuant to HORA or the licensing requirements of the jurisdiction in which services are furnished, and who complies with screening and enrollment requirements set forth under Subsection 9512.17;
- (c) The child requires active treatment that is designed to prevent or decelerate the regression or loss of current optimal functional status and address a child’s need for a combination and sequence of interdisciplinary supports that are individually planned, coordinated, and are of lifelong or

extended duration. The child shall be deemed to require active treatment by meeting the following requirements:

- (1) The child's needs have not been met with the child's current plan of treatment, *i.e.*, wraparound services in school and in the community;
- (2) The child requires twenty-four (24) hour supervision by a licensed practical nurse or nursing assistive personnel, as appropriate, who are acting within the scope of practice authorized under HORA or the licensing requirements of the jurisdiction in which services are furnished;
- (3) The child requires ongoing care, either directly or on-call, by one or more of the following, as appropriate:
 - (A) A physician who is licensed in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;
 - (B) A psychiatrist who is licensed by a Board of Medicine in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;
 - (C) An advanced practice registered nurse who is licensed in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;
 - (D) A registered nurse who is licensed in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;
 - (E) A psychologist who is licensed to practice psychology in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;
 - (F) A social worker who is a licensed independent social worker, a licensed graduate social worker, or a licensed independent clinical social worker, in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;
 - (G) A physical therapist who is licensed in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;

- (H) An occupational therapist who is licensed in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished;
 - (I) A speech pathologist who is licensed in accordance with HORA or the licensing requirements of the jurisdiction in which services are furnished; or
 - (J) An audiologist who is licensed in accordance with HORA or in accordance with the licensing requirements of the jurisdiction in which services are furnished;
- (4) Subject to limitations under Subsection 9512.8 of this chapter, the child requires specialized services through an integrated program of therapies and other activities that are developed and supervised by medical and rehabilitative professionals, as appropriate, in order to improve the child's ability to function at a higher, less dependent level;
 - (5) The child requires more behavior modification than is provided in a six (6) hour school day; and
 - (6) If the child is age two (2) years or older, the child has severe functional limitations in three (3) or more of the following areas of major life activities:
 - (A) Self-care;
 - (B) Understanding the use of language;
 - (C) Learning;
 - (D) Mobility;
 - (E) Self-direction; and
 - (F) Capacity for independent living;
- (d) The services that the child requires will be furnished either directly by, or under the supervision of, appropriately qualified professionals that are licensed and practicing within the scope of their license pursuant to HORA or the licensing requirements of the jurisdiction in which services are furnished, and in compliance with screening and enrollment requirements set forth under Subsection 9512.18; and

- (e) The services that the child requires would have ordinarily been provided in an intermediate care facility, licensed by HRLA pursuant to Sections 3100 – 3199 of Title 22-B DCMR (Public Health and Medicine), in the absence of community services.

9512.8 Specialized services under Subsection 9512.7(c)(4) shall not include:

- (a) Interventions that address age-appropriate limitations;
- (b) General supervision of children whose age is such that supervision is required for all children of the same age; or
- (c) Physical assistance for children who are unable to physically perform tasks but who understand the process needed to do them.

9512.9 A child's needs shall meet a nursing facility LOC if a child's needs meet all of the following criteria:

- (a) The child requires service that is inherently complex based on clinical indications due to a physical disability (*e.g.*, treatment for cystic fibrosis, osteogenesis imperfecta, sickle cell, spina bifida, etc.) and can only be safely and effectively performed by, or under the supervision of, professional personnel such as registered nurses, licensed practical nurses, physical therapists, occupational therapists, licensed clinical social workers, and speech pathologists or audiologists, who are licensed pursuant to HORA or the licensing requirements of the jurisdiction in which services are furnished, and in compliance with screening and enrollment requirements set forth under Subsection 9512.18;
- (b) The child requires one (1) of the following three (3) categories of services:
 - (1) Extensive treatment as set forth under Subsection 9512.10;
 - (2) High-intermediate treatment as set forth under Subsection 9512.11;
or
 - (3) Intermediate treatment as set forth under Subsection 9512.12;
- (c) The service needed has been ordered by a physician who is licensed pursuant to HORA or the licensing requirements of the jurisdiction in which services are furnished, and complies with screening and enrollment requirements set forth under Subsection 9512.17;
- (d) The service is furnished either directly by, or under the supervision of, qualified professionals who are licensed pursuant to HORA or the licensing requirements of the jurisdiction in which services are furnished,

and in compliance with screening and enrollment requirements set forth under Subsection 9512.18; and

- (e) The beneficiary requires skilled nursing or skilled rehabilitation services, or both, at a minimum of five (5) days per week.

9512.10 Extensive treatment, described under Subsection 9512.9(b)(1), shall mean the child requires a service seven (7) days per week and involves, or is similar to, one (1) or more of the following:

- (a) Overall management and evaluation of a care plan for a child who is totally dependent in all activities of daily living;
- (b) Observation and assessment of a child's changing condition when the documented instability of his or her medical condition is likely to result in complications, or when the documented instability of his or her mental condition is likely to result in suicidal or hostile behavior;
- (c) Intravenous or intramuscular injections or intravenous feeding;
- (d) Enteral feeding that comprises at least twenty-six (26) percent of daily calorie requirements and provides at least five hundred and one (501) milliliters of fluid per day;
- (e) Nasopharyngeal or tracheostomy aspiration;
- (f) Insertion and sterile irrigation or replacement of suprapubic catheters;
- (g) Application of dressings involving prescription medications and aseptic techniques;
- (h) Treatment of extensive decubitus ulcers or other widespread skin disorder;
- (i) Heat treatments as part of active treatment which requires observation by nurses;
- (j) Initial phases of a regimen involving administration of medical gases; or
- (k) Rehabilitation nursing procedures, including the related teaching and adaptive aspects of nursing that are part of active treatment.

9512.11 High-intermediate treatment, described under Subsection 9512.9(b)(2), shall mean the child requires a service five (5) days per week and involves, or is similar to, one (1) or more of the following services:

- (a) Ongoing assessment of physical rehabilitation needs and potential services concurrent with the management of a patient care plan;
- (b) Therapeutic exercises and activities performed by physical therapy or occupational therapy;
- (c) Gait evaluation and training to restore function to a child whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality;
- (d) Range of motion exercises which are part of active treatment of a specific condition that has resulted in a loss of or restriction of mobility;
- (e) Maintenance therapy when specialized knowledge and judgment is needed to design a program based on initial evaluation;
- (f) Ultrasound, short-wave, and microwave therapy treatment;
- (g) Hot pack, hydrocollator, infrared treatments, paraffin baths, and whirlpool treatment when the child's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, etc. and specialized knowledge and judgment is required; or
- (h) Services of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing;

9512.12 Intermediate treatment, described under Subsection 9512.9(b)(3), shall mean the child, due to an additional medical complication, requires one (1) of the following services, which is performed or supervised by professional personnel:

- (a) Administration of routine medications, eye drops, and ointments;
- (b) General maintenance care of an ostomy;
- (c) General maintenance care in connection with a plaster cast;
- (d) Routine services to maintain satisfactory functioning of indwelling bladder catheters;
- (e) Changes of dressings for non-infected postoperative or chronic conditions;
- (f) Prophylactic and pain relief for skin care, including bathing and application of creams, or treatment of minor skin problems;
- (g) Routine care of an incontinent child, including use of diapers and protective sheets;

- (h) Use of heat as a pain relief and comfort measure (*e.g.*, whirlpool and hydrocollator);
- (i) Routine evaluation of blood gases after a regimen of oxygen therapy has been established;
- (j) Assistance in dressing, eating, and toileting;
- (k) Periodic turning and positioning of the child; or
- (l) General supervision of exercises that were taught to the child and can be safely performed by the child including the actual carrying out of maintenance programs.

9512.13 The Department, or its agent, shall determine whether the estimated Medicaid cost of caring for the child outside of an institution exceeds the estimated cost of appropriate institutional care based on the following methodologies:

- (a) Upon initial application, the Department shall:
 - (1) Identify the services that the child is prescribed or ordered to receive based on forms submitted by the applicant under Subsections 9512.3(b) – (c);
 - (2) Estimate the annual cost of the services using the established Medicaid Fee Schedule, available at <http://www.dc-medicaid.com>. The beneficiary's acuity level and severity of illness, as supported in the beneficiary's Care Plan and LOC forms, shall be factored into the estimation;
 - (3) Estimate the annual costs of services if services were provided in an institution by multiplying the current institutional per diem reimbursement rate, in accordance with Subsection 9512.13(b), with the number of days in one year. The beneficiary's acuity level, severity of illness, and length of stay, as supported in the beneficiary's Care Plan and LOC forms, shall be factored into the estimation. This estimate shall be the maximum allowable costs; and
 - (4) Compare the annual costs identified in Subsection 9512.13(a)(2) with the maximum allowable costs identified in Subsection 9512.13(a)(3). If the annual cost is more than the maximum allowable costs, the applicant will be ineligible for Medicaid under the TEFRA/Katie Beckett eligibility group, and the Department shall provide timely and adequate notice of ineligibility to the

applicant consistent with the requirements set forth in Section 9508.

- (b) The institutional per diem reimbursement rate of services, described in Subsection 9512.13(a)(3), shall be determined as follows:
- (1) If the Department determines that the child has a hospital LOC pursuant to Subsection 9512.6, the Department shall use the applicable per-diem reimbursement rates of a specialty hospital provider that most closely meets the medical needs of the child, in accordance with Chapter 48 of Title 29 DCMR, and is enrolled with the Department pursuant to Chapter 94 of Title 29 DCMR;
 - (2) If the Department determines that the child has an intermediate care facility LOC pursuant to Subsection 9512.7, the Department shall use applicable per-diem reimbursement rates in accordance with the ICF/IID fee schedule, set forth under Subsection 4102.15 of Title 29 DCMR; or
 - (3) If the Department determines that the child has a nursing facility LOC pursuant to Subsection 9512.9, the Department shall use the applicable per-diem reimbursement rates of the pediatric nursing facility that most closely meets the medical needs of the child, pursuant to Chapter 65 of Title 29 DCMR or pursuant to the Medicaid rates of the jurisdiction in which the facility is located, and is enrolled with the Department pursuant to Chapter 94 of Title 29 DCMR.
- (c) The Department shall employ the following methodology during annual renewals, unless Subsection 9512.22 applies:
- (1) Calculate the actual or estimated annual costs of care incurred for the child in the preceding year by aggregating the actual monthly costs of care;
 - (2) Compare actual or estimated annual costs determined under Subsection 9512.13(c)(1) with the maximum allowable costs that was previously determined under Subsection 9512.13(a)(3); and
 - (3) If the actual or estimated annual cost is more than the maximum allowable costs, the applicant will be ineligible for renewed Medicaid under the TEFRA/Katie Beckett eligibility group.

9512.14 If an applicant is found eligible for Medicaid through the TEFRA/Katie Beckett eligibility group, the Department shall notify the applicant within sixty (60) calendar days of receipt of completed documents set forth in Subsection 9512.3,

in accordance with Section 9501 of this chapter. The applicant shall be automatically enrolled in fee-for-service Medicaid. However, the applicant shall have the option to transition his or her enrollment to a managed care plan, subject to the Department's approval.

9512.15 Retroactive eligibility, pursuant to Section 9501, shall apply to TEFRA/Katie Beckett eligibility group applicants if the applicant was eligible in accordance with the requirements set forth under Subsection 9512.4 and received covered services during that period.

9512.16 Pursuant to Section 9501, each beneficiary shall notify the Department within ten (10) calendar days of any change in circumstances that directly affects the beneficiary's eligibility to receive Medicaid pursuant to Subsection 9512.4. Once changes are reported, the Department shall review the beneficiary's eligibility in accordance with the requirements of this chapter to determine if the beneficiary remains eligible for Medicaid under the TEFRA/Katie Beckett eligibility group.

9512.17 The physician that orders or refers services for a child that meets a LOC criteria set forth under Subsections 9512.6, 9512.7, or 9512.9 and is found eligible through the TEFRA/Katie Beckett eligibility group shall be subject to the following screening and enrollment criteria:

- (a) If a child enrolls in a managed care plan contracted with the Department, the physician that continues to order or refer services for the child shall be subject to the managed care plan's screening and enrollment requirements pursuant to the managed care contract;
- (b) If a child enrolls in fee-for-service Medicaid, the physician that continues to order or refer services for the child shall be subject to screening and enrollment requirements set forth under Chapter 94 of Title 29 DCMR; and
- (c) If a physician, who is not already enrolled with the Department, orders or refers services for a child that requires services to be furnished by a qualified professional who must to enter into a Single Case Agreement with the Department pursuant to Subsection 9512.20, the physician shall submit a streamlined application for enrollment to the Department.

9512.18 The qualified professionals that furnish services to a child that meets a LOC criteria set forth under Subsections 9512.6, 9512.7, or 9512.9 and is found eligible through the TEFRA/Katie Beckett eligibility group shall be subject to the following screening and enrollment criteria:

- (a) If a child enrolls in a managed care plan contracted with the Department, the qualified professionals that continue to furnish services for the child shall be subject to the managed care plan's screening and enrollment

requirements, unless a Single Case Agreement has been approved subject to Subsection 9512.19; and

- (b) If a child enrolls in fee-for-service Medicaid, the qualified professionals that continue to furnish services to the child shall be subject to screening and enrollment requirements set forth under Chapter 94 of Title 29 DCMR, unless a Single Case Agreement has been approved subject to Subsection 9512.20.

9512.19 If a child that is enrolled in a managed care plan requires service(s) from a qualified professional that is not within the managed care plan's network, the managed care plan may enforce conditions under which it will engage in Single Case Agreements with qualified professionals that are reflective of the conditions set forth in Subsection 9512.20 (a) – (b), in addition to any other conditions set forth in the managed care contract with the Department.

9512.20 Services may be delivered to a beneficiary pursuant to a Single Case Agreement between a qualified professional and the Department if all of the following conditions are met:

- (a) The child requires a service that is Medicaid-reimbursable pursuant to the District's State Plan for Medical Assistance;
- (b) The service is medically necessary based on the submitted supporting documentation; and
- (c) The service cannot be delivered by providers that are currently enrolled with the Department pursuant to Chapter 94 of Title 29 DCMR.

9512.21 If a qualified professional is interested in entering into a Single Case Agreement with the Department, the following requirements shall be met:

- (a) An ordering, referring, or prescribing physician who is enrolled with the Department pursuant to Chapter 94 of Title 29 DCMR shall submit a request for a Single Case Agreement with supporting clinical documentation of the required service to be furnished by a non-enrolled qualified professional;
- (b) The qualified professional shall submit a separate short application for a Single Case Agreement;
- (c) The qualified professional is screened by the Department pursuant to Chapter 94 of Title 29 DCMR; and
- (d) Claims are reimbursed pursuant to the Department's fee schedule, available at www.dc-medicaid.com.

- 9512.22 If upon annual renewal there is a significant change to the services prescribed or ordered for a child in the Care Plan, described in Subsection 9512.3(b), the Department shall conduct a cost effectiveness review using the methodology set forth under Subsection 9512.13(a). A significant change shall include, but not be limited to, a change in the child's condition that would require additional resources or services for the child.
- 9512.23 If additional or a change of services are prescribed or ordered for the child before the end of the child's certification period, the following shall occur:
- (1) If a child is enrolled in fee-for-service Medicaid, the child's physician shall submit a new Care Plan to the Department, and the Department shall conduct a new cost effectiveness review using the methodology set forth under Subsection 9512.13(a); and
 - (2) If the child is enrolled in a managed care plan, the child's physician shall submit the new Care Plan to the managed care plan in which the child is enrolled. The managed care plan shall submit the Care Plan to the Department, and the Department shall conduct a new cost effectiveness review using the methodology set forth under Subsection 9512.13(a).
- 9512.24 Each applicant and beneficiary shall be subject to the provisions of Chapter 14 of Title 29 DCMR, including but not limited to providing the Department with written notice of any known or suspected third-party liability at the time the child applies for Medicaid and at all times the beneficiary is receiving Medicaid through the TEFRA/Katie Beckett eligibility group.
- 9512.25 In addition to the requirements set forth under Subsection 9512.24, if an applicant or beneficiary requires a service that is covered within the applicant's or beneficiary's primary health insurance plan, each applicant or beneficiary shall follow the rules and requirements of the primary health insurance before seeking reimbursement from the Department or managed care plan for the service.
- 9512.26 For continued Medicaid coverage through the TEFRA/Katie Beckett eligibility group, each beneficiary shall complete and submit the following documents every twelve (12) months in order for the Department to determine all of the eligibility requirements set forth under Subsection 9512.4:
- (a) A completed and signed renewal form;
 - (b) A new Care Plan as described in Subsection 9512.3(b);
 - (c) A new LOC form with documentation as described in Subsection 9512.3(c); and

(d) Supporting documentation to verify other financial and non-financial eligibility factors described in Subsection 9512.4.

9512.27 The Department shall send a renewal package, containing the documents described in Subsection 9512.26(a) - (c) for the beneficiary's completion, no later than ninety (90) days prior to the end of the eligibility period.

9512.28 If the beneficiary's annual renewal documents reveal that the beneficiary no longer meets all of the eligibility factors set forth under Subsection 9512.4, the beneficiary's Medicaid coverage under the TEFRA/Katie Beckett eligibility group shall be terminated and the Department shall evaluate the beneficiary's eligibility for Medicaid under other eligibility groups pursuant to 42 CFR § 435.916. The Department shall provide notice to the beneficiary or the beneficiary's authorized representative prior to termination in accordance with the provisions under Section 9508 of this chapter. The Department shall also provide notice to the beneficiary of its eligibility determination under other eligibility groups.

9512.29 If a cost effectiveness review conducted pursuant to Subsection 9512.23 reveals that a beneficiary's estimated Medicaid costs of care received at home exceed the estimated Medicaid costs if care is received in an institution, the beneficiary's Medicaid coverage under the TEFRA/Katie Beckett eligibility group shall be terminated. The Department shall provide notice to the beneficiary prior to termination in accordance with the provisions under Section 9508 of this chapter.

9512.30 At all times during the beneficiary's enrollment in Medicaid through the TEFRA/Katie Beckett eligibility group, the beneficiary shall meet all eligibility factors described in Subsection 9512.4.

9512.31 Eligibility through the TEFRA/Katie Beckett eligibility group shall not continue once a beneficiary turns nineteen (19) years old. Prior to the beneficiary's nineteenth (19th) birthday, the Department shall re-evaluate the beneficiary's eligibility for Medicaid under another eligibility category.

Section 9599, DEFINITIONS, Subsection 9599.1, is amended to add the following new definitions:

Active treatment - A continuous program, which includes consistent implementation of training, therapies, health and related services designed to address the child's social, intellectual, and behavioral deficits and, further, that are directed toward the acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible.

Activities of Daily Living - Activities including eating, bathing, toileting, grooming, dressing, undressing, mobility, and in place transfers.

Acuity level - The intensity of services required for an applicant or beneficiary. An applicant or beneficiary with a high acuity level requires more care those with lower acuity levels require less care.

Federal Benefit Rate - The share of the Supplemental Security Income grant paid by the federal government, which does not include any applicable State supplement.

Nursing assistive personnel - Unlicensed personnel of assigned patient care tasks that do not require professional skill or judgment within a health care, residential, or community support setting; provided, that the patient care tasks are performed under the general supervision of a licensed health care professional.

Single Case Agreement - An agreement between a non-enrolled Medicaid provider and the Department for Medicaid reimbursement of covered services that are furnished to an eligible D.C. Medicaid beneficiary.

Skilled Nursing- Medical and educational services that address healthcare needs related to prevention and primary healthcare activities.

Skilled Rehabilitation Services - Services delivered in an inpatient or outpatient setting that assists with retention, regaining, or improving skills and functioning for daily living that are lost or impaired due to a new medical condition, an acute exacerbation of a chronic medical condition, sickness, injury, or disability. Services that require the judgment, knowledge and skill of a qualified therapist and may include, but are not limited to, physical and occupational therapy, speech pathology, and audiology.

Streamlined Application for Provider Enrollment - An enrollment application available for providers whose relationship with the Medicaid program is ordering, referring, and/or prescribing services to Medicaid-eligible beneficiaries.

TEFRA/Katie Beckett eligibility group - An eligibility group that provides Medicaid benefits for eligible children with disabilities, who would not ordinarily qualify for Medicaid because their income would be above the Medicaid income threshold for children in the District.

JUDICIAL NOMINATION COMMISSION**NOTICE OF FINAL RULEMAKING**

The Judicial Nomination Commission (Commission), pursuant to the authority set forth in Section 434(c)(2) of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 796; D.C. Official Code § 1-204.34(c)(2) (2016 Repl.)), hereby gives notice of the adoption of a new Chapter 21 (Judicial Nomination Commission) of Title 28 (Corrections, Courts, and Criminal Justice) of the District of Columbia Municipal Regulations (DCMR).

The purposes of this rulemaking include the intent to clarify ambiguities in the procedures relating to the status of applicants on judicial nomination lists. When there is a District of Columbia court judicial vacancy, the Commission, following an application and background check process, selects three candidates and recommends those candidates on a list sent to the President, who nominates one of the Commission's recommended candidates. If the President does not nominate a candidate within sixty (60) days of receiving the list, then the Commission nominates a candidate from the list. Candidates must be confirmed by the Senate before being appointed to a judicial office.

The procedures in the Home Rule Act are ambiguous as to what happens when the Senate fails to confirm a nominee or returns a nomination. Accordingly, the Commission is promulgating these rules to clarify the procedure to be followed when the Senate fails to confirm or returns a nomination. The rulemaking specifies that when the Senate rejects, returns, or fails to take action on a nomination by the end of a Senate session, the nomination will be deemed rejected, and the President will have sixty (60) days to make another nomination. If the President does not make another nomination within sixty (60) days, the list of candidates for the vacancy is deemed expired, and the Commission submits another list to the President, starting the application process anew. The rulemaking also codifies what constitutes a quorum for the adoption of an action by the Commission. This rulemaking supersedes any prior rules of the Commission to the extent of any inconsistency.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on August 30, 2019 at 66 DCR 11713. The U.S. Department of Justice (DOJ), the Legal Aid Society of the District of Columbia (Legal Aid), and the Washington Council of Lawyers (Council of Lawyers) submitted comments on the proposed rulemaking. Responses to those comments have resulted in alterations to Subsections 2101.1, 2103.6, 2103.8, and 2103.10 of the proposed rules that include the addition or deletion of material that serves only to clarify the intent, meaning, or application of the proposed rules. Sections 2101 and 2103 of the rulemaking were adopted as final by the Commission on November 1, 2019 and shall become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*. The Commission intends to republish a Notice of Proposed Rulemaking in the *D.C. Register* to clarify certain application procedures for judicial candidates and reserves Section 2102 for this purpose.

Below, the Commission is summarizing the comments that were received, the Commission's comment responses, and any differences between the proposed rule and the final rule. For convenience, the Commission is summarizing comments by section and subsection. If multiple

similar comments were submitted, the Commission is summarizing these as a single comment. Each comment is followed by the Commission's response to that comment. After the response to each comment on a given topic, the Commission is also summarizing its determinations in response to the comments and noting changes between the proposed and final rules.

The comments are organized by topic in the following order:

1. Meetings of the Commission (§ 2101)
2. Applications for Judicial Nominations (§ 2102)
3. Recommended Nominees List (§ 2103)
4. Other Comments

Meetings on the Commission (§ 2101)

The Commission received a comment from the Council of Lawyers requesting clarification on whether vote of quorum would be a majority vote.

Commission Response: The Commission concurs with this comment and has amended the notice of final rulemaking to reflect that the vote of a majority of the serving members of the Commission is necessary for any action by the Commission.

Commission Determination

The Commission will finalize the proposed § 2101, with the clarification that the vote of a majority of the serving members of the Commission is necessary for any action by the Commission.

Applications for Judicial Nominations (§ 2102)

The Commission received a comment from the Council of Lawyers requesting clarification about the application requirements for nominations in § 2102.1. The commenter sought clarification as to whether persons must submit an application to be considered for the nomination.

The Commission received a comment from Legal Aid requesting clarification that any combination of the qualifying professional activities listed in § 2102.1(c) would qualify a candidate for consideration by the Commission.

The Commission received a comment from Legal Aid expressing concern that the *bona fide* residency requirement in § 2102.1(d) would potentially deprive the District of highly qualified candidates, by advancing the date by which an applicant must commence District residency beyond the statutory residency requirement. The commenter proposes requiring a certification that the applicant will become a resident of the District "at least ninety (90) days before any anticipated nomination by the President."

Commission Determination

The Commission intends to republish a Notice of Proposed Rulemaking in the *D.C. Register* to clarify certain application procedures for judicial candidates and reserves § 2102 for this purpose.

Recommended Nominees Lists (§ 2103)

The Commission received a comment from the Council of Lawyers suggesting that the term “judicial vacancy” be given an exact definition, covering both existing vacancies under § 2103.4 and prospective vacancies under § 2103.3.

Commission Response: The Commission believes the existing uses of “vacancy” in the proposed regulations are sufficiently clear and adequate.

The Commission received comments from DOJ and Legal Aid expressing concern about the proposed § 2103.6 and 2103.10(a) providing that the President may nominate a candidate “within sixty (60) days of the Commission transmitting the list,” and that “Lists shall be deemed transmitted on the day that they are sent to the President by the Commission, not when received.” D.C. Official Code § 1-204.34(d)(1) allows the president to nominate persons “within sixty days after receiving such list.” DOJ and Legal Aid were concerned about consistency between the proposed § 2103 and D.C. Official Code § 1-204.34(d)(1), and DOJ was additionally concerned about diminishing the time allowed to the President to make the nomination.

Commission Response: The Commission acknowledges the potential inconsistency between the proposed § 2103 and D.C. Official Code § 1-204.34(d)(1), and amends the proposed section to start the President’s time for nomination upon receipt of the List.

The Commission received a comment from Legal Aid regarding the proposed § 2103.8’s impact on the President’s power to nominate more than one candidate from the same list under D.C. Official Code § 1-204.34(d)(1), in cases where more than one vacancy exists at the same time. The commentator notes that the proposed regulation might generate ambiguities in cases where the Senate rejects or confirms the nomination of the first candidate, triggering the expiration of the list, while the nomination of the second candidate from the same list is still pending. The commentator requested that the Commission clarify that once an individual is nominated, the expiration of the list that person appeared on will not preclude that person’s confirmation and appointment.

Commission Response: The Commission acknowledges the ambiguity in the proposed § 2103.8, and adds an additional paragraph to § 2103.8 to clarify that the expiration of a list does not affect pending nominations which have not been otherwise rejected.

The Commission received a comment from the Council of Lawyers suggesting replacing the “shall” in “the President shall have sixty (60) days to nominate a person” in § 2103.8(a)(2) with language that more clearly indicates that the President does not have an affirmative obligation in the context of the nominations.

Commission Response: The Commission believes the existing language does not impose any affirmative obligations on the President to make a nomination; it only describes a time period which is specified in D.C. Official Code § 1-204.34(d)(1).

The Commission received a comment from the Council of Lawyers that Subsections 2103.10(b) and (c) inaccurately refer to nominations as the vacancies resulting from rejected nominations,

and not the nominations themselves, that would be deemed to have occurred on the date of the triggering event.

Commission Response: The Commission acknowledges that the proposed language of §§ 2103.10(b) and (c) incorrectly refers to nominations, but disagrees that the vacancies are what is created by the rejection; the vacancy remains constant until the Senate consents and the judge is appointed to the position by the President. The Commission revises the language to clarify that the rejections are deemed to have occurred on the dates of the specified events in §§ 2103.10(b) and (c).

The Commission received a comment from Legal Aid that the proposed § 2103.9 computes the time period for events to include the day of the event, rather than the typical practice in the legal profession to exclude the day of the triggering event in the computation of time, and suggests not including the day of the triggering event.

Commission Response: The Commission acknowledges that time periods in the legal profession typically do not include the day of the triggering event, but believes that including the day of the triggering event in this context will provide more certainty and definiteness.

Commission Determination

The Commission will finalize the proposed § 2103, with the following clarifications:

- The President's time for nomination begins upon receipt of the list.
- A new paragraph is added specifying that the expiration of a list does not affect otherwise pending nominations.
- The language in § 2103.10 is clarified to refer to rejections instead of nominations.

Other Comments

The Commission received comments from DOJ, Legal Aid, and the Council of Lawyers expressing general support of the proposed regulation. Commentators stated that the proposed clarification of the procedures will increase the efficiency of the nomination procedure and promote the public interest in effective and equitable administration of justice.

Commission Response: The Commission acknowledges and appreciates the commenters' support for these proposed regulations.

These rules were adopted as final on November 1, 2019 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 21, JUDICIAL NOMINATION COMMISSION, is added to Title 28 DCMR, CORRECTIONS, COURTS, AND CRIMINAL JUSTICE, to read as follows:

CHAPTER 21 JUDICIAL NOMINATION COMMISSION

Secs.

2101 MEETINGS OF THE COMMISSION

2102 APPLICATIONS FOR JUDICIAL NOMINATIONS (RESERVED)

2103 RECOMMENDED NOMINEES LISTS

2101 MEETINGS OF THE COMMISSION

2101.1 A majority of the serving members of the Judicial Nomination Commission (Commission) shall constitute a quorum. The vote of a majority of the serving members of the Commission shall be necessary for the adoption of an action by the Commission.

2102 APPLICATIONS FOR JUDICIAL NOMINATIONS (RESERVED)

2103 RECOMMENDED NOMINEES LISTS

2103.1 For each District of Columbia court judicial vacancy, the Commission shall transmit a Recommended Nominees List (List) of three recommended nominees to the President of the United States.

2103.2 The Commission shall not include on a List any person who is currently on a List for a vacancy on the same District of Columbia court.

2103.3 When a vacancy will occur due to the expiration of a District of Columbia judge's term of office or a District of Columbia judge reaching the statutory mandatory retirement age, the Commission shall transmit a List to the President no later than sixty (60) days prior to the last date of the judge's term or retirement date.

2103.4 When a vacancy occurs for any other reason not specified in § 2103.3, the Commission must transmit a List to the President no later than sixty (60) days after the date the vacancy occurs.

2103.5 When a person named on a List requests that the recommendation be withdrawn, dies, or in any other way becomes disqualified to serve as a District of Columbia judge, the Commission shall promptly recommend a person to replace the person originally recommended from the list of applicants for the vacancy.

2103.6 If the President does not nominate a person to fill a District of Columbia judicial vacancy from the existing Lists within sixty (60) days of receiving the List for the particular District of Columbia judicial vacancy, the Commission shall nominate one person from the List for that vacancy, and with the advice and consent of the

United States Senate, shall appoint the person to the judicial vacancy, in accordance with Section 434(d)(1) of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 796; D.C. Official Code § 1-204.34(d)(1)).

2103.7 When a person is nominated, by either the President or the Commission, and the United States Senate confirms the nomination, thereafter, upon the appointment of the person, either by the President or the Commission, the List for the vacancy filled by the nomination is deemed expired, and the Commission may include any person on the expired List on a subsequent List for a District of Columbia judicial vacancy if that person applies for the relevant vacancy.

2103.8

- (a)
- (1) When a nomination for a particular District of Columbia judicial vacancy, whether made by the President or the Commission, is rejected by the Senate, failed confirmation under the Standing Rules of the Senate, or is otherwise returned by the Senate, the nomination shall be deemed rejected.
 - (2) The President shall have sixty (60) days to nominate a person to fill the particular District of Columbia judicial vacancy from one of the Lists, unless the President is sworn into office during that sixty (60)-day period, in which case the President shall have sixty (60) days from the date of assuming office to nominate a person to fill the judicial vacancy.
- (b) If the President does not nominate a person to fill a particular District of Columbia judicial vacancy within sixty (60) days of the date of the rejection, the List for that vacancy shall be deemed expired. The Commission shall promptly transmit a new List for the vacancy.
- (c) In submitting a new List for a vacancy under this subsection, the Commission shall comply anew with the procedures specified by this chapter and Section 434 of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 796; D.C. Official Code § 1-204.34). Persons on the expired list, including the rejected nominee, may reapply for the vacancy, but shall not be considered for the vacancy if they do not reapply.
- (d) The expiration of a List shall not affect any nominations pending at the time of the expiration of the List which have not otherwise been rejected.

2103.9 The computation of time for any time period specified in this section shall begin on and include the date of the event that triggers the period. Time periods shall be measured in calendar days, unless the last day is a Saturday, Sunday, or legal

holiday, in which case, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

2103.10

- (a) Nominations rejected by Senate vote shall be deemed to be rejected on the date of the vote of rejection.
- (b) Nominations deemed rejected by the operation of these rules shall be deemed to be rejected on the date on which the adjournment, recess, or other event triggers the operation of the rule.

2103.11

As of the effective date of these rules, all Lists from which a nomination has been rejected by the Senate and no subsequent nomination has been made are deemed expired. The Commission shall promptly transmit new Lists to the President for each such expired List consistent with the provisions of Subsection 2103.8(c).

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGRM41-2019-01, IN THE MATTER OF 15 DCMR CHAPTER 41-DISTRICT OF COLUMBIA STANDARD OFFER SERVICE RULES

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code §§ 2-505 (2016 Repl.) and 34-802 (2019 Repl.), hereby gives notice of its final rulemaking action amending Chapter 41 (District of Columbia Standard Offer Service Rules), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), in accordance with Commission Order No. 19897,¹ effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*.

2. On October 4, 2019, at 66 DCR 013006-013008, the Commission published a Notice of Proposed Rulemaking (NOPR) in the *D.C. Register*, implementing the directive in Order No. 19897 eliminating the minimum stay provision.² Previously, a commercial customer, who switched from Standard Offer Service (SOS) to service provided by a Competitive Electricity Supplier and subsequently returned to SOS, was required to remain on SOS for a minimum of 12 months.³ Elimination of the minimum stay restriction will provide commercial customers with the same customer choice flexibility as residential customers.⁴ The NOPR, accordingly, amended Section 4105 governing the establishment and re-establishment of SOS as follows: 1) Subsection 4105.6 is deleted; 2) Subsection 4105.5 is amended to allow all customers to switch from SOS to a Competitive Electricity Supplier and return to SOS without restrictions; 3) Subsection 4105.7 is amended to eliminate references to the minimum stay restriction; 4) Subsections 4105.6 to 4105.9 are renumbered as a result of the deletion of subsection 4105.6; and 5) Subsections 4105.2, 4105.3, and 4105.4 are amended to update any cross references to other subsections. No comments were filed in response to the proposed rulemaking.

3. The Commission approved the rules as proposed in a vote at the November 6, 2019, open meeting, with the amendments becoming effective upon publication in the *D.C. Register*.

¹ *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia* (“*Formal Case No. 1017*”), Order No. 19897, rel. April 12, 2019 (“*Order No. 19897*”).

² See Order No. 19897, ¶¶ 1, 11, 42. See generally 15 DCMR §§ 4105.6, 4105.7 (2015).

³ Order No. 19897, ¶¶ 9-10.

⁴ Order No. 19897, ¶ 11.

Chapter 41, DISTRICT OF COLUMBIA STANDARD OFFER SERVICE RULES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Section 4105, ESTABLISHMENT AND RE-ESTABLISHMENT OF STANDARD OFFER SERVICE, is amended in its entirety to read as follows:

- 4105.1 SOS shall be provided to any customer who purchases a new service within the District of Columbia and who does not obtain electric generation service from a Competitive Electricity Supplier at that time. There shall be no fee for a customer to establish SOS in this manner.
- 4105.2 Any customer taking service from a Competitive Electricity Supplier may terminate service with the Competitive Electricity Supplier and elect SOS upon notice to the Electric Company and the SOS Administrator as required by Subsection 4105.8.
- 4105.3 Any customer taking service from a Competitive Electricity Supplier who defaults may terminate service with the defaulting Competitive Electricity Supplier upon notice to the Electric Company and the SOS Administrator as required by Subsection 4105.8.
- 4105.4 Any customer who is slammed or switched to a Competitive Electricity Supplier by mistake can terminate service with the Competitive Electricity Supplier upon notice to the Electric Company and the SOS Administrator as required by Subsection 4105.8, and such customer shall be returned to the service that the customer was receiving prior to being slammed or the mistake occurring as if the slamming or the mistake had not occurred.
- 4105.5 All customers shall be eligible to switch from SOS to Competitive Electricity Suppliers and return to SOS without restrictions.
- 4105.6 A non-residential customer who ceases to receive generation services from a Competitive Electricity Supplier may purchase or contract for generation services from another Competitive Electricity Supplier or elect to receive service from the SOS Administrator at Market Price Service rates rather than Standard Offer Service rates. The Market Price Service rates shall be set in accordance with a tariff previously filed and approved by the Commission. The tariff shall contain a formula that reflects only the following components, or their functional equivalents in the future: the PJM locational marginal price for energy for the Electric Company zone, the PJM posted and verifiable market capacity price, transmission, ancillary services, line losses, appropriate taxes and a fixed retail adder of x mills per kWh. (The amount of the retail adder will be determined in the administrative cost proceeding). The Market Price Service rates may vary by customer class and reflect actual costs. A Competitive Electricity Supplier default occurs when the PJM Interconnection L.L.C. notifies the PJM members that the Competitive Electricity Supplier is in default.

- 4105.7 The contract provisions and exit fees of the Competitive Electricity Supplier remain valid and shall be enforced before a customer will be permitted to switch to SOS or another Competitive Electricity Supplier.
- 4105.8 Notice of Transfers; Transfer of Service; Bill Calculation:
- (a) Notice of Transfer into SOS: A Customer who intends to transfer into SOS shall do so by notifying (by telephone, in writing, Internet or other technological means), both the Electric Company and the SOS Administrator, or by canceling service with its Competitive Electricity Supplier;
 - (b) Notice of Transfer out of SOS: Notice (by telephone, in writing, Internet or other technological means) that a SOS Customer will terminate SOS and obtain service from a Competitive Electricity Supplier shall be provided to the Electric Company and the SOS Administrator by the Customer's Competitive Electricity Supplier pursuant to Chapter 3 of Title 15 of the District of Columbia Municipal Regulations; and
 - (c) The Electric Company shall transfer a Customer to a Competitive Electricity Supplier in no later than three (3) business days after the receipt of the notice of an enrollment transaction from the Competitive Electricity Supplier. The Electric Company shall transfer a Customer to SOS in no later than three (3) business days after receiving the customer's request. The Electric Company will accept the last enrollment received at the relevant day's end.

DEPARTMENT OF HEALTH CARE FINANCE**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Health Care Finance (DHCF or the Department), 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. & 2019 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 intent to adopt amendments to Chapter 95 (Medicaid Eligibility), Chapter 98 (Financial Eligibility for Long Term Care Services), and Chapter 101 (Services My Way Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking adds new Sections 9515 (Medically Needy) and 9516 (Spend Down for Medically Needy Coverage); amends Sections 9804 and 9899; and amends Section 10107 of Title 29 DCMR.

DHCF is the single state agency responsible for the administration of the State Medicaid program under Title XIX of the Social Security Act (the Act) and Children's Health Insurance Program (CHIP) under Title XXI of the Act in the District. This proposed rulemaking amends Chapter 95 of Title 29 DCMR by incorporating new sections that detail the medically needy eligibility group and the spend down process and requirements pursuant to Section 1902(e)(14)(D)(i) of the Act (42 USC § 1396a(e)(14)(D)(i); 42 CFR §§ 435.300–435.350, 435.831).

This rulemaking provides clarity and consistency in the District's methods and procedures for determining Medicaid eligibility for medically needy applicants and beneficiaries that wish to obtain medically needy Medicaid eligibility through spend down. Medically needy is a federally established category that extends Medicaid coverage to certain individuals with high medical expenses whose income exceeds the maximum income for their eligibility category, but who would be otherwise eligible for Medicaid. These individuals therefore must spend down their income in order to meet medically needy Medicaid eligibility. Although the District has medically needy spend down requirements in place, the medically needy spend down policies are not formally included in a single rule.

This rulemaking provides the first comprehensive set of standards for eligibility and the spend-down process. This rulemaking sets forth the budget periods and the calculation the Department uses to determine an individual's spend down obligation, and the process the Department uses to determine the start date of an individual's Medicaid eligibility. This rulemaking also defines the types of expenses that an individual may use to meet his or her spend down obligation, and the requirements for beneficiaries to maintain medically needy Medicaid coverage through spend down. The following eligibility categories shall be eligible for medically needy spend down if they are over the applicable income limit and have met other financial, non-financial, and medical and functional (if applicable) eligibility requirements: (1) medically needy parents and

caretaker relatives; (2) medically needy individuals under age nineteen (19); (3) medically needy individuals aged nineteen (19) or twenty (20); (4) medically needy pregnant women; and (5) individuals that are aged sixty-five (65) or older, blind or disabled.

An applicant or beneficiary shall first meet all financial, non-financial, and medical (if applicable) eligibility factors before an applicant or beneficiary may be eligible for medically needy spend down. Applicants may use incurred medical and remedial care expenses and incurred institutional expenses in order to meet their spend down obligation. Once an applicant has met the spend down obligation for his or her respective budget period, DHCF shall determine that the individual is eligible for Medicaid for the remainder of their spend down budget period. DHCF considered developing an amendment to the District's State Plan for Medical Assistance (SPA) to obtain authority to accept expenses incurred earlier than the third month before the individual's month of application, pursuant to the requirements set forth under 42 CFR § 435.831(g)(2). However, DHCF plans to codify its current policies on medically needy spend down without a State Plan Amendment (SPA) in the interim to study how beneficiaries experience the process, and to potentially develop a SPA in the future.

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

Chapter 95, MEDICAID ELIGIBILITY, of Title 29 DCMR, PUBLIC WELFARE, is amended by adding new Sections 9515 and 9516 as follows:

9515 MEDICALLY NEEDY

- 9515.1 This section establishes the conditions of medically needy eligibility for individuals, identified in Subsection 9515.3, who have income in excess of District Medicaid or Medicaid Waiver standards at the time of application, renewal, or redetermination.
- 9515.2 The medically needy eligibility category shall be subject to the spend down provisions of Section 9516 and all other requirements applicable to District of Columbia Medicaid or Medicaid Waiver programs, including but not limited to, application requirements set forth under Section 9501, and Chapters 19 and 42 (as applicable) of Title 29 DCMR, and DHCF policy.
- 9515.3 The following Modified Adjusted Gross Income (MAGI) eligibility coverage groups may be eligible for District Medicaid under this Section:
- (a) Parents and caretaker relatives with household income above the amount determined in accordance with Subsection 9506.2;
 - (b) Individuals under age nineteen (19) with household income above the amount determined in accordance with Subsection 9506.6;

- (c) Individuals aged nineteen (19) or twenty (20) with household income above the amount determined in accordance with Subsection 9506.7; and
- (d) Pregnant women with household income above the amount determined in accordance with Subsection 9506.3.

9515.4 Individuals that are sixty-five (65) or older, blind or disabled with household income above the amounts determined in accordance with Section 9511 of this chapter and have resources at or below the Supplemental Security Income (SSI) resource levels of four thousand dollars (\$4,000) for an individual and six thousand dollars (\$6,000) for a couple may be eligible for District Medicaid under this section. This eligibility coverage group includes individuals applying for or receiving long-term services and supports.

9515.5 MAGI and non-MAGI eligibility coverage groups identified at Subsections 9515.3 and 9515.4 shall meet the following non-financial eligibility criteria, where applicable, as a condition of medically needy Medicaid or Medicaid Waiver eligibility:

- (a) Non-financial categorial requirements as identified at Subsection 9506.9, which are as follows:
 - (1) District residency pursuant to 42 CFR § 435.403;
 - (2) Provision of a Social Security Number (SSN) or proof of exemption pursuant to 42 CFR § 435.910 and Subsection 9504.7; and
 - (3) U.S. citizenship or nationality, or satisfactory immigration status;
- (b) Non-financial technical requirements for long-term care services, waiver services, or to establish medical or functional level of need as follows:
 - (1) Federal requirements set forth under 42 USC § 1382c for individuals that are aged sixty-five (65) or older, blind, or disabled;
 - (2) Non-financial requirements set forth under Chapter 19 for individuals applying for services under the Home and Community Based Services (HCBS) Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD);
 - (3) Non-financial requirements set forth under Section 989 for individuals applying for services in nursing facilities;

- (4) Non-financial requirements set forth under Chapter 41 for individuals applying for services in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID); and
- (5) Non-financial requirements set forth under Chapter 42 for individuals applying for services under the HCBS Waiver for Persons Who Are Elderly and Individuals with Physical Disabilities (EPD).

9515.6 When applying for Medicaid, applicants shall comply with the application requirements set forth under Section 9501 of this chapter, and individuals applying for or enrolled in the HCBS Waiver programs under Subsection 9515.4(a) shall also comply with the application requirements set forth under Chapters 19 and 42 (as applicable for the HCBS Waivers for ID/DD and EPD, respectively) of Title 29 DCMR, and DHCF policy.

9515.7 After the Department determines that an individual meets all non-financial and medical or functional (if applicable) eligibility factors as described in this section but is over the applicable income limit, the individual may become eligible for medically needy Medicaid through the spend down process, pursuant to the requirements set forth under Section 9516.

9516 SPEND DOWN FOR MEDICALLY NEEDY COVERAGE

9516.1 This section establishes the calculation of spend down and eligibility determination process for medically needy individuals who have income above the income limit for their respective eligibility coverage group, pursuant to the requirements set forth under 42 CFR § 435.831.

9516.2 The spend down process shall not apply to individuals that have resources above the resource limit for their respective eligibility coverage group.

9516.3 Individuals in eligibility groups described in Subsections 9515.3 through 9515.4 with household incomes that exceed the income limit but otherwise meet the eligibility requirements for their coverage group shall submit qualifying incurred medical and remedial expenses in order to qualify for medically needy coverage through spend down. The individual shall submit expenses that may be used as follows:

- (a) To fulfill the individual's spend down obligation during a retroactive budget period or prospective budget period, as described in Subsections 9516.8 and 9516.13; or
- (b) To be carried forward to fulfill a spend down obligation in a future budget period if any unpaid amount submitted for a previous budget period was unused, subject to the requirements set forth under Subsections 9516.15.

- 9516.4 The Department shall use budget periods in accordance with Subsection 9516.6 to compute the spend down obligation that an individual must meet in order to be eligible for medically needy Medicaid through spend down. Except for computing the spend down obligation(s) for retroactive medically needy Medicaid coverage as described in Subsections 9516.5 and 9516.8, the initial budget period begins on the first day of the first month an individual applies for Medicaid.
- 9516.5 An individual may request a separate budget period for retroactive medically needy coverage through spend down for up to three (3) calendar months immediately before the month of application, subject to the requirements set forth under Subsection 9516.8.
- 9516.6 The Department shall use the following budget periods for individuals who have been determined eligible for medically needy coverage through spend down:
- (a) For eligibility groups described in Subsections 9515.3 and 9515.4(a) who are not applying for or receiving long term care services and supports, the Department shall use a one (1) month period to budget the individual's spend down obligation; and
 - (b) For the eligibility groups described in Subsection 9515.4(a) who are applying for or receiving long term care services and supports, the Department shall use a six (6) month period to budget the individual's spend down obligation.
- 9516.7 The Department shall use the following process to calculate the spend down obligation for medically needy coverage for an individual who meets one of the eligibility groups under Subsections 9515.3 and 9515.4:
- (a) Subtract allowable deductions from the applicant's or beneficiary's gross income, as appropriate, in accordance with the requirements set forth in Section 9511 of this chapter, 42 CFR § 435.831(b)(1)(i), and 42 CFR § 435.831(b)(2), to determine countable income;
 - (b) Determine the dollar amount of the medically needy income limit (MNIL), as described in Supplement 8a to Attachment 2.6-A, page 2 of the Medicaid State Plan (also found at: <https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/DHCFStatePlanAttach2-6aSup8a.pdf>), that applies to the applicant's or beneficiary's household size for each month of the budget period as follows:
 - (1) The MNIL for a household of two (2) or more individuals shall be fifty percent (50%) of the annual Federal Poverty Level (FPL); and

- (2) The MNIL for a household of one shall be ninety five percent (95%) of the MNIL for a household of two (2).
- (c) Verify that the applicant's or beneficiary's countable income, as determined under Section 9511, exceeds the Medically Needy Income Level (MNIL) in accordance with the methodology described in 42 C.F.R. §§ 435.831(b)(1)(i) or (b)(2);
- (d) Calculate the applicant's or beneficiary's spend down obligation as follows:
- (1) For individuals using a one (1) month budget period:
- $$\text{Countable income} - \text{MNIL} = \text{Individual's spend down obligation for the one (1) month budget period; and}$$
- (2) For individuals using a six (6) month budget period:
- $$(\text{Countable income} - \text{MNIL}) \times 6 = \text{Individual's spend down obligation for the six (6) month budget period; and}$$
- (e) Use documentation of qualifying medical or remedial expenses to determine whether the documented expenses meet the conditions of a qualifying medical or remedial expense pursuant to the requirements set forth in Subsections 9516.10 and 9516.12.

9516.8 If an individual requests retroactive Medicaid coverage pursuant to Subsection 9516.5, the Department shall calculate the retroactive budget period, which shall be considered separately from the prospective budget period, as follows:

- (a) Determine the individual's countable income, consistent with the process described in Subsection 9516.7(a). The Department shall only consider the income available to the individual in the month(s) that the individual requests retroactive coverage;
- (b) Determine the individual's MNIL using the process described in Subsection 9516.7(b). The Department shall base the MNIL on the month(s) requested for retroactive coverage;
- (c) Verify that the applicant's or beneficiary's countable income exceeds the MNIL in accordance with the methodology described in 42 CFR §§ 435.831(b)(1)(i) or (b)(2);
- (d) If the requested months of retroactive coverage are consecutive, the individual shall have a choice to either:

- (1) Consider each month of retroactive coverage separately to determine a spend down amount for each month using the calculation described in Subsection 9516.7(d)(1); or
- (2) Combine the excess income for each month to obtain one spend down amount for the retroactive period using the calculation described in Subsection 9516.7(d)(1). For example, if an individual requests retroactive coverage for two (2) consecutive months and chooses to combine the excess income for each month, the calculation shall be as follows:

(Countable income for month one (1) – MNIL) + (countable income for month two (2) – MNIL) = Individual's spend down obligation for the two (2) month retroactive period;

- (e) If the requested months of retroactive coverage are not consecutive, consider each month separately and determine a spend down amount for each month using the calculation described in Subsection 9516.7(d)(1); and
- (f) The individual shall have a choice to apply a specific qualifying incurred medical or remedial expense towards a spend down amount for a retroactive budget period, prospective budget period, or both, as long as the expense meets the requirement in Subsection 9516.10(d).

9516.9 The Department shall deduct the following types of qualifying incurred medical or remedial expenses that meet the requirements of Subsections 9516.10 and 9516.12, once the spend down amount is determined:

- (a) Medicare and other health insurance deductibles, coinsurance charges, enrollment fees, copayments and premiums;
- (b) Medical or remedial expenses for necessary medical or remedial services not included in the Medicaid State Plan or HCBS Waivers;
- (c) Medical or remedial expenses for necessary medical or remedial services included in the Medicaid State Plan or HCBS Waivers, which exceed the Department's limitations on amount, duration, or scope of services, as described in Section 3 of the District's Medicaid State Plan, Appendix C of the HCBS Waivers, and corresponding rules; and
- (d) Medical or remedial expenses for necessary medical or remedial services included in the Medicaid State Plan or HCBS Waivers which are within the Department's limitations on amount, duration, or scope of services, as described in Section 3 of the District's Medicaid State Plan, Appendix C of the HCBS Waivers, and corresponding rules.

9516.10 To be determined a qualifying incurred medical expense, an expense shall meet the following requirements:

- (a) Be a necessary cost incurred by an individual for medical goods or services that meets one of the types of expenses outlined in Subsections 9516.9(a)-(d), and may include, but is not limited to the following types of medical goods and services:
 - (1) Inpatient hospital services;
 - (2) Outpatient hospital services;
 - (3) Laboratory and x-ray services;
 - (4) Nursing facility services;
 - (5) Physician services;
 - (6) Clinic services;
 - (7) Dental services;
 - (8) Rehabilitation services;
 - (9) Durable Medical Equipment (DME); and
 - (10) Home health services;
- (b) Be an incurred expense for which the individual, the individual's family, or the individual's financially responsible relatives, as described in 42 CFR § 436.602, is financially liable;
- (c) Not be subject to payment by a third party unless the third party is a State or territory's public program financed by the State or territory, other than the Medicaid program;
- (d) Not already be used to meet a spend down obligation for a previous budget period, unless an unused and unpaid portion of an expense is being carried forward consistent with Subsection 9516.3(b); and
- (e) Be verified by a prescription, referral, bill, receipt, or written statement regarding the goods or services provided, or through other means of documentation required in DHCF policy.

9516.11 Only applicants and beneficiaries of institutional services described in Subsection 9515.4(a) may use medical institutional expenses (other than expenses in acute care facilities) projected to the end of the budget period at the Medicaid reimbursement rate to meet their spend down obligation, subject to the following conditions:

- (a) Only medical expenses that are not subject to payment by a third party may be counted;
- (b) Medical expenses shall include expenses that the individual or family or financially responsible relatives, as described in 42 CFR § 436.602, are projected to incur within the six (6) month budget period;
- (c) Only medical expenses related to institutional care may be projected; and
- (d) Projected medical institutional expenses applied towards an individual's spend down obligation shall be subject to the six (6) month periodic reconciliation of expenses to determine whether spend down was met in accordance with 42 CFR § 435.831(i)(2).

9516.12 To be determined a qualifying incurred remedial expense, an expense shall meet the following requirements:

- (a) Be a nonmedical support service cost, that does not pertain, relate, or belong to the study and practice of medicine, or the science and art of the investigation, prevention, cure, and alleviation of disease;
- (b) Be a cost that is made necessary by the individual's medical or functional condition and that is directly related to the individual's medical or functional care;
- (c) Be a necessary cost for a good or service, consistent with the descriptions in subparagraphs (a)-(b) of this subsection, that meets one of the types of expenses outlined in Subsections 9516.9(a)-(d), and may include, but not be limited to:
 - (1) Travel costs incurred in order to obtain medical services or supplies; and
 - (2) Home or vehicle modifications that provide a direct medical or functional benefit and is necessary due to the individual's medical or functional condition;
- (d) Be an incurred expense for which the individual, the individual's family, or the individual's financially responsible relatives, as described in 42 CFR § 436.602, is financially liable;

- (e) Not be subject to payment by a third party unless the third party is a State or territory's public program financed by the State or territory, other than the Medicaid program;
- (f) Not have been used to meet a spend down obligation for a previous budget period, unless Subsection 9516.3(b) applies; and
- (g) Be verified by a prescription, referral, bill, receipt, or written statement regarding the goods or services provided, or through other means documented in DHCF policy.

9516.13 Pursuant to 42 CFR § 435.831(f), the Department shall deduct incurred medical and remedial expenses that have not been previously applied in establishing eligibility, based on age of bills as follows:

- (a) For the retroactive budget period, paid or unpaid expenses incurred during such period;
- (b) For the first prospective budget period that also includes any of the three (3) preceding months, paid or unpaid expenses incurred during such period;
- (c) For the first prospective budget period that includes none of the months preceding the month of application, paid or unpaid expenses incurred during such budget period and any of the three (3) preceding months;
- (d) For any of the three (3) months preceding the month of application that are not includable under Subparagraph (b) of this subsection, expenses incurred in the three (3) month period that were a current liability of the individual in any such month for which a spend down calculation is made;
- (e) Current payments made in the current budget period on other expenses incurred before the beginning of the budget period; and
- (f) If the individual's eligibility for medical assistance was established in each such preceding period, expenses incurred before the current budget period, to the extent that such expenses are unpaid and are:
 - (1) Described in Subsection 9516.9; and
 - (2) Carried over from the preceding budget period or periods because the individual had a spend down obligation in each such preceding period that was met without deducting all such incurred, unpaid expenses.

- 9516.14 Pursuant to 42 CFR § 435.831(h)(2), the Department shall deduct incurred medical and remedial expenses in chronological order by the date each service is furnished, or in the case of insurance premiums, coinsurance or deductible charges, the date such amounts are due. Expenses for services furnished on the same day shall be deducted in the following order:
- (a) Medical or remedial care expenses for necessary medical or remedial care not included in the Medicaid State Plan;
 - (b) Medical or remedial care expenses for necessary medical or remedial care included in the Medicaid State Plan, but which exceed the Department's limitations on amount, duration, or scope of services; and
 - (c) Medical or remedial care expenses for necessary medical or remedial care included in the Medicaid State Plan and which are within the Department's limitations on amount, duration, or scope of services.
- 9516.15 The Department shall not apply medical and remedial expenses towards an individual's initial spend down obligation if the expenses were incurred more than three months before the month of application, subject to Subsection 9516.13(e).
- 9516.16 Once the applicant has submitted medical and remedial expenses to the Department to meet the spend down obligation and has met all other Medicaid eligibility factors, as appropriate, the Department shall make an eligibility determination and provide notice in accordance with Subsection 9516.24.
- 9516.17 For individuals described in Subsections 9515.3 and 9515.4, the Department shall determine the start of the eligibility period as follows:
- (a) If the individual's spend down obligation is met on a date within the budget period, eligibility shall begin on the date the spend down obligation is met (which shall be the latest date of service of an expense submitted and approved to meet the spend down obligation for that budget period) and end on the last day of the individual's budget period, unless Subsection 9516.18 applies; and
 - (b) If the individual's spend down obligation is met using only expenses for services received on a date prior to the budget period, eligibility shall begin on the first day of the first month of the budget period and end on the last day of the individual's budget period.
- 9516.18 For individuals who are required to contribute a portion of income towards the costs of institutional care or HCBS Waiver services pursuant to the requirements set forth under Section 9804 of Title 29 of the District of Columbia Municipal Regulations (DCMR), the eligibility start date shall be the first day of the budget period if:

- (a) The individual's spend down obligation is met after the first day of the budget period; and
- (b) Beginning eligibility after the first day of the budget period makes the individual's share of health care expenses under the post eligibility treatment of income rules, as determined under Section 9804 of Title 29 DCMR, greater than the individual has in contributable income.

9516.19 Pursuant to 42 CFR § 435.831(i)(5), expenses used to meet a spend down obligation shall not be reimbursed under Medicaid.

9516.20 In order to obtain Medicaid reimbursement for any remaining portion of an expense that was not used to meet a previous spend down, the expense shall meet the applicable requirements set forth under the District's Medicaid State Plan and applicable laws and regulations.

9516.21 For beneficiaries using a six (6) month budget period, if the individual meets his or her spend down obligation for the first budget period and becomes eligible for medically needy Medicaid, the following shall occur:

- (a) The Department shall automatically determine that beneficiary is eligible to qualify for medically needy Medicaid by meeting spend down in accordance with Subsection 9516.7 for a second six (6) month budget period;
- (b) The Department shall send a notice that otherwise complies with Section 9508 to the beneficiary sixty (60) days in advance of the end of the first budget period to inform the beneficiary that the beneficiary's medically needy Medicaid eligibility will expire at the end of the current budget period, and the individual must inform the Department of any changes in circumstances that would affect his or her Medicaid eligibility. The Department may also include additional information in the notice as follows:
 - (1) The beginning and ending dates of his or her next budget period;
 - (2) The amount of his or her spend down obligation for the next budget period; and
 - (3) Notice that the individual must submit sufficient qualifying incurred medical and remedial expenses to meet spend down for the next budget period before he or she will regain medically needy Medicaid eligibility.

- 9516.22 Upon renewal, the Department shall calculate an individual's six (6) month spend down obligation in accordance with the methodology described in Subsection 9516.7, and shall take into account any submitted but unused expenses that can be carried over from a previous budget period, if applicable.
- 9516.23 For continued medically needy Medicaid coverage through spend down, the following shall occur:
- (a) For beneficiaries with a six (6) month budget period:
 - (1) The Department shall send the beneficiary a notice consistent with Subsection 9516.21(b); and
 - (2) The Department shall send the beneficiary a renewal form for the beneficiary's completion no later than ninety (90) days prior to the end of the beneficiary's twelfth (12th) month of Medicaid eligibility, as long as the beneficiary has met his or her spend down obligation for both six (6) month budget periods; and
 - (b) For beneficiaries with a one (1) month budget period, the beneficiary shall continue to meet his or her spend down obligation for each budget period. After the beneficiary's twelfth (12th) month of medically needy Medicaid eligibility, the beneficiary shall submit a new application to the Department, consistent with Subsection 9515.7, in order for the Department to re-determine the beneficiary's Medicaid eligibility.
- 9516.24 The Department shall provide timely and adequate notice of eligibility and enrollment determinations and the right to appeal to applicants and beneficiaries consistent with the requirements set forth in Section 9508, 42 CFR § 435.917 and other applicable rules.
- 9516.25 The Department may include additional information in the notice described in Subsection 9516.24 that is not required under federal or District law, which may include but is not limited to the following:
- (a) The beginning and end dates of the individual's budget period, as described in Subsection 9516.6;
 - (b) The beginning and end dates of the individual's eligibility period, which shall be the time period during which spend down has been met (consistent with the requirements set forth under Subsection 9516.17) and the individual is fully eligible for Medicaid;
 - (c) The individual's spend down obligation, as determined in accordance with Subsection 9516.7, for the individual's corresponding budget period;

- (d) Instructions for submitting documentation of expenses consistent with the requirements set forth under Subsections 9516.10(e) and 9516.12(g);
- (e) Instructions that the individual may submit documentation for a twelve (12) month period;
- (f) The total amount of the acceptable qualifying incurred medical and remedial expenses that the individual has already submitted, if any;
- (g) Description of expenses that were submitted but are not acceptable towards the individual's spend down obligation;
- (h) An explanation of why any documentation was not acceptable pursuant to the requirements of Subsections 9516.10 and 9516.12, if applicable;
- (i) The remaining amount of incurred medical and remedial expenses that is required to meet the individual's spend down obligation; and
- (j) The amount of unpaid expenses that may be carried over towards the next budget period.

Section 9599, DEFINITIONS, Subsection 9599.1, is amended to add the following definitions:

Budget Period – The timeframe over which the individual's income is calculated to determine medically needy Medicaid eligibility.

Carry Over Expense – An unpaid, incurred medical and remedial care expense that may be applied towards a spend down obligation in a future budget period(s) if it was incurred within a previous budget period in which spenddown eligibility was established, remains the liability of the individual, and was not fully counted in any previous budget period in which eligibility was met.

Home and Community-Based Services Waiver (HCBS Waiver) Programs – Shall be consistent with the definition set forth under 42 CFR § 440.180.

Incurred expense – An expense for which the individual, the individual's family, or the individual's financially responsible relative is currently financially liable.

Medically Needy Income Level (MNIL) – Fifty percent (50%) of the Federal Poverty Level (FPL) for a household of two (2) or larger; the MNIL for a household of one is ninety-five percent (95%) of that for a household of two, as described in Supplement 8a to Attachment 2.6-A, page 2 of the Medicaid State Plan (also found at:

<https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/DHCFStatePlanAttach2-6aSup8a.pdf>).

Prospective budget period – The timeframe over which an individual’s income is calculated that does not include the retroactive months for which an individual requests retroactive Medicaid coverage.

Retroactive budget period – The timeframe of up to three (3) months preceding the month of application for which an individual’s income is calculated.

Spend Down – Spend down is the process by which an individual may use medical or remedial expenses to reduce countable income to the MNIL to meet financial eligibility requirements for Medicaid coverage.

Spend Down Obligation – The monthly amount of the individual’s gross countable income which is over the MNIL multiplied by the number of months in the budget period.

Section 9804, POST ELIGIBILITY TREATMENT OF INCOME, of Chapter 98, FINANCIAL ELIGIBILITY FOR LONG TERM CARE SERVICES, is amended as follows:

Subparagraph (f) of Subsection 9804.4 is amended to read as follows:

- (f) Incurred remedial expenses, if the expenses are not subject to payment by a third party, including incurred remedial expenses used to meet a spend down obligation;

Section 9899, DEFINITIONS, is amended as follows:

The term “Remedial Care Expenses” in Subsection 9899.1 is amended as follows:

Remedial Care Expenses: Shall have the same meaning as set forth under Chapter 95 of Title 29 DCMR.

Section 10107, PARTICIPANT-DIRECTED SERVICES BUDGET FORMULATION, of Chapter 101, SERVICES MY WAY PROGRAM, is amended as follows:

Subsection 10107.3 is amended as follows:

10107.3 The amount resulting from the calculation described in Subsection 10107.2 shall represent the *Services My Way* participant's monthly PDS allocation amount, which shall be used to compute the participant's PDS budget. If the participant is a medically needy applicant or beneficiary that must spend down income in accordance with Section 9516 of Chapter 95 of Title 29 DCMR to be eligible for Medicaid, the participant’s PDS budget shall only be approved for a six (6) month

period, consistent with the participant's spend down budget period, as defined in Section 9516 of Title 29 DCMR.

Comments on these rules should be submitted in writing to Melisa Byrd, Senior Deputy Director/Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, N.W., Suite 900, Washington D.C. 20001, via telephone on (202) 442-8742 or via email at DHCFPubliccomments@dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

CORRECTED¹ NOTICE OF PROPOSED RULEMAKING

Z.C. Case No. 18-10

(Zoning Map Amendment @ Square 5799, Lot 976)

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), and Section 6 of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2016 Repl.)), hereby gives notice of its intent to amend the Zoning Map to rezone Lot 976 in Square 5799, with an address of 2359 High Street, S.E. (Property), from the R-3 to the RA-2 zone consistent with the Future Land Use Map (“FLUM”), which identifies the Property 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
5799	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.

¹ This notice corrects the square number to Square 5799 which was previously published as Square 579; no other changes were made.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING****Z.C. Case No. 19-15****(Text Amendment – Subtitle B, H, K, and U of Title 11 DCMR)****(To Authorize Short Term Rentals)****October 24, 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, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), and pursuant to § 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 its intent to amend the following provisions of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references are made unless otherwise specified):

- Subtitle B (Definitions, Rules of Measurement, and Use Categories), §§ 100.2 and 200.2;
- Subtitle H (Neighborhood Mixed-Use (NC) Zones), § 1103.1;
- Subtitle K (Special Purpose Zones), §§ 414.3, 616.2, 712.6, and 911; and
- Subtitle U (Use Permissions), §§ 250.1, 505.2, and 600.1.

The Commission proposes to authorize short-term rentals as accessory uses in zones where residential uses are permitted by establishing a definition of a “Short-Term Rental”, by amending the lodging and residential use categories to exclude “Short-Term Rental” uses, and by amending the use permissions. The Commission took action in response to a petition filed by the Council of the District of Columbia, acting through its Chair (Council), proposing these changes to facilitate the administration and implementation of the Short-term Rental Regulation and Affordable Housing Protection Act of 2017, effective April 25, 2019 (D.C. Law 22-307; 66 DCR 898 (January 25, 2019)), which authorizes and regulates short-term rentals (STR Law).

On July 29, 2019, the Council filed a letter that served as a petition proposing text amendments to Subtitle B §§ 100.2 and 200.2 to authorize short-term rentals in residential zones as permitted under the STR Law.

At its publicly-noticed public meeting held on July 29, 2019, the Commission voted to set down the petition for a public hearing and granted authority to the Council to revise the proposed text in consultation with the Office of the Attorney General. Based on that consultation, the proposed text amendments were revised to authorize short-term rentals as an accessory use to a principal residential use in all zones in which residential uses were allowed.

The Office of Planning (OP) filed a Hearing Report on August 30, 2019, as required by Subtitle Z § 400.6, recommending approval of the proposed text amendment and presenting its analysis that the proposed text amendment was not inconsistent with the Comprehensive Plan.

At the October 17, 2019 public hearing, the Commission heard testimony from the Council, OP, from Advisory Neighborhood Commissions (ANC) 1A and 6C, and from members of the public.

The Council noted that it had adopted the STR Law to allow and regulate short-term rentals following a lengthy public hearing process, and that it had first requested that the Commission take action to authorize short-term rentals in residential zones in October 2018. The Council requested that the Commission take emergency action to authorize short-term rentals in residential zones because the STR Law, which had become effective on October 1, 2019, required short-term rentals to obtain licenses, which could only be issued in compliance with the Zoning Regulations.

The Council stated that the Chief Financial Officer estimated that eighty to ninety percent (80-90%) of short-term rentals currently exist in residential zones, which are not permitted under the Zoning Regulations. These short-term rentals would be ineligible for a license under the STR Law, which required proof of zoning compliance. The District therefore risked losing significant tax revenue from these short-term rentals that would not be able to obtain a short-term rental license until the Commission adopted revisions to the Zoning Regulations to authorize short-term rentals.

OP testified in support of the text amendment, as did most public comments, although some public comments asked the Commission to consider expanding the scope of short-term rentals.

ANC 1A supported the text amendment but expressed its concern that the text amendment defined a “Short-Term Rental” by reference to the STR Law instead of adopting a stand-alone definition in the Zoning Regulations. ANC 1A asserted that this created a potential legal risk if the STR Law was overturned by an appeal as well as effectively allowing the Council to rewrite the Zoning Regulations. ANC 1A therefore asked that the Commission consider adopting a stand-alone definition separate from that in the STR Law.

ANC 6C opposed the text amendment, echoing ANC 1A’s concern about the definition referencing the definition in the STR Law, and expressing its concern that it would allow too many short-term rentals, which would decrease housing availability and affordability in violation of the principles and objections of the Comprehensive Plan. ANC 6C therefore requested the Commission revise the text amendment to restrict the short-term rental uses even further than the STR Law did.

The Council rebutted ANC 1A’s concern that the proposed text amendment’s reference to the STR Law to define “Short-Term Rental” risked confusion if the STR Law was overturned in a legal challenge by asserting that the cross-referencing reduced potential confusion between the regulation of short-term rentals under the zoning and licensing regulations, particularly as the STR Law’s definition is complex and subject to clarification under regulations authorized by the STR Law. The Council rebutted ANC 6C’s concerns about the impact of short-term rentals by noting that the STR Law was based on substantial public involvement and that the Council had considered the potential impact of short-term rentals on housing supply and affordability in settling on a final balance that allowed short-term rentals only in the host’s primary residence and not permitting investor-owned short-term rentals. The Council noted that the ninety (90)-day annual maximum for vacation rentals was not an outlier in the short-term rental regulations adopted in surrounding jurisdictions, which ran from sixty (60) days to unlimited.

At the close of the October 17, 2019 public hearing, the Commission requested that the Council provide additional justification for its request for emergency rulemaking and that OP provide a concise summary of the law and confirm the impact of the proposal to allow the STR accessory uses in non-residential zones.

On October 22, 2019, OP filed a supplemental report stating that DCRA was waiting to finalize its short-term rental licensing and enforcement rules until the Commission took action to authorize short-term rentals. The Council filed its response the same day further justifying its request for emergency rulemaking based on confirmation that DCRA could not act until it knew the scope and limitations of zoning approval for short-term rentals, and that the uncertainty caused by further delay risked the loss of additional tax revenue and enforcement of consistent rules.

“Great Weight” to the Recommendations of OP

The Commission is required to give “great weight” to the recommendation of OP pursuant to § 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.) and Subtitle Y § 405.8); *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016.).

The Commission finds OP’s recommendation that the Commission approve the proposed text amendment persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANCs

The Commission must give “great weight” to the issues and concerns raised in the written report of an affected ANC pursuant to § 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 Y § 406.2.) 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. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) 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).)

The Commission is not persuaded by the concern shared by ANCs 1A and 6C that defining “Short-Term Rental” by referencing the definition in the STR Law creates legal risks and allows the Council to effectively rewrite the Zoning Regulations because the Commission notes that ANC 1A recognized that existing zoning definitions referenced definitions in District law. The Commission notes that it retained the ability to revise this definition in the future if it did not agree with future action by the Council, or DCRA under the STR Law, or if the STR Law were overturned on appeal. In the meantime, the Commission credits OP’s support and the Council’s testimony that having a single definition reduces potential ambiguities, especially in light of the complexity of the STR Law’s definition of “Short-Term Rental.”

The Commission is also not persuaded by ANC 6C's concerns that the STR Law is too permissive and will reduce housing affordability and availability and so be inconsistent with the Comprehensive Plan. The Commission credits the Council's assertion that the STR Law limits the impact on the availability and affordability of housing by barring investor-owner short-term rentals, while also allowing property owners to operate short-term rentals in their primary residence, providing income that some property owners need to stay in their homes thereby supporting housing affordability and home ownership. The Commission also credits OP's analysis and recommendation that the proposed text amendment is not inconsistent with the Comprehensive Plan.

The Commission concludes that taking emergency action to adopt the proposed text amendment is necessary to resolve the uncertainty surrounding the implementation of the STR Law, which became effective on October 1, 2019, and to avoid the potential loss of tax revenue pending DCRA's promulgation of licensing and enforcement regulations. The Commission recognized that the Council had requested the Commission take action a year ago when the STR Law was adopted after an extensive public process, and that the continuing uncertainty for all actors – hosts, guest, and neighbors – was not in the public interest. For these reasons, the Commission agreed with the Council's justification for the emergency adoption of these amendments as necessary for the "immediate preservation of the public ... welfare," as authorized by § 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.))

At its public meeting of October 24, 2019, the Zoning Commission took **EMERGENCY ACTION** to adopt the proposed text amendment and also took **PROPOSED ACTION** to authorize the publication of 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).

The emergency rule is effective as of the Commission's October 24, 2019 vote and will expire February 25, 2020, which is the one hundred-twentieth (120th) day after the adoption of this rule, or upon publication of a Notice of Final Rulemaking in the *D.C. Register* that supersedes this emergency rule, whichever occurs first.

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice of proposed rulemaking in the *D.C. Register*.

The following amendments to the Zoning Regulations are adopted on an emergency basis, and are proposed for the Commission's final consideration (additions are shown in **bold** and underlined text and deletions are shown in **bold** and ~~striketrough~~ text):

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

Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, is proposed to be amended by adding a definition of “Short-Term Rental” and revising the definition of “Accessory Use” to read as follows:

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

...¹

Short-Term Rental: A use as defined by the Short-Term Rental Regulation Act of 2018 (D.C. Law 22-307), that has a valid Basic Business License from the Department of Consumer and Regulatory Affairs with a “Short-Term Rental” or “Short-Term Rental: Vacation Rental” endorsement.

...

Use, Accessory: A use customarily incidental and subordinate to the principal use, and located on the same lot with the principal use. **Except for Short-Term Rentals and unless** ~~Unless~~ otherwise specifically permitted, an accessory use ~~in a residential dwelling in a residential zone~~ shall be limited to twenty percent (20%) of the gross floor area.

Subsection 200.2 of § 200, INTRODUCTION, of Chapter 2, USE CATEGORIES, is proposed to be amended by revising paragraphs (s) and (aa) to exclude Short Term Rentals from the “Lodging” and “Residential” use categories to read as follows:

200.2 When used in this title, the following use categories shall have the following meanings:

(a) Agriculture, ...

...

(s) Lodging:

(1) A use providing ...

...

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

- (3) Exceptions: This use category does not include uses which more typically would fall within the emergency shelter or residential use categories **or Short-Term Rental**;

...

(aa) Residential:

- (1) A use offering ...

...

- (4) Exceptions: This use category does not include uses which more typically would fall within the lodging, education, or community-based institutional facility use categories **or Short-Term Rental**;

(bb) ...

Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended as follows:

Subsection 1103.1 of § 1103, MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C), of Chapter 11, USE PERMISSIONS FOR NC ZONES, of, is proposed to be amended by adding a new paragraph (r) and reordering alphabetically to read as follows:

1103.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

- (a) NC zone designated uses;

...

- (q) Services, financial; **and**

- (r) Short-Term Rental as an accessory use to a principal residential use; and**

- ~~(s)~~ Transportation infrastructure.

Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:

Section 414, ACCESSORY USES (HE), of Chapter 4, HILL EAST ZONES – HE-1 THROUGH HE-4, is proposed to be amended by adding a new § 414.3 to read as follows:

414.3 Short-Term Rental shall be permitted as an accessory use to a principal residential use in the HE zones.

Section 616, ACCESSORY USES (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, is proposed to be amended by adding a new § 616.2 to read as follows:

616.2 Short-Term Rental shall be permitted as an accessory use to a principal residential use in the StE zones.

Section 712, MATTER-OF-RIGHT USES (RC), of Chapter 7, REED-COOKE ZONES – RC-1 THROUGH RC-3, is proposed to be amended by adding a new § 712.6 to read as follows:

712.6 Short-Term Rental shall be permitted as an accessory use to a principal residential use in the RC zones.

Section 911, USE PERMISSIONS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, is proposed to be amended by adding a new paragraph in alphabetical order to §§ 911.1, 911.2, 911.3, and 911.5 to read as follows:

911.1 The uses in this section shall be permitted as a matter of right in the WR-1 zone, subject to any applicable conditions:

(a) Agriculture ...

...

(m) Retail subject to the conditions of Subtitle K § 912.10;

(n) Short-Term Rental as an accessory use to a principal residential use;

~~(n)~~ **(o)** Transportation infrastructure; and

~~(o)~~ **(p)** Utilities, basic.

911.2 The uses in this section shall be permitted as a matter of right in the WR-2, WR-3, WR-4, and WR-5 zones, subject to any applicable conditions:

(a) Agriculture ...

...

(x) Service, general subject to the conditions of Subtitle K § 912.11; **and**

(y) Short-Term Rental as an accessory use to a principal residential use; and

~~(y)~~ **(z)** Transportation infrastructure.

911.3 The uses in this section shall be permitted as a matter of right in the WR-7 zone, subject to any applicable conditions:

(a) Agriculture ...

...

(h) Retail; ~~and~~

~~(i)~~ **Short-Term Rental as an accessory use to a principal residential use; and**

~~(j)~~ **(j)** Transportation infrastructure.

...

911.5 The uses in this section shall be permitted as a matter of right in the WR-6 zone, subject to any applicable conditions:

(a) Agriculture ...

...

(n) Retail subject to the conditions of Subtitle K § 912.10; ~~and~~

~~(o)~~ **Short-Term Rental as an accessory use to a principal residential use; and**

~~(p)~~ **(p)** Transportation infrastructure.

Subtitle U, USE PERMISSIONS, is amended as follows:

Subsection 250.1 of § 250, ACCESSORY USES (R), of Chapter 2, USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended by adding a new paragraph (f) and reordering alphabetically to read as follows:

250.1 The following accessory uses shall be permitted as a matter of right in all R zones subject to the associated conditions:

~~(a)~~ **An accessory apartment subject to the conditions of Subtitle U § 253;**

~~(b)~~ **(b)** Two (2) boarders within the principal dwelling;

~~(c)~~ **(c)** No more than two (2) car-sharing ...

~~(d)~~ **(d)** Child development home ...

~~(e)~~ **(e)** Home Occupation subject to the conditions of Subtitle U § 251; ~~and~~

- ~~(f) An accessory apartment subject to the conditions of Subtitle U § 253;
and~~
- (f) Short-Term Rental as an accessory use to a principal residential use;
and
- ~~(f)~~ (g) Other accessory uses, buildings or structures

Subsection 505.2 of § 505, MATTER-OF-RIGHT USES (MU-USE GROUP B), of Chapter 5, USE PERMISSIONS MIXED-USE (MU) ZONES, is proposed to be amended by adding a new paragraph (h) and reordering alphabetically to read as follows:

505.2 The following marine uses shall be permitted as a matter of right:

- (a) Boat construction on an occasional basis by a local community organization;
- (b) Community garden operated by a local community organization or District government agency;
- (c) Floating homes within a permitted marina or yacht club, provided that the maximum density of floating home berths shall not exceed fifty percent (50%) of the total number of berths in the marina or yacht club;
- (d) A home occupation within a floating home;
- ~~(e) Publicly accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;~~
- ~~(d) Public nature education or interpretive center including a boat dock;~~
- (e) Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures;
- ~~(f) Floating homes within a permitted marina or yacht club, provided that the maximum density of floating home berths shall not exceed fifty percent (50%) of the total number of berths in the marina or yacht club; and~~
- ~~(g) A home occupation within a floating home.~~

- (f) Publicly accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;
- (g) Public nature education or interpretive center including a boat dock; and
- (h) Short-Term Rental as an accessory use to a principal residential use.

Subsection 600.1 of § 600, MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOTS, is proposed to be amended by adding a new paragraph (g) to read as follows:

600.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

- (a) Agricultural, both ...
...
- (e) Parking subject to ...
 - (1) Surface parking spaces ...
...
 - (3) Parking garage ...
 - (A) No more than two ...
...
 - (C) The building shall open directly onto an alley; **and**
- (f) Residential dwelling ...
 - (1) The alley lot ...
...
 - (5) If the Zoning Administrator or other authorized building official ... referred to the Board of Zoning Adjustment; **and**
- (g) Short-Term Rental as an accessory use to a principal residential use.

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

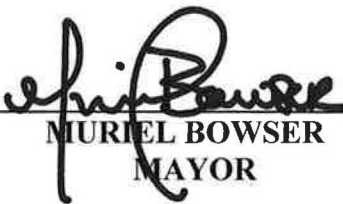
Mayor's Order 2019-115
November 7, 2019

SUBJECT: Delegation - Authority to Announce and Support the 2019 United States Marine Corps Toys for Tots Campaign

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) (2016 Repl.), and under 6B DCMR § 1805.10, it is hereby **ORDERED** that:

1. The Chief of the Fire and Emergency Medical Services Department (“**Fire and EMS Chief**”) is delegated the authority of the Mayor to announce and support the 2019 United States Marine Corps Toys for Tots Campaign. This delegation includes authorization for the Fire and EMS Chief to announce the 2019 United States Marine Corps Toys for Tots Campaign in a General Order sent to Fire and Emergency Medical Services Department employees.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-116
November 7, 2019

SUBJECT: Delegation - Authority - Interagency Council on Homelessness Consumer Member Stipends

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204-22(6) (2016 Repl.), and section 1108(c-2)(5) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (the "Act"), effective March 3, 1979, D.C. Law 2-139; D.C. Official Code § 1-611.08(c-2)(5) (2016 Repl.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Health and Human Services is delegated the authority vested in the Mayor by section 1108(c-2)(5) of the Act, effective March 3, 1979, D.C. Law 2-139; D.C. Official Code § 1-611.08(c-2)(5) (2016 Repl.).
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



 MURIEL BOWSER
 MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-117
November 7, 2019

SUBJECT: Reappointments and Appointments – Comprehensive Homicide
Elimination Strategy Task Force

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 501 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007, D.C. Law 16-262; D.C. Official Code § 22-4251 (2012 Repl.), it is hereby **ORDERED** that:

1. The following persons are reappointed as members of the Comprehensive Homicide Elimination Strategy Task Force, to serve at the pleasure of the Mayor:
 - a. **AKOSUA ALI**, as a representative of a criminal justice reform organization;
 - b. **BRADLEY HOLMES**, as a representative of a social services organization;
 - c. **FRED JACKSON**, as a representative of Advisory Neighborhood Commissions.
 - d. **MICHELLE PALMER**, as a representative of a victim services organization;
 - e. **TYRONE PARKER**, as a representative of a nonprofit organization member; and
 - f. **BARNEY SHAPIRO**, as a representative of businesses.
2. **OLIVIA HENDERSON** is appointed as a representative of Advisory Neighborhood Commissions member of the Comprehensive Homicide Elimination Strategy Task Force, replacing Dierdre Brown, to serve at the pleasure of the Mayor.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-118
November 8, 2019

SUBJECT: Appointment – Chairperson, Board of Pharmacy

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 208 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986, D.C. Law 6-99; D.C. Official Code § 3-1202.08 (2016 Repl.), it is hereby **ORDERED** that:

1. **TAMARA MCCANTS** is appointed as Chairperson of the Board of Pharmacy, and shall serve in this capacity at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 17, 2019.



MURIEL BOWSER
MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

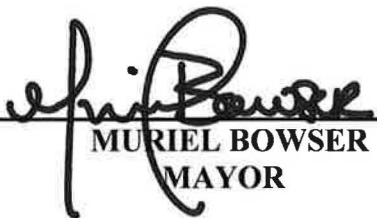
Mayor's Order 2019-119
November 12, 2019

SUBJECT: Appointment — Board of Library Trustees

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), pursuant to section 4 of An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, 29 Stat. 244; D.C. Official Code § 39-104 (2019 Repl.), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142; D.C. Official Code § 1-523.01 (2016 Repl. and 2019 Supp.), it is hereby **ORDERED** that:

1. **ANTONIO WILLIAMS**, pursuant to the Board of Library Trustees Antonio Williams Confirmation Resolution of 2019, effective November, 5, 2019, Resolution 23-0263, is appointed as a member of the Board of Library Trustees, replacing Faith Hubbard, for the remainder of an unexpired term to end January 5, 2020, and a new term to end January 5, 2025.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 5, 2019.



MURIEL BOWSER
MAYOR

ATTEST:  _____
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

**DC MAYOR'S OFFICE ON AFRICAN AFFAIRS THE COMMISSION OF AFRICAN
AFFAIRS**

Notice of Commissioners Meeting

The Commission of African Affairs will be holding a meeting on Wednesday, November 6, 2019 from 6pm to 8pm.

The meeting will be held at Frank D. Reeves Center of Municipal Affairs, 2000 14th Street, NW, 6th floor, Washington, DC 20009.

The Location is closest to the U Street / African –American Civil War Memorial / Cardozo Metro station on the green and yellow line of the Metro.

All Commission meetings are open to the public.

Below is a draft agenda for this meeting. A final agenda will be posted on The Office of African Affairs website at oaa.dc.gov.

If you have any questions about the commission or its meetings, please contact oaa@dc.gov.

Phone: (202) 727-5634

DRAFT AGENDA

I. Opening –Call to Order

II. MOAA Updates and Announcements

III. Chair Announcements

IV. Public Comments

V. Adjournment (8:00pm).

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING

AGENDA FOR APPROVAL TO RESCIND 405.1 AND 404.2 STATUS

WEDNESDAY, NOVEMBER 20, 2019 AT 1:00 PM

2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Request to Rescind Approval of 405.1 Establishment due to failure to renew license. ANC 1B. SMD 1B10. *Tipsy Peacock*, 2915 Georgia Avenue NW, Retailer CT, License No. 094764.
-

2. Request to Rescind Approval of 405.1 Establishment due to failure to renew license. ANC 6E. SMD 6E02. *Yard and Toast*, 1541 7th Street NW, Retailer CT, License No. 101636.
-

3. Request to Rescind Approval of 405.1 Establishment due to failure to renew license. ANC 5E. SMD 5E06. *The Darkroom*, 207 Florida Avenue NW, Retailer CT, License No. 103803.
-

4. Request to Rescind Approval of 405.1 Establishment due to failure to renew license. ANC 5D. SMD 5D01. *Escape Restaurant and Lounge*, 2040 West Virginia Avenue NE, Retailer CT, License No. 105812.
-

***In accordance with D.C. Official Code §2-574(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.**

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

**NOTICE OF PUBLIC HEARINGS
CALENDAR**

**WEDNESDAY, NOVEMBER 20, 2019
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009**

Donovan W. Anderson, Chairperson

Members: James Short, Bobby Cato, Rema Wahabzadah, Rafi A. Crockett

- | | |
|--|----------------|
| Protest Hearing (Status)
Case # 19-PRO-00108; Wi Mila, Inc., t/a New Seven Market, 1406 Good Hope Road SE, License #113576, Retailer B, ANC 8A
Substantial Change (Class Change from Retailer 25% B to Retailer B) | 9:30 AM |
| Protest Hearing (Status)
Case # 19-PRO-00110; Deset Ethiopian Restaurant, LLC, t/a Deset Ethiopian Restaurant, 6128 Georgia Ave NW, License #98818, Retailer CR, ANC 4A
Application to Renew the License | 9:30 AM |
| Protest Hearing (Status)
Case # 19-PRO-00100; Quilox, LLC, t/a Quilox Restaurant and Lounge 7303 Georgia Ave NW, License #114288, Retailer CR, ANC 4B
Application for a New License | 9:30 AM |
| Show Cause Hearing (Status)
Case # 19-CMP-00092; Alazar, Inc., t/a Edgewood International Wine and Spirits, 2303 4th Street NE, License #95032, Retailer A, ANC 5E
Operating After Hours, Allowed Advertisements to be Displayed on the Exterior Windows of the Establishment | 9:30 AM |
| Show Cause Hearing (Status)
Case # 19-CMP-00086; MST Enterprises, Inc., t/a Churreria Madrid Restaurant 2505 Champlain Street NW, License #60806, Retailer CR, ANC 1C
No ABC Manager on Duty, Purchased Alcohol from an Off-Premise Retailer | 9:30 AM |
| Show Cause Hearing (Status)
Case # 19-CIT-00408; Fantom Comics, LLC, t/a Fantom Comics, 2010 P Street NW, License #107167, Retailer DT, ANC 2B | 9:30 AM |

Board's Calendar
November 20, 2019

No ABC Manager on Duty

Show Cause Hearing (Status) 9:30 AM

Case # 19-AUD-00045; Brothers 2Geather, t/a DC Harvest, 517 H Street NE
License #93867, Retailer CR, ANC 6C

**Failed to Maintain on Premises Three Years of Adequate Books and
Records Showing All Sales**

Show Cause Hearing* 10:00 AM

Case # 19-CMP-00036; Ledge, LLC, t/a Truxton Inn, 251 Florida Ave NW
License #101217, Retailer CT, ANC 5E

Stored Alcoholic Beverages Off Premises Without Board Approval

Show Cause Hearing* 10:00 AM

Case # 19-CMP-00018; Po Boy Jim 2, LLC, t/a Po Boy Jim 2, 1934 9th Street
NW, License #105468, Retailer CR, ANC 1B

Violation of Settlement Agreement

Show Cause Hearing* 11:00 AM

Case # 19-CMP-00054; Etete Ethiopian Cuisine, Inc., t/a 1942 DC, 1942 9th
Street NW, License #70728, Retailer CT, ANC 1B

**Failed to Obtain a Summer Garden Endorsement, Substantial Change
Without Board Approval (Increase in Occupancy), Failed to Post License
Conspicuously in the Establishment**

Public Hearing* 11:30 AM

Civil Penalty Rulemaking

Public Hearing* 11:45 AM

Game of Skill Announcement

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Protest Hearing* 1:30 PM

Case # 19-PRO-00088; La Morenita Restaurant, LLC, t/a La Morenita
Restaurant, 3539 Georgia Ave NW, License #86595, Retailer CR, ANC 1A

Application to Renew the License

*This hearing is cancelled due to the submission of a Settlement Agreement for
the Board's review and approval.*

Board's Calendar
November 20, 2019

Protest Hearing*

1:30 PM

Case # 19-PRO-00033; GF, LLC, t/a Il Canale, 1063 31st Street NW, License #83707, Retailer CR, ANC 2E

Application to Renew the License

Protest Hearing*

1:30 PM

Case # 19-PRO-00067 and 19-PRO-00068; Stubs, LLC, t/a Lupo Verde
1401 T Street NW, License #88527, Retailer CR, ANC 2B

Petition to Amend or Terminate the Settlement Agreement, Application to Renew the License

Protest Hearing*

4:30 PM

Case # 19-PRO-00039; Black's 14th Street NW, LLC, t/a Pearl Dive Oyster
Palace/Black Jack, 1612 14th Street NW, License #85382, Retailer CR

Application to Renew the License

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

**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**

**WEDNESDAY, NOVEMBER 20, 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-088290 – **Climax Restaurant & Hookah Bar** – Retail – C – Tavern – 900 Florida Avenue NW

[Licensee did not request to extend Safekeeping.]

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, NOVEMBER 20, 2019 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Class Change from Retailer C Restaurant to Retailer C Tavern. ANC 2B. SMD 2B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Brick Lane Restaurant*, 1636 17th Street NW, Retailer CR, License No. 098427.

2. Review Request to increase Total Occupancy Load listed on ABRA license from 120 to 499. Licensee indicates that the original Certificate of Occupancy had an error that has now been corrected. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *18th Street Lounge*, 1210-1212 18th Street NW, Retailer CT, License No. 021211.

3. Review Request to increase Summer Garden capacity from 74 to 200. ANC 1B. SMD 1B01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Uproar*, 639 Florida Avenue NW, Retailer CT, License No. 092012.

4. Review Application for Change of Hours to open one hour earlier. The hours of alcoholic beverage sales and the hours of operation outdoors will not change. *Approved Hours of Operation Inside Premises*: Sunday-Saturday 8am to 2am. *Proposed Hours of Operation Inside Premises*: Sunday-Saturday 7am to 2am. ANC 2E. SMD 2E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Farmers Fishers Bakers*, 3000 K Street NW, Retailer CR, License No. 074934.

5. Review Application to add Sports Wagering to operations. Request to install up to 7 moveable kiosk stations and implement handheld devices and mobile apps. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement

matters. No conflict with Settlement Agreement. *Public Bar*, 1214 B 18th Street NW, Retailer CT, License No. 081238.

***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.**

**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, November 21, 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, November 19, 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, November 20, 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

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Architectural and Consulting Services

Creative Minds International PCS located in Washington DC invites proposals for Architectural and Consulting Services. Submission deadline is 12:00 PM Eastern Time on November 27, 2019.

To request full scope and/or seek additional information, please email:

Heather Hesslink
Director of Operations & Compliance
heather.hesslink@creativemindspcs.org

**EAGLE ACADEMY PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR QUALIFICATIONS (RFQ) FOR
ARCHITECTURAL SERVICES**

Eagle Academy Public Charter School, in accordance with Section 2204(c)(XV)(A) of the District of Columbia School Reform Act of 1995, hereby requests qualifications to provide Architectural Services for a project at a property located in Washington, DC.

Project Summary

Eagle Academy PCS is requesting qualifications from architectural firms with extensive experience and expertise in the design of school buildings, particularly for young children. The facility must meet the needs of the students, teachers, administrators and parents by designing “through the eyes of a child.” The project will consist of the timely build out of a 17,500SF school within the lowest level of a residential building currently under construction.

Submittal is Due: Tuesday, November 26, 2019, by 5:00 p.m.

Submittal Terms

1. Submittal Requirements – Please limit your submittal to 50 pages or less, and submit your submittal by the time specified above. **Submittals should be directed to the attention of jmallory@eagleacademypcs.org.**
2. All bidders will be deemed to have agreed to EAPCS Standard Terms and Conditions which may be viewed at www.eagleacademypcs.org/terms
3. Eagle Academy PCS reserves the right to reject any and all bids at its sole discretion.

**EAGLE ACADEMY PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR QUALIFICATIONS (RFQ) FOR
GENERAL CONTRACTOR**

Eagle Academy Public Charter School, in accordance with Section 2204(c)(XV)(A) of the District of Columbia School Reform Act of 1995, hereby requests qualifications to provide GENERAL CONTRACTOR for a building renovation project in Washington, DC.

Project Summary

Eagle Academy PCS is requesting qualifications (RFQ) from GENERAL CONTRACTOR firms with extensive experience and expertise in the construction of school buildings, particularly for young children. The facility must meet the needs of the students, teachers, administrators and parents by designing “through the eyes of a child.” The project will consist of the timely build out of a 17,500SF school within the lowest level of a residential building currently under construction.

Submittal is Due: Tuesday, November 26, 2019, by 5:00 p.m.

Submittal Terms

1. Submittal Requirements – Please limit your submittal to 50 pages or less, and submit your submittal by the time specified above. **Submittals should be directed to the attention of jmallory@eagleacademypcs.org.**
2. All bidders will be deemed to have agreed to EAPCS Standard Terms and Conditions which may be viewed at www.eagleacademypcs.org/terms
3. Eagle Academy PCS reserves the right to reject any and all bids at its sole discretion.

**EAGLE ACADEMY PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR QUALIFICATIONS (RFQ) FOR
OWNER'S REPRESENTATIVE**

Eagle Academy Public Charter School, in accordance with Section 2204(c)(XV)(A) of the District of Columbia School Reform Act of 1995, hereby requests qualifications to provide Owner's Rep services for a building renovation project in Washington, DC.

Project Summary

Eagle Academy PCS is requesting qualifications (RFQ) for Owner's Representative services with extensive experience and expertise in the construction of school buildings, particularly for young children. The project will consist of the timely build out of a 17,500SF school within the lowest level of a residential building that is currently under construction.

Submittal is Due: Tuesday, November 26, 2019, by 5:00 p.m.

Submittal Terms

1. Submittal Requirements – Please limit your submittal to 50 pages or less, and submit your submittal by the time specified above. **Submittals should be directed to the attention of jmallory@eagleacademypcs.org.**
2. All bidders will be deemed to have agreed to EAPCS Standard Terms and Conditions which may be viewed at www.eagleacademypcs.org/terms
3. Eagle Academy PCS reserves the right to reject any and all bids at its sole discretion.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT
ANNOUNCES NOVEMBER 21, 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 November 21, 2019
1050 First St. NE, Washington, DC 20002
Conference Room 536 (LeDroit Park)

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 November 21, 2019, committee meeting
- III. Approval of minutes from October 17, 2019, committee meeting
- IV. Review Conflict of Interest – Transaction Disclosure Checklist
- V. Social Justice School - \$500,000 Unfunded Credit Enhancement
- VI. Eagle Academy PCS - \$1,000,000 PACE Loan.

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.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

**Certification of Filling a Vacancy
In Advisory Neighborhood Commission**

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Evelyn Hudson
Single-Member District **2A05**

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

Watershed Restoration and Education Projects

The Department of Energy and Environment (DOEE) seeks eligible entities to help control, prevent, and remediate nonpoint sources of polluted runoff to District of Columbia (District) waters and the Chesapeake Bay. DOEE will fund 3 projects. The amount available for the 3 projects is approximately \$1,850,000.00. This includes \$475,000.00 for the Permeable Surface Rebate Program (2 year grant), \$250,000.00 for the RiverSmart Communities Demonstration Program (2 year grant) and \$400,000.00 for the Green Infrastructure Job Training Program (1 year grant). This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 11/15/2019, the full text of the Request for Applications (RFA) will be available on DOEE's website. A person may obtain a copy of this RFA by any of the following means:

Download from DOEE'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 the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2020WatershedProjects@dc.gov with "Request copy of RFA 2019-2004-WPD" in the subject line.

Pick up a copy in person from the DOEE reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Andrew Oetman at 202-535-1735 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Andrew Oetman RE:2019-2004-WPD" on the outside of the envelope.

Two informational meetings/conference calls and opportunity for question and answers will be held: 11/21/2019 from 1:00 PM to 3:00 PM, and 11/26/2019 from 6:00 PM to 8:00 PM. You can call into either session, or attend in person. To call in the number is 1 (866) 830-5784 and the participant code is 6971510. The address, to attend in person is, 1200 First Street NE, 5th floor, Washington, DC 20002.

The deadline for application submissions is 12/16/2019, at 4:30 PM

Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2020WatershedProjects@dc.gov by the stated time.

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

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

For additional information regarding this RFA, write to: 2020WatershedProjects@dc.gov.

**D.C. DEPARTMENT OF HUMAN RESOURCES
NOTICE OF EXCEPTED SERVICE APPOINTMENTS AND CHANGES**

From June 26, 2019 to August 10, 2019

Pursuant to D.C. Official Code § 1-609.03(c), the Executive must publish the names of individuals appointed to Excepted Service positions within 45 days of appointment. The following individuals, along with the agency, title and grade, were appointed to Excepted Service or the nature of their appointment has changed.

Agency Name	Type Appt	Last Name	First Name	Position Title	Grade
Office of the Mayor	Excepted Service - Reg Appt	Davis	Tommy	Staff Assistant	05
Office of the Mayor	Excepted Service - Reg Appt	Mindes	Benjamin	Associate Director	06
Office of the Mayor	Excepted Service - Reg Appt	Stackhouse	Zoel	Special Assistant	05
Council of the District	Excepted Service - Temp Appt	Dayal	Manpreet	Intern	01
Council of the District	Excepted Service - Reg Appt	Flowers	Marisa	Chief of Staff	09
Council of the District	Excepted Service - Reg Appt	Smith	Deirdre-Ann	Deputy Chief of Staff	07
Ofc of the Attorney General	Excepted Service - Reg Appt	Bloom	David	Director of Community Relation	09
DC State Board of Education	Excepted Service - Reg Appt	Landrau	Renatta	Program Associate	05
Criminal Code Reform Comm.	Excepted Service - Reg Appt	Wenstrup	Nathaniel	Attorney Advisor	07
Department of Behavioral Health	Excepted Service - Temp Appt	Acquaah	Ekow	Dental Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Boswell	Alexandria	Clinical Psychologist Intern	04
Department of Behavioral Health	Excepted Service - Temp Appt	Brindley	Kody	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Canete	Anthony	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Cashwell	Jonathan-Jay	Dental Resident	00

**D.C. DEPARTMENT OF HUMAN RESOURCES
NOTICE OF EXCEPTED SERVICE APPOINTMENTS AND CHANGES**

Agency Name	Type Appt	Last Name	First Name	Position Title	Grade
Department of Behavioral Health	Excepted Service - Temp Appt	Currie	Tiarra	Clinical Psychologist Intern	04
Department of Behavioral Health	Excepted Service - Temp Appt	Hobart	Kelsey	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Jordan	Nargis	Dental Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Metropoulos	Deanna	Clinical Psychologist Intern	04
Department of Behavioral Health	Excepted Service - Reg Appt	Mowle	Elyse	Clinical Psychology Resident	05
Department of Behavioral Health	Excepted Service - Temp Appt	Palomares Guzman	Heroldo	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Term Appt	Payton	Emily	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Penson	Brittany	Clinical Psychologist Intern	04
Department of Behavioral Health	Excepted Service - Temp Appt	Richardson	Lakesha	Dental Resident	00
Department of Behavioral Health	Excepted Service - Term Appt	Sales	Ethan	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Simpkins	Lauren	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	Tubman	Janice	Chaplain Resident	07
Department of Behavioral Health	Excepted Service - Temp Appt	Weasen	Joshua	Medical Officer Psych Resident	00
Department of Behavioral Health	Excepted Service - Temp Appt	White	Madison	Clinical Psychologist Intern	04

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Donor Database and Events Management System**

KIPP DC is soliciting proposals from qualified vendors for a Donor Database and Events Management System. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on November 26, 2019. Questions can be addressed to rebecca.furst-nichols@kippdc.org.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

PEPRADR 2019-01, THE POTOMAC ELECTRIC POWER COMPANY'S RESIDENTIAL AID DISCOUNT COMPLIANCE REPORTS AND FILINGS;

AND

FORMAL CASE NO. 1120, IN THE MATTER OF THE INVESTIGATION INTO THE STRUCTURE AND APPLICATION OF LOW-INCOME ASSISTANCE FOR ELECTRICITY CUSTOMERS IN THE DISTRICT OF COLUMBIA,

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code and in accordance with Section 2-505 of the District of Columbia Official Code,¹ of its final action approving the Potomac Electric Power Company’s (“Pepco”) Rider “RADS” — Residential Aid Discount Surcharge (“Revised Rider Update”) filed on August 28, 2019.² The Commission issued a Notice of Proposed Tariff (“NOPT”), which was published in the *D.C. Register* on October 4, 2019, inviting comments on Pepco’s Revised Rider Update.³ No comments were filed in response to the NOPT.

2. In *Formal Case No. 1053*, the Commission established the Residential Aid Discount (“RAD”) Surcharge, the means by which Pepco recovers the costs of the subsidy for the RAD Program for low-income electricity customers in the District of Columbia.⁴ Subsequently, pursuant to the Residential Aid Discount Subsidy Stabilization Amendment Act of 2010 (“the Act of 2010”),⁵ the Commission, in Order No. 15986, directed Pepco to seek a true-

¹ D.C. Official Code § 2-505 (2019 Repl.) and D.C. Official Code § 34-802 (2012 Repl.).

² *PEPRADR 2019-01, In the Matter of Potomac Electric Power Company's Residential Aid Discount Compliance Reports and Filings (“PEPRAD Year”), Formal Case No. 1120, In the Matter of the Investigation into the Structure and Application of Low Income Assistance for Electricity Customers in the District of Columbia (“Formal Case No. 1120”), Update to Potomac Electric Power Company's (“Pepco”) Rider “RADS” — Residential Aid Discount Surcharge (“Revised Rider Update”), filed August 28, 2019. The Revised Rider Update replaces and supersedes Pepco's original Rider Update filed on March 26, 2019, which was the subject of the Notice of Proposed Tariff published in the D.C. Register on June 7, 2019.*

³ 66 *D.C. Reg.* 013062-013064 (2019).

⁴ *Formal Case No. 1053, In the Matter of the Application of Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, Order No. 14712, rel. January 30, 2008.

⁵ D.C. Law 18-195, Residential Aid Discount Subsidy Stabilization Amendment Act of 2010; D.C. Official Code § 8-1774.14 (2016).

up for the surcharge on an annual basis, commencing January 2011, in the event of an over or under collection of the RAD Surcharge and to address any changes in income eligibility criteria.⁶

3. In *Formal Case No. 1120*, Order No. 18059, the Commission adopted a new methodology for computing the RAD subsidy, and implemented a Residential Aid Credit (“RAC”), which is equal to the full Distribution Charge. In addition, RAD customers are exempt from certain applicable surcharges.⁷ The new methodology for calculating the RAD subsidy became effective June 1, 2016.⁸

4. On March 26, 2019, in compliance with the Act of 2010 and Order Nos. 15986 and 18059, Pepco filed its annual update to the Rider “RADS.” On August 28, 2019, following several discussions with Commission Staff, Pepco filed the Revised Rider Update, which updates its original March 26th filing and “is meant to replace and supersede the original filing.”⁹ Based on our preliminary review of the Revised Rider Update, Pepco's filing is consistent with the approved methodology for computing the RAC. In the Revised Rider Update, Pepco proposes to amend the following tariff pages:

Rate Schedules for Electric Service in the District of Columbia,

**P.S.C. of D.C. No. 1
One Hundred-First Revised Page No. R-1
Superseding One Hundredth Revised Page No. R-1**

**P.S.C. of D.C. No. 1
One Hundred-First Revised Page No. 2
Superseding One Hundredth Revised Page No. 2**

**P.S.C. of D.C. No. 1
Ninety-Fourth Revised Page No. R-2.1
Superseding Ninety-Third Revised Page No. R-2.1**

**P.S.C. of D.C. No. 1
Sixty-Ninth Revised Page No. R-2.2
Superseding Sixty-Eighth Revised Page No. R-2.2**

**P.S.C. of D.C. No. 1
Tenth Revised Page No. R-46
Superseding Ninth Revised Page No. R-46**

⁶ *Formal Case No. 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, and Formal Case No. 813, In the Matter of Application of Potomac Electric Power Company for an Increase in its Retail Rates for the Sale of Electric Energy*, Order No. 15986, ¶¶ 6, 13, rel. September 20, 2010.

⁷ *Formal Case No. 1120*, Order No. 18059, ¶¶ 31, 34, rel. December 15, 2015 (“Order No. 18059”).

⁸ *Formal Case No. 1120*, Order No. 18059, ¶ 35.

⁹ *PEPRADR 2019-01, Formal Case No. 1120*, Revised Rider Update at 1.

5. According to Pepco, the estimated funding level for the RAD program from June 2019 through May 2020 is \$5,610,013, up from \$5,558,684 in the previous true-up filing.¹⁰ This is an increase of \$51,329 over the previous true-up period. Additionally, Pepco reports that the difference in the subsidy for the RAD Program and the RAD Surcharge revenues for the period March 2018 to May 2019 resulted in an over-collection of \$1,556,300, which is included in the true-up calculation.¹¹ To recover the estimated cost for the RAD program from June 2019 through May 2020, net the over-collection for the period from March 2018 to May 2019, Pepco proposes to decrease the RAD Surcharge from \$0.000765 to \$0.000634 per kilowatt-hour.¹²

6. This Revised Rider Update may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket System" tab, click on "Search Current Dockets" and input "PEPRADR2019-01" in the "Select Case Number" field. Copies of the tariff pages and attachments are available, upon request, at a per page reproduction fee.

7. No comments were filed in response to the NOPT. The Commission at its regularly scheduled open meeting held on November 6, 2019, took final action approving Pepco's Revised Rider Update. Pepco's Revised Rider Update is effective upon publication of this Notice in the *D.C. Register*.

¹⁰ See *PEPRADR 2019-01, Formal Case No. 1120*, Revised Rider Update, Attachment B and *PEPRADR 2018-01*, Update to Potomac Electric Power Company's ("Pepco") Rider "RADS" — Residential Aid Discount Surcharge, Attachment B, filed April 4, 2018.

¹¹ See *PEPRADR 2019-01, Formal Case No. 1120*, Revised Rider Update, at 1 and Attachment B.

¹² See *PEPRADR 2019-01, Formal Case No. 1120*, Revised Rider Update, Attachment B.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

**NOTICE OF APPROVED ISSUANCE OF STOCK OR
EVIDENCES OF INDEBTEDNESS****FORMAL CASE NO. 1158, IN THE MATTER OF THE APPLICATION OF
WASHINGTON GAS LIGHT COMPANY FOR A CERTIFICATE OF AUTHORITY
AUTHORIZING IT TO ISSUE DEBT SECURITIES**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to D.C. Code §§ 2-505, 34-502, and 34-503 (2001) and 15 DCMR § 3501.8 (2000), of its approval of the Application of Washington Gas Light Company (“WGL” or “Company”) for a certificate authorizing the Company to issue and sell debt securities and preferred stock in an aggregate amount not to exceed \$600 million.¹

2. In its Application, filed on August 26, 2019, WGL requests authority to issue debt securities in an aggregate amount not to exceed \$600 million from January 1, 2020 through December 31, 2022.² The Company states that it plans to use the proceeds from the financing for four primary purposes: (1) for the refunding of maturing long-term debt; (2) for advance refunding of long-term debt as market conditions permit; (3) for general corporate purposes, including capital expenditures, acquisition of property, working capital requirements, and retirement of short-term debt; and (4) for the reimbursement of funds actually expended for any of those purposes.³ WGL also seeks expedited review of its Application under the Commission’s expedited review process in Chapter 35 of the Commission’s rules (15 DCMR §§ 3500-3505 (2000)).⁴

3. A Notice of Proposed Issuance of Stock or Evidences of Indebtedness (“NOPI”) was published in the *D.C. Register* on September 27, 2019, inviting public comments or objections to the Application.⁵ No public comments or objections were filed in response to the NOPI. Thereafter, the Commission, at its open meeting held on November 6, 2019, took final action to approve WGL’s Application as filed.⁶

¹ *Formal Case No. 1158, In the Matter of the Application of Washington Gas Light Company for a Certificate of Authority Authorizing it to Issue Debt Securities* (“*Formal Case No. 1158*”), Washington Gas Light Company’s Application for Authority to Issue Debt Securities, filed August 26, 2019 (“WGL’s Application”).

² *Formal Case No. 1158*, WGL’s Application a 2.

³ *Formal Case No. 1158*, WGL’s Application a 2-3.

⁴ *Formal Case No. 1158*, WGL’s Application a 1. 15 DCMR §§ 3500-3505 (2000). More specifically, Subsection 3501.1 of § 3501, Expedited Review Process, states “[a]n application for authority to issue or amend tariffs or issue stock or evidences of indebtedness that are payable in more than one year shall be approved by the Commission within 30 days after the publication date in the *D.C. Register*, provided that: (1) no objection is filed within 30 days after the publication date; and (2) the Commission does not order additional time for review of the application.”

⁵ 66 *D.C. Reg.* 012843-012844 (2019).

⁶ *Formal Case No. 1158*, Order No. 20243, rel. November 6, 2019.

4. WGL's Application and supporting documentation are on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday, or may be viewed on the Commission's website by visiting www.dcpsec.org, and, under the "eDocket System" tab, selecting "Search Current Dockets" and typing "FC1158" in the field labeled "Select Case Number." Copies of the Application are available, upon request, at a per-page reproduction fee. Persons with questions concerning this Notice should call 202-626-5150 or send an email to psec-commissionsecretary@dc.gov.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

**NOTICE OF PROPOSED ISSUANCE OF STOCK OR EVIDENCES OF
INDEBTEDNESS****FORMAL CASE NO. 1161, IN THE MATTER OF THE APPLICATION OF POTOMAC
ELECTRIC POWER COMPANY FOR A CERTIFICATE OF AUTHORITY TO ISSUE
DEBT SECURITIES**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to D.C. Code §§ 2-505, 34-502 and 34-503 (2001), that it intends, in not less than 30 days from the date of publication of this Notice in the *D.C. Register*, to take final action on the Application of the Potomac Electric Power Company (“Pepco” or “Company”) for a certificate authorizing the Company to issue and sell up to \$1.2 billion of long-term secured or unsecured debt securities.¹

2. In its Application, filed on October 31, 2019, Pepco requests authority to issue up to \$1.2 billion of long-term secured or unsecured debt securities for a three-year period.² The Company states that it plans to use the proceeds from the financing for six primary purposes: (1) to refund maturing debt securities; (2) for redemptions; (3) to refund outstanding securities of the Company, should future market conditions make refinancings feasible; (4) to refund short-term debt incurred to finance utility construction and operations on a temporary basis; (5) to fund ongoing capital requirements of the Company; and (6) for other general corporate purposes.³ Pepco further states that the precise timing and types of financing selected will depend on factors such as prevailing and anticipated market conditions, the costs and amount of the Company’s anticipated and outstanding short-term debt, and the costs of the Company’s outstanding securities, and capital structure considerations.⁴ Pepco submits that the scope of the authority the Company seeks herein is designed to provide the Company maximum flexibility to respond to favorable market conditions as they develop in changing markets, which will lower the cost of financing to the Company and its customers.⁵ Pepco also seeks expedited review of its Application under the Commission’s expedited review process in Chapter 35 of the Commission’s rules (15 DCMR §§ 3500-3505 (2000)).⁶

¹ *Formal Case No. 1161, In the Matter of the Application of Potomac Electric Power Company for a Certificate of Authority to Issue Debt Securities (“Formal Case No. 1161”)*, Potomac Electric Power Company’s Application for Authority to Issue Debt Securities, filed October 31, 2019 (“Pepco’s Application”).

² Pepco’s Application at 1, 6.

³ Pepco’s Application at 2.

⁴ Pepco’s Application at 2.

⁵ Pepco’s Application at 2.

⁶ Pepco’s Application at 1. *See also* 15 DCMR § 3501.1, describing the Commission’s expedited review

3. Pepco's Application and supporting documentation are on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday, or may be viewed on the Commission's website by visiting www.dcpssc.org and, under the "eDocket System" tab, selecting "Search Current Dockets" and typing "FC 1161" in the field labeled "Select Case Number." Copies of the Application are available, upon request, at a per-page reproduction fee.

4. Any person desiring to comment on the Application or object to the expedited handling of the Application shall file written comments or objections stating the reasons for the objections no later than 30 days from the date of publication of this Notice in the *D.C. Register* addressed to Brinda Westbrook-Sedgwick, Commission Secretary, at the address listed in the preceding paragraph. Any responses to comments or objections shall be filed within 35 days from the date of publication of this Notice in the *D.C. Register*. Once the comment period expires, the Commission will take final action. Persons with questions concerning this Notice should call (202) 626-5150.

process: "An application for authority to issue or amend tariffs or issue stock or evidences of indebtedness that are payable in more than one year shall be approved by the Commission within thirty days after the publication date in the D.C. Register, provided that: (1) no objection is filed within thirty (30) days after the date of publication; and (2) the Commission does not order additional time for review of the application."

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFFFORMAL CASE NO. 1149, IN THE MATTER OF THE INVESTIGATION INTO THE STRUCTURE AND APPLICATION OF AN EXPERIMENTAL RATE CLASS FOR BOTH SENIOR CITIZENS AND DISABLED RESIDENTS IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code and in accordance with Section 2-505 of the District of Columbia Official Code,¹ of its intent to act upon the Potomac Electric Power Company’s (“Pepco”) Rider SCADRRC — Senior Citizen and Disabled Resident Rate Credit Rider (“Rider SCADRRC”)² filed in compliance with Order No. 19741 in not less than 15 days from the date of publication of this Notice of Proposed Tariff (“NOPT”) in the *D.C. Register*.

2. On November 8, 2018, the Commission, in Order No. 19741, accepted the recommendations contained in the Final Technical Conference Report, filed on April 9, 2018, and established a new experimental rate credit for both senior citizens and disabled residents within the District of Columbia.³ The two-year experimental Rider SCADRRC shall be initially restricted to senior citizens and disabled residents who receive the D.C. Homestead Deduction and Senior Citizen/Disabled Property Owner Tax Relief, and who are Pepco customers not receiving the Residential Aid Discount (RAD).⁴

3. Eligible Pepco customers will be automatically enrolled for Rider SCADRRC on an annual basis. Pepco customers may elect to opt out of receiving the credit under Rider SCADRRC by notifying Pepco in writing or via email. Pepco customers eligible for Rider SCADRRC will be billed under Schedule “R,” and will receive a monthly credit of \$7.50.⁵ The effective date of Rider SCADRRC will be January 1, 2020.⁶

¹ D.C. Code § 2-505 (2016 Repl.) and D.C. Code § 34-802 (2012 Repl.).

² *Formal Case No. 1149, In the Matter of the Investigation into the Structure and Application of an Experimental Rate Class for Both Senior Citizens and Disabled Residents in the District of Columbia* (“*Formal Case No. 1149*”), Potomac Electric Power Company’s Experimental Senior Citizen and Disabled Resident Rate Credit Rider, filed October 23, 2019 at 1–14, (“Rider SCADRRC”).

³ *Formal Case No. 1149*, Order No. 19741, ¶¶ 1, 16, 20, rel. November 8, 2018 (“Order No. 19741”), citing *Formal Case No. 1149*, Technical Conference Report, filed April 9, 2018.

⁴ *Formal Case No. 1149*, Order No. 19741, ¶¶ 1, 16, 22.

⁵ *Formal Case No. 1149*, Rider SCADRRC at 7.

⁶ *Formal Case No. 1149*, Rider SCADRRC at 1. The original Implementation Plan for this rate was based on a February 1, 2020 effective date.

4. Based on our preliminary review of Rider SCADRRC, Pepco's filing is consistent with the approved methodology for computing the rate credit. In the new Rider SCADRRC, Pepco proposes to amend the following tariff pages:

Rate Schedules for Electric Service in the District of Columbia,

**P.S.C. of D.C. No. 1
One Hundred-Second Revised Page No. R-1
Superseding One Hundred-First Revised Page No. R-1**

**P.S.C. of D.C. No. 1
One Hundred-Second Revised Page No. 2
Superseding One Hundred-First Revised Page No. 2**

**P.S.C. of D.C. No. 1
Ninety-Fifth Revised Page No. R-2.1
Superseding Ninety-Fourth Revised Page No. R-2.1**

**P.S.C. of D.C. No. 1
Seventieth Revised Page No. R-2.2
Superseding Sixty-Ninth Revised Page No. R-2.2**

**P.S.C. of D.C. No. 1
New Original Page No. R-56**

5. Rider SCADRRC may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street N.W., Suite 800, Washington, D.C., 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday, as well as on the Commission's website at www.dcpssc.org. Once at the website, open the "eDocket System" tab, click on "Search Current Dockets" and input "FC1149" in the "Select Case Number" field. Copies of the tariff pages and attachments are available, upon request, at a per page reproduction fee.

6. Comments on Rider SCADRRC must be made in writing to Brinda Westbrook-Sedgwick, at the address in paragraph No. 5, or by email to psc-commissionsecretary@dc.gov, or by clicking the following link: https://edocket.dcpssc.org/public/public_comments. Comments must be received within 15 days from the date of publication of this NOPT in the *D.C. Register*. Once the comment period has expired, the Commission will take final action on Pepco's Rider SCADRRC.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

FY2020 DC MAIN STREETS MARKET ANALYSIS

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to conduct market analyses for the DC Main Streets Programs listed below. **The submission deadline is November 21, 2019 at 12 PM.**

- Logan Circle
- Upper Bladensburg Road
- Glover Park
- Cleveland Park
- U Street
- Upper Georgia Avenue

The purpose of this grant is to conduct market analyses for new DC Main Streets Programs. The final deliverables will be utilized by the programs listed above to retain, expand, and attract neighborhood-serving retail stores. Additionally, those deliverables will be utilized to unify and strengthen the commercial corridor.

DSLBD will award **one grant of \$64,500.**

Eligible Applicants: Eligible applicants must be a Certified Business Enterprise (CBE).

The FY 2020 grant performance period is December 1, 2019 through May 30, 2020.

Application Process: Interested applicants must complete an online application on, or before, **November 21 at 12 PM.** Instructions for the application can be found in the Request for Applications (RFA), which will be posted on the DSLBD website at <https://dslbd.dc.gov/service/current-grant-opportunities>. DSLBD will not accept applications submitted via hand delivery, mail, or courier service. Late submissions and incomplete applications will not be forwarded to the review panel.

Selection Process: DSLBD will select grant recipients through a competitive application process. All applications that are received before the deadline from eligible applicants will be forwarded to a review panel to be evaluated, scored, and ranked based on the selection criteria. The Director of DSLBD will make the final determination of grant awards.

Funding for this award is contingent on continued funding from the DC Council. The RFA does not commit DSLBD to make an award.

DSLBD reserves the right to issue addenda, amendments, or a rescission subsequent to the issuance of the NOFA or RFA.

For More Information: Attend the Application Information Session. Please refer to the RFA for the date, time, and location of this meeting.

Questions may be sent to Jennifer Prats, DC Main Streets Grants Manager, DSLBD at DSLBD.grants@dc.gov. All questions must be submitted in writing.

**UNIVERSITY OF THE DISTRICT OF COLUMBIA
REGULAR MEETING OF THE BOARD OF TRUSTEES
NOTICE OF PUBLIC MEETING**

The regular meeting of the University of the District of Columbia Board of Trustees will be held on Tuesday, November 19, 2019 at 6:00 p.m. in the Board Room, Third Floor, Building 39 at the Van Ness Campus, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Below is the planned agenda for the meeting. The final agenda will be posted to the University of the District of Columbia's website at www.udc.edu. For additional information, please contact: Beverly Franklin, Executive Secretary at (202) 274-6258 or bfranklin@udc.edu.

Planned Agenda

- I.** Call to Order and Roll Call
- II.** Approval of the Minutes – September 10, 2019
- III.** Report of the Chairperson – Mr. Bell
- IV.** Report of the President – President Mason
- V.** Committee Reports
 - a. Executive – Mr. Bell
 - b. Committee of the Whole – Mr. Bell
 - c. Academic and Student Affairs – Dr. Tardd
 - i. Alumni Task Force – Mr. Shelton
 - ii. Communications Task Force – Ms. Roberts
 - d. Audit, Budget and Finance – Dr. Jarvis
 - e. Community College – Dr. Tardd
 - f. Operations – Mr. Shelton
 - g. Student Outcomes – Mr. Wyner
- VII.** Unfinished Business
- VIII.** New Business
- IX.** Closing Remarks

Adjournment

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, December 5, 2019 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 120 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | | |
|----|--|-------------------------|
| 1. | Call to Order | Board Chairman |
| 2. | Roll Call | Board Secretary |
| 3. | Approval of November 7, 2019 Meeting Minutes | Board Chairman |
| 4. | Committee Reports | Committee Chairperson |
| 5. | Chief Executive Officer's Report | Chief Executive Officer |
| 6. | Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. | Other Business | Board Chairman |
| 8. | Adjournment | Board Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Strategic Planning Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Strategic Planning Committee will be holding a meeting on Thursday, December 5, 2019 at 11:00 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. Emerging Issues | Committee Chairperson |
| 3. Agenda for Upcoming Committee Meeting | Committee Chairperson |
| 4. Executive Session | Committee Chairperson |
| 5. Adjournment | Committee Chairperson |

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

Application No. 19507-A of 1005 First, LLC, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to the plans approved in BZA Order No. 19507, to permit an increase in the number of units from 460 to 500 residential units, in a mixed-use project consisting of hotel, residential and retail uses in the D-5 Zone at premises 1005 First Street, N.E. (Square 713, Lot 53).

HEARING DATES (19507):	June 14, 2017 and June 21, 2017
DECISION DATE (19507):	June 21, 2017
ORDER ISSUANCE DATE (19507):	July 3, 2017
MODIFICATION OF CONSEQUENCE DECISION DATE (19507-A):	October 30, 2019

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

Original Application. In Application No. 19507, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by 1005 First, LLC (the “Applicant”) for special exceptions from the loading access requirements and penthouse use requirements and for variances from the court requirements to construct a mixed-used project consisting of hotel, residential, and retail uses in the D-5 Zone. The Board issued Order No. 19507 on July 3, 2017. (Exhibit 2.)

Proposed Modification. On October 1, 2019, the Applicant submitted a request for modification of consequence to Order No. 19507 to increase the number of residential units from 460 to 500. (Exhibit 1-5.) The increase in residential units would not require an increase of the total gross floor area of the building; instead, the Applicant proposes to increase the number residential units by creating a more efficient floorplan and submitted revised plans, including a comparison between the previously approved floorplans and the proposed modified floor plans. (Exhibits 3A1-3A2.)

Notice of the Request for Modification. Pursuant to Subtitle Y §§ 703.8-703.9 of Title 11 of the DCMR (Zoning Regulations of 2016, the “Zoning Regulations” to which all references are made unless otherwise specified), the Applicant provided proper and timely notice of the request for modification of consequence. (Exhibit 4.)

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission (“ANC”) 6C.

ANC Report. The ANC did not submit a report to the record regarding the modification of consequence request.

OP Report. Office of Planning (“OP”) submitted a report recommending approval of the proposed modification of consequence, subject to the Applicant’s clarification of the second floor residential

and retail square footages and their impact on overall square footages for those uses. (Exhibit 6.) The Applicant submitted a response to OP, enclosing revisions to the square footages for the residential and retail uses. (Exhibit 7.)

DDOT Report. The District Department of Transportation (“DDOT”) submitted a report indicating that it had no objection to the proposed modification of consequence, subject to conditions. (Exhibit 9.) DDOT’s conditions modify the transportation demand management (“TDM”) plan put forth by the Applicant in Application No. 19507. The Board adopted the modified TDM plan as conditions of its approval.

Request for Modification of Consequence

The Applicant seeks a modification of consequence under Subtitle Y § 703.4 to the plans approved in BZA Order No. 19507, to permit an increase in the number of units from 460 to 500 residential units, in a mixed-use project consisting of hotel, residential and retail uses in the D-5 Zone.

The Board determines that the Applicant’s request complies with 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, the Board concludes that in seeking a modification of consequence, the Applicant has met its burden of proof under as directed by Subtitle Y § 703.4.

“Great Weight” to the Recommendations of OP

The Board is required to give “great weight” to the recommendation of OP pursuant to § 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.) and Subtitle Y § 405.8). The Board finds OP’s recommendation that the Board approve the application persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANC

The Board must give “great weight” to the issues and concerns raised in the written report of the affected ANC pursuant to § 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) The ANC did not submit a written report, therefore there are no issues or concerns to which the Board can give great weight.

Pursuant to 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 BZA Order No. 19507 is hereby **GRANTED**, subject to the approved plans at Exhibits 35A1-35A5 and Exhibit 42 of Application No. 19507, as modified by Exhibits 3A1-3A2 and Exhibit 7 (Sheets 2, 4, and 12) of Application No. 19507-A, and the following conditions:

1. The Applicant shall confirm the project is meeting all Zoning requirements for shower and locker facilities, which are not currently shown on the plan set. The Applicant has indicated to DDOT that they intend to meet these requirements.
2. The Applicant shall implement the following TDM Plan, for the life of the project, unless otherwise noted. This TDM Plan shall supersede the plan committed to in BZA Application No. 19507:
 - a. The Applicant shall identify Transportation Coordinators for planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement.
 - b. The Applicant shall provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site for each land use, and report TDM activities and data collection efforts to goDCgo once per year.
 - c. Transportation Coordinators shall receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
 - d. Transportation Coordinators shall subscribe to goDCgo's residential and hospitality newsletters.
 - e. Transportation Coordinator shall demonstrate to goDCgo that tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law and participate in at least one of the three transportation benefits outlined in the law (employee-paid pretax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future.
 - f. All parking on site shall be priced at market rates at minimum, defined as the average cost for parking in a ¼ mile radius from the site, and unbundled from the cost of leasing apartments or purchase agreement for condos. Free parking, validation, or discounted rates will not be offered for any on-site parking for the hotel and retail uses.
 - g. The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobby containing information related to local transportation alternatives. At a minimum the display shall include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital Bikeshare locations indicating the availability of bicycles.

- h. The Applicant shall provide welcome packets to all new residents that shall, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing info@godcgo.com.
- i. The Applicant shall post "getting here" information in a visible and prominent location on the retail and hotel tenant(s) website(s) with a focus on non-automotive travel modes. Also, links will be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for customers discouraging parking on-street in any nearby Residential Permit Parking zones.
- j. Transportation Coordinators shall develop, distribute, and market various transportation alternatives and options to the residents, employees, and customers, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website(s) and in any internal building newsletters or communications.
- k. The Applicant shall provide retail and hotel employees who wish to carpool with detailed carpooling information and shall be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future.
- l. Hotel tenant shall participate in the Capital Bikeshare Corporate Membership program and offer discounted annual memberships to employees;
- m. The Applicant shall provide brochures with information on non-automotive options for traveling to and from the property available at all times in a visible location in the hotel lobby.
- n. The Applicant shall submit a letter to the Zoning Administrator, DDOT, and goDCgo every five years demonstrating compliance with the transportation and TDM conditions in the Order.
- o. The Applicant shall provide the issued Certificate of Occupancy and supporting documentation demonstrating compliance with the TDM conditions of the Order to DDOT.

In all other respects, Order No. 19507 remains unchanged.

VOTE: 3-0-2 (Frederick L. Hill, Carlton E. Hart, and Peter A. Shapiro to APPROVE; Lorna L. John and Lesylleé M. White not participating.)

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

**BZA APPLICATION NO. 19507-A
PAGE NO. 4**

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

FINAL DATE OF ORDER: November 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. 19507-A
PAGE NO. 5**

**BOARD OF ZONING ADJUSTMENT
PUBLIC MEETING 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

19943A **Application of The Mills Building Associates, LLC**, pursuant to 11
ANC 2B DCMR Subtitle Y § 703, for a minor modification to the plans approved by
BZA Order No. 19943 to permit minor adjustments to the interior layout of
the building, setbacks, and massing of the proposed penthouse in an
existing mixed-use building in the D-5/D-6 Zones at premises 1700
Pennsylvania Avenue N.W. (Square 168, Lot 50).

PLEASE NOTE:

Failure of an applicant to supply a complete application to the Board, and address the required standards of proof for the application, may subject the application or appeal to postponement, dismissal or denial. The public meeting 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. Individuals and organizations interested in any application may submit written comments to the Board.

An applicant is not required to attend for the decision, but it is recommended so that they may offer clarifications should the Board have questions about the case.

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.

BZA PUBLIC MEETING NOTICE

DECEMBER 18, 2019

PAGE NO. 2

The application will remain on the Expedited Review Calendar unless a request for party status is filed in opposition, or if a request to remove the application from the agenda is made by: (1) a Board member; (2) OP; (3) an affected ANC or affected Single Member District; (4) the Councilmember representing the area in which the property is located, or representing an area located within two-hundred feet of the property; or (5) an owner or occupant of any property located within 200 feet of the property.

The removal of the application from the Expedited Review Calendar will be announced as a preliminary matter on the scheduled decision date and then rescheduled for a public hearing on a later date. Notice of the rescheduled hearing will be posted on the Office of Zoning website calendar at <http://dcoz.dc.gov/bza/calendar.shtm> and on a revised public hearing notice in the OZ office. If an applicant fails to appear at the public hearing, this application may be dismissed.

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

Do you need assistance to participate?

Amharic

ለሙከራ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ሙከራ ተርጓሚ) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሙከራ በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

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

French

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

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿Necesita ayuda para participar?

BZA PUBLIC MEETING NOTICE

DECEMBER 18, 2019

PAGE NO. 3

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

Vietnamese

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

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

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

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 19-24
(Children’s National at Walter Reed, LLC –
Text and Map Amendments @ Square 2950, Lots 820-828
November 4, 2019**

THIS CASE IS OF INTEREST TO ANC 4A

On October 28, 2019, the Office of Zoning received an application from Children’s National at Walter Reed, LLC (the “Petitioner”) for approval of text and map amendments for the above-referenced property.

The property that is the subject of this application consists of Lots 820-828 Square 2950 in northwest Washington, D.C. (Ward 4), on property located on the north end of the former Walter Reed Army Medical Center, near the intersection of 14th Street and Alaska Avenue (south of Fern Street). The property is currently zoned R-1-B. The Applicant is proposing a text amendment to create the WR-9 and WR-10 zones and a map amendment to rezone the subject property to the new zones.

The R-1-B zone is intended to protect areas now developed predominantly with detached houses on moderately-sized lots. The R-1-B limits height to 40 feet and lot occupancy to 40%.

The WR-9 and WR-10 zones are special purpose zones intended to establish a zoning framework for the subject property that is consistent with the other parcels that will be privately developed within the boundaries of the former Walter Reed Army Medical Center. The WR-9 zone is proposed to have height, bulk, and density consistent with the WR-1 zone. The WR-10 zone, which is divided into six sub-areas (known as land bays), is proposed to have height, bulk, and densities that are consistent with the WR-1, WR-2, and WR-3 zones.¹

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.

¹ The WR zones are divided into the WR-1 through WR-8 zones and each zone may contain one or more sub-areas. Illustrations of the boundaries for the sub-areas and the development standards can be found in the Zoning Regulations at Subtitle K, Chapter 9.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**NOTICE OF EXTENSION OF SUBMISSION DEADLINE
FOR THE
REQUEST FOR APPLICATIONS****Grant to Promote District of Columbia
Voting Rights and Statehood****Release Date: Monday, October 7, 2019****Application Due Date: Monday, December 2, 2019**

The Office of the Secretary has extended the Submission Deadline for the 2019 Grant to Promote District of Columbia Voting Rights and Statehood from Noon, Friday, November 1, 2019 to Noon, Monday, December 2, 2019.

The new deadline reflects the change made to the Request for Applications for the Grant to Promote District of Columbia Voting Rights and Statehood that was published in the *District of Columbia Register* on Friday, October 11, 2019 and released on Monday, October 7, 2019.

Responses to the Request for Application shall be submitted via email to secretary@dc.gov or a hard copy delivered to the Office of the Secretary of State, 1350 Pennsylvania Avenue, NW, Suite 419, Washington, DC 20004. Applications delivered to the Office of the Secretary must be date-stamped no later than Noon, December 2, 2019.

District of Columbia REGISTER – November 15, 2019 – Vol. 66 - No. 47 015181 – 015333