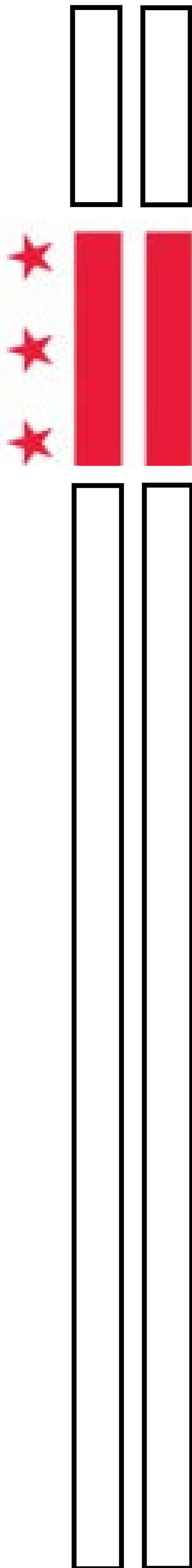

VOL. 66 – NO. 4 JANUARY 25, 2019

# District of Columbia

# REGISTER

## HIGHLIGHTS

- D.C. Council enacts Act 22-563, Short-Term Rental Regulation Act of 2018
- D.C. Council enacts Act 22-568, Behavioral Health Parity Act of 2018
- D.C. Council schedules a public oversight roundtable on the "Next Steps in the District's Public Health-Based Approach to Violence Prevention and Intervention"
- Child and Family Services Agency updates the licensing standards for independent living programs for young adults
- Department of Human Services announces funding availability for the Fiscal Year 2019 - District of Columbia Homeless Youth Transitional Housing Program
- Department of Small and Local Business Development announces funding availability for the DC Commercial Waste Compactor Demonstration Project Grant and the Healthy Foods Retail Program: Grown in DC
- Office of Tax and Revenue sets regulations that require only electronic filing of income and expense forms for income-producing property

# DISTRICT OF COLUMBIA REGISTER

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**ADMINISTRATOR**

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AN ACT
**D.C. ACT 22-563**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To require the Department of Consumer and Regulatory Affairs to license the operation of short-term rentals, to establish duties and enforcement powers for the department, to provide for the establishment of enforcement procedures for short-term rental requirements, to require short-term rental hosts to obtain a license endorsement to operate a short-term rental, to create a new license endorsement for short-term rentals, to create a new license endorsement for vacation rentals, to establish health and safety requirements and other restrictions for hosts, to establish requirements governing the booking of short-term rentals, to permit limited vacation rentals, to require short-term rental hosts and booking services to maintain records, to require booking services to submit a monthly report of short-term rental booking information, to require hosts to pay transient lodging taxes, to require booking services to collect and remit transient lodging taxes, and to establish penalties for violations of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Short-Term Rental Regulation Act of 2018".

TITLE I. SHORT-TERM RENTAL REGULATIONS.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Booking service" means any person or entity that facilitates short-term rental reservations and collects payment for lodging in a short-term rental. A booking service shall be a room remarketer within the meaning of D.C. Official Code § 47-2001(o-1).

(2) "Department" means the Department of Consumer and Regulatory Affairs or its successor agency.

(3) "Host" means a natural person who uses a booking service to provide a short-term rental to a transient guest. A host shall be a vendor within the meaning of D.C. Official Code § 47-2001(w) and D.C. Official Code § 47-2201(g).

(4) "Primary residence" means the property is eligible for the homestead deduction pursuant to D.C. Official Code § 47-850.

(5) "Short-term rental" means paid lodging for transient guests with the host present, unless it is a vacation rental. A short-term rental is not a hotel, inn, motel, boarding

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house, rooming house, or bed and breakfast. A short-term rental operates within a portion of the host's residential property, unless it is a vacation rental.

(6) "Vacation rental" means a short-term rental that operates within a host's residential property wherein a transient guest has exclusive use of the host's property during the transient guest's stay and the host is not present on the premises. A vacation rental is subject to additional restrictions, including section 106(e).

Sec. 102. Restrictions on short-term rentals.

(a) A short-term rental shall require a valid basic business license with a "Short-Term Rental" endorsement, in addition to any other license required by law. A vacation rental shall require a valid basic business license with a "Short-Term Rental: Vacation Rental" endorsement, in addition to any other license required by law.

(b) A host providing a short-term rental shall have current liability insurance of at least $500,000, which may be provided by the booking service. The Mayor may adjust the minimum dollar amount of this insurance requirement by rulemaking.

(c) A host shall provide each transient guest in a short-term rental a 24-hour accessible telephone number to the host, or to a person who has authority to act on behalf of the host, in the event of an emergency.

(d) The property at which the short-term rental is located shall be the host's primary residence.

(e) A host may offer multiple short-term rentals at a single property, such as a bedroom and an in-law suite, subject to all applicable occupancy limits contained in Title 11, Title 12, and Title 14 of the District of Columbia Municipal Regulations.

(f) For the purposes of 18 DCMR § 2414.14, a transient guest of a vacation rental shall not be considered a guest of a resident in the Advisory Neighborhood Commission area designated on an annual visitor parking permit.

Sec. 103. Short-term rental license application.

A host applying for a short-term rental license endorsement shall:

(1) Provide evidence that he or she complies with the requirements of section 102;

(2) If the short-term rental is on property within a condominium, cooperative, or homeowner association, provide proof that the condominium, cooperative, or homeowner association permits the operation of a short-term rental;

(3) State the number of, and describe, the short-term rentals to be provided by the host on the property; and

(4) Pay the license fee, which shall be determined by the Mayor by rulemaking; provided, that the fee for a "Short-Term Rental" endorsement and "Short-Term Rental: Vacation Rental" endorsement shall be the same.

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Sec. 104. Short-term rental license endorsement issuance.

(a) The Department shall not issue a short-term rental license endorsement to any person or entity other than to a host.

(b) The license endorsement shall be applicable to the property on which the short-term rental is located. The presence of more than one short-term rental at the host's property shall not require separate license endorsements.

(c) The Department shall not issue more than one short-term rental license endorsement to a host.

(d) The Department shall not issue a short-term rental license endorsement to a host if prohibited by Title 11 of the District of Columbia Municipal Regulations.

(e) An inspection of the premises by the Department shall not be a prerequisite for issuance of a short-term rental license endorsement.

(f) A short-term rental license endorsement shall be valid for a period of 2 years from the date of issuance. Renewal license endorsements shall be issued in the same manner as initial license endorsements.

Sec. 105. Suspension or revocation of short-term rental license endorsement.

The Mayor shall establish by rulemaking the procedures for suspension, revocation, and other licensing sanctions for violation of this title.

Sec. 106. Requirements for short-term rentals.

(a) A host of a short-term rental shall, throughout the duration of occupancy by the transient guest:

(1) Conspicuously post a copy of the basic business license with the short-term rental license endorsement within the interior of the short-term rental;

(2) Conspicuously post within the interior of the short-term rental a 24-hour accessible telephone number to the host, or to a person who has authority to act on behalf of the host, in the event of an emergency;

(3) Maintain a working smoke detector outside the sleeping area of the short-term rental and on all habitable floors of the host's property, and provide a working carbon monoxide detector on all habitable floors of the host's property;

(4) Provide unobstructed egress from the short-term rental; and

(5) Clean the short-term rental between occupancy by different transient guests, including the change of bed linens and towels.

(b) A host shall not list a short-term rental by using a booking service that does not permit the inclusion of the Short Term Rental or Short Term Rental: Vacation Rental license endorsement number clearly displayed in the listing; provided, that a host shall not be held liable for the failure of a booking service to display a license endorsement number that the host has provided.

(c) A host shall retain records of each booking of a short-term rental for a period of 2 years and shall make the records available to the Department upon request during reasonable hours. Information obtained by the Department pursuant to this subsection shall be confidential and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*); provided, that the Office of the Chief Financial Officer and the Office of the Attorney General may inspect the information for enforcement purposes.

(d) A host shall pay all applicable transient lodging taxes, including those imposed under chapters 20 and 22 of Title 47 of the D.C. Official Code. Such taxes may be collected and remitted to the District of Columbia on behalf of the host by a booking service or person.

(e) A short-term rental shall operate as a vacation rental for no more than 90 nights cumulatively in any calendar year, unless the host has received an exemption pursuant to subsection (f) of this section.

(f)(1)(A) A host may submit an application, on a form provided by the Department, requesting an exemption from the 90-night limit in subsection (e) of this section, if:

(i) The host's employer requires the host to work outside of the District for more than 90 days cumulatively in any calendar year; or

(ii) The host leaves the District to receive treatment for a serious health condition, or to care for a family member who is receiving treatment for a serious health condition, for more than 90 days cumulatively in any calendar year.

(B)(i) If the host is claiming an exemption pursuant to subparagraph (A)(i) of this paragraph, the application submitted pursuant to subparagraph (A) of this paragraph shall be accompanied by a notarized form, signed by a representative of the host's employer, listing the location and duration of the host's work-related assignments outside of the District; provided, that a self-employed host shall submit a signed affidavit attesting that time spent outside the District is work-related and shall provide documentation of the work-related travel.

(ii) If the host is claiming an exemption pursuant to subparagraph (A)(ii) of this paragraph, the application submitted pursuant to subparagraph (A) of this paragraph shall be accompanied by a notarized form, signed by a representative of the health care provider that is providing treatment to the host or the host's family member, attesting to the need for the host or the host's family member to receive treatment for a serious health condition outside of the District.

(2) If the Department determines that the application submitted pursuant to paragraph (1) of this subsection is valid, the Department shall provide the host an exemption from the 90-night limit in subsection (e) of this section, allowing the host to operate a vacation rental for the number of nights equal to:

(A) For a host claiming an exemption pursuant to paragraph (1)(A)(i) of this subsection, the number of days that the host's employer requires the host to work outside of the District; or

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(B) For a host claiming an exemption pursuant to paragraph (1)(A)(ii) of this subsection, the number of days that the host is outside of the District to receive treatment for a serious health condition or to care for a family member who is receiving treatment for a serious health condition.

(3) If the Department issues an exemption to a host pursuant to this subsection, the Department shall transmit to all booking services identified by the host a notification of the number of nights that the host may operate a vacation rental.

(4) Six months after the effective date of this act, and every 6 months thereafter, the Department shall list separately on its website:

(A) The number of exemptions granted in the previous 6 months pursuant to paragraph (1)(A)(i) of this subsection; and

(B) The number of exemptions granted in the previous 6 months pursuant to paragraph (1)(A)(ii) of this subsection.

(5) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this subsection.

(6) For the purposes of this subsection, the term:

(A) "Family member" means:

(i) A biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or a person to whom a host stands in loco parentis;

(ii) A biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to a host when the host was a child;

(iii) A person to whom a host is related by domestic partnership, as defined by section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), or marriage;

(iv) A grandparent of a host; or

(v) A sibling of a host.

(B) "Health care provider" shall have the same meaning as provided in section 2(5) of the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(5)).

(C) "Serious health condition" shall have the same meaning as provided in section 101(20) of the Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01(20)).

(g) Occupancy in a short-term rental shall be limited to a maximum of 8 transient guests, or 2 guests per bedroom, whichever is greater.

Sec. 107. Legal rights of guests.

A transient guest of a short-term rental shall not be deemed to be a tenant as defined

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under either section 103(36) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.03(36)) or section 103(17) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.03(17)).

Sec. 108. Requirements for booking services.

(a)(1) A booking service shall permit a host to provide a prospective guest with the short-term rental license endorsement number for a short-term rental before booking.

(2) A booking service shall not book a short-term rental in the District of Columbia within 5 business days upon notice from the Department that the license endorsement for the short-term rental has been suspended or revoked.

(3) A booking service shall not book a short-term rental that was the subject of notice provided pursuant to paragraph (2) of this subsection, until notified by the Department that the license endorsement for that short-term rental has been reinstated.

(4) A booking service shall not book a vacation rental for more than 90 nights cumulatively in a calendar year, unless the Department has transmitted to the booking service a notification that the host has received an exemption pursuant to section 106(f). For the purposes of complying with this paragraph, a booking service may assume that an accommodation is a vacation rental if the license provided by the host has a "Short Term Rental: Vacation Rental" endorsement.

(b)(1) A booking service shall submit to the Department a report itemizing transactions for which the booking service charged or received a fee for short-term rentals in the District.

(2) The report shall include the following information for each transaction:

(A) The name of the host who provided the short-term rental;

(B) The physical address of the short-term rental;

(C) The "Short Term Rental" or "Short Term Rental: Vacation Rental" license endorsement number of the short-term rental;

(D) The url at which the short-term rental is listed;

(E) The dates for which each transient guest procured use of the short-term rental using the booking service;

(F) Whether the short-term rental was booked as a vacation rental;

(G) The rate charged for each short-term rental stay; and

(H) Any other information deemed necessary by the Department and prescribed through regulations.

(3) The report shall be submitted in a time, manner, and form established by the Department, which may include electronic submission in a format established by the Department.

(4) The report shall be submitted on a monthly basis, or less frequently as determined by the Department.

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(c) Information submitted to the Department pursuant to subsection (b) of this section shall be considered confidential and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*); provided, that the Office of the Chief Financial Officer and the Office of the Attorney General, may inspect the information for enforcement purposes.

(d) A booking service shall retain records of all short-term rentals in the District for 2 years.

(e) A booking service shall obtain from each host consent to provide the information described in this section to the Department. Obtaining lawful consent may consist of providing notice to the host that use of such booking service constitutes consent to the Department disclosure. It shall not be a defense to a violation of this section that the booking service did not obtain consent.

(f) A booking service shall collect and remit on behalf of hosts all required transient occupancy taxes, as provided under section 106(d).

Sec. 109. Enforcement.

(a) The Department shall:

(1) Maintain records on licensed short-term rentals;

(2) Maintain statistics on short-term rental activity and provide reports annually at the request of the Mayor or the Council;

(3) Monitor short-term rentals for compliance with this title and all applicable regulations including the zoning regulations;

(4) Investigate suspected violations of this title by booking services or hosts; provided, that the Office of the Chief Financial Officer shall investigate suspected violations of sections 106(d) and 108(f); and

(5) Issue administrative penalties and orders to enforce the provisions of this act.

(b) The Department may refer violations of this act to the Office of the Attorney General.

(c) The Department shall monitor listings of short-term rentals by booking services. Upon discovery of a violation of this act, the Department shall immediately notify the relevant booking service and the host.

(d) For purposes of determining whether a host is in violation of this title, if any part of a listing for a short-term rental claims or suggests that a short-term rental guest will have exclusive use of the host's entire residence during the guest's stay, this shall serve as prima facie evidence that the short-term rental is a vacation rental, notwithstanding the type of license endorsement actually issued.

Sec. 110. Penalties.

(a) A host found to have violated sections 102 or 106 shall be liable for a civil penalty of:

(1) $500 for the first violation;

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(2) $2,000 for a second violation; and

(3) $6,000 for a third violation and a revocation of the related short-term rental license endorsement.

(b) A booking service found to have violated section 108 shall be liable for a civil penalty of $1,000 for each booking transaction made in violation of this act.

(c) The Mayor may adjust these penalties by rulemaking.

Sec. 111. Rules.

Except as provided in sections 105 and 106(f)(5), the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this title,.

TITLE II. CONFORMING AMENDMENTS.

Sec. 201. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-813(c-8)(2)(A) is amended by striking the phrase "is for nontransient residential dwelling purposes." and inserting the phrase "is for nontransient residential dwelling purposes; provided, that the property may be used to host transient guests pursuant to an unexpired short-term rental license endorsement issued pursuant to section 104 of the Short-Term Rental Regulation Act of 2018, passed on 2nd reading on November 13, 2018 (Enrolled version of Bill 22-92)." in its place.

(b) Section 47-2828 is amended by adding a new subsection (c-1) to read as follows:

"(c-1)(1) Licenses for short term rentals in dwellings shall be issued under the basic business license system as a "Short Term Rental" endorsement on a basic business license.

"(2) Licenses for vacation rentals, defined as short-term rentals that operate within a host's residential property wherein a transient guest has exclusive use of the host's property during the transient guest's stay and the host is not present on the premises, shall be issued under the basic business license system as a "Short Term Rental: Vacation Rental" endorsement on a basic business license.".

(c) Section 47-2851.03(a)(6) is amended as follows:

(1) Subparagraph (A) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) New subparagraphs (C) and (D) are added to read as follows:

"(C) Short-Term Rental; and

"(D) Short-Term Rental: Vacation Rental.".

TITLE III. APPLICABILITY, FISCAL IMPACT STATEMENT, AND EFFECTIVE DATE.

Sec. 301. Applicability.

(a)(1) This act shall apply upon the later of:

(A) October 1, 2019; or

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(B) Inclusion of its fiscal effect in an approved budget and financial plan.

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

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

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

(b) Local recurring annual revenues included in the quarterly September 2018 revenue estimate that exceed the annual revenue estimate incorporated in the approved budget and financial plan for Fiscal Year 2019 through Fiscal Year 2022 shall be used to implement provisions of this act.

Sec. 302. Fiscal impact statement.

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

Sec. 303. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED
Mayor
District of Columbia
JANUARY 15, 2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-564**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the District of Columbia Theft and White Collar Crimes Act of 1982 to prohibit threats, with the intent to obtain property of another or to cause another to do or refrain from doing any act, to distribute a photograph, video, or audio recording tending to subject another person to hatred, contempt, ridicule, embarrassment, or other injury to reputation, and to prohibit threats, with the intent to obtain property of another or to cause another to do or refrain from doing any act, to notify a federal, state, or local government agency or official of another person's immigration or citizenship status.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sexual Blackmail Elimination and Immigrant Protection Amendment Act of 2018".

Sec. 2. Section 152(a) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3252(a)), is amended to read as follows:

"(a) A person commits the offense of blackmail when that person, with intent to obtain property of another or to cause another to do or refrain from doing any act, threatens to:

"(1) Accuse another person of a crime;

"(2) Expose a secret or publicize an asserted fact, whether true or false, tending to subject another person to hatred, contempt, ridicule, embarrassment, or other injury to reputation;

"(3) Impair the reputation of another person, including a deceased person;

"(4) Distribute a photograph, video, or audio recording, whether authentic or inauthentic, tending to subject another person to hatred, contempt, ridicule, embarrassment, or other injury to reputation; or

"(5) Notify a federal, state, or local government agency or official of, or publicize, another person's immigration or citizenship status.".

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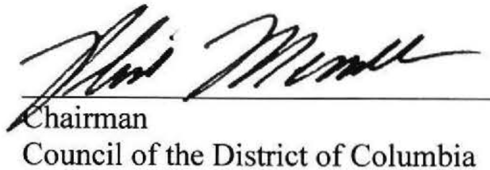
Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
January 15,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-565**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the Department of Youth Rehabilitation Services Establishment Act of 2004 to require the Department of Youth Rehabilitation Services to provide youth in its care oral and written notification of voting rights for individuals currently incarcerated or with criminal records in the District; to amend An Act To create a Department of Corrections in the District of Columbia to require the Department of Corrections, during the inmate intake process and upon release from custody, to determine whether an inmate is a qualified elector, to provide an inmate who is a qualified elector with a voter registration application, and provide oral and written notification of voting rights for individuals currently incarcerated or with criminal records in the District, to require the Department of Corrections to include information about voting rights in its Inmate Handbook or other similar resource provided to inmates, and to require the Department of Corrections to transmit the names and contact information of inmates released from its custody every 6 months to the Office on Returning Citizen Affairs; and to amend the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006 to require the Office on Returning Citizen Affairs to develop a plan to register to vote qualified electors who are in the custody of the Department of Corrections or the Department of Youth Rehabilitation Services, or are returning citizens, and provide them with information about the voting rights of individuals currently incarcerated or with a criminal record in the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Voting Rights Notification Amendment Act of 2018".

Sec. 2. Section 104 of the Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.04), is amended as follows:

(a) Paragraph (16) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Paragraph (17) is amended by striking the period and inserting the phrase "; and" in its place.

(c) A new paragraph (18) is added to read as follows:

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"(18) In addition to any obligations imposed upon the Department due to its designation as a voter registration agency by section 7(d)(1)(B) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 700; D.C. Official Code § 1-1001.07(d)(1)(B)), providing an oral and written notification to each youth of the right of an individual currently incarcerated or with a criminal record to vote in the District.".

Sec. 3. An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.01 *et seq.*), is amended by adding a new section 8 to read as follows:

"Sec. 8. Voting assistance and notifications to inmates in Department of Corrections custody.

"(a) In addition to any obligations imposed upon the Department of Corrections ("Department") due to its designation as a voter registration agency by section 7(d)(1)(B) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 700; D.C. Official Code § 1-1001.07(d)(1)(B)), the Department shall, during the inmate intake process and again when an inmate exits the Department's custody:

"(1) Determine whether an inmate is a qualified elector, as that term is defined in section 2(2) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.02(2));

"(2) If the Department determines that an inmate is a qualified elector, as that term is defined in section 2(2) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.02(2)), but is not registered to vote, provide that inmate with a voter registration application; and

"(3) Provide an oral and written notification to each inmate of the right of an individual currently incarcerated or with a criminal record to vote in the District.

"(b) The Department shall include information about the District voting rights of individuals currently incarcerated or with a criminal record in its Inmate Handbook or other similar resource provided to inmates.

"(c) Beginning on the effective date of the Voting Rights Notification Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-312), and every 6 months thereafter, the Department shall provide to the Office on Returning Citizen Affairs the names and contact information of inmates released from its custody in the prior 6 months.".

Sec. 4. Section 3(b)(2) of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1302(b)(2)), is amended as follows:

(a) Subparagraph (H) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Subparagraph (I) is amended by striking the period and inserting the phrase "; and" in its place.

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(c) A new subparagraph (J) is added to read as follows:

"(J) By January 1, 2020, develop a plan to register qualified electors, as that term is defined in section 2(2) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.02(2)), who are in the custody of the Department of Corrections or the Department of Youth Rehabilitation Services, or are returning citizens, to vote and provide them with information about the voting rights of individuals currently incarcerated or with a criminal record in the District.".

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 16, 2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-566**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the Healthy Schools Act of 2010 to add an annual subsidy for schools implementing breakfast in the classroom, to repeal the reimbursement for meeting the school lunch nutrition guidelines, to encourage schools to procure food in a manner consistent with the Good Food Purchasing Program, to require that certain schools permit breakfast after classes begin for the day, to authorize the Office of the State Superintendent of Education to grant temporary waivers to schools that want to use alternative serving models to increase breakfast participation, to require the Office of Planning to develop recommendations for the Mayor on best practices for building and managing a central kitchen, to require schools to post menu, nutrition, and sourcing information for school meals on their websites, to require District of Columbia Public Schools to conduct a baseline assessment for the Good Food Purchasing Program, increase purchasing of food that meets Good Food Purchasing Program standards, and complete a follow-up assessment, to establish certain physical education and physical activity goals for different age groups, to authorize the Office of the State Superintendent of Education to review local wellness policies and deem schools ineligible for Healthy Schools Fund grants when not in compliance with federal or local requirements, to make participating in the selection process for grants provided under the Healthy Schools Fund a function of the Healthy Youth and Schools Commission, and to combine all Office of the State Superintendent of Education reports related to compliance with the Healthy Schools Act of 2010 into one annual comprehensive report.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Healthy Students Amendment Act of 2018".

Sec. 2. The Healthy Schools Act of 2010, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-821.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 38-821.01) is amended as follows:

(1) The first paragraph (1), defining the term "drinking water source", is redesignated as paragraph (1C).

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(2) The second paragraph (1), defining the term "formula grants process", is redesignated as paragraph (1D).

(3) Paragraph (1A), defining the term "Healthy Schools Fund", is redesignated as paragraph (1G).

(4) New paragraphs (1), (1A), and (1B) are added to read as follows:

"(1) "Alternative breakfast serving model" means a model of serving breakfast:

"(A) Such as breakfast in the classroom or breakfast on grab-and-go carts, in which breakfast is:

"(i) Offered in one or more locations with high student traffic other than the cafeteria; and

"(ii) Available after the start of the school day or both before and after the start of the school day; and

"(B) That has been proven to increase student participation in breakfast relative to the traditional serving model, in which breakfast is served in the cafeteria before the start of the school day.

"(1A) "Animal product" means meat, poultry, seafood, dairy, eggs, honey, and any derivative thereof.

"(1B) "Breakfast in the classroom" means an alternative breakfast serving model where students eat breakfast in the classroom after the start of the school day.".

(5) New paragraphs (1E) and (1F) are added to read as follows:

"(1E) "Good Food Purchasing Program's core values" means the following 5 core values established by the Center for Good Food Purchasing for its Good Food Purchasing Program:

"(A) Local economics;

"(B) Nutrition;

"(C) Valued workforce;

"(D) Environmental sustainability; and

"(E) Animal welfare.

"(1F) "Health education" means instruction of the District of Columbia Health Education Standards.".

(6) Paragraph (2) is amended by striking the phrase "Schools and Youth" and inserting the phrase "Youth and Schools" in its place.

(7) New paragraphs (6B), (6C), and (6D) are added to read as follows:

"(6B) "Physical activity" means bodily movement, including walking, dancing, or gardening.

"(6C) "Physical education" means instruction based on the District of Columbia Physical Education Standards, of which at least 50% of the time is spent in moderate to vigorous physical activity.

"(6D) "Plant-based food option" means food or beverages that:

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"(A) Are free of animal products; and

"(B) With respect to the meat or meat alternate component of a meal, provide a source recognized by the United States Department of Agriculture as a meat alternate free of animal products for the purposes of the National School Lunch Program.".

(8) A new paragraph (11) is added to read as follows:

"(11) "Vegetarian food option" means food or beverages that:

"(A) Are free of meat, poultry, and seafood; and

"(B) With respect to the meat or meat alternate component of a meal, provide a source recognized by the United States Department of Agriculture as a meat alternate free of meat, poultry, and seafood for the purposes of the National School Lunch Program.".

(b) Section 102 (D.C. Official Code § 38-821.02) is amended as follows:

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

(A) Paragraph (1)(A) is amended by striking the word "Ten" and inserting the word "Twenty" in its place.

(B) Paragraph (3) is amended by striking the phrase "schools 40 cents for each lunch meal that meets the requirements of sections 202 and 203 and is served to students who qualify for reduced-price meals." and inserting the phrase "schools, for each lunch meal that meets the requirements of sections 202 and 203 and is served to a student who qualifies for reduced-price meals, the greater of:

"(A) Forty cents; or

"(B) The difference between the U.S. Department of Agriculture reimbursement rate for a free lunch and a reduced-price lunch." in its place.

(C) Paragraph (4) is repealed.

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

"(4A)(A) To provide resources to implement alternative breakfast serving models, the Office of the State Superintendent of Education shall provide an annual subsidy of $2 per student to public schools, public charter schools, and participating private schools that implement an approved alternative breakfast serving model.

"(B) Schools shall use funds received pursuant to this paragraph to purchase equipment and supplies needed to operate the alternative breakfast serving model.".

(E) Paragraph (7) is amended by striking the phrase "school gardens" and inserting the phrase "school gardens or promote health education" in its place.

(2) Subsection (g) is amended by striking the phrase "at the end of a fiscal year" and inserting the phrase "on May 31 each year" in its place.

(c) Section 201 (D.C. Official Code § 38-822.01) is amended to read as follows:

"Sec. 201. General goals and standards.

"(a)(1) Public schools, public charter schools, and participating private schools shall:

"(A) Serve nutritious and well-balanced meals to students.

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"(B)(i) Provide meals with a vegetarian food option as the main course for breakfast and lunch every day at all grade levels;

"(ii) Rotate main course vegetarian food options daily to avoid repetition; and

"(iii) Clearly label or identify meals that contain only vegetarian food options as vegetarian; and

"(C) Reasonably accommodate religious and non-medical dietary restrictions.

"(2) A "school food authority", as defined in 7 C.F.R. § 210.2, shall not require a student requesting a plant-based food option, or other non-medical dietary accommodation, to obtain a note from a doctor.

"(b) Public schools, public charter schools, and participating private schools are encouraged to serve plant-based food option as the main course at breakfast and lunch each day to each student.

"(c) Public schools, public charter schools, and participating private schools are strongly encouraged to procure food in a manner consistent with the Good Food Purchasing Program's core values.".

(d) Section 202(b) (D.C. Official Code § 38-822.02(b)) is amended to read as follows:

"(b) In addition to the requirements of subsection (a) of this section, breakfast, lunch, after-school snacks and suppers, and summer meals served to students in public schools, public charter schools, and participating private schools or by organizations participating in the Afterschool Meal Program or the Summer Food Service Program shall meet or exceed the following nutritional requirements:

"(1) All milk shall be unflavored; and

"(2)(A) All grain products shall be whole grain-rich.

"(B) For the purposes of this paragraph, the term "whole grain-rich" means that the product contains at least 50% whole grains and the remaining grains in the product must be enriched.".

(e) Section 203 (D.C. Official Code § 38-822.03) is amended as follows:

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

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

(i) Subparagraph (A) is amended by striking the semicolon and inserting the phrase ", except as provided in paragraph (3)(A) of this subsection;" in its place.

(ii) Subparagraph (B) is amended to read as follows:

"(B) A public middle and high school, public charter middle and high school, and participating private middle and high school shall offer alternative breakfast serving models each day; and".

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

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"(3)(A) The Office of the State Superintendent of Education may grant a waiver to an elementary school required to serve breakfast in the classroom under paragraph (2)(A) of this subsection for one school year if the school food authority, as defined in 7 C.F.R. § 210.2, submits a written action plan to the Office of the State Superintendent of Education showing a strategy to utilize an alternative breakfast serving model that will enable the school to reach the breakfast participation rate in paragraph (2)(C) of this subsection.

"(B) Elementary schools that do not demonstrate incremental progress toward meeting the participation rate in paragraph (2)(C) of this subsection upon completion of the one school year waiver period shall implement breakfast in the classroom at the start of the following school year.".

(2) Subsection (b)(6) is amended by striking the phrase "and commodity foods programs" and inserting the phrase "programs and Child Nutrition U.S. Department of Agriculture foods program in its place.

(f) Section 204 (D.C. Official Code § 38-822.04) is repealed.

(g) A new section 204a is added to read as follows:

"Sec. 204a. Central kitchen report.

"(a) Within 90 days of the applicability date of the Health Students Amendment Act of 2018, passed on 1st reading on November 13, 2018 (Engrossed version of Bill 22-313), the Office of Planning shall submit a report to the Mayor and the Council describing best practices for developing a central kitchen in the District to:

"(1) Prepare, process, grow, and store healthy and nutritious foods for schools and nonprofit organizations;

"(2) Support nutrition education programs; and

"(3) Provide job-training programs for students and District residents.

"(b) The report required by subsection (a) of this section shall:

"(1) Include research and case studies on central kitchen facilities in other jurisdictions;

"(2) Identify any agencies that should design, build, or manage a central kitchen facility; and

"(3) Consider how a central kitchen facility could assist other facilities serving meals, such as child development centers, senior centers, recreation centers, and corrections facilities.".

(h) Section 205 (D.C. Official Code § 38-822.05) is amended as follows:

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

(A) The lead-in language is amended by striking the phrase "and participating private schools:" and inserting the phrase "participating private schools, and the Office of the State Superintendent of Education:" in its place.

(B) Paragraph (4) is amended by striking the phrase "and whether growers are engaged in sustainable agricultural practices".

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(2) Subsection (b)(1)(B) is amended by striking the phrase "Online, if the school has a website" and inserting the phrase "On the school's website" in its place.

(i) Section 206(a) (D.C. Official Code § 38-822.06(a)) is amended by striking the phrase "shall meet the requirements of the United States Department of Agriculture's HealthierUS School Challenge program at the Gold Award Level for competitive foods, as may be revised from time to time and notwithstanding any termination of the HealthierUS School Challenge program." and inserting the phrase "shall meet or exceed the standards described in 7 C.F.R. § 210.11(c)-(m)." in its place.

(j) Section 207 (D.C. Official Code § 38-822.07) is amended by striking the phrase "Schools and Youth" and inserting the phrase "Youth and Schools" in its place.

(k) A new section 208 is added to read as follows:

"Sec. 208. DC Free Summer Meals Program report.

"The Office of the State Superintendent of Education and the Department of Parks and Recreation shall submit a joint report to the Mayor and the Council on strategies to increase participation in the DC Free Summer Meals Program by January 1, 2020.".

(l) Section 301a(a) (D.C. Official Code § 38-823.01a(a)) is amended by striking the phrase "Schools and Youth" and inserting the phrase "Youth and Schools" in its place.

(m) A new section 301b is added to read as follows:

"Sec. 301b. Good Food Purchasing Program.

"(a) Before December 31, 2019, the District of Columbia Public Schools ("DCPS") shall conduct a Good Food Purchasing Program ("GFPP") baseline assessment to determine how DCPS can better meet the GFPP core values.

"(b) DCPS shall use findings from the assessment required under subsection (a) of this section to increase food procurement consistent with the GFPP's core values.

"(c) Before December 31, 2020, and annually thereafter, DCPS shall complete a follow-up assessment to demonstrate progress toward the GFPP core values.".

(n) Section 303 (D.C. Official Code § 38-823.03) is amended to read as follows:

"Sec. 303. Mandatory reporting.

"Beginning September 30, 2020, and biennially thereafter, the Office of the State Superintendent of Education shall submit to the Mayor, the Council, and the Healthy Youth and Schools Commission a comprehensive report on the District's compliance with this act, which shall include:

"(1) An update on farm-to-school initiatives and recommendations for improving these initiatives; and

"(2) The information required in sections 405 and 502(c).".

(o) Section 401 (D.C. Official Code § 38-824.01) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "60 minutes each day" and inserting the phrase "at least 60 minutes each day or for the time period recommended for specific age groups in section 402" in its place.

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

(A) Paragraph (4) is amended by striking the phrase "after-school activities" and inserting the phrase "before-school and after-school activities" in its place.

(B) Paragraph (5) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(C) Paragraph (6) is amended by striking the phrase "classroom instruction." and inserting the phrase "classroom instruction and classroom instructional breaks;" in its place.

(D) New paragraphs (7) and (8) are added to read as follows:

"(7) Entering into shared-use agreements with organizations that provide physical activity programming for children outside of the normal school day; and

"(8) Using physical activity as a reward for student achievement and good behavior.".

(p) Section 402 (D.C. Official Code § 38-824.02) is amended as follows:

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

"(a) Public schools and public charter schools shall schedule physical education classes for all students on a weekly basis, and recess for all students on a daily basis, throughout the school year as follows:

"(1)(A) For students in grades kindergarten through 5, it shall be the goal of all schools to provide an average of 150 minutes of physical education per week, and at least one recess of at least 20 minutes per day.

"(B) A school that provides less than an average of 90 minutes per week of physical education in a school year for students in grades kindergarten through 5 shall submit an action plan to the Office of the State Superintendent of Education detailing efforts it will take to increase physical education before the beginning of the next school year and shall work with the Office of the State Superintendent of Education to increase the amount of time provided for physical education each week.

"(2)(A) For students in grades 6 through 8, it shall be the goal of all schools to provide an average of 225 minutes of physical education per week, and at least one recess of at least 20 minutes per day.

"(B) A school that provides less than an average of 135 minutes per week of physical education in a school year for students in grades 6 through 8 shall submit an action plan to the Office of the State Superintendent of Education detailing efforts it will take to increase physical education before the beginning of the next school year and shall work with the Office of the State Superintendent of Education to increase the amount of time provided for physical education each week.".

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

"(a-1)(1) For students in Pre-K 3 and Pre-K 4, public schools and public charter schools shall:

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"(A) Provide an average of 60 minutes of moderate-to-vigorous physical activity per day;

"(B) Set a goal of providing an average of 90 minutes of physical activity per day; and

"(C) Provide at least 2 20-minute sessions of outdoor physical activity per day, weather and space permitting, which may count toward the 60 minutes of physical activity per day requirement.

"(2) A school that provides less than an average of 60 minutes per day of physical activity in a school year shall submit an action plan to the Office of the State Superintendent of Education detailing efforts it will take to increase physical activity before the beginning of the next school year and shall work with the Office of the State Superintendent of Education to increase the amount of time provided for physical activity each week.".

(3) Subsection (c) is amended by striking the phrase "The State Board of Education" and inserting the phrase "The Healthy Youth and Schools Commission" in its place.

(q) Section 402a (D.C. Official Code § 38-824.02a) is repealed.

(r) Section 403 (D.C. Official Code § 38-824.03) is amended as follows:

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

"(a) A student with disabilities shall have suitably adapted physical education incorporated as part of the individualized education program developed for the student. Public schools and public charter schools shall provide suitably adapted physical education or supplementary aids for any other student with special needs that preclude the student from participating in regular physical education instruction, as required by section 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 794).".

(2) A new subsection (c) is added to read as follows:

"(c) The Office of the State Superintendent of Education shall provide and coordinate annual professional-development sessions for school personnel, provided by a certified instructor and based on nationally recognized standards, related to incorporating physical activity into classroom instruction, classroom instruction breaks, and active recess.".

(s) Section 405 (D.C. Official Code § 38-824.05) is amended as follows:

(1) The lead-in language is amended to read as follows:

"Beginning in 2020, and biennially thereafter, the Office of the State Superintendent shall include information regarding the following in the report required pursuant to section 303:".

(2) Paragraph (1) is amended by striking the phrase "physical and health education" and inserting the phrase "health education and physical education and activity" in its place.

(3) Paragraph (2) is amended by striking the phrase "physical education standards" and inserting the phrase "physical education and activity standards" in its place.

(t) Section 501(b)(2) (D.C. Official Code § 38-825.01(b)(2)) is amended by striking the phrase "Schools and Youth" and inserting the phrase "Youth and Schools" in its place.

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(u) Section 502 (D.C. Official Code § 38-825.02) is amended as follows:

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

(A) Paragraph (4) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Paragraph (5) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new paragraph (6) is added to read as follows:

"(6) Assist public schools and public charter schools in receiving certification as U.S. Department of Education Green Ribbon Schools.".

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

(A) Strike the phrase "One year after December 17, 2014" and insert the phrase "Beginning in 2020" in its place.

(B) Strike the phrase "shall issue a report" and insert the phrase "shall include in the comprehensive report required by section 303, an update" in its place.

(v) Section 503 (D.C. Official Code § 38-825.03) is amended as follows:

(1) Subsection (a)(5) is amended by striking the phrase "horticultural guidance and".

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

(A) Strike the phrase "On or before June 30, 2012" and insert the phrase "On or before September 30, 2020, and biennially thereafter" in its place.

(B) Strike the phrase "Schools and Youth" and insert the phrase "Youth and Schools" in its place.

(3) Subsection (d) is amended by striking the phrase "the public school where the produce was grown" and inserting the phrase "the school garden program at the school where the produce is grown" in its place.

(w) Section 601(d) (D.C. Official Code § 38-826.01(d)) is amended as follows:

(1) Designate the existing text as paragraph (1).

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

"(2) The Office of the State Superintendent of Education may deem a school ineligible for grants from the Healthy Schools Fund if the Office of the State Superintendent of Education finds that the school's local wellness policy does not conform with the federal requirements or that the school has not complied with its local wellness policy.".

(x) Section 602 (D.C. Official Code § 38-826.02) is amended by adding a new subsection (e) to read as follows:

"(e)(1) The Office of the State Superintendent of Education shall ensure each public school and public charter school complies with subsections (a) and (c) of this section.

"(2) The Office of the State Superintendent of Education may deem a school ineligible for grants from the Healthy Schools Fund if the Office of the State Superintendent of Education finds that the school has not complied with subsections (a) and (c) of this section.".

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(y) Section 603(c) (D.C. Official Code § 38-826.03(c)) is amended by striking the phrase "Schools and Youth" and inserting the phrase "Youth and Schools" in its place.

(z) Section 701(b) (D.C. Official Code § 38-827.01(b)) is amended as follows:

(1) Paragraph (6) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (7) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (8) is added to read as follows:

"(8) Participating in the selection process for any grants provided under the Healthy Schools Fund established pursuant to section 102.".

Sec. 3. Applicability.

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

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

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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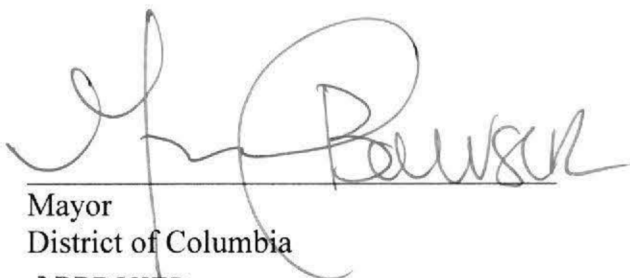
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-567**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the Lead Service Line Priority Replacement Assistance Act of 2004 to require District of Columbia Water and Sewer Authority to replace lead water service lines on private property, with the consent of the property owner, whenever it is replacing lead water service lines or the water main on public property, to establish a payment assistance program for income-eligible residents to assist in paying for the replacement of lead water service lines located on private property if the portion of the water service line on public property is not a lead water service line, and to require the District of Columbia Water and Sewer Authority to provide public education about the risks of lead water service lines and, upon request, annual free lead test kits to property owners and lessees of commercial and residential building; to require that owners of dwelling units to disclose to tenants if there is lead plumbing in the dwelling unit or if there is evidence of lead in the water; and to amend the Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998 to require that homeowners disclose if there is lead plumbing on the property or evidence of lead in the water to potential buyers prior to sale.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Lead Water Service Line Replacement and Disclosure Amendment Act of 2018".

Sec. 2. The Lead Service Line Priority Replacement Assistance Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code § 34-2151 *et seq.*), is amended by adding new sections 6019a, 6019b, and 6019c to read as follows:

"Sec. 6019a. Full lead water service line replacement.

"(a)(1) Except as provided in paragraphs (2) and (4) of this subsection, the District of Columbia Water and Sewer Authority ("DC Water") shall not replace the portion of a lead water service line that is on public property unless it also replaces the portion of the lead water service line that is on private property, subject to the consent of the property owner.

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**ENROLLED ORIGINAL**

"(2) DC Water may replace the portion of a lead water service line that is on public property without replacing the portion of the lead water service line that is on private property if:

"(A) DC Water requests the consent of the private property owner in writing to replace the portion of the lead water service line on private property, and DC Water receives notice that the property owner does not consent to replacement of the portion of the lead water service line on private property;

"(B) DC Water requests the consent of the private property owner in writing to replace the portion of the lead water service line on private property, including an initial request sent by mail, and a second request sent 60 days after the initial request by mail or hand delivery to the property, as well as electronically, if feasible, but does not receive a response from the property owner within 120 days after DC Water sends the initial request;

"(C) The replacement is necessary to repair a damaged or leaking water service line, and DC Water requests the consent of the private property owner in writing via hand delivery to the property to replace the portion of the lead water service line on private property, but does not receive a response within 24 hours after DC Water makes the request; or

"(D) In the event of the exceedance of a lead action level:

"(i) The replacement is required pursuant to 40 C.F.R. § 141.84 to address the lead exposure; and

"(ii) DC Water requests the consent of the private property owner in writing to replace the portion of the lead water service line on private property, including an initial request sent by mail, and a second request sent 30 days after the initial request by mail or hand delivery to the property, as well as electronically, if feasible, but does not receive a response within 60 days after DC Water makes the initial request.

"(3) The cost of replacing lead water service lines on private property pursuant to paragraph (1) of this subsection, including overhead expense, shall be paid by DC Water using funds appropriated for this purpose in the District's annual budget.

"(4) If DC Water does not have sufficient funds from the District or the private property owner to replace a portion of a lead water service line on private property, DC Water shall not replace the portion of the lead water service line on public property unless:

"(A) The replacement is necessary to repair a damaged or leaking lead water service line; or

"(B) In the event of an exceedance of a lead action level, the replacement is required pursuant to 40 C.F.R. § 141.84 to address the lead exposure.".

"(b) Notwithstanding subsection (a) of this section, if DC Water learns that an owner of private property wishes to pay to replace the portion of a lead water service lines on his or her private property, DC Water may replace the portion of the lead water service line on public property at the same time. The cost to replace the portion of the lead water service line located on public property shall be paid by DC Water.

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"(c) Nothing in this section shall be construed to affect DC Water's authority under section 5(b) of An Act To provide for the drainage of lots in the District of Columbia, effective March 29, 1977 (D.C. Law 1-98; D.C. Official Code § 8-205(b)), to, where DC Water deems such action necessary, perform maintenance or repair work on private property, in which case, the cost, including overhead expense, shall be paid by the property owner.

"Sec. 6019b. Lead water service line replacement payment assistance program.

"(a) There is established a lead water service line replacement payment assistance program ("Program"), to be administered by the Department of Energy and Environment ("DOEE") and the District of Columbia Water and Sewer Authority ("DC Water"), to provide financial assistance to certain District residential property owners who elect to replace the portion of a lead water service line located on their private property if the portion of the water service line on public property is not a lead water service line.

"(b)(1) Under the Program, the District shall pay:

"(A) 100% of the replacement costs for residential property owners:

"(i) With household incomes of 80% or less of the area median income; and

"(ii) Whose tenants participate in District or federal housing programs;

"(B) 80% of the first $2,000 of replacement costs, and 100% of any replacement costs beyond the first $2,000 of replacement costs for residential property owners with household incomes more than 80% but less than 100% of the area median income; and

"(C) 50% of the replacement costs for residential property owners with household incomes 100% or more of the area median income; provided, the District shall not provide more than $2,500 to a property owner under this subparagraph.

"(2) The discounts described in paragraph (1) of this subsection shall be applied to the actual replacement costs incurred by the property owner; provided, that DOEE may establish a reasonable cap for replacements costs based on the cost of similar replacements completed by DC Water.

"(3) The discounts provided in this subsection shall be subject to the availability of funds.

"(4) For the purposes of this subsection, the term "area median income" means the area median income for a household of like size in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development.

"(c) DOEE shall develop and make available on its website an application form specific to the Program that requires only the information needed to determine eligibility for the Program.

"(d)(1) Within 30 days after the receipt of a completed application, DOEE shall provide written notification to the applicant of approval or denial of the applicant's payment assistance application.

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"(2) If an application is approved, DOEE shall include in the written notification the amount of the discount for which the applicant has been approved, as determined under subsection (b) of this section, and a description of the steps the applicant must take to receive the financial assistance.

"(3) If an application is approved, but funds are insufficient to assist the applicant during the current fiscal year, DOEE shall place the applicant on a waiting list for the following fiscal year and notify the applicant of their number on the waiting list.

"(4) If an application is denied, DOEE shall include in the written notification the reason for the denial and the process by which the applicant can request reconsideration.

"(e) DOEE shall transfer funding for the discounts to DC Water at the beginning of each fiscal year pursuant to a memorandum of understanding regarding implementation of the Program.

"(f)(1) DC Water may publish on its website a list of approved contractors for residential property owners to use for the replacement of the portion of a lead water service line on private property.

"(2) If DC Water publishes a list of approved contractors, as described in paragraph (1) of this subsection, a residential property owners shall use an approved contractor to replace the portion of the lead water service line on private property.

"(g)(1) The property owner shall be responsible for securing and contracting with a contractor for the replacement of the portion of the lead water service line located on their private property. When the contractor completes the replacement of the portion of the lead water service line on the private property, a copy of the invoice for the replacement of the portion of the lead waster service line on the private property shall be provided to DC Water.

"(2) Subject to certification of the work by DC Water, DC Water shall pay the contractor the amount of the discount for which the residential property owner was approved and notify the property owner of the payment within 30 days after receiving an invoice under paragraph (1) of this subsection.

"(3) Any replacement costs incurred by the residential property owner beyond the amount of the discount for which the residential property owner was approved shall be the responsibility of the residential property owner.

"(h)(1) Except as provided in paragraph (2) of this subsection, DC Water, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this section.

"(2) The Department of Energy and Environment, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of subsections (b), (c), and (d) of this section.

"Sec. 6019c. Community education.

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"DC Water shall provide:

"(1) Public education about the risks of lead water service lines, including for residents who are non-English speakers or have a low level of literacy; and

"(2) Upon request, annual free lead test kits to property owners and lessees of commercial and residential buildings.".

Sec. 3. Lead plumbing tenant disclosure requirements.

(a) The owner of a dwelling unit shall provide a tenant, before the tenant is obligated under any contract to lease or renew the lease of the dwelling unit, the lead disclosure form provided by the Mayor pursuant to subsection (c) of this section, complete with any information that the owner knows about the following:

(1) The results of any lead tests conducted on the water supply of the property or dwelling unit;

(2) Lead-bearing plumbing, including a lead water service line serving the dwelling unit;

(3) Whether the portion of the lead water service line on private property, and the portion of the lead water service line on public property, that serves the property in which the dwelling unit is located has been replaced, and if so, the date of the replacement;

(4) Civil fines, penalties, and fees imposed on the owner as sanctions for any infraction of the provisions of this section; and

(5) Inclusion on the DC Water website as a property with lead water service lines.

(b) If the owner of the dwelling unit learns of the presence of lead-bearing plumbing or lead service lines serving a dwelling unit, the owner of the dwelling unit shall:

(1) Notify the tenant of the presence of the lead-bearing plumbing or lead service lines within 48 hours after discovering its presence; and

(2) Provide the tenant or owner-occupant with a completed disclosure form provided by the Mayor pursuant to subsection (c) of this section.

(c) Within 90 days after the effective date of this act, the Mayor shall make public a lead disclosure form, which shall include:

(1) Spaces for owners to disclose the information required in subsection (a) of this section;

(2) A lead-in-water warning statement that:

(A) Residential dwellings built before 1986 are presumed to have lead service lines and lead-bearing plumbing;

(B) Lead service lines and lead-bearing plumbing are capable of releasing lead into water that can cause permanent health harm even when present in small amounts;

(C) Lead poisoning in young children may produce permanent neurological damage, learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory;

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(D) Lead poisoning poses a particular risk to developing fetuses and pregnant women; and

(E) Tenants should consider obtaining a water filter that is certified by NSF/ANSI Standard 53 for lead removal and maintaining the water filter according to the manufacturer's instructions.

(d) Civil infraction fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801 *et seq.*) ("Civil Infractions Act"). Adjudication of any infractions shall be pursuant to the Civil Infractions Act.

(e) The Mayor shall establish at least one method for a tenant to report violations of this section.

(f) For the purposes of this section, the term "dwelling unit" means a room or group of rooms that form a single independent habitable unit for permanent occupation by one or more individuals, that has living facilities with permanent provisions for living, sleeping, eating, and sanitation. The term "dwelling unit" shall not include:

(1) A unit within a hotel, motel, or seasonal or transient facility, unless such unit is or will be occupied by a person at risk for a period exceeding 30 days;

(2) An area within the dwelling unit that is secured and accessible only to authorized personnel; or

(3) An unoccupied dwelling unit that is to be demolished; provided, that the dwelling unit will remain unoccupied until demolition.

Sec. 4. Section 6(1)(A) of the Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998, effective April 20, 1999 (D.C. Law 12-263; D.C. Official Code § 42-1305(1)(A)), is amended to read as follows:

"(A) Water and sewer systems; including:

"(i) The results of any lead tests conducted on the water supply of the property;

"(ii) Lead-bearing plumbing, including the lead service line serving the property;

"(iii) Whether the portion of the lead water service line on private property, and the portion of the lead water service line on public property, that serves the property in which the dwelling unit is located has been replaced, and if so, the date of the replacement; and

"(iv) Inclusion on the DC Water website as a property with lead water service lines.".

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Sec. 5. Applicability.

(a) Section 2 shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

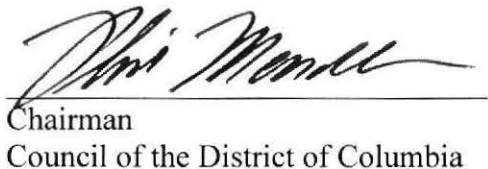
(2) The date of publication of the notice of the certification shall not affect the applicability of section 2.

Sec. 6. Fiscal impact statement.

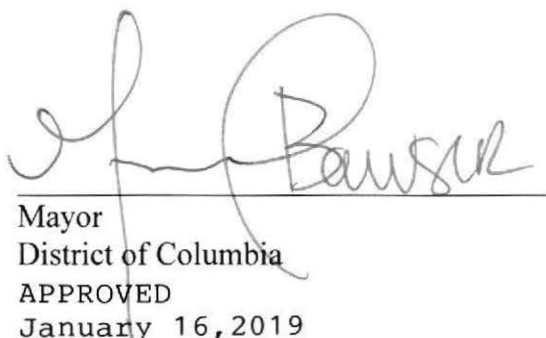
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 16, 2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-568**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To require health insurers offering health benefits plans in the District to comply with the requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 and any guidance or regulations implementing the act, to require the Department of Insurance, Securities, and Banking to enforce the requirements of the act, to impose annual reporting requirements on health insurers and the department, to bar health insurers from imposing non-quantitative treatment limitations on the provision of benefits for mental health conditions or substance use disorders unless certain enumerated requirements are met, to require Medicaid to provide coverage for medication-assisted treatment prescribed for the treatment of substance use disorders, and to authorize the Mayor to issue rules to implement the provisions of the act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Behavioral Health Parity Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Benefits" means the health care services covered by a health insurer under a health benefits plan.

(2) "Department" means the Department of Insurance, Securities, and Banking.

(3) "Health benefits plan" shall have the same meaning as provided in section 2(4) of the Prompt Pay Act of 2002, effective July 23, 2002 (D.C. Law 14-176; D.C. Official Code § 31-3131(4)).

(4) "Health insurer" shall have the same meaning as provided in section 2(5) of the Prompt Pay Act of 2002, effective July 23, 2002 (D.C. Law 14-176; D.C. Official Code § 31-3131(5)).

(5) "In-network" means providers or health care facilities that have entered into a contract or agreement with a health insurer pursuant to which such entities are obligated to provide benefits to individuals enrolled with the health insurer's health benefits plan.

(6) "Market conduct examination" means an examination conducted by the Department to evaluate the practices and operations of a health insurer.

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(7) "Medicaid" means the medical assistance programs authorized by Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*), and by section 1 of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), and administered by the Department of Health Care Finance.

(8) "Medication-assisted treatment" means the use of opioid addiction treatment medication to treat substance use disorders.

(9) "Mental health condition" means any condition or disorder involving mental illness that falls under any of the diagnostic categories listed in the mental disorders section of the current edition of the International Classification of Diseases or that is listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(10) "MHPAEA" means and includes the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, approved October 3, 2008 (Pub. L. No. 110-343; 122 Stat. 3881), and any federal guidance or regulations implementing MHPAEA, including 45 C.F.R §§ 146.136, 147.136, 147.160, and 156.115(a)(3).

(11) "Non-quantitative treatment limitation" means limitations imposed by a health insurer on the scope or duration of mental health condition and substance use disorder benefits for treatment, including:

(A) Medical management standards limiting or excluding benefits based on medical necessity, medical appropriateness, or whether the treatment is experimental or investigative;

(B) Formulary design for prescription drugs;

(C) For health benefit plans with multiple network tiers, such as preferred providers and participating providers, network tier design;

(D) Standards for provider admission to participate in a network, including reimbursement rates;

(E) Health benefits plan methods for determining usual, customary, and reasonable charges;

(F) Refusal to pay for higher-cost therapies until it can be shown that a lower-cost therapy is not effective, including fail-first policies or step therapy protocols;

(G) Exclusions based on the failure to complete a course of treatment;

(H) Restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the health benefits plan or coverage;

(I) In and out-of-network geographic limitations;

(J) Standards for providing access to out-of-network providers;

(K) Limitations on inpatient services for situations where the participant is

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a threat to self or others;

(L) Exclusions for court-ordered and involuntary holds;

(M) Experimental treatment limitations;

(N) Service coding;

(O) Exclusions for services provided by clinical social workers; and

(P) Network adequacy.

(12) "Out-of-network" means providers or health care facilities who have not entered into a contract or agreement with a health insurer pursuant to which such entities are obligated to provide benefits to individuals enrolled with the health insurer's health benefits plan.

(13) "Prescriber" shall have the same meaning as provided in section 202(3) of the SafeRx Amendment Act of 2008, effective March 26, 2008 (D.C. Law 17-131; D.C. Official Code § 48-841.02(3)).

(14) "Prior authorization" means the process of obtaining prior approval from a health insurer for the provision of prescribed procedures, services, or medications.

(15) "Provider" shall have the same meaning as provided in section 2(7) of the Prompt Pay Act of 2002, effective July 23, 2002 (D.C. Law 14-176; D.C. Official Code § 31-3131(7)).

(16) "Step therapy" shall have the same meaning as provided in section 2(12) of the Specialty Drug Copayment Limitation Act of 2016, effective April 7, 2017 (D.C. Law 21-248; D.C. Official Code § 48–855.01(12)).

(17) "Substance use disorder" means a problematic pattern of substance use leading to clinically significant impairment or distress, as manifested by symptoms identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

Sec. 3. Compliance and enforcement.

(a) All health insurers offering health benefits plans, including Medicaid, in the District that provide mental health condition and substance use disorder benefits, shall comply with the requirements of MHPAEA.

(b) The Department shall enforce the requirements of this act by:

(1) Ensuring compliance by health insurers;

(2) Detecting, evaluating, and responding to complaints regarding any potential or actual violations of MHPAEA;

(3) Developing, maintaining, and regularly reviewing a publicly-available consumer complaint log recording any potential or actual violations of MHPAEA; and

(4) Performing market conduct examinations of health insurers health benefits plans, including a review of any non-quantitative treatment limitations.

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Sec. 4. Reporting requirements.

(a) Beginning October 1, 2019, and on an annual basis thereafter, health insurers shall submit a report to the Department containing the following information:

(1)(A) The frequency with which the health insurers health benefits plan required:

(i) Prior authorization for all prescribed procedures, services, or medications for mental health condition and substance use disorder benefits during the prior calendar year; and

(ii) Prior authorization for all prescribed procedures, services, or medications for medical and surgical benefits during the prior calendar year.

(B) Health insurers shall submit the information required pursuant to paragraph (1)(A) of this subsection separately for inpatient in-network benefits, inpatient out of-network benefits, outpatient in-network benefits, inpatient out-of-network benefits, outpatient in-network benefits, outpatient out-of-network benefits, emergency care benefits, and prescription drug benefits. Frequency shall be expressed as a percentage, with the total prescribed procedures, services, or medications within each classification of benefits as the denominator and the overall number of times prior authorization was required for any prescribed procedures, services, or medications within each corresponding classification of benefits as the numerator.

(2) A description of the process used to develop and select medical necessity criteria for mental health condition and substance use disorder benefits;

(3) An identification of all non-quantitative treatment limitations that are applied to benefits provided for mental health conditions and substance use disorders;

(4) An analysis of the medical necessity criteria described in paragraph (2) of this subsection, and each non-quantitative treatment limitation identified pursuant to paragraph (3) of this subsection, that shall include:

(A) An identification of the factors used to determine whether a non-quantitative treatment limitation shall apply to the provision of a benefit, including any factors that were considered but rejected;

(B) An identification of the specific evidentiary standards that were relied upon and used to design any non-quantitative treatment limitations;

(C) An identification and description of the methodology used to determine that the processes and strategies used to design each non-quantitative treatment limitation, as written, for mental health condition and substance use disorder benefits are comparable to and no more stringent than the processes and strategies used to design each non-quantitative treatment limitation, as written, for medical and surgical benefits;

(D) An identification and description of the methodology used to determine that the processes and strategies used to apply each non-quantitative treatment limitation, in operation, for mental health condition and substance use disorder benefits are comparable to and no more stringent than the processes or strategies used to apply each non-quantitative treatment limitation, in operation, for medical and surgical benefits; and

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(E) A disclosure of the specific findings and conclusions reached by the health insurer indicating that it is in compliance with the requirements of this act.

(5) The rates of, and reasons for, denial of claims for inpatient in-network, inpatient out-of-network, outpatient in-network, outpatient out-of-network, prescription drugs, and emergency care mental health condition and substance use disorder benefits during the prior calendar year, compared to the rates of and reasons for denial of claims in those same classifications of benefits for medical and surgical services during the prior calendar year;

(6) A certification that the health insurer has completed a comprehensive review of the administrative practices of its health benefits plan for the prior calendar year to verify compliance with the requirements of this act; and

(7) Any other information requested by the Commissioner of the Department.

(b) By October 1, 2019, and annually thereafter, the Department shall issue a report to the Council in non-technical, readily understandable language, that shall:

(1) Specify the methodologies used by the Department to verify compliance with the requirements of the act;

(2) Identify the market conduct examinations conducted by the Department during the preceding year, including:

(A) The number of market conduct examinations initiated and completed;

(B) The benefit classifications assessed by each market conduct examination;

(C) The subject matter of each market conduct examination; and

(D) A summary of the basis for the final decision rendered in each market conduct examination;

(3) A description of any educational or corrective actions the Department took to ensure health insurer compliance with the requirements of this act; and

(4) A description of the Department's efforts to educate the public regarding mental health condition and substance use disorder protections under MHPAEA and this act.

Sec. 5. Non-quantitative treatment limitations.

A health insurer shall not impose a non-quantitative treatment limitation with respect to a mental health condition or substance use disorder for any classification of benefits unless, under the terms of the health benefits plan, as written and in operation, any processes, strategies, evidentiary standards or other factors used in applying the non-quantitative treatment limitation to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the non-quantitative treatment limitation with respect to medical or surgical benefits in the same classification.

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Sec. 6. Medicaid coverage for medication-assisted treatment.

Medicaid shall provide coverage for medication -assisted treatment prescribed for the treatment of substance use disorders; provided, that medication assisted treatment covered in accordance with this section shall not be subject to:

(1) Utilization control, other than those processes specified by the American Society of Addiction Medicine;

(2) Prior authorization;

(3) Step therapy; or

(4) Lifetime restriction limits.

Sec. 7. Rules.

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

Sec. 8. Fiscal impact statement.

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

Sec. 9. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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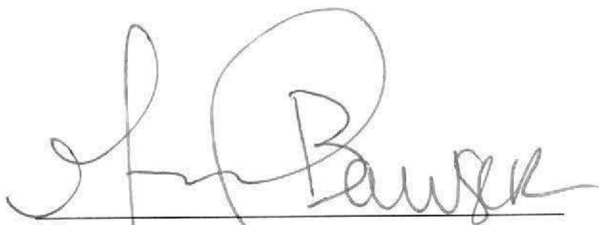
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 16,2019

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AN ACT

**D.C. ACT 22-569**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the District of Columbia Uniform Controlled Substances Act of 1981 to add certain classes and substances to the list of Schedule I controlled substances.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Revised Synthetics Abatement and Full Enforcement Drug Control Amendment Act of 2018".

Sec. 2. The District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*), is amended as follows:

(a) Section 102(27) (D.C. Official Code § 48-901.02(27)) is amended as follows:

(1) Strike the phrase "as used in section 204(3) and section 206(1)(D)" and insert the phrase "as used in section 204(3), (5), and (6) and section 206(1)(D)" in its place.

(2) Strike the phrase "As used in section 204(3)" and insert the phrase "As used in section 204(3), (5), and (6)" in its place.

(b) Section 204 (D.C. Official Code § 48-902.04) is amended as follows:

(1) Paragraph (3) is amended as follows:

(A) The lead-in language is amended by striking the phrase "(for purposes of this paragraph only, the term "isomer" includes the optical, position, and geometric isomers):" and inserting a colon in its place.

(B) New subparagraphs (G-i) through (G-xii) are added to read as follows:

"(G-i) 25I-NBOMe (also known as 4-iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine);

"(G-ii) 25B-NBOMe (also known as 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine);

"(G-iii) 25C-NBOMe (also known as 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine);

"(G-iv) 5-APB (also known as α-methyl-5-benzofuranethanamine);

"(G-v) 5-APDB (also known as 2,3-dihydro-α-methyl-5-benzofuranethanamine);

"(G-vi) 6-APB (also known as α-methyl-6-benzofuranethanamine);

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"(G-vii) 6-APDB (also known as 2,3-dihydro-α-methyl-6-benzofuranethanamine);

"(G-viii) 3-methoxy-PCE (also known as N-ethyl-1-(3-methoxyphenyl)-cyclohexanamine);

"(G-ix) 3-methoxy-PCP (also known as 1-[1-(3-methoxyphenyl)cyclohexyl]-piperidine);

"(G-x) 4-methoxy-PCP (also known as 1-[1-(4-methoxyphenyl)cyclohexyl]-piperidine);

"(G-xi) 5-methoxy-DALT , also known as:

"(i) 5-MeO-DALT; or

"(ii) 5-methoxy-N,N-di-2-propen-1-yl-1H-indole-3-ethanamine;

"(G-xii) 4-acetoxy DMT, also known as:

"(i) 4-AcO-DMT; or

"(ii) 3-[2-(dimethylamino)ethyl]-1H-indol-4-ol-4-acetate;

(C) A new subparagraph (M-i) is added to read as follows:

"(M-i) Methoxetamine (also known as 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexanone);".

(D) Subparagraph (JJ) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(E) Subparagraph (KK) is amended by striking the semicolon and inserting the phrase "; and" in its place.

(F) A new subparagraph (LL) is added to read as follows:

"(LL) Cathinone;".

(2) Paragraph (5) is amended to read as follows:

"(5) As used in this paragraph, the term "synthetic cathinones" includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in Schedules II through V, is not approved by the Food and Drug Administration as a drug, and is structurally derived from or contains any quantity of the following substances, their salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues is possible within the specific chemical designation:

"(A) Classified Synthetic Cathinones:

"(i) Cathinones. Any compound, other than methylnenedioxy cathinones and pyrrolidine cathinones, containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic ring system, with or without alkyl, alkoxyl, or halo substitutions, and a substitution at the nitrogen atom by an alkyl group, cycloalkyl group, or incorporation into a heterocyclic structure. Examples of this structural class include:

"(I) Mephedrone, also known as:

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"(aa) 2-(methylamino)-1-(4-methylphenyl)-1-propanone;
"(bb) 4-MeMC;
"(cc) 4-Methylmethcathinone;
"(dd) 4-Methylephedrone; or
"(ee) 4-MMC;
"(II) Dimethylcathinone, also known as:
"(aa) 2-(dimethylamino)-1-phenyl-1-propanone; or
"(bb) N,N-Dimethylcathinone;
"(III) Ethcathinone, also known as:
"(aa) 2-(ethylamino)-1-phenyl-1-propanone;
"(bb) Ethylcathinone;
"(cc) N-Ethylcathinone; or
"(dd) 2-Ethylaminobuphedro;
"(IV) Buphedrone, also known as:
"(aa) 2-(methylamino)-1-phenylbutan-l-one; or
"(bb) MABP;
"(V) 3,4-DMMC, also known as:
"(aa) 1-(3,4-dimethylphenyl)-2-(methylamino)-1-propanone; or
"(bb) 3,4-Dimethylmethcathinone;
"(VI) EMC, also known as:
"(aa) 1-(4-ethylphenyl)-2-(methylamino)propan-1-one;
"(bb) 4-EMC; or
"(cc) 4-Ethylmethcathinone;
"(VII) Fluoromethcathinone (also known as 1-(4-fluorophenyl)-2-(methylamino) propan-1-one);
"(VIII) 3-FMC, also known as:
"(aa) 3-fluoro-N-methylcathinone); or
"(bb) 1-(3-fluorophenyl)-2-(methylamino)propan-1-one;
"(IX) 4-FMC, also known as:
"(aa) 1-(4-fluorophenyl)-2-(methylamino)propan-1-one;
"(bb) 4-fluoro-N-methylcathinone; or
"(cc) Flephedrone;
"(X) 4-MeBP, also known as:
"(aa) 2-(methylamino)-1-(4-methylphenyl)-1-butanone;

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"(bb) 4-Methylbuphedrone;
"(cc) 4-methyl BP; or
"(dd) 4-MeMABP;
"(XI) 3-MEC, also known as:
"(aa) 2-(ethylamino )-1-(m-tolyl)propan-l-one; or
"(bb) 3-Methyl-N-ethylcathinone;
"(XII) 4-MEC, also known as:
"(aa) 2-(ethylamino)-1-(4-methylphenyl)-1-propanone; or
"(bb) 4-Methyl-N-ethylcathinone;
"(XIII) 3-MMC, also known as:
"(aa) 2-(methylamino)-1-(3-methylphenyl)-1-propanone;
"(bb) 3-methyl MS; or
"(cc) 3-Methylmethcathinone;
"(XIV) Methedrone (also known as l-(4-methoxyphenyl)-2-(methylamino)-1-propanone); and
"(XV) Pentedrone (also known as 2-(methylamino)-1-phenylpentan-1-one);

"(ii) Methylenedioxy Cathinones. Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at any position of the ring system with an alkyl, haloalkyl, halogen, alkylenedioxy, or alkoxy group, whether or not further substituted at any position on the ring system to any extent. Examples of this structural class include:

"(I) 3-fluoromethylone;
"(II) Methylone, also known as
"(aa) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)-1-propanone; or
"(bb) 3,4-Methylenedioxy-N-methylcathinone);
"(III) N-ethyl Pentylone, also known as:
"(aa) Ephylone; or
"(bb) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone;
"(IV) bk-MDDMA, also known as:
"(aa) 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)propan-1-one;
"(bb) Dimethylone;
"(cc) *N,N*-dimethyl-3',4'-methylenedioxycathinone;
"(dd) *N,N*-dimethyl-3,4-methylenedioxycathinone; or

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"(ee) N,N-Dimethyl MDCATH;
"(V) Butylone, also known as 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one); and
"(VI) Ethylone, also known as:
"(aa) 3,4-Methylenedioxy-N-ethylcathinone; or
"(bb) MDEC;
"(iii) Pyrrolidine Cathinones. Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with an alkyl, cyclic, or fused polycyclic ring system and a substitution at the 3-position carbon with an alkyl, haloalkyl, halogen, alkoxy or alkylenedioxy group, and a substitution at the nitrogen atom incorporation into a heterocyclic structure, with or without further halogen substitutions. Examples include:
"(I) α-PVP (also known as α-pyrrolidinopentiophenone);
"(II) α-pyrrolidinopropiophenone, also known as:
"(aa) l-phenyl-2-(1-pyrrolidinyl)-l-propanone; or
"(bb) α-PPP;
"(III) α-PBP, also known as:
"(aa) 1-phenyl-2-(1-pyrrolidinyl)-1-butanone; or
"(bb) α-pyrrolidinobutiophenone;
"(IV) MDPBP, also known as:
"(aa) 1-(1 ,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-butanone;
"(bb) 3,4-Methylenedioxy-α-Pyrrolidinobutiophenone; or
"(cc) 3,4-MDPBP;
"(V) MDPPP, also known as:
"(aa) 1-(l,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-propanone; or
"(bb) 3,4-Methylenedioxy-α-Pyrrolidinopropiophenone;
"(VI) MDPV, also known as:
"(aa) 1-(1,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone; or
"(bb) 3,4-Methylenedioxy Pyrovalerone;
"(VII) 4-MePPP, also known as
"(aa) 4'-methyl-α-Pyrrolidinopropiophenone;
"(bb) 4'-methyl PPP; or
"(cc) 2-(pyrrolidin-l-yl)-1-(p-tolyl)propan-l-one;
"(VIII) 4'-methyl PHP, also known as:
"(aa) 4'-methyl-α-pyrrolidinohexanophenone;
"(bb) MPHP;

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"(cc) 4'-methyl-α-PHP; or
"(dd) PV4;
"(IX) Naphyrone, also known as:
"(aa) (RS)-1-naphthalen-2-yl-2-pyrrolidin-l-ylpentan-1-one; or
"(bb) Naphpyrovalerone; and
"(X) C-PVP, also known as:
"(aa) 4-Chloro-α-PVP; or
"(bb) 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; or

"(iv) Piperazine Stimulants. Any compound containing or structurally derived from a piperazine, or diethylenediamine, structure with or without substitution at one of the nitrogen atoms of the piperazine ring to any extent, including alkyl, cycloalkyl, or fused ring systems, with or without further halogen substitutions. Examples include:

"(I) BZP, also known as:
"(aa) 1-(phenylmethyl)-piperazine;
"(bb) 1-Benzylpiperazine; or
"(cc) N-Benzylpiperazine; and
"(II) TMFPP, also known as:
"(aa) 1-[3-(trifluoromethyl)phenyl]-piperazine;
"(bb) 1-(m-Trifluoromethylphenyl) piperazine; or
"(cc) 3-Trifluoromethylphenylpiperazine.

"(B) Unclassified Synthetic Cathinones:
"(i) Aminorex (also known as (RS)-5-phenyl-4,5-dihydro-1,3-oxazol-2-amine);
"(ii) α-ET, also known as:
"(I) α-ethyl-1H-indole-3-ethanamine;
"(II) α-ethyltryptamine; or
"(III) 3-Indolybutylamine;
"(iii) α-MT, also known as:
"(I) α-methyl-1H-indole-3-ethanamine; or
"(II) α-methyltryptamine;
"(iv) EMA, also known as:
"(I) N-ethyl-α-methyl-benzeneethanamine; or
"(II) N-Ethylamphetamine;
"(v) Fenethylline (also known as (RS)-1,3-dimethyl-7-[2-(1-phenylpropan-2-ylamino)ethyl]purine-2,6-dione);
"(vi) N-hydroxy MDA, also known as:

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"(I) MDOH;
"(II) N-hydroxy-α-methyl-1,3-benzodioxole-5-ethanamine;
or
"(III) N-Hydroxy-3,4-methylenedioxyamphetamine; and
"(vii) N,N-DMA, also known as:
"(I) N,N,α-trimethyl-benzeethanamine;
"(II) N,N-Dimethylamphetamine;
"(III) Dimetamfetamine; or
"(IV) Metrotonin.".

(3) New paragraphs (6) and (7) are added to read as follows:

"(6) Synthetic cannabimimetic agents (also known as "synthetic cannabinoids"), which includes, unless specifically exempted, unless listed in another schedule, or unless approved by the Food and Drug Administration as a drug, any material, mixture, preparation, any compound structurally derived from, or that contains any quantity of the following synthetic substances, its salts, isomers, homologues, analogues and salts of isomers, homologues, and analogues, whenever the existence of these salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues is possible within the specific chemical designation:

"(A) Classified Synthetic Cannabimimetic Agents:

"(i) Adamantanoylindoles: Any compound containing or structurally derived from an adamantanyl-(1H-indol-3-yl)methanone structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples include:

"(I) AB-001, also known as:
"(aa) (1s,3s)-adamantan-1-yl(1-pentyl-1H-indol-3-yl)methanone; or
"(bb) JWH 018 adamantyl analog; and
"(II) AM-1248, also known as:
"(aa) [1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]tricyclo[3.3.1.13,7]dec-1-yl-methanone; or
"(bb) AM1248;

"(ii) Benzimidazole Ketone: Any compound containing or structurally derived from (benzimidazole-2-yl) methanone structure with or without substitution at either nitrogen atom of the benzimidazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, with substitution

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at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted in the benzimidazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Benzimidazole Ketones include:

"(I) FUBIMINA, also known as:

"(aa) (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone; or

"(bb) AM2201 benzimidazole analog; and

"(II) JWH-018 benzimidazole analog, also known as:

"(aa) naphthalen-1-yl(1-pentyl-1H-benzo[d]imidazol-2-yl)methanone; or

"(bb) BIM-018;

"(iii) Benzoylindoles: Any compound containing or structurally derived from a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples include:

"(I) AM-630, also known as:

"(aa) [6-iodo-2-methyl-1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl](4-methoxyphenyl)-methanone;

"(bb) AM630; or

"(cc) Iodopravadoline ;

"(II) AM-661 (also known as 1-(N-methyl-2-piperidine)methyl-2-methyl-3-(2-iodo)benzoylindole);

"(III) AM-679, also known as:

"(aa) (2-iodophenyl)(1-pentyl-1H-indol-3 yl)methanone; or

"(bb) AM679;

"(IV) AM-694, also known as:

"(aa) [1-(5-fluoropentyl)-1H-indol-3-yl](2-iodophenyl)-methanone;

"(bb) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole; or

"(cc) AM694;

"(V) AM-1241, also known as:

"(aa) (2-iodo-5-nitrophenyl)-(1-(1-methylpiperidin-2-ylmethyl)-1H-indol-3-yl)methanone; or

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"(bb) AM1241;
"(VI) AM-2233, also known as:
"(aa) (2-iodophenyl)[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-methanone; or
"(bb) AM2233;
"(VII) RCS-4, also known as:
"(aa) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone; or
"(bb) SR-19; and
"(VIII) WIN 48,098, also known as
"(aa) (4-methoxyphenyl)[2-methyl]-1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-methanone; or
"(bb) "Pravadoline";

"(iv) Carbazole Ketone: Any compound containing or structurally derived from (9H-carbazole-3-yl) methanone structure with or without substitution at the nitrogen atom of the carbazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group with substitution at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted at the carbazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Examples include EG-018 (also known as naphthalen-1-yl(9-pentyl-9H-carbazol-3-yl)methanone);

"(v) Indazole Amide: Any compound containing or structurally derived from 3-carboxamide-lH-indazoles, whether or not substituted in the indazole ring to any extent and substituted to any degree on the carboxamide nitrogen and 3-carboxamide-lH-indoles, whether or not substituted in the indole ring to any extent and substituted to any degree on the carboxamide nitrogen. Examples include:
"(I) AB-CHMINACA (also known as N-(1-amino-3-methyl-l-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);
"(II) AB-FUBINACA (also known as N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3- carboxamide);
"(III) AB-PINACA (also known as N-(l-amino-3-methyl-l-oxobutan-2-yl)-1-pentyl-IH-indazole-3-carboxamide);
"(IV) 5F AB-PINACA, also known as:
"(aa) N-(l-amino-3-methyl-1-oxobutan-2-yl)-l-(5-fluoropentyl)-1H-indazole-3-carboxamide); or
"(bb) 5-fluoro AB-PINACA;

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"(V) ADB-FUBINACA (also known as N-(1-amino-3,3-dimethyl-l-oxobutan-2-yl)-1-(4-fluorobenzyl)-1-H-indazole-3-carboxamide);

"(VI) ADB-PINACA (also known as N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-l-pentyl-1H-indazole-3-carboxamide);

"(VII) 5F ADB-PINACA, also known as:

"(aa) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide); or

"(bb) 5-fluoro ADB-PINACA;

"(VIII) FUB-AMB, also known as:

"(aa) methyl (l-(4-fluorobenzyl)-IH-indazole-3-carbonyl)-L-valinate;

"(bb) AMB-FUBINACA; or

"(cc) MMB-FUBINACA;

"(IX) 5-fluoro-AMB (also known as (S)- methyl 2- (1-(5-fluoropentyl)-lH-indazole-3-carboxamido)-3-methylbutanoate);

"(X) MAB-CHMINACA (also known as N-(1-amino-3,3-dimethyl-l-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide );

"(XI) MMB CHMINACA, also known as:

"(aa) methyl (S)-2-(l-(cyclohexylmethyl)-IH-indole-3-carboxamido )-3,3-dimethylbutanoate; or

"(bb) MDMB-CHMICA;

"(XII) 5F MN-18, also known as:

"(aa) l-(5-fluoropentyl)-N-l-naphthalenyl-IH-indazole-3-carboxamide; or

"(bb) 5-fluoro MN-18;

"(XIII) 5F-APINACA, also known as:

"(aa) 5-fluoro-APINACA

"(bb) 5F-AKB-48;

"(cc) 5F-AKB48;

"(dd) N-((3s,5s,7s)-adamantan-l-yl)-l-(5-fluoropentyl)-1H-indazole-3-carboxamide; or

"(ee) N-(l-adamantyl)-1-(5-fluoropentyl)-lH-indazole-3-carboxamide); and

"(XIV) APINACA, also known as:

"(aa) AKB-48;

"(bb) AKB48;

"(cc) l-pentyl-N-tricyclo[3.3.l .13,7]dec-l-yl-1H-indazole-3-carboxamide; or

"(dd) N-(1-adamantyl)-1-pentyl-lH-indazole-3-carboxamide;

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"(vi) Cyclohexylphenols: Any compound containing or structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the cyclohexyl ring to any extent. Examples include:

"(I) CP 47,497 (also known as 2-[(1S,3R)-3-hydroxycyclohexyl]- 5-(2-methyloctan-2-yl)phenol);

"(II) CP 47,497 C8 homologue, also known as:

"(aa) rel-2-[(1S,3R)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol; or

"(bb) Cannabicyclohexanol;

"(III) CP 55,490;

"(IV) CP 55,940 (also known as 5-(1,1-dimethylheptyl)-2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol); and

"(V) CP 56,667;

"(vii) Cyclopropanoylindoles: Any compound containing or structurally derived from 3-(cyclopropylmethanoyl)indole, 3-(cyclopropylmethanone)indole, 3-(cyclobutylmethanone)indole or 3-(cyclopentylmethanone)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, and whether or not substituted on the cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent. Cyclopropanoylindoles include cyclopropylmethanone indoles, as well as other cycloalkanemethanones, whether or not substituted at the nitrogen atom on the indole ring, whether or not further substituted in the indole ring to any extent, and whether or not substituted on the cycloalkane ring to any extent. Examples of this structural class include:

"(I) A-796,260, also known as:

"(aa) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)-methanone; or

"(bb) A-796260;

"(II) A-834,735, also known as:

"(aa) [1-[(tetrahydro-2H-pyran-4-yl)methyl]-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)-methanone; or

"(bb) A-834735;

"(III) AB-034 (also known as [1-[(N-methylpiperidin-2-yl)methyl]-1H-indole-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone);

"(IV) UR-144 (also known as 1-pentyl-3-(2, 2, 3, 3-tetramethylcyclopropoyl)indole);

"(V) 5-bromo-UR-144, also known as:

"(aa) [1-(5-bromopentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)-methanone; or

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"(bb) UR-144 N-(5-bromopentyl) analog;
"(VI) 5-chloro-UR-144, also known as:
"(aa) 1-(5-chloropentyl)-3-(2, 2, 3, 3-tetramethylcyclopropoyl)indole; or
"(bb) 5Cl-UR-144;
"(VII) XLR11, also known as:
"(aa) 1-(5-fluoropentyl)-3-(2,2,3, 3-tetramethylcyclopropoyl)indole;
"(bb) 5-FUR-144; or
"(cc) 5-fluoro UR-144; and
"(VIII) FUB-144 (also known as [1-(4-Fluorobenzyl)-lH-indol-3-yl](2,2,3 ,3-tetramethylcyclopropyl)methanone);

"(viii) Hexahydrodibenzopyrans: Any compound containing or structurally derived from Hexahydrodibenzopyrans, whether or not substituted in the tricyclic ring system, except where contained in cannabis or cannabis resin;

"(ix) Indazole Ester (also known as Carboxylate indazole): Any compound containing or structurally derived from 3-carboxylate-indazoles, whether or not substituted in the indazole ring to any extent or substituted to any degree on the carboxylate, whether or not substituted to any extent in the indazole ring or on the carboxylate oxygen. Examples of indazole esters include 5-fluoro SDB-005, also known as:
"(I) naphthalen-1-yl 1-(5-fluoropentyl)-1H-indazole-3-carboxylate; or
"(II) 5F SDB-005;

"(x) Indole Amides: Any compound containing or structurally derived from or containing a 1H-Indole-3-carboxamide structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not substituted at the carboxamide group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group and whether or not further substituted in the indole, adamantyl, naphthyl, phenyl, pyrrole, quninolinyl, or cycloalkyl rings to any extent. Indole amides include:

"(I) Adamantylamidoindoles, or any compound containing or structurally derived from an N-(adamantyl)-indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent;

"(II) Adamantylindoles, or any compound containing or structurally derived from an N-(adamantyl)-indole-3-carboxamide with substitution at the

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nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, and whether or not substituted on the adamantyl ring to any extent;

"(III) 5F ABICA, also known as:

"(aa) (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;

"(bb) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide; or

"(cc) 5-fluoro ABICA;

"(IV) ADBICA (also known as N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide));

"(V) 5F-ADBICA, also known as:

"(aa) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide; or

"(bb) 5-fluoro-ADBICA;

"(VI) NNE1 (also known as N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide);

"(VII) 5F-NNE1, also known as:

"(aa) 1-(5-fluoropentyl)-N-(naphthalene-1-yl)-1H-indole-3-carboxamide); or

"(bb) 5-fluoro-NNE1;

"(VIII) SDB-006 (also known as N-benzyl-1-pentyl-1H-indole-3-carboxamide);

"(IX) 5F-SDB-006, also known as:

"(aa) N-benzyl-1-(5-fluoropentyl)-1H-indole-3-carboxamide); or

"(bb) 5-fluoro-SDB-006;

"(X) 2NE 1, also known as:

"(aa) APICA;

"(bb) JWH 018 adamantyl carboxamide; or

"(cc) 1-pentyl-N-tricyclo[3.3. l .13, 7]dec-1-yl-1H-indole-3-carboxamide;

"(XI) STS-135, also known as:

"(aa) 1-(5-fluoropentyl)-N-tricyclo[3.3. l. l 3, 7]dec-1-yl-l H-indole-3-carboxamide;

"(bb) N-adamantyl-l-fluoropentylindole-3-Carboxamide;

"(cc) 5F-APICA; or

"(dd) 5-fluoro-APICA;

"(XII) SDB-006 (also known as N-benzyl-1-pentyl-lH-indole-3-carboxamide); and

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"(XIII) 5-fluoro-MDMB-PICA (also known as N-[[1-(5-fluoropentyl)-1H-indol-3-yl]carbonyl]-3-methyl-L-valine, methyl ester);

"(xi) Indole Esters: Any compound containing or structurally derived from a 1H-Indole-3-carboxylate structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not substituted at the carboxylate group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group and whether or not further substituted in the indole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Indole esters may also be referred to as Quinolinylindolecarboxylates. Indole esters include:

"(I) Quinolinyl ester indoles, or any compound containing or structurally derived from Quinolinyl ester indoles, being any compound containing or structurally derived from 1H-indole-3carboxylic acid-8-quinolinyl ester, whether or not substituted in the indole ring to any extent or the quinolone ring to any extent;

"(II) BB-22, also known as:

"(aa) 1-(cyclohexylmethyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid;

"(bb) quinolin-8-yl 1-(cyclohexylmethyl)-1H-indole-3-carboxylate; or

"(cc) QUCHIC;

"(III) FDU-PB-22 (also known as naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate);

"(IV) FUB-PB-22, also known as:

"(aa) 1-[(4-fluorophenyl)methyl]-1H-indole-3-carboxylic acid, 8-quinolinyl ester; or

"(bb) Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate;

"(V) NM2201, also known as:

"(aa) naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate; or

"(bb) CBL-2201;

"(VI) PB-22, also known as:

"(aa) 1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid;

"(bb) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate;

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"(cc) 8-Quinolinyl 1-pentyl-1H-indole-3-carboxylate; or

"(dd) "QUPIC"; and

"(VII) 5F-PB-22, also known as:

"(aa) 1-(5-fluoropentyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid;

"(bb) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate;

"(cc) 8-Quinolinyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate;

"(dd) 5-fluoro-PB-22; or

"(ee) 5-fluoro QUPIC;

"(xii) Naphthoylindoles: Any compound containing or structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl group, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the naphthyl ring to any extent, including the following: AM-678, AM-1220, AM-1221, AM-1235, AM-2232, EAM-2201, JWH-004, JWH-007, JWH-009, JWH-011, JWH-015, JWH-016, JWH-018, JWH-019, JWH-020, JWH-022, JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070, JWH-071, JWH-072, JWH-073, JWH-076, JWH-079, JWH-080, JWH-081, JWH-082, JWH-094, JWH-096, JWH-098, JWH-116, JWH-120, JWH-122, JWH-148, JWH-149, JWH-164, JWH-166, JWH-180, JWH-181, JWH-182, JWH-189, JWH-193, JWH-198, JWH-200, JWH-210, JWH-211, JWH-212, JWH-213, JWH-234, JWH-235, JWH-236, JWH-239, JWH-240, JWH-241, JWH-242, JWH-258, JWH-262, JWH-386, JWH-387, JWH-394, JWH-395, JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413, JWH-414, JWH-415, JWH-424, MAM-2201, WIN 55-212. Napthoylindoles also include:

"(I) AM-2201 (also known as (1-(5-fluoropentyl)-3-(1-naphthoyl)indole); and

"(II) WIN 55,212-2, also known as:

"(aa) (R)-(+)-[2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone; or

"(bb) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[(1,2,3-de)-1,4-benzoxazin-6-yl]-1-napthalenylmethanone);

"(xiii) Naphthoylnaphthalenes: Any compound containing or structurally derived from naphthalene-1-yl-(naphthalene-1-yl) methanone with substitutions on either of the naphthalene rings to any extent. Naphthoylnaphthalenes include CB-13 (also known as CRA-13 or 1-naphthalenyl[4-(pentylox)-1-naphthalenyl]-methanone);

"(xiv) Naphthoylpyrroles: Any compound containing or

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structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following: JWH-030, JWH-031, JWH-145, JWH-146, JWH-147, JWH-150, JWH-156, JWH-243, JWH-244, JWH-245, JWH-246, JWH-292, JWH-293, JWH-307, JWH-308, JWH-309, JWH-346, JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368, JWH-369, JWH-370, JWH-371, JWH-373, JWH-392;

"(xv) Naphthylamidoindoles: Any compound containing or structurally derived from a N-(naphthyl)-indole-3-carboxamide structure, whether or not further substituted to any extent in the indole ring or in the naphthyl ring;

"(xvi) Naphthylmethyl Indoles: Any compound containing or structurally derived from 1H-indol-3-yl-(1-naphthyl)methane structure, also known as napthylmethylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, or 1-(N-methyl-2-pyrrolidinyl)methyl, l-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include:

"(I) JWH-175 (also known as 3-(1-naphthalenylmethyl)-1-pentyl-1 H-indole );

"(II) JWH-184 (also known as 3-[(4-methyl-1-naphthalenyl)methyl)-1-pentyl-l H-indole);

"(III) JWH-185 (also known as 3-[(4-methoxy-1-naphthalenyl)methyl]-1 -pentyl-1 H-indole);

"(IV) JWH-192 (also known as (1-(2-morpholin-4-ylethyl)indol-3-yl)-4-methylnaphthalen-1-ylmethane);

"(V) JWH-194 (also known as 2-methyl-1-pentyl-lH-indol-3-yl-( 4-methyl-1-naphthyl)methane);

"(VI) JWH-195 (also known as (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethane);

"(VII) JWH-196 (also known as 2-methyl-3-(1-naphthalenylmethyl)-1-pentyl-lH-Indole);

"(VIII) JWH-197 (also known as 2-methyl-l-pentyl-lH-indol-3-yl-( 4-methoxy-1-naphthyl)methane); and

"(IX) JWH-199 (also known as (1-(2-morpholin-4-ylethyl)indol-3-yl)-4-methoxynaphthalen-1-ylmethane);

"(xvii) Naphthylmethylindenes: Any compound containing or

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structurally derived from a naphthylideneindene structure or that is structurally derived from 1-(1-naphthylmethyl)indene with substitution at the 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-( 4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

"(I) JWH-171;

"(II) JWH-176 (also known as 1-[(E)-(3-pentyl-1 H-inden-1-ylidene)methyl]-naphthalene); and

"(III) JWH-220;

"(xviii) Phenylacetylindoles: Any compound containing or structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including: JWH-167, JWH-201, JWH-202, JWH-203, JWH-204, JWH-205, JWH-206, JWH-207, JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306, JWH-311, JWH-312, JWH-313, JWH-314, JWH-315, JWH-316, RCS-8, SR-18, and Cannabipiperidiethanone (also known as 2-(2-methoxyphenyl)-1-[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-ethanone);

"(xix) Quinolinoyl pyrazole: Any compound containing or structurally derived from Quinolinoyl pyrazole carboxylate (also known as Quinolinyl fluoropentyl fluorophenyl pyrazole carboxylate);

"(xx) Tetrahydrobenzochromen: Any compound containing or structurally derived from (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol. Includes tetrahydrodibenzopyrans, or any compound containing or structurally derived from tetrahydrodibenzopyrans, whether or not substituted in the tricyclic ring system, but does not include tetrahydrodibenzopyrans that are contained in cannabis or cannabis resin. Examples of this structural class include:

"(I) AM-087 (also known as (6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)- 6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);

"(II) AM-411 (also known as (6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);

"(III) HU-210, also known as:

"(aa) 3-(1,1'-dimethylheptyl)-6aR,7,10,10aR-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol;

"(bb) [(6aR,10aR)-9-(hydroxymethyl)-6,6-

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dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a- tetrahydrobenzo[c]chromen-1-ol;

"(cc) 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol; or

"(dd) 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol;

"(IV) HU-211, also known as:

"(aa) 3-(1,1-dimethylheptyl)-6aS,7,10,10aS-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol;

"(bb) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

"(cc) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; or

"(dd) "Dexanabinol";

"(V) HU-243, also known as

"(aa) (6aR,8S,9S,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-8,9-ditritio-7,8,10,10a-tetrahydro-6aH-benzo[c]chromen-1-ol; or

"(bb) 3-dimethylheptyl-11-hydroxyhexahydrocannabinol;

"(VI) JWH-051 (also known as (6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl)methanol);

"(VII) JWH-133 (also known as (6aR,10aR)-3-(1,1-Dimethylbutyl) -6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran); and

"(VIII) JWH-359 (also known as (6aR,10aR)- 1-methoxy-6,6,9-trimethyl- 3-[(2R)-1,1,2-trimethylbutyl]- 6a,7,10,10a-tetrahydrobenzo[c]chromene);

"(xxi) Δ8 Tetrahydrocannabinol: Any compound containing or structurally derived from 11-hydroxy-Δ8-tetrahydrocannabinol structure, also known as dibenzopyrans, with further substitution on the 3-pentyl group by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkyethyl, 1-(n-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group;

"(xxii) Tetramethylcyclopropane-thiazole carboxamides: Any compound containing or structurally derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring by alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the thiazole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent, including the group Tetramethylcyclopropyl thiazoles, or any compound containing or structurally derived from 2,2,3,3-tetramethyl-N-(thiazol- 2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring, whether or not further substituted in the thiazole ring to any

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extent, whether or not substituted in the tetramethylcyclopropyl ring to any extent. Tetramethylcyclopropane-thiazole carboxamides also include A-836,339, also known as:

"(I) [N(Z)]-N-[3-(2-methoxyethyl)-4,5-dimethyl-2(3H)-thiazolylidene]-2,2,3,3-tetramethyl-cyclopropanecarboxamide;

"(II) N-[3-(2-Methoxyethyl)-4,5-dimethyl-1,3-thiazol-2(3H)-ylidene]-2,2,3,3-tetramethylcyclopropanecarboxamide; and

"(III) A-836339;

"(xxiii) Benzodihydropyrans: Any compound containing or structurally derived from benzodihydropyrans, by substitution on the benzyl ring by hydroxy, alkyl, haloalkyl, alkoxy, cycloalkyl, alkene, haloalkene, cycloalkane, or by substitution on the pyran ring by alkyl, cycloalkyl, cycloalkene, or cycloalkoxy group to any extent. Examples of this structural class include:

"(I) AM-855 (also known as (4aR,12bR)-8-hexyl-2,5,5-trimethyl-1,4,4a,8,9, 10,11,12b-octahydronaphtho[3,2-c]isochromen-l 2-ol);

"(II) AM-905 (also known as (6aR,9R, l0aR)-3-[(E)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a, 7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol);

"(III) AM-906 (also known as (6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a, 7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol);

"(IV) AM-2389 (also known as (6aR,9R,10aR)-3-(l-hexylcyclobut-l-yl)-6a, 7,8,9, 10, 10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d)pyran-1,9 diol); and

"(V) JWH-057 (also known as (6aR,10aR)-3-(1,l-dimethylheptyl)-6a, 7, 10, 10a-tetrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran); and

"(xxiv) Benzimidazole Ketone: Any compound containing or structurally derived from [IH-indazol-3-yl](l-naphthyl)methanone structure with or without substitution at either nitrogen atom of the indazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, l-(N-methyl-2-pyrrolidinyl)methyl, l-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, with substitution at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, l-amino-3-methyl-1-oxobutan-2-yl, l-amino-3, 3-dimethyl-1-oxobutan-2-yl, l-methoxy-3-methyl-1-oxobutan-2-yl, l-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted in the benzimidazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Examples of this structural class include:

"(I) THJ-2201 (also known as [l-(5-Fluoropentyl)-lH-indazol-3-yl](l-naphthyl)methanone); and

"(II) THJ-018 (also known as l-naphthalenyl(l-pentyl-IH-indazol-3-yl)-methanone);

"(B) Unclassified Synthetic Cannabimimetic Agents:

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"(i) AM-356, also known as:
"(I) AM356;
"(II) arachidonyl-1'-hydroxy-2'-propylamide;
"(III) N-(2-hydroxy-1R-methylethyl)-5Z,8Z,11Z,14Z-eicosatetraenamide;
"(IV) (R)-(+)-Arachidonyl-1'-Hydroxy-2'-Propylamide;
"(V) Methanandamide; or
"(VI) R-1 Methanandamide;
"(ii) BAY38-7271 (also known as (-)-(R)-3-(2-Hydroxymethylindanyl -4-oxy) phenyl-4,4,4-trifluorobutyl-1-sulfonate);
"(iii) CP 50,556-1, also known as:
"(I) 9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate;
"(II) [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-; octahydrophenanthridin-1-yl] acetate;
"(III) [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate; or
"(IV) "Levonantradol";
"(iv) HU-308 (also known as (91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol);
"(v) HU-331 (also known as 3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione);
"(vi) JTE-907 (also known as N-(benzol[1,3]dioxol-5-ylmethyl) – 7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide);
"(vii) Mepirapim (also known as (4-methylpiperazin-1-yl)(1-pentyl-1H-indol-3-yl) Methanone);
"(viii) URB597 (also known as [3-(3-carbamoylphenyl)phenyl] – N-Cyclohexylcarbamate);
"(ix) URB602, also known as:
"(I) [1,1'-Biphenyl]-3-yl-carbamic acid, cyclohexyl ester; or
"(II) cyclohexyl [1,1'-biphenyl]-3-ylcarbamate;
"(x) URB754 (also known as 6-methyl-2-[(4-methylphenyl)amino] -4H-3,1-benzoxazin-4-one); and
"(xi) URB937 (also known as 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl Cyclohexylcarbamate).

"(7) Synthetic opioids, which includes, unless specifically exempted, unless listed in another schedule, or unless approved by the Food and Drug Administration as a drug, any material, mixture, preparation, any compound structurally derived from, or that contains any

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quantity of the following synthetic substances, their salts, isomers, homologues, analogues and salts of isomers, homologues, and analogues, whenever the existence of these salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues is possible within the specific chemical designation:

"(A) Classified Synthetic Opioids:

"(i) Fentanyls: Any compound, other than carbomethoxyfentanyls, containing or structurally derived from N-(1-(2-Phenylethyl)-4-piperidinyl)-N-phenylpropanamide, whether or not substituted on the methanone group with an alkyl, alkene, halo, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, cyanoalkyl, hydroxyalkyl, furanyl, or alkoxy, and whether or not substituted on either phenyl ring with an alkyl, halo, cycloalkyl, or alkoxy group. Examples of fentanyls include:

"(I) Fentanyl (also known as N-(1-(2-Phenylethyl)-4-piperidinyl)-N-phenylpropanamide);

"(II) Furanylfentanyl (also known as N-Phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide);

"(III) Acetylfentanyl (also known as N-(1-Phenethylpiperidin-4-yl)-N-phenylacetamide);

"(IV) Acrylfentanyl (also known as N-Phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide);

"(V) Parafluorofentanyl, also known as:

"(aa) 4-fluorofentanyl; or

"(bb) N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide;

"(VI) Butyryl fentanyl, also known as:

"(aa) Butyr fentanyl;

"(bb) NIH 10486; or

"(cc) N-phenyl-N-[l-(2-phenylethyl)-4-piperidinyl]-butanamide; and

"(VII) para-Fluorobutyryl fentanyl, also known as:

"(aa) 4-FPF;

"(bb) p-FBF;

"(cc) 4-Fluorobutyryl fentanyl;

"(dd) p-Fluorobutyryl fentanyl; or

"(ee) N-( 4-fluorophenyl)-N-[ l -(2-phenylethyl)-4-piperidinyl]-butanamide);

"(ii) Carbomethoxyfentanyls: Any compound containing or structurally derived from 4-((1-oxopropyl)-phenylamino )-1-(2-phenylethyl)-4-piperidinecarboxylic acid methyl ester, whether or not substituted on either phenyl ring with an alkyl, halo, cycloalkyl, or alkoxy group. Carbomethoxyfentanyls include:

"(I) Carfentanil, also known as:

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"(aa) 4-Carbomethoxy Fentanyl;
"(bb) 4-carbomethoxy Fentanyl; or
"(cc) 4-[(1-oxopropyl)phenylamino]-1-(2-phenylethyl)-4-piperidinecarboxylic acid, methyl ester;
"(II) Norcarfentanil (also known as: 4-[(1-oxopropyl)phenylamino]-4-piperidinecarboxylic acid, methyl ester; and
"(III) N-methyl Norcarfentanil, also known as:
"(aa) N-methyl Carfentanil;
"(bb) N-methyl Norremifentanil;
"(cc) N-methyl Remifentanil; or
"(dd) 1-methyl-4-[(1-oxopropyl)phenylamino]-4-piperidinecarboxylic acid, methyl ester; and
"(iii) Benzamides: Any compound containing or structurally derived from 3,4-Dichloro-N-[(1R,2R)-2-(dimethylamino )cyclohexyl]-N-methylbenzamide, whether or not substituted on the phenyl ring with an alkyl, halo, cycloalkyl, or alkoxy group, and whether or not substituted with an alkyl or hydrogen on the nitrogen of the amide, and whether or not substituted on the nitrogen of the amide with an alkyl, cycloalkyl, tertiary amine, or combination thereof. Benzamides include:
"(I) U-47700 (also known as 3,4-dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide); and
"(II) AH-7921 (also known as 3,4-dichloro-N-[[l-(dimethylamino)cyclohexyl]methyl]benzamide).
"(B) Unclassified Synthetic Opioids:
"(i) W-18 (also known as 4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]-2-piperidinylidene]-benzenesulfonamide);
"(ii) Sufentanil (also known as N-[4-(methoxymethyl)-1-[2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenyl-propanamide);
"(iii) Alfentanil (also known as N-[1-[2-(4-ethyl-4,5-dihydro-5-oxo-1H-tetrazol-1-yl)ethyl]-4-(methoxymethyl)-4-piperidinyl]-N-phenyl-propanamide);
"(iv) Remifentanil (also known as 4-(methoxycarbonyl)-4-[(1-oxopropyl)phenylamino]-1-piperidinepropanoic acid, methyl ester);
"(v) Lofentanil (also known as methyl (3R,4S)-3-methyl-1-(2-phenylethyl)-4-(N-propanoylanilino)piperidine-4-carboxylate);
"(vi) Benzyl Carfentanil (also known as methyl 1-benzyl-4-(N-phenylpropionamido)piperidine-4-carboxylate); and
"(vii) N-methyl-Norcarfentanil (also known as 1-methyl-4-[(1-oxopropyl)phenylamino]-4-piperidinecarboxylic acid, methyl ester).".

(c) Section 208(a) (D.C. Official Code § 48-902.08(a)) is amended as follows:

(1) Paragraph (5)(BB) is amended by striking the semicolon and inserting the phrase "; and" in its place.

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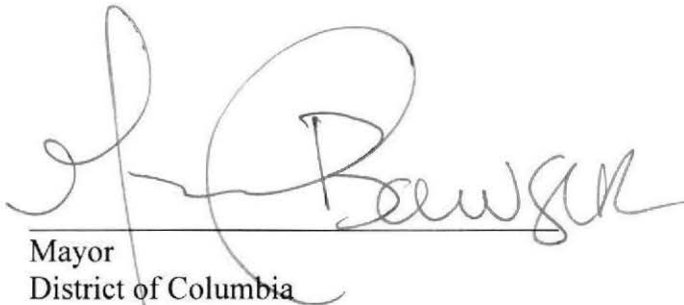
(2) Paragraph (6) is amended by striking the phrase "; and" and inserting a period.
(3) Paragraph (7) is repealed.

Sec. 3. Fiscal impact statement.
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-570**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the District of Columbia Mental Health Information Act of 1978 to permit the disclosure of mental health information by a third-party payor to a health care provider in certain enumerated instances, to require a health care provider to notify clients whether a third-party payor's privacy practices permit the disclosure of mental health information, and to allow clients to prevent the disclosure of mental health information by a third-party payor upon request.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Mental Health Information Disclosure Amendment Act of 2018".

Sec. 2. Section 301 of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7–1203.01), is amended as follows:

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

(1) Strike the phrase "a health care provider" and insert the phrase "a health care provider or its third-party payor" in its place.

(2) Strike the phrase "case management, or rehabilitation of a health or mental disorder" and insert the phrase "case management, conduct of quality assessment and improvement activities, or rehabilitation of a health or mental disorder" in its place.

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

(1) Paragraph (1)(A) is amended by striking the phrase "Whether the health care provider's" and inserting the phrase "Whether the health care provider or its third-party payor" in its place.

(2) Paragraph (2) is amended by striking the phrase "the health care provider" and inserting the phrase "the health care provider or its third-party payor" in its place.

Sec. 3. Fiscal impact statement.

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

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Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-571**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the Rental Housing Act of 1985 to prohibit the execution of residential evictions during precipitation, to establish eviction procedure and requirements that a housing provider shall meet before, during, and immediately after a residential eviction, and to establish standards for the handling of an evicted tenant's personal property; and to amend An Act To establish a code of law for the District of Columbia to clarify, in an eviction not subject to the Rental Housing Act of 1985, the legal status of an evicted tenant's remaining personal property and a landlord's civil liability for such property.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Eviction with Dignity Amendment Act of 2018".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 501(k) (D.C. Official Code § 42-3505.01(k)) is amended as follows:

(1) Strike the phrase "tenant on any day when the National Weather Service predicts at 8:00 a.m. that the temperature at the National Airport weather station will fall below 32 degrees fahrenheit or 0 degrees centigrade within the next 24 hours." and insert the phrase "tenant:" in its place.

(2) New paragraphs (1) and (2) are added to read as follows:

"(1) On any day when the National Weather Service predicts at 8:00 a.m. that the temperature at the National Airport weather station will fall below 32 degrees Fahrenheit or 0 degrees Celsius; or

"(2) When precipitation is falling at the location of the rental unit.".

(b) A new section 501a is added to read as follows:

"Sec. 501a. Storage and disposal of tenants' personal property upon eviction.

"(a) A housing provider shall not remove an evicted tenant's personal property from a rental unit except as provided in this section.

"(b)(1) In addition to any notification from the United States Marshals Service ("Marshals") to the tenant of the date of eviction, a housing provider shall deliver to the tenant a notice confirming the date of eviction not fewer than 21 days before the date of eviction by using the following methods:

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"(A) Telephone or electronic communication, including by email or mobile text message;

"(B) First-class mail to the address of the rental unit; and

"(C) Conspicuous posting at the tenant's rental unit in a manner reasonably calculated to provide notice.

"(2) The notice shall:

"(A) State the tenant's name and the address of the rental unit;

"(B) Specify the date on which the eviction is scheduled to be executed;

"(C) State that the eviction will be executed on that date unless the tenant vacates the rental unit and returns possession of the rental unit to the housing provider;

"(D) Prominently warn the tenant that any personal property left in the rental unit will be deemed abandoned 7 days after the time of eviction, excluding Sundays and federal holidays;

"(E) Include the phone numbers of the Marshals, the Office of the Tenant Advocate, and the Landlord and Tenant Branch of the Superior Court of the District of Columbia;

"(F) State that it is the final notice from the housing provider before the time of eviction, even if the eviction date is postponed by the court or Marshals; and

"(G) State that, for 7 days after the time of eviction, the tenant has the right to access the tenant's personal property remaining in the rental unit to remove the personal property from the rental unit:

"(i) At times agreed to by the parties, excluding Sundays and federal holidays; provided, that the housing provider shall grant the evicted tenant access to the rental unit on a Saturday if the evicted tenant requests it;

"(ii) For no fewer than 16 total hours between the hours of 8:00 a.m. and 6:00 p.m., over a period of not more than 2 days; and

"(iii) With no requirement that the tenant pay rent or service fees for the 7-day storage period.

"(c)(1) At the time of eviction, the housing provider shall change the locks on the rental unit in the presence of the Marshals, at the housing provider's expense, and take legal possession of the rental unit by receipt of a document from the Marshals.

"(2) Any right of the evicted tenant to redeem the tenancy shall be extinguished at the time of eviction.

"(d)(1) On the day of eviction, the housing provider shall send by first-class mail to the address of an emergency contact, if provided, and conspicuously post in a manner reasonably calculated to provide notice to the evicted tenant, a notice containing the following information:

"(A) The name and phone number of at least one agent of the housing provider who the tenant may contact and who can grant access to the rental unit on the housing provider's behalf pursuant to this subsection;

"(B) The phone number of the Office of the Tenant Advocate;

"(C) The phone number of the Marshals;

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"(D) The phone number of the Landlord and Tenant Branch of the Superior Court of the District of Columbia; and

"(E) The text of this subsection, which shall be included in the text of the notice or attached to the notice.

"(2) Any personal property of the evicted tenant present in the rental unit at the time of eviction shall remain in the rental unit for 7 days after the time of eviction, excluding Sundays and federal holidays, unless removed by the evicted tenant pursuant to this subsection.

"(3) The housing provider shall maintain and exercise reasonable care in the storage of the personal property of the evicted tenant during the period that the property remains in the rental unit pursuant to this subsection.

"(4)(A) For 7 days after the time of eviction, the housing provider shall grant the evicted tenant access to the rental unit to remove the tenant's personal property from the rental unit:

"(i) At times agreed to by the parties, excluding Sundays and federal holidays; provided, that the housing provider shall grant the evicted tenant access to the rental unit on a Saturday if the evicted tenant requests it;

"(ii) For no fewer than 16 total hours between the hours of 8:00 a.m. and 6:00 p.m. over a period of not more than 2 days;

"(iii) Without requiring the tenant to pay rent or service fees for the 7-day storage period.

"(B) Notwithstanding subparagraph (A) of this paragraph, a housing provider may extend the access period at his or her sole and absolute discretion.

"(C) If the housing provider fails to grant access to the evicted tenant to remove the evicted tenant's personal property as provided in this paragraph, the evicted tenant shall have a right to injunctive relief, including requiring the housing provider to grant access to the evicted tenant at certain dates and times to retrieve the evicted tenant's personal property and extending the period during which the housing provider must store the evicted tenant's personal property.

"(5)(A) Any of the evicted tenant's personal property remaining in the rental unit upon expiration of the period that the property remains in the rental unit pursuant to this subsection shall be deemed abandoned property.

"(B) The housing provider shall remove, or dispose of, any abandoned property in the rental unit upon the expiration of the period that the property remains in the rental unit pursuant to this subsection without any further notice or any other obligation to the evicted tenant.

"(C) The housing provider shall dispose of any abandoned property in any manner not prohibited by subparagraph (D) of this paragraph or otherwise expressly prohibited by law.

"(D) The housing provider is prohibited from placing or causing the placement of abandoned property in an outdoor space other than a licensed disposal facility or lawful disposal receptacle; provided, that a housing provider may place abandoned property or

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cause abandoned property to be placed in an outdoor private or public space while in the process of transporting the property from the premises for disposal.

"(6) An evicted tenant is prohibited from disposing of or causing the disposal of personal property in an outdoor space other than a lawful disposal receptacle; provided, that an evicted tenant may place personal property or cause personal property to be placed in an outdoor private or public space while in the process of transporting the property from the premises.

"(e) The housing provider and anyone acting on behalf of the housing provider shall be immune from civil liability for loss or damage to any property deemed abandoned pursuant to this subsection or claims related to its lawful disposal.

"(f) This section shall not apply to evictions carried out by the District of Columbia Housing Authority.

"(g) If the housing provider fails to comply with the notice requirements of subsections (b) or (d)(1) of this section, the evicted tenant shall have a right to injunctive relief, including a stay on the execution of the eviction until the notice requirements have been met.

"(g) For the purposes of this section, the term "time of eviction" means the time at which the Marshals execute a writ of restitution.".

Sec. 3. Chapter Thirty-Nine of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1382; D.C. Official Code § 42-3201 *passim*), is amended by adding a new section 1225a to read as follows:

"1225a. Disposal of tenant's personal property upon ejectment.

"(a) At the time of an ejectment not subject to the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), the landlord shall change the locks on the leased premises in the presence of the United States Marshals Service ("Marshals"), at the landlord's expense, and take legal possession of the leased premises by receipt of a document from the Marshals.

"(b) Any right of the ejected tenant to redeem the tenancy shall be extinguished at the time of ejectment.

"(c) Any personal property remaining in or about the leased premises at the time of ejectment is deemed abandoned property.

"(d)(1) The landlord shall dispose of any abandoned property in any manner not prohibited by subsection (e) of this section or otherwise expressly prohibited by law.

"(2) If the landlord receives any funds from any sale of such abandoned property, the landlord shall pay such funds to the account of the ejected tenant and apply any amounts due the landlord by the ejected tenant, including the actual costs incurred by the landlord in the ejectment process described in this section.

"(3) If any funds are remaining after application, the remaining funds shall be treated as a security deposit under applicable law.

"(e) The landlord is prohibited from placing or causing the placement of abandoned property in an outdoor space other than a licensed disposal facility or lawful disposal receptacle; provided, that a landlord may place abandoned property or cause abandoned property to be placed

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in an outdoor private or public space while in the process of transporting the abandoned property from the leased premises for disposal.

"(f) The landlord and anyone acting on behalf of the landlord shall be immune from civil liability for loss or damage to the ejected tenant's abandoned property or claims related to its lawful disposal.

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

"(1) "Ejectment" shall have the same meaning as the term "eviction" under the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*).

"(2) "Time of ejectment" means the time at which the Marshals execute a writ of restitution.".

Sec. 4. Section 4(a) of the Rental Housing Commission Independence Clarification Amendment Act of 2018, enacted on October 25, 2018 (D.C. Act 22-492; 65 DCR 12066), is amended by striking the phrase "202b(c)-d)" and inserting the phrase "202b(b)-(c)" in its place.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-572**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To establish a Program of All-Inclusive Care for the Elderly and to grant the Mayor the authority to administer the program, to require the Mayor to certify entities to provide eligible individuals with community-based comprehensive health care services, and to authorize the Mayor to issue rules to implement the requirements of the program; and to amend the Health Services Planning Program Re-Establishment Act of 1996 to exempt from certificate of need requirements entities certified by the Mayor to provide eligible individuals with community-based comprehensive health care services pursuant to the Program of All-Inclusive Care for the Elderly.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Program of All-Inclusive Care for the Elderly Establishment Amendment Act of 2018".

TITLE I. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Eligible individual" means an individual who:

(A) Is 55 years of age or older;

(B) Meets the level of care required under Medicaid for coverage of nursing facility services;

(C) Resides in the service area of a PACE organization;

(D) Satisfies the requirements of 42 C.F.R. § 460.150; and

(E) Complies with such other eligibility conditions as may be imposed by the Mayor pursuant to section 105.

(2) "Medicaid" means the medical assistance programs authorized by Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*), and by section 1 of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), and administered by the Department of Health Care Finance.

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(3) "PACE" means the Program of All-Inclusive Care for the Elderly established pursuant to section 102.

(4) "PACE organization" means an entity certified by the Mayor pursuant to section 104 to provide eligible individuals with community-based comprehensive health care services.

Sec. 102. Establishment of PACE.

There is established a Program of All-Inclusive Care for the Elderly for the purpose of:

(1) Enhancing the quality of life and autonomy of eligible individuals;

(2) Maximizing the dignity of, and respect for, eligible individuals;

(3) Enabling eligible individuals to live in the community for the maximum period of time that is medically and socially feasible; and

(4) Preserving and supporting the family unit of eligible individuals.

Sec. 103. Administration of PACE.

(a) The Mayor shall administer PACE and shall:

(1) Establish an application process for eligible individuals;

(2) Certify PACE organizations in accordance with the requirements of section 104;

(3) Oversee PACE organizations operating in the District; and

(4) Perform any other functions necessary to manage the activities of PACE.

(b) The Mayor may limit the number of PACE organizations approved to operate in the District in accordance with the number and needs of eligible individuals.

(c) The Mayor may designate the service area of PACE organizations.

(d) Notwithstanding any other provision of law, PACE organizations shall be exempt from regulation as insurers by the Department of Insurance, Securities, and Banking.

Sec. 104. PACE organization certification; provision of services.

(a) The Mayor shall certify a PACE organization pursuant to a determination that an entity has demonstrated:

(1) Enrollment as a Medicaid provider, in accordance with Chapter 94 of Title 29 of the District of Columbia Municipal Regulations (29 DCMR § 9400 *et seq.*);

(2) Compliance with the requirements of 42 C.F.R. Part 460; and

(3) Compliance with any additional requirements imposed by the Mayor pursuant to section 105.

(b) PACE organizations certified by the Mayor pursuant to subsection (a) of this section shall provide eligible individuals with community-based comprehensive health care services designed to meet the objectives of section 102, including:

(1) Multidisciplinary assessment and treatment planning;

(2) Primary care services, including physician and nursing services;

(3) Social work services;

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(4) Restorative therapies;
(5) Personal care and support services;
(6) Nutritional counseling;
(7) Recreational therapy;
(8) Transportation;
(9) Meals;
(10) Medical specialty services;
(11) Laboratory tests;
(12) Drugs and biologicals;
(13) Prosthetics and durable medical equipment;
(14) Acute inpatient, ambulatory, and emergency care; and
(15) Nursing facility care.

Sec. 105. Rules.
The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this title.

TITLE II. CERTIFICATE OF NEED EXEMPTION
Sec. 201. Section 8 of the Health Services Planning Program Re-Establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-407), is amended by adding a new subsection (h) to read as follows:
"(h)(1) A PACE organization certified pursuant to section 104 of the Program of All-Inclusive Care for the Elderly Establishment Amendment Act of 2018, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-924), shall be exempt from certificate of need requirements.
"(2) For the purposes of this subsection, the term "PACE organization" shall have the same meaning as provided in section 101(4) of the Program of All-Inclusive Care for the Elderly Establishment Amendment Act of 2018, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-924).".

TITLE III. APPLICABILITY; FISCAL IMPACT; EFFECTIVE DATE
Sec. 301. Applicability.
(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.
(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.
(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

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

Sec. 302. Fiscal impact statement.

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

Sec. 303. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-573**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the Mental Health Service Delivery Reform Act of 2001 to prohibit a provider from engaging in sexual orientation change efforts with a consumer for whom a conservator or guardian has been appointed.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Conversion Therapy for Consumers under a Conservatorship or Guardianship Amendment Act of 2018".

Sec. 2. Section 214a of the Mental Health Service Delivery Reform Act of 2001, effective March 11, 2015 (D.C. Law 20-218; D.C. Official Code § 7-1231.14a), is amended as follows:

(a) The section heading is amended by striking the phrase "minors" and inserting the phrase "minors and consumers under a conservatorship or guardianship" in its place.

(b) Subsection (a) is amended by striking the phrase "minor" and inserting the phrase "minor, or a consumer, regardless of age, for whom a conservator or guardian has been appointed" in its place.

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

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

"(1) "Conservator" shall have the same meaning as provided in D.C. Official Code § 21-2401.02(2).

"(2) "Guardian" shall have the same meaning as provided in D.C. Official Code § 21-2401.02(3).".

Sec. 3. Fiscal impact statement.

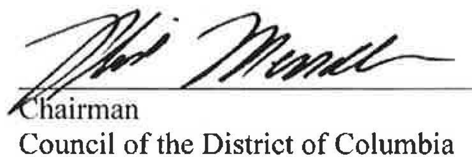
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

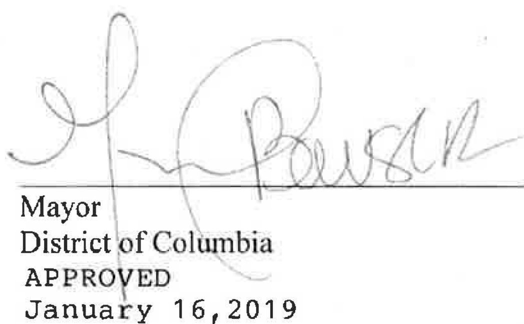
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-574**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend the Rental Housing Act of 1985 to clarify the definition of the term "rent charged" and to require the definition of the term "rent charged" to be included on all Rental Accommodations Division forms that include the term.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rent Charged Definition Clarification Amendment Act of 2018".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 103(29A) (D.C. Official Code § 42-3501.03(29A)) is amended to read as follows:

"(29A) "Rent charged" means the entire amount of money, money's worth, benefit, bonus, or gratuity a tenant must actually pay to a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities, pursuant to the Rent Stabilization Program.".

(b) Section 205(i) (D.C. Official Code § 42-3502.05(i)) is repealed.

(c) Section 208(f) (D.C. Official Code § 42-3502.08(f)) is amended to read as follows:

"(f)(1) Any notice of an adjustment under section 206 shall contain a statement of the current rent charged, the increased rent charged, and the utilities covered by the rent charged that justify the adjustment or other justification for the rent charged increase.

"(2) The notice shall also include a summary of tenant rights under this act and a list of sources of technical assistance as published in the District of Columbia Register by the Mayor.".

(d) Section 209(d) (D.C. Official Code § 42-3502.09(d)) is repealed.

(e) Section 213(e) (D.C. Official Code § 42-3502.13(d)) is repealed.

(f) A new section 222a is added to read as follows:

"Sec. 222a. Forms to include definition of the term "rent charged."

"The definition of the term "rent charged" shall be included on all Rental Accommodations Division forms that include the term.".

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Sec. 3. Rules.

Within 180 days after the effective date of this act, the Rental Housing Commission, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act, including revisions necessary to update relevant housing provider reporting forms according to the requirements of this act.

Sec. 4. Applicability.

Section 2(e) shall apply on the later of the applicability date of the Vacancy Increase Reform Amendment Act of 2018, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-25), or the effective date of this act.

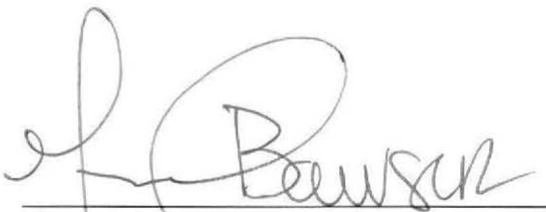
Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-575**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend, on a temporary basis, the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998 to revise definitions of the terms "bona fide association", "employer", and "group health plan", to apply the requirements of the act to multiple employer welfare arrangements, to expand the rulemaking authority of the Commissioner of the Department of Insurance, Securities, and Banking, and to impose requirements on multiple employer welfare arrangements and short-term, limited-duration health insurance plans; to amend the Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010 to apply its requirements for small employers to certain multiple employer welfare arrangements; and to amend the Federal Health Reform Implementation and Omnibus Amendment Act of 2014 to specify that the requirements of the federal Patient Protection and Affordable Care Act and the federal Public Health Service Act are incorporated by reference as such requirements existed on December 15, 2017, and to apply the individual and small group requirements of those federal health care acts to multiple employer welfare arrangements.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Insurance Marketplace Improvement Temporary Amendment Act of 2018".

Sec. 2. The Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3301.01 *et. seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 31-3301.01) is amended as follows:

(1) Paragraph (3) is amended as follows:

(A) Subparagraph (E) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) New subparagraphs (E-1) and (E-2) are added to read as follows:

"(E-1) Is domiciled and has its principal offices within the District;

"(E-2) Does not expand its membership based on geography; and".

(C) Subparagraph (F) is amended by striking the phrase "under the laws of the District of Columbia" and inserting the phrase "by the Commissioner by rule" in its place.

ENROLLED ORIGINAL

(2) Paragraph (12) is amended by striking the phrase "except that such term" and inserting the phrase "as such section and its implementing regulations were in effect on December 15, 2017, except that such term" in its place.

(3) Paragraph (19) is amended by striking the phrase "to the extent" and inserting the phrase "as such section and its implementing regulations were in effect on December 15, 2017, to the extent" in its place.

(b) A new section 206a is added to read as follows:

"Sec. 206a. Application to multiple employer welfare arrangements.

"The individual market requirements of this title shall apply to a health benefit plan offered by a multiple employer welfare arrangement, including an association or any other entity, if the plan covers an individual in the District who is not an employee or dependent of a participating employer.".

(c) Section 207 (D.C. Official Code § 31-3302.07) is amended by adding a new subsection (b-1) to read as follows:

"(b-1) The Commissioner may adopt regulations to establish and administer such standards relating to the provisions of this act as may be necessary to improve access and affordability of health insurance in the District and to maintain the requirements of the Patient Protection and Affordable Care Act approved March 23, 2010 (124 Stat. 111; 42 U.S.C. § 18001, note).".

(d) Section 301 (D.C. Official Code § 31-3303.01) is amended as follows:

(1) Designate the existing text as subsection (a).

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

"(b) Small group market requirements under this title shall apply to a health benefit plan offered by a multiple employer welfare arrangement including an association or any other entity, if the plan covers an employee of a small employer, as that term is defined in section 101(42), in the District.".

(e) New sections 313a, 313b, 313c, and 313d are added to read as follows:

"Sec. 313a. Treatment of certain multiple employer welfare arrangements.

"The Commissioner may issue rules to create a grandfathered status with respect to any of the requirements of this act for multiple employer welfare arrangements that existed and operated in the District as of December 15, 2017, and comply with federal law and regulations applicable to multiple employer welfare arrangements as of December 15, 2017. The Commissioner may also establish by rulemaking additional requirements for multiple employer welfare arrangements granted grandfathered status.

"Sec. 313b. License requirement for non-District multiple employer welfare arrangements.

"No multiple employer welfare arrangement located outside of the District may conduct any business in the District, including the marketing, offering, or issuing of a health benefit plan to any individual or employer, unless licensed as an insurer, a hospital and medical services corporation, a fraternal benefit society, or a health maintenance organization.

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"Sec. 313c. Licensing requirement for certain multiple employer welfare arrangements.

"(a) A multiple employer welfare arrangement that is not fully insured, as described in subsection (c) of this section, shall not operate in the District or market, offer, or issue a health benefit plan to any individual or employer in the District without first meeting the requirements for, and becoming licensed as, an insurer, a hospital and medical services corporation, a fraternal benefit society, or a health maintenance organization.

"(b) The existence of contracts of reinsurance shall not be considered in determining whether a multiple employer welfare arrangement is fully insured.

"(c) For the purposes of this section, a multiple employer welfare arrangement is not fully insured unless the covered benefits it provides are:

"(1) Insured on a direct basis by an insurance company licensed to transact the business of insurance in District; or

"(2) Arranged for or provided on a direct basis by

"(A) A hospital and medical services corporation;

"(B) A fraternal benefit society;

"(C) A health maintenance organization licensed in the District; or

"(D) Any combination of these entities.

"Sec. 313d. Short-term, limited-duration health insurance.

"(a) An insurer shall not provide short-term, limited-duration health insurance policies, certificates of coverage, or contracts unless the insurer has a certificate of authority from the Commissioner to offer health insurance.

"(b) An insurer offering for sale a short-term, limited-duration health insurance policy, certificate of coverage, or contract shall apply the same underwriting standards to all applicants for such coverage regardless of whether the applicant has previously been covered by a short-term, limited-duration health insurance policy, certificate of coverage, or contract.

"(c) A short-term, limited-duration health insurance policy, certificate of coverage, or contract shall not exclude from coverage as a pre-existing condition any medical or behavioral health condition for which an applicant sought treatment in the prior 12 months or for which an applicant is currently in an active course of treatment. An insurer shall not use underwriting related to such a condition to deny enrollment in short-term, limited-duration coverage to an applicant.

"(d) A short-term, limited-duration insurance policy, certificate of coverage, or contract shall terminate not more than 3 months after its effective date.

"(e) A short-term, limited-duration health insurance policy, certificate of coverage, or contract shall not be extended or renewed. The insurer shall not issue, directly or indirectly through an affiliate, a new short-term, limited-duration health insurance policy, certificate of coverage, or contract to an individual who had such a policy, certificate of coverage, or contract from the insurer within the preceding 9 months.

"(f) An insurer shall ensure that each policy, certificate of coverage, or contract for short-term, limited-duration health insurance and all application materials for enrollment in that coverage displays prominently, in at least 14-point type, a statement that the coverage does not

ENROLLED ORIGINAL

constitute minimum essential coverage for purposes of satisfying the individual responsibility requirement in the District, and any other disclosures the Commissioner may require through rulemaking, including the types of benefits and consumer protections that are and are not included in the coverage.

"(g) A company offering for sale a short-term, limited-duration health insurance policy, certificate of coverage, or contract shall provide to the Commissioner any information the Commissioner requires by rulemaking.".

Sec. 3. The Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-360; D.C. Official Code § 31-3311.01 *et seq.*), is amended as follows:

(a) Section 111 (D.C. Official Code § 31-3311.10) is amended as follows:

(1) Designate the existing text as subsection (a).

(2) New subsections (b) and (c) are added to read as follows:

"(b) Small group market requirements under this title shall apply to a health benefit plan offered by a multiple employer welfare arrangement, including an association or any other entity, if the plan covers an employee of a small employer, as that term is defined in section 101(42) of the Health Insurance Portability and Accountability Federal Law Conformity and No–Fault Motor Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3301.01(42)), in the District.

"(c) Individual market requirements under this title shall apply to a health benefit plan offered by a multiple employer welfare arrangement, including an association or any other entity, if the plan covers an individual in the District who is not an employee or dependent of a participating employer.".

(b) Section 112(1) (D.C. Official Code § 31-3311.11(1)) is amended by striking the phrase "§ 18001, note)." and inserting the phrase "§ 18001, note), as the law and its implementing regulations were in effect on December 15, 2017." in its place.

Sec. 4. The Federal Health Reform Implementation and Omnibus Amendment Act of 2014, effective May 2, 2015 (D.C. Law 20-265; 62 DCR 1529) is amended as follows:

(a) Section 101(a) (D.C. Official Code § 31-3461(a)) is amended to read as follows:

"(a) Sections 1251, 1252, and 1304 of the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; 42 U.S.C. §§ 18011, 18021, and 18024), and sections 2701 through 2709, 2711 through 2719A, and 2794 of the Public Health Service Act, approved July 1, 1944 (58 Stat. 682; 42 U.S.C. §§ 300gg, 300gg-1, 300gg-2, 300gg-3, 300gg-4, 300gg-5, 300gg-6, 300gg-7, 300gg-8, 300gg-9, 300gg-11, 300gg-12, 300gg-13, 300gg-14, 300gg-15, 300gg-15A, 300gg-16, 300gg-17, 300gg-18, 300gg-19, 300gg-19A, and 300gg-94), (collectively "federal health acts") and any rules issued pursuant to the federal health acts, as the sections and implementing regulations were in effect on December 15, 2017, are incorporated by reference and shall apply to all insurers, hospital and medical services corporations, health maintenance organizations, and multiple employer welfare arrangements, including associations or any other

ENROLLED ORIGINAL

entities providing a health benefit plan to a small employer, as that term is defined in section 101(42) of the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3301.01(42)), or an individual, that deliver or issue for delivery individual or group health insurance policies, contracts, or certificates of coverage in the District.".

(b) A new section 101a is added to read as follows:

"Sec. 101a. Applicability of federal health acts to multiple employer welfare arrangements.

"(a) Requirements in the federal health acts incorporated by reference in section 101(a) that apply to the small group market apply to health benefit plans offered by multiple employer welfare arrangements including associations or any other entity, if the plan covers an employee of a small employer, that term is defined in section 101(42) of the Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code § 31-3301.01(42)), in the District.

"(b) Requirements in the federal health acts incorporated by reference in section 101(a) that apply to insurers in the individual market apply to health benefit plans offered by multiple employer welfare arrangements, including associations or any other entities, if the plan covers an individual in the District who is not an employee or dependent of a participating employer.".

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

ENROLLED ORIGINAL

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
January 16,2019

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-576**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 16, 2019**

To amend, on a temporary basis, the Drug Paraphernalia Act of 1982 to permit persons testing personal use quantities of a controlled substance to use, or possess with the intent to use, testing equipment or other objects used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of a controlled substance, and to permit community-based organizations to deliver or sell, or possess with intent to deliver or sell, testing equipment or other objects used, intended for use, or designed for use for that same purpose.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Controlled Substance Testing Temporary Amendment Act of 2018".

Sec. 2. Section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1103), is amended as follows:

(a) Subsection (a) is amended by adding a new paragraph (1A) to read as follows:

"(1A)(A) Notwithstanding paragraph (1) of this subsection, it shall not be unlawful for a person to use, or possess with the intent to use, the materials described in section 2(3)(D) for the purpose of testing personal use quantities of a controlled substance.

"(B) For the purposes of this paragraph, the term "personal use quantities" means possession of a controlled substance in circumstances where there is no other evidence of an intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering, importing, or exporting of any controlled substance.".

(b) Subsection (b) is amended by adding a new paragraph (1A) to read as follows:

"(1A) Notwithstanding paragraph (1) of this subsection, it shall not be unlawful for a community-based organization, as that term is defined in section 4(a)(1) of An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, effective February 18, 2017 (D.C. Law 21-186; D.C. Official Code § 7-404(a)(1)), to deliver or sell, or possess with intent to deliver or sell, the materials described in section 2(3)(D).".

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Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
January 16,2019

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ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-577**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 18, 2019**

To amend the Procurement Practices Reform Act of 2010 and the Public-Private Partnership Act of 2014 to allow the Office of Public-Private Partnerships to delegate its contracting authority for public-private partnership agreements to the Office of Contracting and Procurement, and to require any employee of the Office of Contracting and Procurement exercising such delegated authority to comply with provisions of the Public-Private Partnership Act of 2014 and any regulations promulgated to effectuate it.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Public-Private Partnerships Delegation of Authority Amendment Act of 2018".

Sec. 2. Section 201(f) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.01(f)), is amended by striking the phrase "requirements of this act" and inserting the phrase "requirements of this act, except as provided in section 102(e) of the Public-Private Partnership Act of 2014, effective March 11, 2015 (D.C. Law 20-228; D.C. Official Code § 2-272.01(e))" in its place.

Sec. 3. Section 102 of the Public-Private Partnership Act of 2014, effective March 11, 2015 (D.C. Law 20-228; D.C. Official Code § 2-272.01), is amended by adding a new subsection (e) to read as follows:

"(e)(1) The Office may delegate to the Office of Contracting and Procurement ("OCP"), at the discretion of OCP, the authority to serve as the contracting officer for the Office for public-private partnership agreements entered into pursuant to this act and to carry out other contracting functions related to public-private partnerships on behalf of the Office.

"(2) Any OCP employee exercising authority delegated pursuant to this subsection shall comply with the provisions of this act and any rules and regulations promulgated to effectuate this act.".

Sec. 4. Applicability.

This act shall apply as of January 1, 2017.

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Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
January 17,2019

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AN ACT

**D.C. ACT 22-578**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JANUARY 18, 2019**

To amend the District of Columbia Statehood Constitutional Convention Initiative of 1979 to make conforming changes; to amend the Confirmation Act of 1978 to make conforming changes and to add the Campaign Finance Board to the list of boards and commissions for which nominations submitted to the Council for approval are deemed disapproved after 90 days; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add the Campaign Finance Board to the list of independent agencies, to provide that the personnel authority for employees of the Campaign Finance Board is the Campaign Finance Board, to compensate the Campaign Finance Board members, and to require each member of a board or commission appointed by the Mayor to certify that he or she has undergone ethics training within 90 days after the beginning of his or her service; to amend the District of Columbia Election Code of 1955 to make technical and conforming changes, to strike the requirement that members of the District of Columbia Board of Elections have experience in government ethics, to provide that each member of the Campaign Finance Board shall receive compensation, to separate the Campaign Finance Board from the District of Columbia Board of Elections, and to allow the District of Columbia Board of Elections to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons; to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to add and amend definitions, to modify the contents of the Director of Government Ethics' quarterly reports to include contributions reported by registrants, to prohibit registrants from bundling contributions to certain types of political committees, to establish the Campaign Finance Board and set forth its composition, powers, and duties, to provide a procedure for investigating alleged campaign finance violations, to require additional information to be submitted by campaign finance filers, to require the preservation of paper and electronic copies of reports and statements by the Director of Campaign Finance, to expand the training provided to candidates and committees, to authorize the Campaign Finance Board to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons, to require committees to file additional information in their statements of organization, to amend the schedule for filing reports of receipts and expenditures and require additional information to be filed, to require political action committees and independent

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expenditure committees to disclose information about bundled contributions, to lower the threshold for reporting by all committees about bundled contributions, to require campaign funds to be used within a certain period to retire the debts of certain types of political committees, to limit the amount of personal loans to a campaign that can be repaid, to prohibit certain public officials from fundraising to retire their campaign debts within a certain period, to establish and regulate non-contribution accounts, to require non-coordination certifications, to enhance reporting requirements for independent expenditures, to expand political advertising disclosures, to lower contribution limits for inaugural and legal defense committees, to authorize the Attorney General for the District of Columbia to maintain a transition committee, to align the contribution limitation for transition committees for the Chairman of the Council and the Attorney General for the District of Columbia with other limitations, to narrow the authorized purposes for legal defense committees and enhance the information such committees report, to repeal the aggregate contribution limitations made by a contributor in a single election to candidates and political committees, to provide that limitations on contributions apply to political action committees in nonelection years, and to restrict the ability of covered contractors to contribute to prohibited recipients during prohibited periods; to amend the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to clarify that government employees may only use annual or unpaid leave when they are designated by a public official to knowingly solicit, accept, or receive contributions, to require that designated employees only perform these functions for certain types of political committees, and to expand the information reported and published about designations; to amend the Procurement Practices Reform Act of 2010 to require summaries of proposed contracts that come before the Council for approval to contain additional information and require websites established by the Chief Procurement Officer to include certain government contracting and campaign finance information; and to amend section 47-4701 of the District of Columbia Official Code to require a tax abatement financial analysis to include certain government contracting and campaign finance information.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Campaign Finance Reform Amendment Act of 2018".

Sec. 2. Section 11(4) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-129.21(4)), is amended by striking the phrase "Office of Campaign Finance" and inserting the phrase "Campaign Finance Board" in its place.

Sec. 3. Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1–523.01(e)), is amended as follows:

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(a) Paragraph (7) is amended by striking the phrase "Elections and Ethics" and inserting the word "Elections" in its place.

(b) Paragraph (29) is amended by striking the phrase "Commission established" and inserting the phrase "Commission, established" in its place.

(c) Paragraph (34) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(d) The first paragraph (35), added by section 2 of the Housing Production Trust Fund Board Nominee Confirmation Clarification Amendment Act of 2018, effective November 17, 2018 (D.C. Law 22-182; 65 DCR 11202), is amended by striking the period and inserting a semicolon in its place.

(e) The second paragraph (35), added by section 221 of the Youth Rehabilitation Amendment Act of 2018, enacted on September 6, 2018 (D.C. Act 22-451; 65 DCR 9554), is amended by redesignating it as paragraph (36) and striking the period and inserting the phrase "; and" in its place.

(f) A new paragraph (37) is added to read as follows:

"(37) The Campaign Finance Board, established by section 302 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.02).".

Sec. 4. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 301 (D.C. Official Code § 1-603.01) is amended as follows:

(1) Paragraph (13) is amended by striking the phrase "Board of Ethics and Government Accountability" and inserting the phrase "the Board of Ethics and Government Accountability, the Campaign Finance Board" in its place.

(2) Paragraph (14A)(A) is amended to read as follows:

"(A) A candidate, as that term is defined in section 101 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01).".

(b) Section 406(b) (D.C. Official Code § 1-604.06(b)) is amended as follows:

(1) Paragraph (4) is amended to read as follows:

"(4) For employees of the Board of Elections, the personnel authority is the Board of Elections;".

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

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

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"(4B) For employees of the Campaign Finance Board, the personnel authority is the Campaign Finance Board;".

(c) Section 908(3) (D.C. Official Code § 1-609.08(3)) is amended by striking the phrase ", District of Columbia Board of Elections and Ethics;" and inserting a semicolon in its place.

(d) Section 1108(c-1) (D.C. Official Code § 1-611.08(c-1)) is amended as follows:

(1) Paragraph (10) is amended by striking the phrase "Chairman per year." and inserting the phrase "Chairperson per year; and" in its place.

(2) A new paragraph (11) is added to read as follows:

"(11) Campaign Finance Board members shall be entitled to compensation at the hourly rate of $40 while actually in the service of the Board, not to exceed $12,500 for each member per year and $26,500 for the Chairperson per year.".

(e) Section 1801(a-2)(2) (D.C. Official Code § 1-618.01(a-2)(2)) is amended by striking the phrase "Filers shall" and inserting the phrase "Filers, and members appointed by the Mayor to a board or commission pursuant to section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142, D.C. Official Code § 1–523.01), shall" in its place.

Sec. 5. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 3(d) (D.C. Official Code § 1-1001.03(d)) is amended by striking the phrase "the Chairman" and inserting the phrase "the Chairperson" in its place.

(b) Section 4 (D.C. Official Code § 1-1001.04) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "government ethics or in elections" and inserting the word "elections" in its place.

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

"(c) Each member of the Board, including the Chairperson, shall receive compensation as provided in section 1108(c-1)(10) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c-1)(10)).".

(c) Section 5 (D.C. Official Code § 1-1001.05) is amended as follows:

(1) Subsection (a)(14) is amended by striking the phrase "this act, the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on 2nd reading on December 20, 2011 (Enrolled version of Bill 19-511)," and inserting the phrase "this act," in its place.

(2) Subsection (e)(1)(A) is amended by striking the phrase "Board. The Board, at the request of the Director of Campaign Finance, shall provide employees, subject to the compensation provisions of this paragraph, as requested to carry out the powers and duties of the Director. Employees assigned to the Director shall, while so assigned, be under the direction and control of the Director and may not be reassigned without the concurrence of the Director." and inserting the phrase "Board." in its place.

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(3) Subsection (g) is amended by striking the phrase "this act or under the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on $2^{nd}$ reading on December 20, 2011 (Enrolled version of Bill 19-511)," and inserting the phrase "this act" in its place.

(d) A new section 5a is added to read as follows:

"Sec. 5a. Advisory opinions.

"(a)(1) On its own initiative, or upon receiving a request from a person listed below and within a reasonable time after its receipt, the Board shall provide an advisory opinion regarding compliance with this act:

"(A) An elected official or a candidate to be an elected official;

"(B) Any person required to or who reasonably anticipates being required to submit filings to the Board under this act in connection with any election; or

"(C) Any other person under the jurisdiction of the Board.

"(2)(A) The Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days after its receipt by the Board. Comments upon the requested opinion shall be received by the Board for a period of at least 15 days following publication of the concise statement.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or trust.

"(b) Advisory opinions shall be published in the District of Columbia Register within 30 days after their issuance; provided, that the identity of a person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without his or her prior consent in writing. When issued according to rules of the Board, an advisory opinion shall be deemed to be an order of the Board.

"(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a person in reliance on an advisory opinion from the Board is lawful if:

"(1) The person requested the advisory opinion;

"(2) The facts on which the opinion is based are full and accurate, to the best knowledge of the person; and

"(3) The person, in good faith, substantially complies with any recommendations in the advisory opinion.".

(e) A new section 18 is added to read as follows:

"Sec. 18. Enforcement of act; penalties.

"(a) Recommendations of criminal or civil, or both, violations of this act shall be presented by the General Counsel to the Board in accordance with the rules and regulations adopted by the Board in accordance with the provisions of Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

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"(b) Any person who violates any provision of this act may be assessed a civil penalty for each violation of not more than $2,000 by the Board pursuant to subsection (d) of this section. For the purposes of this section, each day of noncompliance with an order of the Board shall constitute a separate offense.

"(c) A person who aids, abets, or participates in the violation of any provision of this act shall be subject to a civil penalty not to exceed $1,000.

"(d)(1) A civil penalty shall be assessed by the Board by order. An order assessing a civil penalty may be issued only after the person charged with a violation has been given an opportunity for a hearing and the Board has determined, by a decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be on the record and shall be held in accordance with Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

"(2) If a person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, and the Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Board, or it may remand the proceedings to the Board for further action as it may direct. The court may determine de novo all issues of law, but the Board's findings of fact, if supported by substantial evidence, shall be conclusive.

"(e) For the purposes of this act, actions of an agent acting for a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this act, unless the agency relationship to engage in the act is shown by clear and convincing evidence.".

Sec. 6. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase "District of Columbia Board of" and inserting the phrase "Board of" in its place.

(2) Strike the phrase "Office of Campaign Finance" and insert the phrase "Campaign Finance Board" in its place.

(b) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

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

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"(5A) "Campaign Finance Board" means the Campaign Finance Board established by section 302.".

(2) Paragraph (6) is amended as follows:

(A) The lead-in language is amended by striking the phrase ""Candidate" means an individual who seeks nomination for election, or election, to office, whether or not the individual is nominated or elected." and inserting the phrase ""Candidate" means an individual who seeks election to public office, whether or not the individual is nominated or elected." in its place.

(B) Subparagraph (A) is amended by striking the phrase "nomination for election, or election, to office" and inserting the phrase "election to public office" in its place.

(C) Subparagraph (B) is amended by striking the phrase "nomination for election, or election, to office" and inserting the phrase "election to public office" in its place.

(D) Subparagraph (C) is amended to read as follows:

"(C) Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed to be a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek election to public office.".

(3) Paragraph (9) is amended by striking the phrase ""Compensation" means" and inserting the phrase ""Compensation", for the purposes of Subtitle E of Title II, means" in its place.

(4) A new paragraph (9B) is added to read as follows:

"(9B) For the purposes of a contract, as that term is defined in paragraph (10C)(A)(ii) of this section, "contracting authority" means:

"(A) The Chief Procurement Officer, as defined in section 104(11) of the PPRA;

"(B) Any agency listed in section 201(b) of the PPRA;

"(C) Any agency listed in section 105(c) of the PPRA that transmits contracts to the Council for approval pursuant to section 202 of the PPRA; and

"(D) The Council of the District of Columbia.".

(5) Paragraph (10) is amended as follows:

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

(i) Sub-subparagraph (i) is amended as follows:

(I) Sub-sub-subparagraph (I) is amended by striking the phrase "The nomination or election" and inserting the phrase "The election" in its place.

(II) Sub-sub-subparagraph (II) is amended by striking the phrase "political committee or political action committee" and inserting the phrase "political committee, political action committee, or independent expenditure committee" in its place.

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(ii) Sub-subparagraph (ii)(IV) is amended by striking the period and inserting a semicolon in its place.

(iii) Sub-subparagraph (iii) is amended by striking the period and inserting the phrase "; and" in its place.

(iv) A new sub-subparagraph (iv) is added to read as follows:

"(v) An expenditure that is coordinated with a public official, a political committee affiliated with a public official, or an agent of any person described in this sub-subparagraph.".

(B) Subparagraph (B)(iii) is amended by striking the phrase "endorse nor oppose" and inserting the phrase "support nor oppose" in its place.

(6) Paragraph (10B) is amended to read as follows:

"(10B)(A) "Coordinate" or "coordination" means to take an action, including making a contribution or an expenditure:

"(i) At the explicit or implicit direction, request, or suggestion of a public official, a political committee affiliated with a public official, or an agent of a public official or a political committee affiliated with a public official; or

"(ii) In cooperation, consultation, or concert with, or with other material involvement of a public official, a political committee affiliated with a public official, or an agent of a public official or a political committee affiliated with a public official.

"(B) There shall be a rebuttable presumption that a contribution or an expenditure is coordinated with a public official, a political committee affiliated with a public official, or an agent of a public official or a political committee affiliated with a public official, if:

"(i) The contribution or expenditure is made based on information that the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, provided to the particular person making the contribution or expenditure about its needs or plans, including information about campaign messaging or planned expenditures;

"(ii) The person making the contribution or expenditure retains the professional services of a person who also provides the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, with professional services related to campaign or fundraising strategy;

"(iii) The person making the contribution or expenditure is a political committee, political action committee, or independent expenditure committee that was established or is or was staffed in a leadership role by an individual who:

"(I) Works or previously worked in a senior position or in an advisory capacity on the public official's staff or on the public official's principal campaign committee; or

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"(II) Who is a member of the public official's immediate family; or

"(iv) The contribution or expenditure is made for the purpose of financing, directly or indirectly, the election of a candidate or a political committee affiliated with that candidate, and that candidate has fundraised for the person making the expenditure.".

(7) Paragraphs (10C) and (10D) are redesignated as paragraphs (10D) and (10E).

(8) A new paragraph (10C) is added to read as follows:

"(10C)(A)(i) "Covered contractor" means any business entity, or a principal of a business entity, seeking or holding a contract or multiple contracts with the District government.

"(ii) For the purposes of this paragraph, "contract" means agreements with an aggregate value of $250,000 or more, including the value of any option period or similar contract extension or modification, for:

"(I) The rendition of services;

"(II) The furnishing of any goods, materials, supplies, or equipment;

"(III) The construction, alteration or repair of any District government-owned or District government-leased property;

"(IV) The acquisition, sale, lease, or surplus and disposition of any land or building;

"(V) A licensing arrangement;

"(VI) A tax exemption or abatement; or

"(VII) A loan or loan guarantee, not including loans made for non-commercial purposes, such as educational loans or residential mortgage loans.

"(iii) For the purposes of this paragraph, the term "contract" shall not include a contract governing the employment of District government employees, including a collective bargaining agreement.

"(B) Only contracts sought or held with overlapping contract periods shall be aggregated for the purposes of determining the aggregate value of multiple contracts under this paragraph.

"(C) The term "seeking", for the purposes of a tax exemption or abatement, means that legislation authorizing that tax abatement or exemption is pending before the Council.".

(9) Paragraph (12) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(10) Paragraph (15) is amended by striking the phrase "to office" both times it appears and inserting the phrase "to public office" in its place.

(11) Paragraph (20) is amended as follows:

(A) Subparagraph (D) is amended by striking the phrase "; and" and inserting a semicolon in its place.

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(B) Subparagraph (E) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new subparagraph (F) is added to read as follows:

"(F) The Campaign Finance Board.".

(12) Paragraph (21) is amended as follows:

(A) Subparagraph (A)(i)(I) is amended by striking the phrase "nomination or election" and inserting the word "election" in its place.

(B) Subparagraph (B) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(13) Paragraph (22) is amended to read as follows:

"(22) "Exploratory committee" means any person, or group of persons, organized for the purpose of exploring the feasibility of an individual becoming a candidate for public office in the District.".

(14) Paragraph (27) is amended by striking the phrase "accepting, and spending" and inserting the phrase "accepting, and expending" in its place.

(15) Paragraph (28A) is amended as follows:

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

(i) The lead-in language is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(ii) Sub-subparagraph (iii) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "or candidate; or" and inserting a semicolon in its place.

(ii) Sub-subparagraph (ii) is amended to read as follows:

"(ii) Any agent of a public official, including a political committee; and".

(C) A new subparagraph (C) is added to read as follows:

"(C) Not a contribution to a political committee, political action committee, or candidate.".

(16) Paragraph (28B) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "or candidate; or" and inserting the phrase "; or" in its place.

(ii) Sub-subparagraph (ii) is amended to read as follows:

"(ii) An agent of a public official, including a political committee; and".

(C) The lead-in language of subparagraph (C) is amended to read as follows:

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"(C) Does not transfer or contribute to:".

(17) Paragraph (30) is amended by striking the phrase "spending funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings" and inserting the phrase "expending funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties" in its place.

(18) Paragraph (33B) is amended to read as follows:

"(33B) "Material involvement" means, with respect to a contribution or expenditure, any communication to or from a public official, political committee affiliated with public official, or any agent of a public official or political committee affiliated with a public official, related to the contribution or expenditure. Material involvement includes devising or helping to devise the strategy, content, means of dissemination, or timing of the contribution or expenditure, or making any express or implied solicitation of the contribution or expenditure.".

(19) A new paragraph (34A) is added to read as follows:

"(34A) "Non-contribution account" means a financial account of a political action committee that is segregated from other accounts of the political action committee and is used for the sole purpose of making independent expenditures.".

(20) Paragraph (43A) is amended as follows:

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

(i) The lead-in language is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(ii) Sub-subparagraph (i) is amended by striking the phrase "The nomination or election" and inserting the phrase "The election" in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "or candidate; or" and inserting the phrase "; or" in its place.

(ii) Sub-subparagraph (ii) is amended to read as follows:

"(ii) Any agent of a public official, including a political committee.".

(21) Paragraph (44) is amended as follows:

(A) The lead-in language is amended by striking the phrase "any committee (including any principal campaign, inaugural, exploratory, transition, or legal defense committee)" and inserting the phrase "any committee" in its place.

(B) Subparagraph (A) is amended as follows:

(i) The lead-in language is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(ii) Sub-subparagraph (i) is amended by striking the phrase "The nomination or election" and inserting the phrase "The election" in its place.

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(iii) Sub-subparagraph (ii) is amended by striking the phrase "party;" and inserting the phrase "party; or" in its place.

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

"(C) Controlled by or coordinated with any public official or agent of a public official.".

(22) New paragraphs (45A), (45B), (45C), and (45D) are added to read as follows:

"(45A) "PPRA" means the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*).

"(45B) "Principal" of a business entity, for purposes of paragraph (10C) of this section, means senior officers of that business entity, such as president, executive director, chief executive officer, chief operating officer, or chief financial officer. If a business entity is an educational institution, the term "principal" shall not include deans of that business entity.

"(45C) "Prohibited period" means:

"(A) For the types of contracts described in paragraph (10C)(A)(ii)(I), (II), (III), and (IV) (but not leases, or surpluses and dispositions) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

"(i) If the covered contractor's response to the solicitation is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful; or

"(ii) If the covered contractor's response to the solicitation is successful, one year after the termination of the contract;

"(B) For the types of contracts described in paragraphs (10C)(A)(ii)(IV) (only leases), (V), and (VII) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

"(i) If the covered contractor's response to the solicitation is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful; or

"(ii) If the covered contractor's response to the solicitation is successful, one year after the entrance into the contract;

"(C) For the types of contracts described in paragraph (10C)(A)(ii)(IV) (only surpluses and dispositions) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

"(i) If the covered contractor's response to the solicitation is unsuccessful before the introduction of legislation before the Council, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful; or

"(ii) If the covered contractor's response to the solicitation is successful and legislation is introduced before the Council:

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"(I) If the legislation is not passed before the end of that Council Period or is disapproved, the end of that Council period; or

"(II) If the legislation passes, one year after the effective date of the legislation; and

"(D) For the types of contracts described in paragraph (10C)(A)(ii)(VI) of this section, from the introduction of legislation, or the inclusion of such a contract in pending legislation, before the Council to:

"(i) If the legislation is not passed before the end of that Council Period or is disapproved, the end of that Council Period; or

"(ii) If the legislation passes, one year after the effective date of the legislation.

"(45D) "Prohibited recipient" means:

"(A) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with, or for which the procurement process would be overseen by, a District agency subordinate to the Mayor:

"(i) The Mayor;

"(ii) Any candidate for Mayor;

"(iii) Any political committee affiliated with the Mayor or a candidate for Mayor; and

"(iv) Any constituent-service program affiliated with the Mayor;

"(B) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with the Office of the Attorney General:

"(i) The Attorney General;

"(ii) Any candidate for Attorney General; and

"(iii) Any political committee affiliated with the Attorney General or a candidate for Attorney General; and

"(C) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with the Council, that must come before the Council for its approval 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), or which must otherwise be approved by the Council legislatively to take effect (such as tax abatements or exemptions, or surpluses and dispositions of District property):

"(i) Any Councilmember;

"(ii) Any candidate for Councilmember;

"(iii) Any political committee affiliated with a Councilmember or a candidate for Councilmember; and

"(iv) Any constituent-service program affiliated with a Councilmember.".

(23) Paragraph (47)(A) is amended to read as follows:

"(A) A candidate;".

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(24) Paragraph (52) is amended by striking the phrase "Chairman of the Council or the Mayor" and inserting the phrase "Mayor, Attorney General, or Chairman of the Council" in its place.

(c) Section 220(a) (D.C. Official Code § 1-1162.20(a)) is amended as follows:

(1) Paragraph (4) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (5) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (6) is added to read as follows:

"(6) All political contributions, including bundled contributions, reported as required in section 230.".

(d) Section 224(a) (D.C. Official Code § 1-1162.24(a)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "nomination for election, or election, to" and inserting the phrase "election to" in its place.

(2) Paragraph (3) is amended by striking the phrase "nomination for election, or election, to" both times it appears and inserting the phrase "election to" in its place.

(e) Section 231 (D.C. Official Code § 1-1162.31) is amended by adding a new subsection (h) to read as follows:

"(h) Registrants shall not bundle contributions to principal campaign committees, exploratory committees, inaugural committees, transition committees, or legal defense committees.".

(f) Section 302 (D.C. Official Code § 1-1163.02) is amended to read as follows:

"Sec. 302. Campaign Finance Board established; duties; enforcement of title.

"(a) There is established the Campaign Finance Board, whose purpose shall be to:

"(1) Appoint a Director of Campaign Finance, who shall:

"(A) Serve at the pleasure of the Campaign Finance Board; and

"(B) Be compensated at the maximum rate for Grade 16 of the District Schedule, pursuant to Title XI of the Merit Personnel Act;

"(2) Annually review the performance of the Director of Campaign Finance;

"(3) Administer and enforce the District's campaign finance laws;

"(4) Refer alleged violations for prosecution as provided in this title; and

"(5) Issue rules related to the District's campaign finance laws.

"(b)(1) Where the Campaign Finance Board, following the presentation by the Director of Campaign Finance of evidence constituting an apparent violation of this title, makes a finding of an apparent violation of this title, it shall refer the case for prosecution as provided for in section 335, and shall make public the fact of such referral and the basis for the finding.

"(2) The Campaign Finance Board, through its General Counsel:

"(A) Shall initiate, maintain, defend, or appeal any civil action (in the name of the Campaign Finance Board) relating to the enforcement of the provisions of this title; and

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"(B) May petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this title.".

(g) New sections 302a and 302b are added to read as follows:

"Sec. 302a. Composition; term; qualifications; removal.

"(a)(1) The Campaign Finance Board shall consist of 5 members, no more than 3 of whom shall be of the same political party, appointed by the Mayor with the advice and consent of the Council.

"(2) Members shall be appointed to serve for terms of 6 years, except the members first appointed. Of the members first appointed, one member shall be appointed to serve for a 2-year term, 2 members shall be appointed to serve a 4-year term, and 2 members shall be appointed to serve a 6-year term, as designated by the Mayor. The terms of the 5 initial members shall begin on October 1, 2019.

"(b) The Mayor shall designate the Chairperson of the Campaign Finance Board.

"(c) Unless the unexpired term is less than 6 months, any person appointed to fill a vacancy on the Campaign Finance Board shall be appointed only for the unexpired term of the member whose vacancy he or she is filling.

"(d) A member may be reappointed, and, if not reappointed, notwithstanding section 2(c) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(c)), the member may serve until the member's successor has been appointed and approved.

"(e) When appointing a member of the Campaign Finance Board, the Mayor and Council shall consider whether the individual possesses particular knowledge, training, or experience in campaign finance law or administration.

"(f) A person shall not be a member of the Campaign Finance Board unless the person:

"(1) Is a duly-registered District voter;

"(2) Has resided in the District continuously for the 3-year period preceding the day the person is appointed; and

"(3) Holds no other office or employment in the District government.

"(g) No person, while a member of the Campaign Finance Board, shall:

"(1) Campaign for any public office;

"(2) Serve in a leadership capacity or hold any office in a political party or political committee, political action committee, or independent expenditure committee;

"(3) Participate in any political campaign in any District election, including by:

"(A) Making speeches for or publicly supporting or opposing a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum;

"(B) Fundraising for or contributing to a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum; or

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"(C) Attending or purchasing a ticket for a dinner or other event sponsored by or supporting or opposing a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum;

"(4) Be a lobbyist;

"(5) Be an officer, director, or employee of an organization receiving District funds who has managerial or discretionary responsibilities with respect to those funds;

"(6) Use their status as a member to directly or indirectly attempt to influence any decision of the District government relating to any action that is not within the Board's purview; or

"(7) Be convicted of having committed an election- or campaign finance-related felony in the District of Columbia; or if the crime is committed elsewhere, conviction of such offense as would be an election- or campaign finance-related felony in the District of Columbia.

"(h) Each member of the Campaign Finance Board, including the Chairperson, shall receive compensation as provided in section 1108(c-1)(11) of the Merit Personnel Act.

"(i) A member may be removed for good cause, including engaging in any activity prohibited by subsection (f) or (g) of this section.

"(j)(1) The Campaign Finance Board shall hold regular monthly meetings in accordance with a schedule to be established by the Campaign Finance Board. Additional meetings may be called as needed.

"(2) The Campaign Finance Board shall provide notice of meetings and shall conduct its meetings in compliance with the Open Meetings Act.

"Sec. 302b. Board independent agency; facilities; seal.

"(a) In the performance of its duties, or in matters of procurement, the Campaign Finance Board shall not be subject to the direction of any nonjudicial officer of the District, except as provided in the Merit Personnel Act.

"(b) The District government shall furnish to the Campaign Finance Board such records, information, services, personnel, offices, equipment, and such other assistance and facilities as may be necessary to enable the Campaign Finance Board to properly to perform its functions.

"(c) Subject to the approval of the Mayor, the Campaign Finance Board is authorized to adopt and use a seal.".

(h) Section 303 (D.C. Official Code § 1-1163.03) is amended as follows:

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

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

(i) The lead-in language is amended by striking the phrase "of general applicability approved by the Elections Board" and inserting the phrase "approved by the Campaign Finance Board" in its place.

(ii) Subparagraph (A) is amended by striking the phrase "under oath" and inserting the phrase "under oath, affirmation," in its place.

(iii) Subparagraph (C) is amended by striking the phrase "administer oaths" and inserting the phrase "administer oaths and affirmations" in its place.

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(iv) Subparagraph (D) is amended by striking the phrase "of its duties" and inserting the phrase "of the Campaign Finance Board's duties" in its place.

(v) Subparagraph (E) is amended by striking the phrase "to administer oaths" and inserting the phrase "to administer oaths and affirmations" in its place.

(vi) Subparagraph (F) is amended by striking the semicolon and inserting the phrase "; and" in its place.

(vii) Subparagraph (G) is repealed.

(viii) Subparagraph (H) is amended as follows:

(I) Strike the phrase "Elections Board" wherever it appears and inserting the phrase "Campaign Finance Board" in its place.

(II) Strike the phrase "in section 302(c)" and insert the phrase "in section 302(b)" in its place.

(B) Paragraph (2) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(2) Subsection (b) is amended by striking the phrase "Elections Board" both times it appears and inserting the phrase "Campaign Finance Board" in its place.

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

"(c)(1) All investigations of alleged violations of this title shall be made by the Director of Campaign Finance in his or her discretion, in accordance with procedures of general applicability issued by the Director of Campaign Finance in accordance with the Administrative Procedure Act.

"(2) All allegations of violations of this title, which shall be presented to the Campaign Finance Board in writing, shall be transmitted to the Director of Campaign Finance without action by the Campaign Finance Board.

"(3) The Director of Campaign Finance shall present evidence concerning the alleged violation to the Campaign Finance Board within a reasonable time, if he or she believes that sufficient evidence exists constituting an apparent violation.

"(4) Following the presentation of evidence to the Campaign Finance Board, in an adversary proceeding and an open hearing, the Campaign Finance Board may refer the matter for prosecution in accordance with the provisions of section 302(b) or may dismiss the action. In no case may the Campaign Finance Board refer information concerning an alleged violation of this title for prosecution without the presentation of evidence by the Director of Campaign Finance.

"(5) Should the Director of Campaign Finance fail to present a matter or advise the Campaign Finance Board that insufficient evidence exists to present a matter or that an additional period of time is needed to investigate the matter further, the Campaign Finance Board may order the Director of Campaign Finance to present the matter within 90 days after its receipt.".

(i) Section 304 (D.C. Official Code § 1-1163.04) is amended as follows:

(1) The section heading is amended by striking the phrase "of Director" and inserting the phrase "of the Director" in its place.

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(2) Paragraph (1) is amended by striking the phrase "for the making of the reports and statements required to be filed with him or her" and inserting the phrase "for persons to make the reports and statements required to be filed with the Director of Campaign Finance" in its place.

(3) Paragraph (1A) is amended to read as follows:

"(1A) Require that all reports filed with the Director of Campaign Finance pursuant to this title be submitted electronically; provided, that reasonable accommodations shall be made where an actual hardship in complying with this paragraph is demonstrated to the Director of Campaign Finance;".

(4) Paragraph (1B) is amended as follows:

(A) Designate the existing text as subparagraph (A).

(B) The newly designated subparagraph (A) is amended by striking the phrase "recipients and agencies pursuant to sections of this title" and inserting the phrase "filers pursuant to this title" in its place.

(C) A new subparagraph (B) is added to read as follows:

"(B) For the purposes of searching receipts of contributions and expenditures, "sortable" means able to be downloaded and filtered by street address, city, state, or zip code of the contributor or payee;".

(5) Paragraph (2) is amended by striking the phrase "consonant with" and inserting the phrase "consistent with" in its place.

(6) Paragraph (3) is amended by striking the phrase "statement by hand and by duplicating machine" and inserting the word "statement" in its place.

(7) Paragraph (4) is amended to read as follows:

"(4) Preserve paper and electronic copies of reports and statements for a period of at least 10 years from date of receipt;".

(8) Paragraph (5) is amended by striking the phrase "current list of all statements or parts of statements" and inserting the phrase "current list of all reports and statements" in its place.

(9) Paragraph (6) is repealed.

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

"(7)(A) Make any reports prepared under this title available online, including a biennial report summarizing the receipts and expenditures of candidates, political committees, political action committees, and independent expenditure committees, during the prior 2-year period.

"(B) The Director of Campaign Finance shall publish the biennial report required in subparagraph (A) of this paragraph by December 31 of each odd-numbered year. The report shall describe the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and members of the Council, members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following information:

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"(i) A summary of each candidate's receipts, in dollar amount and percentage terms, by categories of contributors that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political committees, corporations, partnerships, and labor organizations;

"(ii) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the contribution, including contributions of:

"(I) $500 or more;

"(II) $250 or more but less than $500;

"(III) $100 or more but less than $250; and

"(IV) Less than $100;

"(iii) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;

"(iv) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and

"(v) A summary of the receipts and expenditures of political committees, political action committees, and independent expenditure committees using categories considered appropriate by the Director of Campaign Finance;".

(11) Paragraph (7A) is amended as follows:

(A) A new subparagraph (A-i) is added to read as follows:

"(A-i) Include content on the Fair Elections Program and the requirements of this title pertaining to business contributors, including their affiliated entities, and covered contractors;".

(B) Subparagraph (C) is amended by striking the phrase "The names of the participants shall be posted on the website of the Office of Campaign Finance" and inserting the phrase "The names of the participants and those participants who have not completed the training shall be prominently displayed on the website of the Campaign Finance Board" in its place.

(12) Paragraph (9) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(j) Section 306 (D.C. Official Code § 1-1163.06) is amended as follows:

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

"(a)(1) On its own initiative, or upon receiving a request from a person listed below and within a reasonable time after its receipt, the Campaign Finance Board shall provide an advisory opinion regarding compliance with this act:

"(A) A public official;

"(B) A political committee, political action committee, or independent expenditure committee;

"(C) An official of a political party;

"(D) Any person required to or who reasonably anticipates being required to submit filings to the Campaign Finance Board under this title; or

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"(E) Any other person under the jurisdiction of the Campaign Finance Board.

"(2) The Campaign Finance Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days after its receipt. Comments upon the requested opinion shall be received by the Campaign Finance Board for a period of at least 15 days following publication. The Campaign Finance Board may waive the advance notice and public comment provisions, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or trust.".

(2) Subsection (b) is amended by striking the phrase "Elections Board" both times it appears and inserting the phrase "Campaign Finance Board" in its place.

(3) Subsection (c) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(k) Section 307 (D.C. Official Code § 1-1163.07) is amended as follows:

(1) Paragraph (1)(B) is amended by striking the phrase "and position of the custodian of books and accounts" and inserting the phrase "employer of the treasurer" in its place.

(2) Paragraph (4) is amended by striking the word "chairman" both times it appears and inserting the word "chairperson" in its place.

(3) Paragraph (5) is amended as follows:

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

(i) Strike the phrase "occupation and the principal" and insert the phrase "occupation, employer, and the principal" in its place.

(ii) Strike the phrase "was made" and insert the phrase "was made, if applicable" in its place.

(B) Subparagraph (B) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(4) Paragraph (6) is amended by striking the phrase "officers, members" and inserting the phrase "officers, directors, members" in its place.

(l) Section 308(b) (D.C. Official Code § 1-1163.08(b)) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(m) Section 309 (D.C. Official Code § 1-1163.09) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) The reports required by subsection (a) of this section shall be filed according to the following schedule:

"(A) For political committees:

"(i) In an election year for the office sought, by the 10th day of February, April, July, September, and December, and 8 days before the primary, general, or special election, as applicable to the candidate; and

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"(ii) In a non-election year for the office sought, by the 10th day of February, July, September, and December; and

"(B) For political action committees and independent expenditure committees, by the 10th day of February, April, July, September, and December, and 8 days before a primary, general, or special election.

"(2) The reports shall be complete as of the closing date prescribed by the Director of Campaign Finance, which shall not be more than 10 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.".

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

(A) Strike the phrase "the occupation" wherever it appears and insert the phrase "the occupation, employer," in its place.

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

"(2B) For a report filed by a political action committee that has established a non-contribution account, any receipts that have been allocated to that account;".

(3) Subsection (e)(4) is amended by striking the phrase "The Elections Board" and inserting the phrase "The Campaign Finance Board" in its place.

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

(A) The lead-in language is amended by striking the phrase "Each political committee (including principal campaign, inaugural, transition, and exploratory committees)" and inserting the phrase "Each political committee, political action committee, and independent expenditure committee" in its place.

(B) Paragraph (1) is amended to read as follows:

"(1) Name, address, employer, and occupation of each person reasonably known by the committee to have bundled in excess of $5,000 during the reporting period; and".

(n) Section 310 (D.C. Official Code § 1-1163.10) is amended as follows:

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

"(a) Each candidate shall designate in writing one political committee as his or her principal campaign committee. The principal campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the election of the candidate who designated it as his or her principal campaign committee. The principal campaign committee may require additional reports to be made to it by any political committee and may designate the time and number of all reports. No political committee may be designated as the principal campaign committee of more than one candidate; provided, that a principal campaign committee supporting the election of a candidate as an official of a political party may support the election of more than one candidate but may not support the election of a candidate for any public office.".

(2) Subsection (c) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

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(o) Section 310a (D.C. Official Code § 1-1163.10a) is amended to read as follows:

"Sec. 310a. Fund balance requirements of principal campaign committees.

"(a) Except as provided in section 332h, within the limitations specified in this act, any surplus, residual, or unexpended campaign funds received by or on behalf of a candidate shall be:

"(1) Contributed to a political party for political purposes;

"(2) Within 12 months after the election, used to retire the proper debts of his or her political committee that received the funds, after which the candidate shall be personally liable for any remaining debts; provided, that:

"(A) Personal liability shall not attach until the Campaign Finance Board is no longer auditing the principal campaign committee; and

"(B) Any loans made by a candidate to support his or her campaign may only be repaid up to the amount of $25,000;

"(3) Transferred to:

"(A) A political committee;

"(B) A nonprofit organization within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District for a minimum of one calendar year before the date of any transfer; or

"(C) In the case of the Mayor or a Councilmember, an established constituent-service program; or

"(4) Returned to the donors as follows:

"(A) In the case of an individual defeated in an election, within 6 months after the election;

"(B) In the case of an individual elected to office, within 6 months after the election; and

"(C) In the case of an individual ceasing to be a candidate, within 6 months thereafter.

"(b) No public official elected to office shall fundraise after 6 months after the election to retire the proper debts of the public official's political committee.".

(p) Section 311 (D.C. Official Code § 1-1163.11) is amended as follows:

(1) The section heading is amended by striking the phrase "organization filed by political committees" and inserting the word "organization" in its place.

(2) Paragraph (1) is amended by striking the phrase "affiliated or connected" and inserting the word "affiliated" in its place.

(3) Paragraph (3) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "Each candidate" and inserting the phrase "Any candidate" in its place.

(B) Subparagraph (B) is amended by striking the phrase "nomination for election or election," and inserting the word "election" in its place.

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(4) Paragraph (4) is amended by striking the phrase "political committee" and inserting the phrase "political committee, political action committee, or independent expenditure committee" in its place.

(5) Paragraph (5) is amended by striking "The disposition" and inserting "The plan for the disposition" in its place.

(q) Section 312(a) (D.C. Official Code § 1-1163.12(a)) is amended by striking the phrase "within 5 days of becoming a candidate, or within 5 days of the day on which he or she, or any person authorized by him or her to do so, has received a contribution or made an expenditure in connection with his or her campaign or for the purposes of preparing to undertake his or her campaign" and inserting the phrase "within 5 days after becoming a candidate," in its place.

(r) A new section 312a is added to read as follows:

"Sec. 312a. Non-contribution accounts.

"(a) A political action committee shall not make an independent expenditure unless it establishes a non-contribution account for the purpose of making such independent expenditures.

"(b) A political action committee must notify the Campaign Finance Board within 10 days after establishing a non-contribution account.

"(c) A political action committee that establishes a non-contribution account shall ensure that:

"(1) The non-contribution account remains segregated from any accounts of the political action committee that are used to make contributions to candidates, political committees, political action committees, or political parties;

"(2) No contribution to the political action committee is deposited in the non-contribution account unless the contributor has specifically designated the contribution for the purpose of making an independent expenditure;

"(3) Contributions by the political action committee are not made from the non-contribution account; and

"(4) The non-contribution account pays a proportional share, as determined by the Director of Campaign Finance, of the political action committee's administrative expenses.

"(d) If a political action committee has established a non-contribution account, it must, in any reports it files pursuant to section 309, identify any receipts that have been allocated to that account.".

(s) Section 313 (D.C. Official Code § 1-1163.13) is amended as follows:

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

"(a)(1) Every political action committee and independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that the contributions it has received and the expenditures it has made have not been controlled by or coordinated with any public official, political committee affiliated with a public official, or an agent of a public official or political committee affiliated with a public official.

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"(2) Every independent expenditure committee shall further certify, in each report filed with the Director of Campaign Finance, that it has not made any contributions or transfers of funds to any public official, political committee, or any political action committee.".

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

(A) Paragraph (2) is amended to read as follows:

"(2) A business contributor shall comply with all requests from the Campaign Finance Board to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the Director of Campaign Finance deems relevant to enforcing the provisions of this act.".

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

"(3)(A) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $1,000 or more within a calendar year shall, in a report filed with the Director of Campaign Finance, identify:

"(i) The name and address of the person;

"(ii) The name and address of any of the person's affiliated entities that have also made an independent expenditure;

"(iii) The amount and purpose of the expenditures;

"(iv) The names of any candidates, initiatives, referenda, or recalls in support of or in opposition to which the expenditures are directed; and

"(v) A certification that, to the best of the person's knowledge, the independent expenditures were not controlled by or coordinated with any public official, political committee affiliated with a public official, or an agent of any person described in this sub-subparagraph.

"(B) If the person under subparagraph (A) of this paragraph is not an individual, any report filed under this paragraph shall also include:

"(i) The person's principal place of business;

"(ii) The name and address of each person whose total contributions, made for the purpose of making an independent expenditure, to the person reporting during the period covered by the report exceeded $500; and

"(iii) The date and amount of each contribution, made for the purpose of making an independent expenditure, by each person whose total contributions to the person reporting during the period covered by the report exceeded $500.

"(C) The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1,000 or more in a 2-week period, in which case the report shall be filed within 14 days after the independent expenditure.".

(t) Section 315 (D.C. Official Code § 1-1163.15) is amended to read as follows:

"Sec. 315. Identification of political advertising.

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"(a)(1) A candidate, political committee, or political action committee shall identify its political advertising by the words "paid for by", followed by the name and address of the candidate or committee and the name of the committee's treasurer, as applicable.

"(2) An independent expenditure committee or person making an independent expenditure shall identify its political advertising by the words "paid for by", followed by the name and address of the independent expenditure committee and the name of the committee's treasurer, or the name and address of the person making the independent expenditure. The political advertising shall also include a written or oral statement of the words "Top Five Contributors", followed by a list of the 5 largest contributors over the amount of $5,000, whose contributions were made for the purpose of making an independent expenditure, to the independent expenditure committee or person making the independent expenditure, if applicable, during the 12-month period before the date of the political advertising.

"(b) A political committee, political action committee, independent expenditure committee, or person making an independent expenditure shall include a statement on the face or front page, if printed, or an oral statement, if audiovisual, of all political advertising soliciting contributions the following notice: "A copy of our report is filed with the Director of Campaign Finance of the Campaign Finance Board."

"(c) The identifications required by this section need not be included on items the size of which makes the inclusion of such identifications impractical.

"(d) For the purposes of this section, the term "political advertising" includes newspaper and magazine advertising; posters; circulars and mailers; billboards; handbills; bumper stickers; sample ballots; initiative, referendum, or recall petitions; radio or television advertisements; paid telephone calls and text messaging; digital media advertisements; and other printed and digital materials produced by the persons in this subsection and intended to support or oppose:

"(1) A candidate or group of candidates; or

"(2) Any initiative, referendum, or recall measure.

(u) Section 316 (D.C. Official Code § 1-1163.16) is amended to read as follows:

"Sec. 316. Liability of candidates for financial obligations incurred by committees; imputing actions of agents of candidates.

"(a) Except as provided in sections 310a(a)(2), 324(a)(2), and 327(a)(2), no provision of this subtitle shall be construed as creating liability on the part of any candidate for any financial obligation incurred by a committee.

"(b) For the purposes of this subtitle, actions of an agent of a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this subtitle, unless the agency relationship to engage in the act is shown by clear and convincing evidence.".

(v) Section 317(b) (D.C. Official Code § 1-1163.17(b)) is amended to read as follows:

"(b) In the case of reports filed by a political committee or political action committee on behalf of initiative, referendum, or recall under this section, as applicable, the reports shall be filed on the dates that the Campaign Finance Board may by rule prescribe.".

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(w) Section 318 (D.C. Official Code § 1-1163.18) is amended as follows:

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

"(a) Any balance in the exploratory committee fund shall be transferred only to an established political committee or nonprofit organization, within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District for a minimum of one calendar year before the date of any transfer.".

(2) Subsection (b) is amended by striking the phrase "elective office" and inserting the phrase "public office" in its place.

(x) Section 319 (D.C. Official Code § 1-1163.19) is amended as follows:

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

(A) Paragraph (4) is amended by striking the phrase "or President" and inserting the phrase "or at-large member" in its place.

(B) Paragraph (5) is amended by striking the phrase "a member" and inserting the phrase "a ward member" in its place.

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

(A) Paragraph (4) is amended by striking the phrase "or President" and inserting the phrase "or at-large member" in its place.

(B) Paragraph (5) is amended by striking the phrase "a member" and inserting the phrase "a ward member" in its place.

(y) Section 321 (D.C. Official Code § 1-1163.21) is amended by striking the phrase "a candidate's" and inserting the phrase "an individual's" in its place.

(z) Section 322 (D.C. Official Code § 1-1163.22) is amended by striking the number "$10,000" both times it appears and inserting the number "$4,000" in its place.

(aa) Section 324 (D.C. Official Code § 1-1163.24) is amended to read as follows:

"Sec. 324. Duration of an inaugural committee.

"(a)(1) An inaugural committee shall terminate no later than 6 months after the beginning of the term of the new Mayor.

"(2) An inaugural committee may accept contributions necessary to retire the debts of the committee for 6 months after the beginning of the term of the new Mayor, after which the Mayor shall be personally liable for any remaining debts; provided, that personal liability shall not attach until the Campaign Finance Board is no longer auditing the inaugural committee.

"(b) The Mayor shall not fundraise to retire the proper debts of his or her inaugural committee, for which he or she is now personally liable, after 6 months after the beginning of his or her term.".

(bb) Section 326(b) (D.C. Official Code § 1-1163.26(b)) is amended to read as follows:

"(b) No person, including a business contributor, may make any contribution to or for a transition committee, and the Chairman of the Council or Chairman-elect, or Attorney General or Attorney General-elect, may not receive any contribution to or for a transition committee from any person, that when aggregated with all other contributions to the transition committee

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received from the person, exceed $1,500 in an aggregate amount; provided, that the $1,500 limitation shall not apply to contributions made by the Chairman of the Council or Chairman-elect, or the Attorney General or Attorney General-elect, for the purpose of funding his or her own transition committee within the District.".

(cc) Section 327(a) (D.C. Official Code § 1-1163.27(a)) is amended to read as follows:

"Sec. 327. Duration of a transition committee; restriction on formation.

"(a)(1) A transition committee shall terminate no later than 6 months after the beginning of the term of the new Mayor, Chairman of the Council, or Attorney General.

"(2) A transition committee may continue to accept contributions necessary to retire the debts of the committee for 6 months after the beginning of the new term, after which the Mayor, Chairman of the Council, or Attorney General shall be personally liable for any remaining debts of their respective committees; provided, that personal liability shall not attach until the Campaign Finance Board is no longer auditing the respective transition committee.

"(b) The Mayor, Chairman, or Attorney General shall not fundraise to retire the proper debts of his or her respective transition committees, for which he or she is now personally liable, after 6 months after the beginning of his or her new term.".

(dd) Section 328 (D.C. Official Code § 1-1163.28) is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase "administrative proceedings." and inserting the phrase "administrative proceedings arising directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties." in its place.

(2) Subsection (b)(3) is amended by striking the phrase "principal officers" and inserting the word "officers" in its place.

(ee) Section 329 (D.C. Official Code § 1-1163.29) is amended as follows:

(1) Subsection (a) is amended by striking the word "chairman" both times it appears and inserting the word "chairperson" in its place.

(2) Subsection (b) is amended by striking the phrase "the occupation" and inserting the phrase "the occupation, employer," in its place.

(3) Subsection (c) is amended by striking the phrase "the occupation" both times it appears and inserting the phrase "the occupation, employer," in its place.

(4) Subsection (d) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(5) Subsection (e) is amended as follows:

(A) Paragraph (1) is amended by striking the number "$10,000" both times it appears and inserting the number "$2,000" in its place.

(B) Paragraph (2) is amended by striking the phrase "a person acting on behalf" and inserting the phrase "an agent" in its place.

(C) Paragraph (3) is amended by striking the phrase "a person acting on behalf" and inserting the phrase "an agent" in its place.

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(ff) Section 330 (D.C. Official Code § 1-1163.30) is amended by striking the phrase "registration statement" and inserting the phrase "statement of organization" in its place.

(gg) Section 331(b) (D.C. Official Code § 1-1163.31(b)) is amended by striking the phrase "the occupation" wherever it appears and inserting "including the occupation, employer," in its place.

(hh) Section 332 (D.C. Official Code § 1-1163.32) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "Elections Board in a published regulation" and inserting the phrase "Campaign Finance Board by regulation" in its place.

(2) Subsection (c) is amended by striking the phrase "The Elections Board shall, by published regulations of general applicability," and inserting the phrase "The Campaign Finance Board shall, by regulation," in its place.

(3) Subsection (e) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Campaign Finance Board" in its place.

(ii) Section 332a (D.C. Official Code § 1-1163.32a) is amended by striking the phrase "the Office of Campaign Finance" and inserting the phrase "the Campaign Finance Board" in its place.

(jj) Section 332c (D.C. Official Code § 1-1163.32c) is amended by striking the phrase "the Elections Board" both times it appears and inserting the phrase "the Board" in its place.

(kk) Section 332f(d)(7) (D.C. Official Code § 1-1163.32f(d)(7)) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Board" in its place.

(ll) Section 332h (D.C. Official Code § 1-1163.32h) is amended by striking the phrase "the Office of Campaign Finance" wherever it appears and inserting the phrase "the Campaign Finance Board" in its place.

(mm) Section 332j (D.C. Official Code § 1-1163.32j) is amended by striking the phrase "the Office of Campaign Finance's" and inserting the phrase "the Campaign Finance Board's" in its place.

(nn) Section 332l(a) (D.C. Official Code § 1-1163.32l(a)) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Board" in its place.

(oo) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

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

(A) Paragraph (1) is repealed.

(B) Paragraph (2) is designated as the lead-in language.

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

(A) The existing text is designated as paragraph (1).

(B) The newly designated paragraph (1) is amended by striking the phrase "election, including primary and general elections, but excluding special elections," and inserting the word "election" in its place.

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

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"(2) Contributions to a political action committee that are designated for a non-contribution account shall not be subject to the contribution limitations of this subsection.".

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

"(f-1) Limitations on contributions under this section shall apply to political action committees during nonelection years.".

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

"(h-1) The contribution limitations in this section shall not apply to independent expenditure committees.".

(pp) A new section 334a is added to read as follows:

"Sec. 334a. Covered contractor contributions.

"(a) No agency or instrumentality of the District government, including an independent agency, shall enter into or approve a contract with a covered contractor if the covered contractor has contributed to a prohibited recipient during the prohibited period.

"(b) No covered contractor shall contribute to a prohibited recipient during the prohibited period. This prohibition shall not include a contribution by a covered contractor who is also a prohibited recipient to finance his or her own election.

"(c) To facilitate compliance with this section:

"(1) Each contracting authority shall:

"(A) Require that covered contractors report their principals to the contracting authority;

"(B) Maintain a publicly-available list on its website of all covered contractors, including their principals, for the contracts of that contracting authority;

"(C) Notify covered contractors, in the solicitation or similar invitation or opportunity to contract, of:

"(i) The prohibited recipients or, if the value of the contract is estimated, the likely prohibited recipients for the contract based on its estimated value; and

"(ii) Any other relevant provisions of this act;

"(D) With the Director of Campaign Finance, identify, for each covered contractor, whether the covered contractor has contributed to a prohibited recipient during the prohibited period;

"(E) Enforce the provisions of subsection (e)(1) of this section against covered contractors who have violated this section and provide their names to the Campaign Finance Board for the purposes of subsection (e)(2) of this subsection; and

"(F) For contracting authorities other than the Office of Contracting and Procurement, notify the Office of Contracting and Procurement of any enforcement actions taken pursuant to subsection (e)(1) of this section; and

"(2) The Director of Campaign Finance shall:

"(A) Check the publicly-available lists of covered contractors maintained pursuant to paragraph (1)(B) of this subsection against the reports of receipts and expenditures submitted to the Director of Campaign Finance pursuant to section 309 to identify any unlawful

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contributions, and then notify the covered contractor, the prohibited recipient who accepted the contribution, and the relevant contracting authority in order to allow the covered contractor and the prohibited recipient to cure the violation; and

"(B) Notify prohibited recipients and campaign treasurers of the relevant provisions of the Campaign Finance Reform Amendment Act of 2018, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-107).

"(d) The Director of Campaign Finance shall make available any necessary information to the contracting authorities and the Office of the Chief Financial Officer to facilitate compliance with this section.

"(e)(1) A covered contractor that violates this section may be considered to have breached the terms of any existing contract with the District. At the discretion of the relevant contracting authority, any existing contract of the covered contractor may be terminated. The covered contractor may also be disqualified from eligibility for future District contracts, including the extension or modification of any existing contract, for a period of 4 calendar years after the date of determination that a violation of this section has occurred.

"(2) The names of any prohibited recipients or covered contractors found to be in violation of this section shall be prominently displayed on the webpage of the Campaign Finance Board.

"(f) Within 180 days after the effective date of the Campaign Finance Reform Amendment Act of 2018, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-107), the Office of Contracting and Procurement, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this section.".

(qq) Section 335 (D.C. Official Code § 1-1163.35) is amended as follows:

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

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

(i) Strike the phrase "Elections Board" both times it appears and insert the phrase "Campaign Finance Board" in its place.

(ii) Strike the phrase "of this title or of Title I of the Election Code" and insert the phrase "of this title" in its place.

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

(i) Subparagraph (C) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(ii) Subparagraph (D) is amended by striking the phrase "this title or of Title I of the Election Code" and inserting the phrase "this title" in its place.

(C) Paragraph (3) is amended by striking the phrase "the Elections Board" both times it appears and inserting the phrase "the Campaign Finance Board" in its place.

(D) Paragraph (4) is amended by striking the phrase "the Elections Board" both times it appears and inserting the phrase "the Campaign Finance Board" in its place.

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(E) Paragraph (5) is amended by striking the phrase "the Elections Board" wherever it appears and inserting the phrase "the Campaign Finance Board" in its place.

(2) Subsection (d) is amended by striking the phrase "he shall" and inserting the phrase "he or she shall" in its place.

(3) Subsection (e) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Campaign Finance Board" in its place.

(rr) Section 336 (D.C. Official Code § 1-1163.36) is amended by striking the phrase "elected office" both times it appears and inserting the phrase "public office" in its place.

(ss) Section 337 (D.C. Official Code § 1-1163.37) is amended as follows:

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

"(a) Notwithstanding any other provisions of this title, neither the Campaign Finance Board, the Director of Campaign Finance, or any of the Director's officers or employees, may require that a document be sworn under oath or affirmed unless the Campaign Finance Board and Director of Campaign Finance maintain at the place of receipt of such documents and during regular business days and hours, a notary public to administer such oaths or affirmations.".

(2) Subsection (b) is amended by striking the phrase "an oath" and inserting the phrase "an oath or affirmation" in its place.

(tt) Section 338 (D.C. Official Code § 1-1163.38) is amended as follows:

(1) Subsection (d) is amended by striking the word "chairman" both times it appears and inserting the word "chairperson" in its place.

(2) Subsection (h) is amended by striking the phrase "section 221" and inserting the phrase "section 335" in its place.

Sec. 7. Section 3 of the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-1171.02), is amended as follows:

(a) Subsection (a)(1) is amended by striking the phrase "his official" and inserting the phrase "his or her official" in its place.

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

(1) The lead-in language is amended by striking the phrase "while on leave" and inserting the phrase "while on annual or unpaid leave" in its place.

(2) Paragraph (1) is amended by striking the phrase "the activities" and inserting the phrase "the functions" in its place.

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

"(1A) The employee may only perform these functions for a principal campaign committee, exploratory committee, or transition committee;".

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

"(3)(A) Any designated employee shall file a report, in a form as prescribed by the Board, with the Board within 15 days after being designated.

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"(B) The report shall identify only the employee's name, the name of the person who designated the employee, and the name of the principal campaign committee, exploratory committee, or transition committee for which the employee is designated.

"(C) The Board shall, on its website, identify each designated employee, and for each designated employee shall identify the name of the person who designated the employee, as well as the name of the principal campaign committee, exploratory committee, or transition committee for which the employee is designated.

"(D) The report required by this paragraph shall be in addition to any disclosure required under section 224 or section 225 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.24 or § 1-1162.25); and".

Sec. 8. The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), is amended as follows:

(a) Section 202 (D.C. Official Code § 2-352.02) is amended as follows:

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

(A) Paragraph (1) is amended by striking the phrase "contractor," and inserting the phrase "contractor, the names of the contractor's principals," in its place.

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

"(3B) A description of any other contracts the proposed contractor is currently seeking or holds with the District;".

(C) A new paragraph (8B) is added to read as follows:

"(8B)(A) A certification that the proposed contractor has not been determined to be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-107); and

"(B) A certification from the proposed contractor that it currently is not and will not be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-107);".

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

(A) Paragraph (6) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Paragraph (7) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new paragraph (8) is added to read as follows:

"(8)(A) A certification that the proposed contractor has been determined not to be in violation of section 334a of the Board of Ethics and Government Accountability

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Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-107); and

"(B) A certification from the proposed contractor that it currently is not and will not be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on 2nd reading on December 4, 2018 (Enrolled version of Bill 22-107).".

(b) Section 1104(b) (D.C. Official Code § 2-361.04(b)) is amended as follows:

(1) Paragraph (2)(B) is amended to read as follows:

"(B) Each website linked to by the webpage provided for in subparagraph (A) of this paragraph shall:

"(i) Provide clear instructions on how to respond electronically to each solicitation, unless a solicitation cannot be responded to electronically, in which case the website shall provide clear instructions on how to respond to the solicitation through non-electronic means;

"(ii) Include information in the solicitation regarding:

"(I) The prohibited recipients or, if the value of the contract is estimated, the likely prohibited recipients, as that term is defined in section 101(45D) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45D)), for the contract based on its estimated value; and

"(II) Any other relevant provisions of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*).".

(2) Paragraph (3) is amended as follows:

(A) Subparagraph (D) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Subparagraph (E) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new subparagraph (F) is added to read as follows:

"(F) A notation identifying:

"(i) Whether the vendor is a covered contractor, as that term is defined in section 101(10C) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)); and

"(ii) To which prohibited recipients, as that term is defined in section 101(45D) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45D)), the vendor is prohibited from making campaign contributions and during what prohibited period, as that term is defined in section 101(45C) of

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the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45C)).".

Sec. 9. Section 47-4701(b)(1) of the District of Columbia Official Code is amended by adding a new subparagraph (C-i) to read as follows:

"(C-i) If the estimated aggregate value of the exemption or abatement is $250,000 or more:

"(i) A list of the contributions, as that term is defined in section 101(10) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10)), made, from the date of the bill's introduction to the date that the TAFA is provided to the Council, by the grantee and the principals of the grantee, to the following persons:

"(I) The Mayor and any Councilmember;

"(II) A candidate for Mayor or Councilmember;

"(III) Any political committee, as that term is defined in section 101(44) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(44)), affiliated with an individual listed in sub-sub-subparagraphs (I) or (II) of this sub-subparagraph; and

"(IV) Any constituent-service program established pursuant to section 338 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.38), affiliated with an individual listed in sub-sub-subparagraphs (I) or (II) of this sub-subparagraph; and

"(ii) A list, provided by the grantee, of any contracts, as that term is defined in section 101(10C)(A)(ii) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)(A)(ii)), that the grantee is seeking or holds with the District government;".

Sec. 10. Applicability.

(a)(1) Except as provided in subsection (b) of this section, this act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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

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

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

(b) Sections 6(b)(4), (8), and (22) and (pp), 8, and 9 shall:

(1) Apply as of November 4, 2020; and

(2) Not apply to contracts, as defined in section 101(10C)(A)(ii) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)(A)(ii)), including those contracts' option periods or similar contract extensions or modifications, sought, entered into, or executed before November 4, 2020.

Sec. 11. Fiscal impact statement.

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

Sec. 12. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED
Mayor
District of Columbia
January 18,2019

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A RESOLUTION

22-716

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 18, 2018

To declare the existence of an emergency with respect to the need to extend the time allowed for the disposition of District-owned real property located at 901 Fifth Street, N.W., and I Street, N.W., and known for tax and assessment purposes as Lot 0059 in Square 0516.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Extension of Time to Dispose of Fifth Street, N.W., and I Street, N.W., Emergency Declaration Resolution of 2018".

Sec. 2. (a) Pursuant to section 1(d) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(d)), the Mayor transmitted to the Council a request for approval of additional time for the disposition of certain real property located at 901 Fifth Street, N.W. and I Street, N.W., and known for tax and assessment purposes as Lot 0059 in Square 0516 ("Property").

(b) The Council approved the disposition pursuant to the Fifth Street, N.W., and I Street, N.W., Disposition Approval Emergency Act of 2014, effective December 23, 2014 (D.C. Act 20-543; 62 DCR 240) ("Fifth and I Disposition"). The Property consists of approximately 20,641 square feet of land. The Fifth and I Disposition authorizes the disposition of the Property for a mixed-use development including a hotel, condominiums, and retail ("Project"), and an off-site affordable housing component ( "Affordable Housing Project").

(c) In 2016, the Council approved the Fifth Street, N.W., and I Street, N.W., Disposition Extension Approval Resolution of 2016, effective December 6, 2016 (Res. 21-669), to extend the authority for the Mayor to dispose of the Property to December 23, 2018 ("Fifth and I Disposition Extension").

(d) In 2018, Council approved the Fifth Street N.W. and I Street N.W. Term Sheet Amendment Approval Resolution of 2017, deemed approved on January 23, 2018 (PR 22-611; 64 DCR 11696), to amend the term sheet to include:

(1) A commercial Project at 901 Fifth Street, N.W., consisting of a limited-service hotel, condominiums, approximately 7,600 square feet of retail, and an underground garage;

(2) Renovation of Milian Park and the Chinatown Park; and

(3) The Affordable Housing Project that will result in the development of at least 61 affordable dwelling units ("ADU's"), with the Developer constructing a building at 2100

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Martin Luther King Jr. Avenue, S.E., containing no fewer than 20 ADUs reserved for leasing to households at or below 60% of area median income.

(e) The Office of the Deputy Mayor for Planning and Economic Development ("DMPED") conducted a thorough solicitation process and selected the development team of TCP 5th & I Partners, LLC, comprised of The Peebles Corporation and MLK DC AH Developer, LLC (collectively, "Developer") to redevelop the Property.

(f) The District and the Developer executed a Land Disposition and Development Agreement on December 24, 2014, and executed an Amended and Restated Land Disposition and Development Agreement on October 17, 2018, (collectively, "LDDA") following approval of the Fifth Street N.W. and I Street N.W. Term Sheet Amendment Approval Resolution of 2017.

(g) The Developer has worked diligently on the pre-development activities related to the development of a mixed-use development on the Property. To date, the Developer has completed the building plans for the Affordable Housing Project at 2100 Martin Luther King Jr. Avenue, S.E., and secured financing commitments for construction, acquired an alternate site to deliver the remaining ADUs, submitted a Notice of Funding Availability application for financing, and has substantially completed the building plans for the commercial Project at 901 Fifth Street, N.W.

(h) DMPED and the Developer have adhered to all milestones contained in the Schedule of Performance that accompanied the LDDA. Despite the best efforts of DMPED and Developer, the Developer has reached an impasse with its lender on the negotiation of terms for construction financing of the commercial building at 901 Fifth Street, N.W. The Developer has requested additional time to negotiate with an alternative lender and close on the Property.

(i) Pursuant to the Fifth and I Disposition Extension, the Mayor's authority to dispose of the Property will expire on December 23, 2018.

(j) To meet all Conditions of Closing pursuant to the LDDA, the Developer will require additional time beyond the existing disposition authority.

(k) An extension of time of the disposition authority is necessary to provide the Developer sufficient time to meet the required milestones.

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 Extension of Time to Dispose of Fifth Street, N.W., and I Street, N.W., Emergency Amendment Act of 2018 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-7

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2019

To declare the existence of an emergency with respect to the need to approve Modification Nos. 8, 10, 13, 14, 14A, 16, and 17 to Human Care Agreement No. DCRL-2015-H8-0093 with Boys Town Washington DC, Inc. to provide traditional congregate care group home services for children and youth, and to authorize payment for the services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modifications to Human Care Agreement No. DCRL-2015-H8-0093 Approval and Payment Authorization Emergency Declaration Resolution of 2019".

Sec. 2. (a) There exists a need to approve Modification Nos. 8, 10, 13, 14, 14A, 16, and 17 to Human Care Agreement No. DCRL-2015-H8-0093 with Boys Town Washington DC, Inc. to provide traditional congregate care group home services for children and youth, and to authorize payment in the not-to-exceed amount of $1,596,171.43 for the services received and to be received under the modifications.

(b) By Modification No. 8, the Child and Family Services Agency ("CFSA") partially exercised Option Year 2 of Human Care Agreement No. DCRL-2015-H8-0093 for the period from May 23, 2018, through June 23, 2018, in the not-to-exceed amount of $98,317.77.

(c) By Modification No. 10, CFSA partially exercised a 2nd option for the period from June 24, 2018, through September 30, 2018, in the not-to-exceed amount of $347,326.86.

(d) By Modification No. 13, CFSA partially exercised an option for the period from October 1, 2018, through October 31, 2018, in the not-to-exceed amount of $104,090.49.

(e) By Modification No. 14, as amended by Modification No. 14A, CFSA partially exercised an option for the period from November 1, 2018, through January 15, 2019, in the not-to-exceed amount of $391,769.26.

(f) By Modification No. 16, CFSA partially exercised an option for the period from January 16, 2019, through January 25, 2019, in the not-to-exceed amount of $51,548.58.

(g) By Modification No. 17, CFSA intends to exercise the remainder of Option Year 2 for the period from January 26, 2019, through May 22, 2019, in the not-to-exceed amount of $603,118.46, increasing the total not-to-exceed amount for Option Year 2 to $1,596,171.43.

**ENROLLED ORIGINAL**

(h) Council approval is required by section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), because the modifications increase the contract to more than $1 million during a 12-month period.

(i) Approval is necessary to allow the continuation of these vital services. Without this approval, Boys Town Washington DC, Inc. cannot be paid for services provided in excess of $1 million.

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 Modifications to Human Care Agreement No. DCRL-2015-H8-0093 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

23-8

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2019

To declare the existence of an emergency with respect to the need to amend the Rental Housing Act of 1985 to extend the due date for the Office of the Tenant Advocate to complete the re-registration component of the rent control housing database and to reset the due date when housing providers are required to file online re-registration statements to within 90 days after the launching of the database.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Rental Housing Registration Extension Emergency Declaration Resolution of 2019".

Sec. 2. (a) During the Fiscal Year 2018 budget cycle, the Council directed the Office of the Tenant Advocate ("OTA") to develop an internet-accessible, searchable database for the submission, management, and review of all documents that housing providers must submit to the Department of Housing and Community Development's Rental Accommodation Division ("RAD").

(b) During the Fiscal Year 2019 budget cycle, the Council further required OTA to include a re-registration component in the database in the Rental Housing Registration Update Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 42-3502.03c). The re-registration would require all housing providers to file online information such as the number of units in a rental building, the sizes of the units, and the rent charged. The re-registration was to be completed by April 28, 2019, and the database was to be completed and transferred to RAD by December 13, 2019.

(c) The original due date for the registration component was based on OTA's plan to:

(1) Develop the database by entering into a Memorandum of Understanding ("MOU") with the Department of Consumer and Regulatory Affairs ("DCRA") to collaborate with DCRA's general database vendor; and

(2) Complete the registration component as the first phase in a multi-phased process leading to the completion of the database.

(d) However, due to circumstances beyond OTA's control, the MOU proved not to be viable. In the absence of an MOU with a current District government vendor, the registration component cannot be completed before completion of the database itself, thus rendering the

ENROLLED ORIGINAL

original due date impracticable. OTA is now in the process of securing a vendor through open bidding in lieu of the MOU, and OTA expects that the database itself and all related activities will be completed and ready to be transferred to RAD by the original due date of December 13, 2019.

(e) This emergency legislation would amend the Rental Housing Act of 1985 to:

(1) Extend the due date for OTA to complete the re-registration component of the Rent Control Housing Database to the same completion and transfer date as that of the full database, December 13, 2019; and

(2) Reset the due date when housing providers are newly required to file online re-registration statements and claims of exemption to within 90 days after the launching of the database by RAD.

(f) It is important that the re-registration time period be reset to be consistent with the new database due date so that housing providers may realistically fulfill their re-registration obligations under the act.

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

Sec. 4. This resolution shall take effect immediately.

**ENROLLED ORIGINAL**

A RESOLUTION

23-9

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2019

To declare the existence of an emergency with respect to the need to amend the Sports Wagering Lottery Amendment Act of 2018 and the Sports Wagering Lottery Emergency Amendment Act of 2018 to clarify the amount of Class A and Class B license application fees and a waiver procedure.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sports Wagering Lottery Clarification Emergency Declaration Resolution of 2019".

Sec. 2.(a) On December 18, 2018, the Council passed the Sports Wagering Lottery Amendment Act of 2018 (Enrolled version of Bill 22-944), and the Sports Wagering Lottery Emergency Amendment Act of 2018 (Enrolled version of Bill 22-1071), which included an amendment that added a section 316 that increased the amount of a Class A and Class B license application fee and provided for a discount of these fees for an applicant that partners with a joint venture with a certified business enterprise interest.

(b) The amount of these fees is also stated in section 306. Section 306 was inadvertently not amended to reflect the increased amounts. The emergency legislation eliminates the inadvertent conflict between section 306 and 316 by amending section 306.

(c) The emergency legislation also clarifies the process of obtaining a waiver of certain licensing requirements, as authorized by the Bill 22-944.

(d) It is important that the provisions of the permanent legislation are amended as expeditiously as possible to clarify the waiver procedure and cost of a Class A and Class B license.

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 Sports Wagering Lottery Clarification Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

**ENROLLED ORIGINAL**

A RESOLUTION

23-10

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 8, 2019

To declare the existence of an emergency with respect to the need to amend An Act To establish a code of law for the District of Columbia to authorize the Mayor to issue marriage licenses and authorize temporary marriage officiants during a period of time when the Clerk of the Superior Court of the District of Columbia is not issuing marriage licenses because of a federal government shutdown.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Let Our Vows Endure Emergency Declaration Resolution of 2019".

Sec. 2. (a) Under current law, marriage licenses are issued by the Clerk of the Superior Court of the District of Columbia ("Clerk").

(b) During the current federal government shutdown, the Clerk is not issuing marriage licenses, because the issuance of marriage licenses has been determined to be a non-essential function of the Superior Court.

(c) District residents and others celebrating their marriages in the District are therefore unable to obtain marriage licenses during the current federal government shutdown.

(d) The inability of District residents and others celebrating their marriages in the District to obtain a marriage license can be highly disruptive to personal lives, particularly where a marriage has been planned to occur soon.

(e) It is imperative that District law be amended to enable the Mayor to issue marriage licenses during the current federal government shutdown, so that District residents and others celebrating their marriages in the District may legally solemnize their marriages at the time of their choosing.

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 Let Our Vows Endure Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

**COUNCIL OF THE DISTRICT OF COLUMBIA**

**NOTICE OF INTENT TO ACT ON NEW LEGISLATION**

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

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

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

## BILLS

B23-72 Marijuana Legalization and Regulation Act of 2019

Intro. 1-8-19 by Councilmembers Grosso, R. White, Nadeau, and Bonds and referred sequentially to the Committee on Judiciary and Public Safety, the Committee on Business and Economic Development, the Committee on Finance and Revenue, and the Committee of the Whole with comments from the Committee on Transportation and the Environment

B23-73 Attorney General Civil Rights Enforcement Clarification Amendment Act of 2019

Intro. 1-16-19 by Chairman Mendelson at the request of the Attorney General and referred to the Committee on Government Operations with comments from the Committee on Judiciary and Public Safety

B23-74 Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Act of 2019

Intro. 1-16-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization

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| B23-75 | Mypheduh Films DBA Sankofa Video and Books Real Property Tax Exemption Act of 2019<br><br>Intro. 1-17-19 by Councilmember Nadeau and referred to the Committee on Finance and Revenue |
| B23-76 | 14th Street International House of Pancakes Real Property Tax Exemption Act of 2019<br><br>Intro. 1-17-19 by Councilmember Nadeau and referred to the Committee on Finance and Revenue |
| B23-77 | Washington Parks & People Equitable Real Property Tax Relief Act of 2019<br><br>Intro. 1-17-19 by Councilmember Nadeau and referred to the Committee on Finance and Revenue |
| B23-78 | Corner Store Limited Exception Amendment Act of 2019<br><br>Intro. 1-18-19 by Councilmember Nadeau and referred to the Committee on Business and Economic Development |
| B23-79 | Homestead Exemption Increase Amendment Act of 2019<br><br>Intro. 1-18-19 by Councilmember Todd and referred to the Committee on Finance and Revenue |
| B23-82 | Ticket Payment Plan Amendment Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Cheh, Nadeau, T. White, R. White, Allen, Bonds, and Grosso and referred sequentially to the Committee on Transportation and the Environment and the Committee on Finance and Revenue |
| B23-83 | Vulnerable User Collision Recovery Amendment Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Cheh, Grosso, Allen, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety |

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| B23-84 | School Sunscreen Safety Amendment Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Cheh, Nadeau, Gray, R. White, Silverman, Todd, and Allen and referred sequentially to the Committee on Education and the Committee of the Whole |
| B23-85 | Housing Voucher Utility Disconnection Amendment Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Silverman, R. White, Bonds, Nadeau, Grosso, Cheh, and Todd and referred sequentially to the Committee on Housing and Neighborhood Revitalization and the Committee on Business and Economic Development |
| B23-86 | Supermarket Tax Incentives Eligible Area Amendment Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Gray, Cheh, McDuffie, Evans, R. White, T. White, and Bonds and referred to the Committee on Finance and Revenue |
| B23-87 | Park 7 at Minnesota-Benning Tax Abatement Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Gray and Bonds and referred to the Committee on Finance and Revenue |
| B23-88 | Downs Way Designation Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Gray and McDuffie and referred to the Committee of the Whole |
| B23-89 | Health Impact Assessment Program Establishment Act of 2019<br><br>Intro. 1-22-19 by Councilmembers Grosso, Silverman, Gray, Nadeau, and Bonds and referred to the Committee on Health |

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| B23-90 | Commission on Poverty in the District of Columbia Establishment Act of 2019<br><br>Intro. 1-22-19 by Councilmembers T. White, Todd, Gray, Evans, McDuffie, Allen, Bonds, Nadeau, Silverman, R. White, Cheh, Grosso, and Chairman Mendelson and referred to the Committee on Labor and Workforce Development with comments from the Committee on Human Services, the Committee on Government Operations, and the Committee on Housing and Neighborhood Revitalization |
| B23-91 | Department of Buildings Establishment Act of 2019<br><br>Intro. 1-22-19 by Chairman Mendelson and Councilmembers Silverman, Nadeau, Cheh, Allen, T. White, Bonds, R. White, Evans, McDuffie, and Gray and referred to the Committee of the Whole |
| B23-92 | Grocery Store Development Projects Labor Peace Agreement Amendment Act of 2019<br><br>Intro. 1-22-19 by Chairman Mendelson and Councilmembers Silverman, Nadeau, Cheh, Allen, T. White, Bonds, Grosso, R. White, Evans, and Todd and referred to the Committee on Labor and Workforce Development |
| B23-93 | Marion S. Barry Building Designation Act of 2019<br><br>Intro. 1-22-19 by Chairman Mendelson and Councilmembers Silverman, Nadeau, Cheh, McDuffie, Gray, T. White, Bonds, Grosso, R. White, Evans, Todd, and Allen and referred to the Committee of the Whole |

## PROPOSED RESOLUTIONS

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| PR23-76 | Hi-Tech Solutions, Inc. Contract Approval Resolution of 2019<br><br>Intro. 1-15-19 by Chairman Mendelson at the request of the Washington Convention and Sports Authority and Retained by the Council with comments from the Committee on Finance and Revenue |

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| PR23-77 | Board of Medicine Konrad Dawson Confirmation Resolution of 2019<br><br>Intro. 1-16-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health |
| PR23-78 | Not-For-Profit Hospital Corporation Board of Directors William A. Sherman, II Confirmation Resolution of 2019<br><br>Intro. 1-16-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health |
| PR23-79 | Medical Marijuana Testing Laboratory Rulemaking Approval Resolution of 2019<br><br>Intro. 1-18-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health |
| PR23-81 | Sense of the Council Urging the Federal Government to Prevent Nuclear War Resolution of 2019<br><br>Intro. 1-22-19 by Councilmembers Grosso, Bonds, Allen, and R. White and Retained by the Council |

**COUNCIL OF THE DISTRICT OF COLUMBIA**
**COMMITTEE OF THE WHOLE**
**NOTICE OF PUBLIC OVERSIGHT HEARING**
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

**The Department of Consumer and Regulatory Affairs:**
**What Issues Should the Committee Pursue?**

on

**Wednesday, February 6, 2019**
**11:00 a.m. Room 123, John A. Wilson Building**
**1350 Pennsylvania Avenue, NW**
**Washington, DC 20004**

Council Chairman Phil Mendelson announces a public oversight hearing before the Committee of the Whole seeking public comment on what issues at the Department of Consumer and Regulatory Affairs should the committee pursue during Council Period 23. The hearing will be held at 11:00 a.m. on Wednesday, February 6, 2019 in room 123 of the John A. Wilson Building.

The purpose of the hearing is to elicit public comment on the critical issues related to the services and programs provided by the Department of Consumer and Regulatory Affairs with input from a variety of stakeholders. The Committee is particularly interested in hearing from those individuals and groups that have frequent interaction with the agency, including property owners, tenants, businesses, contractors, developers, vocational professionals and advocates. The Committee also seeks feedback about the agency's newly implemented service improvements. Testimony at this hearing will be limited to members of the public (including non-government organizations).

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Blaine Stum, Legislative Policy Advisor, at 202-724-8196, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, February 1, 2019. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Friday, February 1, 2019 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on February 20, 2019.

# COUNCIL OF THE DISTRICT OF COLUMBIA
# COMMITTEE OF THE WHOLE &
# COMMITTEE ON EDUCATION
# NOTICE OF JOINT PUBLIC OVERSIGHT ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON**
**COMMITTEE OF THE WHOLE**
**&**
**COUNCILMEMBER DAVID GROSSO, CHAIRPERSON**
**COMMITTEE ON EDUCATION**

**ANNOUNCE A JOINT PUBLIC OVERSIGHT ROUNDTABLE**

on

**At-Risk Funding Transparency**

on

**Friday, February 1, 2019**
**9:30 a.m., Hearing Room 412, John A. Wilson Building**
**1350 Pennsylvania Avenue, NW**
**Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember David Grosso announce a joint public oversight roundtable of the Committee of the Whole and the Committee on Education on the transparency of at-risk funding for public schools. This oversight roundtable will be held at 9:30 a.m. on Friday, February 1, 2019 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of this oversight roundtable is to receive testimony from the public on at-risk funding, including how these funds are budgeted, spent, and their impact on academic outcomes. In 2013, the Council approved D.C. Law 20-87, the “Fair Student Funding and School Based Budgeting Act of 2013,” which added an “at-risk” weight to the Uniform Per Student Funding Formula (UPSFF). According to D.C. Law 20-87, students are considered at-risk if they are homeless, in the District’s foster care system, qualify for the Temporary Assistance for Needy Families program or the Supplemental Nutrition Assistance Program, or are in high school and at least one year older than the expected age for the grade in which the students are enrolled. At-risk funds are supposed to be spent on improving the academic outcomes of at-risk students, but transparency is lacking with regard to how these funds are actually budgeted and spent. Bill 23-46, the “At-Risk School Funding Transparency Amendment Act of 2019,” which was introduced on January 8, 2019, attempts to increase transparency. The Committees seek testimony on the ideas put forth in this bill, as well as how at-risk is defined and ways to increase the educational outcomes for at-risk students.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Christina Setlow, Deputy Committee Director at (202) 724-4865, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Wednesday, January 30, 2019**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Roundtable materials, including a draft witness list, can be accessed 24 hours in advance of the roundtable at http://www.chairmanmendelson.com/circulation.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, February 15, 2019.

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

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

## ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

## NEXT STEPS IN THE DISTRICT'S PUBLIC HEALTH-BASED APPROACH TO VIOLENCE PREVENTION AND INTERVENTION

**Thursday, January 31, 2019, 11 a.m.**
**Room 123, John A. Wilson Building**
**1350 Pennsylvania Avenue, N.W.**
**Washington, D.C. 20004**

On Thursday, January 31, 2019, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will hold a public oversight roundtable on "Next Steps in the District's Public Health-Based Approach to Violence Prevention and Intervention". The roundtable will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 11 a.m.

The public health approach to violence prevention and intervention adopts methods from the public health field for responding to epidemics by treating violence as a disease that can be interrupted, treated, and prevented from spreading. The purpose of this public oversight roundtable is to discuss the activities of the District government's two primary public health-based violence prevention and intervention efforts, particularly in light of the increase in homicides experienced in 2018 and early 2019: (1) the Office of Neighborhood Safety and Engagement and (2) the Office of the Attorney General's community-based "Cure the Streets" initiative. Specifically, the Committee will examine both initiatives' scope, funding, operations, outcomes, and next steps, recognizing that reducing crime is not accomplished solely through law enforcement.

**The Committee will only hear from government witnesses at this roundtable and will offer an opportunity for oral public testimony at a later date.** However, written statements from public witnesses will be made part of the official record. Copies of written statements should be submitted to the Committee at judiciary@dccouncil.us. **The record will close at the end of the business day on February 11, 2019.**

COUNCIL OF THE DISTRICT OF COLUMBIA

**COMMITTEE ON FACILITIES AND PROCUREMENT**

ROBERT C. WHITE, JR., CHAIR

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## NOTICE OF PUBLIC ROUNDTABLE ON

**PR23-0037, the "Commission on Re-Entry and Returning Citizen Affairs Larry Moon Confirmation Resolution of 2018"**

**PR23-0061, the "Commission on Re-Entry and Returning Citizen Affairs John Matthews Confirmation Resolution of 2019"**

Wednesday, January 30th, 2019, 10:00 AM
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

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On Wednesday, January 30th, 2019, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement, will hold a Public Roundtable on PR23-0037, the "Commission on Re-Entry and Returning Citizen Affairs Larry Moon Confirmation Resolution of 2018" and PR23-0061, the "Commission on Re-Entry and Returning Citizen Affairs John Matthews Confirmation Resolution of 2019". The Public Roundtable will take place at 10:00 AM in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The stated purpose of PR23-0037, the "Commission on Re-Entry and Returning Citizen Affairs Larry Moon Confirmation Resolution of 2018", is to confirm the appointment of Mr. Larry Moon to the Commission on Re-Entry and Returning Citizen Affairs.

The stated purpose of PR23-0061, the "Commission on Re-Entry and Returning Citizen Affairs John Matthews Confirmation Resolution of 2019", is to confirm the appointment of Mr. John Matthews to the Commission on Re-Entry and Returning Citizen Affairs.

The Committee invites the public to testify in person or to submit written testimony. Anyone wishing to testify should contact the Committee via e-mail at facilities@dccouncil.us or at (202) 724-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **close of business Tuesday, January 29th, 2019**. All witnesses will be allowed a maximum of four minutes for oral testimony. At the discretion of the Chair, the length of time provided for oral testimony may be reduced if there are a large number of witnesses. Witnesses are encouraged, but not required, to bring **twenty single-sided copies** of their testimony in writing and submit their written testimony electronically in advance to facilities@dccouncil.us.

Witnesses are advised that should the Public Roundtable extend beyond either 12:00 p.m. or 6:00 p.m., the Committee shall recess for a period of twenty minutes at each time. In addition, should more than one hundred witnesses request to testify in person, the Public Roundtable shall recess after the first one hundred witnesses and any witnesses signed up after the first one hundred shall, at the discretion of the Chair, be given the opportunity to either provide oral testimony when the Public Roundtable reconvenes at a later date or submit written testimony for the record.

For witnesses who are unable to testify at the hearing, written testimony will be made part of the official record. Copies of written testimony should be submitted to the Committee at facilities@dccouncil.us or to Nyasha Smith, Secretary of the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, DC 20004. **The record will close at the close of business on Wednesday, February 6th, 2019.**

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS
NOTICE OF PUBLIC ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**COUNCILMEMBER BRANDON T. TODD**
**COMMITTEE ON GOVERNMENT OPERATIONS**

**ANNOUNCES A PUBLIC ROUNDTABLE ON:**

**PR23-0050 - District of Columbia Commission on Human Rights Dr. John D. Robinson Confirmation Resolution of 2018**

**PR23-0049 - District of Columbia Commission on Human Rights Mark Herzog Confirmation Resolution of 2018**

**Tuesday, January 29, 2019**
**1:00 p.m.**
**Room 123, John A. Wilson Building**
**1350 Pennsylvania Avenue, NW**
**Washington, DC 20004**

Councilmember Brandon T. Todd announces a public roundtable to be held on Tuesday, January 29, 2019 at 1:00 p.m. in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave., N.W., Washington, D.C. 20004.

PR23-0050, the "District of Columbia Commission on Human Rights Dr. John D. Robinson Confirmation Resolution of 2018" would confirm the reappointment of Dr. John D. Robinson as a member of the Commission on Human Rights, to serve a term ending December 31, 2021.

PR23-0049, the "District of Columbia Commission on Human Rights Mark Herzog Confirmation Resolution of 2018" would confirm the reappointment of Mark Herzog as a member of the Commission on Human Rights, to serve a term ending December 31, 2021.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Manny Geraldo, Senior Legislative Counsel at (202) 724-6663 or mgeraldo@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 1:00 p.m. on Monday, January 28, 2019. Witnesses should bring 15 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to mgeraldo@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 117, Washington D.C. 20004.

**COUNCIL OF THE DISTRICT OF COLUMBIA**
**COMMITTEE OF THE WHOLE AND**
**COMMITTEE ON EDUCATION**
**NOTICE OF JOINT PUBLIC ROUNDTABLE**
1350 Pennsylvania Avenue, NW, Washington, DC 20004 **REVISED**

**CHAIRMAN PHIL MENDELSON**
**COMMITTEE OF THE WHOLE**
**&**
**COUNCILMEMBER DAVID GROSSO**
**COMMITTEE ON EDUCATION**

**ANNOUNCE A JOINT PUBLIC ROUNDTABLE**

on the

**PR23-0067, the "Chancellor of the District of Columbia Public Schools Dr. Lewis D. Ferebee Confirmation Resolution of 2019"**

on

**Wednesday, January 30, 2019**
**6:00 p.m., Ron Brown Boys College Preparatory High School | Gymnasium**
**4800 Meade St. NE, Washington, DC 20019**

Chairman Phil Mendelson and Councilmember David Grosso announce the scheduling of a public roundtable of the Committee of the Whole and the Committee on Education on the nomination of Dr. Lewis D. Ferebee as Chancellor of the D.C. Public Schools. The roundtable will be held at 6:00 p.m. on Wednesday, January 30, 2019 at Ron Brown College Preparatory High School, Gymnasium, 4800 Meade St. NE, Washington, D.C., 20019.

The stated purpose of PR23-0067 is to confirm the appointment of Lewis D. Ferebee as Chancellor of the District of Columbia Public Schools in accordance with section 104 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-174), 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).

Those who wish to testify may sign-up online at http://bit.do/educationhearings or call the Committee on Education at (202) 724-8061 by 5:00pm on Monday, January 28, 2019. Persons wishing to testify are encouraged, but not required, to submit 10-15 copies of written testimony. Witnesses should limit their testimony to three minutes. If you are unable to testify at this public roundtable, there will be two additional public roundtables. Also, written statements are encouraged and will be made a part of the official record. Written statements should be submitted by email to Ashley Strange, Committee Assistant, at astrange@dccouncil.us, or by mail to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, February 22, 2019.

*This revised notice reflects the change in room from Monarch Hall to the Gymnasium and the change in the record closing date from Tuesday, February 26, 2019 to Friday, February 22, 2019.*

**COUNCIL OF THE DISTRICT OF COLUMBIA**
**COMMITTEE OF THE WHOLE AND**
**COMMITTEE ON EDUCATION**
**NOTICE OF JOINT PUBLIC ROUNDTABLE**
1350 Pennsylvania Avenue, NW, Washington, DC 20004 **REVISED**

**CHAIRMAN PHIL MENDELSON**
**COMMITTEE OF THE WHOLE**
**&**
**COUNCILMEMBER DAVID GROSSO**
**COMMITTEE ON EDUCATION**

**ANNOUNCE A JOINT PUBLIC ROUNDTABLE**

on the

**PR23-0067, the "Chancellor of the District of Columbia Public Schools Dr. Lewis D. Ferebee Confirmation Resolution of 2019"**

on

**Wednesday, February 6, 2019**
**6:00 p.m., Francis L. Cardozo Education Campus**
**Cafeteria**
**1200 Clifton St. NW**
**Washington, DC 20009**

Chairman Phil Mendelson and Councilmember David Grosso announce the scheduling of a public roundtable of the Committee of the Whole and the Committee on Education on the nomination of Dr. Lewis D. Ferebee as Chancellor of the D.C. Public Schools. The public roundtable will be held at 6:00 p.m. on Wednesday, February 6, 2019 at Francis L. Cardozo Education Campus, Cafeteria, 1200 Clifton St. NW, Washington, D.C., 20009.

The stated purpose of PR23-0067 is to confirm the appointment of Lewis D. Ferebee as Chancellor of the District of Columbia Public Schools in accordance with section 104 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-174), 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).

Those who wish to testify may sign-up online at http://bit.do/educationhearings or call the Committee on Education at (202) 724-8061 by 5:00pm on Monday, February 4, 2019. Persons wishing to testify are encouraged, but not required, to submit 10-15 copies of written testimony. Witnesses should limit their testimony to three minutes.

If you are unable to testify at this public roundtable, there will be an additional public roundtable. Also, written statements are encouraged and will be made a part of the official record. Written statements should be submitted by email to Ashley Strange, Committee Assistant, at astrange@dccouncil.us, or by mail to the Committee on Education, Council of the

District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, February 22, 2019.

*This revised notice reflects the record closing date change from Tuesday, February 26, 2019 to Friday, February 22, 2019.*

# COUNCIL OF THE DISTRICT OF COLUMBIA
# COMMITTEE OF THE WHOLE AND
# COMMITTEE ON EDUCATION
# NOTICE OF JOINT PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON**
**COMMITTEE OF THE WHOLE**
**&**
**COUNCILMEMBER DAVID GROSSO**
**COMMITTEE ON EDUCATION**

**ANNOUNCE A JOINT PUBLIC ROUNDTABLE**

on

**PR23-0067, the "Chancellor of the District of Columbia Public Schools Dr. Lewis D. Ferebee Confirmation Resolution of 2019"**

on

**Tuesday, February 12, 2019**
**2:00 p.m., Hearing Room 412, John A. Wilson Building**
**1350 Pennsylvania Avenue, NW**
**Washington, DC 20004**

Chairman Phil Mendelson and Councilmember David Grosso announce the scheduling of a joint public roundtable of the Committee of the Whole and the Committee on Education on PR23-0067, the "Chancellor of the District of Columbia Public Schools Dr. Lewis D. Ferebee Confirmation Resolution of 2019". The roundtable will be held at 2:00 p.m. on Tuesday, February 12, 2019 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PR23-0067 is to confirm the appointment of Lewis D. Ferebee as Chancellor of the District of Columbia Public Schools in accordance with section 104 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-174), 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).

Those who wish to testify may sign-up online at http://bit.do/educationhearings or call the Committee on Education at (202) 724-8061 by 5:00pm Friday, February 8, 2019. Persons wishing to testify are encouraged, but not required, to submit 10-15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted by email to Ashley Strange, Committee Assistant, at astrange@dccouncil.us, or by post to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, February 22, 2019.

COUNCIL OF THE DISTRICT OF COLUMBIA

# COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

MARY M. CHEH, CHAIR

## NOTICE OF PUBLIC ROUNDTABLE

### The Integration of Automated Vehicles in the District

January 31, 2019, at 11:30 AM
in Room 500 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Thursday, January 31, 2019, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public roundtable on the integration of automated vehicles in the District. The roundtable will begin at 11:30 AM in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to discuss the District's plans and progress toward the integration of automated vehicles in the District, and to provide an opportunity for a broad range of interested parties to share their expectations, concerns, and updates regarding automated vehicle technology to guide future policymaking. Automated vehicles have the potential to transform the way District residents and visitors live, work, and travel by improving safety for motorists, bicyclists, and pedestrians, increasing mobility options for those with disabilities, reducing congestion, and creating economic growth. However, integrating automated vehicles into the existing transportation ecosystem creates unique safety, security, reliability, and infrastructure challenges. Accommodating automated vehicles requires short and long-term planning, as well as cooperation and coordination among the District government, state and local governments in the metropolitan Washington region, the federal government, advocacy organizations, researchers and academics, and private industry. The Committee will also hear testimony from the District Department of Transportation (DDOT) regarding the District's plans and progress in preparation for the testing and deployment of automated vehicles, as well as updates on the work of the Mayor's Autonomous Vehicles Working Group and the Autonomous Vehicle Study.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John

A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on February 14, 2019.

## COUNCIL OF THE DISTRICT OF COLUMBIA

## CONSIDERATION OF TEMPORARY LEGISLATION

**B23-81**, Federal Worker Housing Relief Temporary Act of 2019 was adopted on first reading on January 22, 2019. This temporary measure was considered in accordance with Council Rule 413. A final reading on this measure will occur on February 5, 2019.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, NW
Washington, DC 20004

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## ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen (15) days on PR 23-76 "Hi-Tech Solutions, Inc. Contract Approval Resolution of 2019" in order to consider the proposed resolution at the February 5, 2019 Legislative Meeting.

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: January 25, 2019
Protest Petition Deadline: March 11, 2019
Roll Call Hearing Date: March 25, 2019
Protest Hearing Date: May 22, 2019

License No.: ABRA-112519
Licensee: Kraken DC, LLC
Trade Name: Kraken Axes
License Class: Retailer's Class "C" Tavern
Address: 401 9th Street, N.W.
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 2 ANC 2C SMD 2C03

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 25, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **May 22, 2019 at 1:30 p.m.**

**NATURE OF OPERATION**
New Class "C" Tavern offering axe throwing competitions. Total Occupancy Load of 99 with seating for 30 patrons.

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION**
Sunday through Thursday 8am – 2am
Friday and Saturday 8am – 3am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

| | |
|---|---|
| Placard Posting Date: | January 25, 2019 |
| Protest Petition Deadline: | March 11, 2019 |
| Roll Call Hearing Date: | March 25, 2019 |
| Protest Hearing Date: | May 22, 2019 |

| | |
|---|---|
| License No.: | ABRA-112314 |
| Licensee: | N Street Dining, Inc. |
| Trade Name: | Lazy Kate's Bistro |
| License Class: | Retailer's Class "C" Restaurant |
| Address: | 2300 N Street, N.W. |
| Contact: | Risa Hirao: (202) 544-2200 |

WARD 2 ANC 2A SMD 2A02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 25, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **May 22, 2019 at 4:30 p.m.**

**NATURE OF OPERATION**

New bistro preparing and serving modern American-style food. Summer Garden with 109 seats. Total Occupancy Load is 209 with seating for 100 inside premises.

**HOURS OF OPERATION INSIDE PREMISES AND FOR OUTDOOR SUMMER GARDEN**

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

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR OUTDOOR SUMMER GARDEN**

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

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: January 25, 2019
Protest Petition Deadline: March 11, 2019
Roll Call Hearing Date: March 25, 2019
Protest Hearing Date: May 22, 2019

License No.: ABRA-112434
Licensee: Vignobles LVDH USA, LLC
Trade Name: Lot 33 Wine Company
License Class: Retailer's Class "A" Internet
Address: 4221 Connecticut Avenue, N.W.
Contact: Alan Cohen: (410) 977-5230

WARD 3 ANC 3F SMD 3F02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 25, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **May 22, 2019 at 1:30 p.m.**

**NATURE OF OPERATION**
New Class "A" Internet Retailer selling beer, wine, and spirits online only for off-premises consumption. This location will not be open to the public.

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES**
Sunday through Saturday 9am – 10pm

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**

**REVISED NOTICE OF CHARTER REVIEW OR RENEWAL**

Charter Review – *National Collegiate Prep PCHS*
ACTION: Open for Public Comment
PUBLIC COMMENT ACCEPTED UNTIL: **January 16, 2019**

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**SUMMARY**: This is a revised notice from the District of Columbia Public Charter School Board's (DC PCSB) previous announcement (Notice of Charter Reviews and Renewals) about an opportunity for the public to submit comments on National Collegiate Prep Public Charter High School's (National Collegiate Prep PCHS) upcoming 10-year charter review.

National Collegiate Prep PCHS currently operates as a single campus in Ward 8 where it serves students in grades 9-12. Its mission is to "offer a rigorous standards-based college preparatory curriculum, to maximize our students' academic achievement, provide an interdisciplinary curriculum that combines international studies themes that would offer an opportunity for an International Baccalaureate (IB) education, and prepare our students to be self-directed, lifelong learners equipped to be engaged citizens of their school, community, country, and world." Before the DC PCSB Board votes to approve or deny its application for renewal, National Collegiate Prep PCHS has requested an informal public hearing at its campus on Wednesday, January 16, 2019.

The purpose of the hearing is to discuss the school's performance and allow representatives from National Collegiate Prep PCHS to address DC PCSB's board directly to answer any questions the Board has about its program. The DC PCSB Board will no*t* vote on the school's continuance at the informal hearing but will schedule a follow-up date after the hearing to vote on this matter. At the time of its vote, the Board may elect to do one of the following: 1) Continue the school without conditions, 2) Conditionally continue the school's charter by imposing annual or interim targets it must meet, *or* 3) revoke the school's charter**.**

Pursuant to the School Reform Act, D.C. Code 38-1802 et seq., the DC Public Charter School Board (DC PCSB) is required to review each DC charter school's performance at least once every five years.

**DATES**:

- Comments must be submitted on or before January 16, 2019.
- Informal Public Hearing will be held at 6:00 pm on Wednesday, January 16, 2019, at National Collegiate Prep PCHS, 4600 Livingston Rd SE, Washington, DC 20032.

**ADDRESSES**: You may submit comments, identified by "National Collegiate Prep PCHS - Notice of Petition for Charter Review," by any of the following methods:

1. Submit a written comment via:
   (a) E-mail*: public.comment@dcpcsb.org
   (b) Postal mail*: Attn: Public Comment, DC Public Charter School Board, 3333 14th Street NW, Suite 210, Washington, DC 20010
   (c) Hand Delivery/Courier*: Same as postal address above
2. Sign up to testify in-person at the informal hearing on January 16, 2019, by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Tuesday, January 15, 2019.

*Please select only one of the actions listed above.

**FOR FURTHER INFORMATION CONTACT**: Laterica (Teri) Quinn, Senior Manager—School Quality and Accountability, at (202) 328-2660; email: lquinn@dcpcsb.org.

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DC PCSB reserves the right but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all your submission that it may deem to be inappropriate for publication, such as obscene language.

## DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

## NOTIFICATION OF CHARTER AMENDMENT

The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a written request submitted by Capital City Public Charter School (Capital City PCS) on November 2, 2018 to amend its goals and academic achievement expectations.

Capital City PCS is currently in its nineteenth year of operation educating students in grades prekindergarten-3 through twelve across three campuses that share a single facility in Ward 4. The school seeks two amendments to 1) update its goals to adopt the newly revised Elect to Adopt the Performance Management Framework (PMF) as Charter Goals Policy for all three of its campuses, and 2) to clarify the early childhood assessments in its charter to include: the Teaching Strategies GOLD assessment for prekindergarten (PK) literacy, math, and social-emotional growth; the Fountas and Pinnell assessment for kindergarten-2 Literacy; and the Northwest Evaluation Association Measures of Academic Progress assessment for K-2 Math.

A public hearing will be held on January 28, 2019 at 6:30 p.m.; a vote will be held on February 25, 2019. The public is encouraged to comment on this proposal. Comments must be submitted on or before 4 p.m. on January 25, 2019.

**How to Submit Public Comment:**

1. Submit written comment one of the following ways:
    a. E-mail: public.comment@dcpcsb.org
    b. Postal mail: Attn: Public Comment, *DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
    c. Hand Delivery/Courier*: Same as postal address above

2. Sign up to testify in-person at the public hearing on June 18, 2018 to public.comment@dcpcsb.org no later than 4 p.m. on Friday, January 25, 2019. Each person testifying is given two minutes to present testimony.

**BOARD OF ZONING ADJUSTMENT**
**PUBLIC HEARING NOTICE**
**WEDNESDAY, MARCH 20, 2019**
**441 4TH STREET, N.W.**
**JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH**
**WASHINGTON, D.C. 20001**

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

**TIME: 9:30 A.M.**

**WARD ONE**

19929
ANC 2E

**Application of 614 Otis LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.2, to construct a rear addition and convert an existing, attached principal dwelling unit into a three-unit apartment house in the RF-1 Zone at premises 614 Otis Place N.W. (Square 3035, Lot 63).

**WARD SIX**

19934
ANC 1B

**Application of Brian O'Hora**, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the access requirements of Subtitle U § 301.1(c)(4)(C), to convert the existing accessory building into a detached principal dwelling unit in the MU-4 and RF-1 Zones at premises 1303 Linden Court N.E. (Square 1027, Lot 814).

**WARD FOUR**

19940
ANC 2A

**Application of Team Washington, Inc. d/b/a Domino's Pizza**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use provisions of Subtitle U § 513.1(c), to permit a fast food use in the MU-4 Zone at premises 6239 Georgia Avenue N.W. (Square 2979, Lot 27).

**WARD TWO**

19941
ANC 1A

**Application of Brason Properties, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5203 from the height requirements of Subtitle E § 303.3, to raze the existing, attached principal dwelling unit and construct a flat in the RF-1 Zone at premises 1318 10$^{th}$ Street N.W. (Square 339, Lot 29).

**WARD EIGHT**

19949
ANC 5B

**Application of Martha's Table**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the use provisions of Subtitle U § 203.1(j), under Subtitle C § 710.3 from the location restrictions of Subtitle C § 710.2(b)(5), under Subtitle C § 714.3 from the surface parking screening requirements of Subtitle C § 714.2, and under Subtitle C § 1402 from the retaining wall requirements of Subtitle C § 1401; and pursuant to Subtitle X, Chapter 10, for a variance from the accessory parking use requirements of Subtitle U § 203.1(j)(8)(B), to permit a surface accessory parking lot in the R-3 Zone at premises 2395 Elvans Road S.E. (Square 5877, Lot 874).

**WARD ONE**

19938
ANC 1C

**Appeal of ANC 1C**, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on October 5, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue building permits B1900300, B1900301, B1900302, to renovate three, existing, attached principal dwelling units in the RF-1 Zone at premises 1630-1634 Argonne Place N.W. (Square 2589, Lot 480).

BZA PUBLIC HEARING NOTICE
MARCH 20, 2019
PAGE NO. 3

**PLEASE NOTE:**

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.
Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form**.* This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

**Do you need assistance to participate?**

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

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

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

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

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

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

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

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

## CHILD AND FAMILY SERVICES AGENCY

## NOTICE OF FINAL RULEMAKING

The Director of the Child and Family Services Agency, pursuant to Section 303 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1303.03(a-1)(12) (2012 Repl.)), gives notice of to the adoption of amendments to Chapter 63 (Licensing of Independent Living Programs for Adolescents and Young Adults) of Title 29 (Public Welfare), of the District of Columbia Municipal Regulations ("DCMR").

In addition to technical amendments such as updating agency names and addresses, the rules make the following amendments to Chapter 63:

- Require that foster youth be provided with consumer credit reports annually beginning at age fourteen (14);
- Replace the terms "initial ITILP" and "ITILP" with "service plan";
- Protect a resident from identity theft by no longer requiring that an independent living program be provided with a resident's social security number;
- Allow the issuance of a notice of deficiency when an independent living program fails to comply with Chapter 63;
- Amend licensing and monitoring requirements;
- Allow a restricted license to be renewed for a period not to exceed forty-five (45) days;
- Amend staffing requirements to be consistent with current practice
- Require that a minimum of two (2) staff members be present at all times in main facilities;
- Amend training requirements for staff;
- Require lead-based paint certificates for residences built before March 1, 1978 in which a child under six (6) years of age may reside;
- Require independent living programs to provide internet service;
- Amend admission requirements to establish different eligibility requirements for foster youth and require that all other youth be at least eighteen (18) years of age to be eligible for admission;
- Prohibit overnights visitors in residences;
- Require all residents to have a checking and savings account;
- Amend the physical plant, furniture, and recreational activities requirements;
- Amend discharge planning requirements to reflect current practice; and
- Amend the definitions section.

No comments have been received in response to the Proposed Rulemaking published in the *D.C. Register* on September 21, 2018 at 65 DCR 9738. No changes been made to the text of the proposed rules. These rules were adopted as final on November 7, 2018 and shall be effective on the date of publication of this notice in the *D.C. Register*.

**Chapter 63, LICENSING OF INDEPENDENT LIVING PROGRAMS FOR ADOLESCENTS AND YOUNG ADULTS, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Section 6301, STATEMENT OF PURPOSE, is amended as follows:**

**Subsection 6301.1 is amended to read as follows:**

6301.1 The purpose of this chapter is to establish criteria and procedures for licensing by CFSA of certain independent living programs for young adults.

**Section 6303, STATEMENT OF RESIDENTS' RIGHTS AND RESPONSIBILITIES, is amended as follows:**

**Subsection 6303.1(mm) is amended to read as follows:**

(mm) To receive a copy of consumer credit report annually at age fourteen (14) and assistance in interpreting and attempting to resolve any inaccuracies in the report as required by 42 USC § 675(5)(I).

**Subsection 6303.4 is amended to read as follows:**

6303.4 A resident shall attend school or an alternative educational program as set forth in the resident's service plan.

**Section 6304, ABUSE, NEGLECT, OR OTHER RISKS TO RESIDENTS' HEALTH AND SAFETY, is amended as follows:**

**Subsection 6304.3(c) is amended to read as follows:**

(c) OFL.

**Subsection 6304.7(a) is amended to read as follows:**

(a) OFL;

**Subsection 6304.7(b) is amended to read as follows:**

(b) If the resident is in the custody of DYRS, DYRS placement and monitoring staff, and the DYRS Director or designee; and

**Subsection 6304.8 is amended as follows:**

**Paragraphs (a) and (b) are deleted and the remaining subsections are renumbered (a) to (d).**

**Subsection 6304.9 is amended to read as follows:**

6304.9 Upon completion of the investigation undertaken pursuant to § 6304.8, OFL shall prepare a written report addressing the independent living program's compliance with this chapter and ability to provide for residents' health and safety. The report shall include a determination as to whether to take any action against the independent living program as a result of the investigation, including but not limited to:

(a) Imposition of civil fines, penalties, and related costs;

(b) Conversion of the license to a provisional or restricted license;

(c) Suspension of the license; or

(d) Revocation of the license.

**Section 6306, GENERAL LICENSING REQUIREMENTS, is amended as follows:**

**Subsection 6306.3(a) is amended to read as follows:**

(a) The independent living program timely filed a completed application for the renewal of an annual license;

**Subsection 6306.4(c) is amended to read as follows:**

(c) Set forth the conditions under which the independent living program may operate, including the locations of the main facility and all residences, and the number of young adults who may be admitted to the independent living program; and

**Subsections 6306.12 to 6306.18 are amended to read as follows:**

6306.12 CFSA may issue a notice of deficiency to an independent living program for failure to comply with this chapter. The notice of deficiency shall be in writing and include:

(a) The grounds for issuing the notice;

(b) A date not to exceed thirty (30) days for taking appropriate corrective action.

6306.13 An independent living program that has been issued a notice of deficiency may not accept additional residents during the time period for taking corrective action unless it is informed in writing by CFSA that it may do so.

6306.14 The issuance of a notice of deficiency shall not affect CFSA's authority under this Chapter to impose civil fines, penalties, and related costs against the facility, to convert the facility's license to a provisional license, to convert the facility's license to a restricted license, to suspend the facility's license, or to revoke the facility's license.

6306.15 A license modification:

(a) Permits an independent living program to operate under conditions that are different than those set forth in the original annual or annual license;

(b) May be utilized to permit an independent living program to operate additional apartments than those identified in the annual license; and

(c) Does not affect any license term, condition, or time period not modified.

6306.16 A provisional license:

(a) Permits an independent living program to continue to operate after the original annual license or annual license has expired and while the independent living program attempts to satisfy the requirements of an annual license;

(b) Expires in no more than ninety (90) days; and

(c) May be renewed only once and for no more than ninety (90) days.

6306.17 A restricted license:

(a) Permits an independent living program to continue to operate in accordance with its original annual license or annual license except that the independent living program may not:

(1) Accept new residents; or

(2) Provide certain services as specified on the license;

(b) Identifies the specific restrictions made on the program;

(c) Expires in no more than ninety (90) days; and

(d) May be renewed only once for no more than forty-five (45) days.

6306.18 In addition to any requirements of this chapter concerning posting, the independent living program shall maintain all plans, policies, and procedures required under this chapter in a single designated location that is easily accessible to staff.

**Subsections 6306.19 to 6306.21 are added to read as follows:**

6306.19 CFSA shall make licenses and variances available to the public, upon request.

6306.20 An independent living program shall maintain an administrative office in the District.

6306.21 The administrative office required by § 6306.20 shall:

(a) Be in an area separate from the independent living program's living areas;

(b) Include a separate area for the maintenance of records and the performance of administrative activities; and

(c) Include a separate area for private discussions between residents and staff or other persons.

**Section 6307, ORIGINAL ANNUAL LICENSE, is amended as follows:**

**Subsection 6307.2(k) is amended to read as follows:**

(k) Documentation of compliance with §§ 6323.14 to 6323.16 concerning the health of and medical examinations for prospective and existing staff; and

**Subsection 6307.3 is amended to read as follows:**

6307.3 CFSA shall review an application for an original annual license and either grant or deny the application or grant a provisional or restricted license, within ninety (90) days of receipt of the completed application.

**Section 6308, ANNUAL LICENSE RENEWAL, is amended as follows:**

**Subsection 6308.2(c) is amended to read as follows:**

(c) Documentation of compliance with §§ 6323.14 - 6323.16 concerning the health of and medical examinations for prospective and existing staff;

**A new paragraph (i) is added to read as follows:**

(i) Proof of address for all staff members.

**Section 6316, INSURANCE, is amended as follows:**

**Subsection 6316.17 is amended to read as follows:**

6316.17 An insurance policy required by § 6316 shall contain the following endorsement:

"It is hereby understood and agreed that the insurer may not cancel, fail to renew, or reduce the coverage or liability limits of this policy unless the insurer provides the contacting entity, licensing agency, and the Office of the City Administrator with written notice of an intent to take such action at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance of any other such action. The insurer shall serve notice to the following persons by certified mail, return receipt requested:

Director
Child and Family Services Agency
200 I Street S.E.
Washington, D.C. 20003

Office of the City Administrator
Attention Risk Management Officer
441 4th Street, N.W.
Suite 1150
Washington, D.C. 20001".

**Subsection 6316.25 is amended to read as follows:**

6316.25 An insurance policy required by § 6316 shall contain the following endorsement:

"It is hereby understood and agreed that the insurer may not cancel, fail to renew, or reduce the coverage or liability limits of this policy unless the insurer provides the contacting entity, licensing agency, and the Office of the City Administrator with written notice of an intent to take such action at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance of any other such action. The insurer shall serve notice to the following persons by certified mail, return receipt requested:

Director
Child and Family Services Agency
200 I Street S.E.
Washington, D.C. 20003

Office of the City Administrator
Attention Risk Management Officer
441 4th Street, N.W.
Suite 1150
Washington, D.C. 20001".

**Section 6318, CASE RECORD, is amended as follows:**

**Subsection 6318.3(a) is amended to read as follows:**

(a) Name, date and place of birth, date of admission, and citizenship;

**Subsection 6318.3(k) is amended to read as follows:**

(k) The service plan as required by § 6341 and any changes or updates thereto;

**Paragraph (l) is deleted and paragraphs (m) to (aa) are renumbered as paragraphs (l) to (z).**

**Section 6320, CONFIDENTIALITY, is amended as follows:**

**Subsection 6320.1 is amended to read as follows:**

6320.1 A resident's case record is confidential and may not be disclosed or used other than in the course of official independent living program duties to provide services to the resident and in such instance shall only be disclosed to the least extent possible, consistent with any court order, the resident's service plan, and local and federal law. The independent living program, CFSA, contracting entity, and guardian ad litem shall have access to the resident's case record. No other person shall have access to the resident's case record unless authorized in writing by CFSA.

**Section 6321, PERSONAL PROPERTY, is amended as follows:**

**Subsection 6321.2 is amended to read as follows:**

6321.2 An independent living program may limit a resident's use of her or his personal property as reasonably necessary to protect the health, safety, or welfare of the resident or others. Any such limitation shall be set forth in the resident's service plan, pursuant to § 6341, and documented in the resident's case record.

**Subsection 6321.3(b) is amended to read as follows:**

(b) Prior to discharge, if specifically provided in the resident's service plan, pursuant to § 6341.

**Section 6322, PRIVACY, is amended as follows:**

**Subsection 6322.2 is amended to read as follows:**

6322.2 An independent living program may limit a resident's privacy as reasonably necessary to protect the health, safety, or welfare of the resident or others. Any such limitation shall be set forth in the resident's service plan, pursuant to § 6341, and documented in the resident's case record.

**Section 6323, PERSONNEL, is amended as follows:**

**Subsection 6323.3 is amended to read as follows:**

6323.3 Except as provided by § 6323.20, the person appointed as the administrator shall:

(a) Have a master's degree in social work or a related area of study from an accredited college or university and at least two (2) years of experience in the management or supervision of child welfare personnel and programs; or

(b) Have a bachelor's degree in social work or a related area of study from an accredited college or university and at least four (4) years of experience in the management or supervision of child welfare personnel and programs.

**Subsection 6323.6(b) is amended to read as follows:**

(b) Have at least three (3) years of post-graduate experience working with young adults.

**Subsections 6323.9 to 6323.21 are amended to read as follows:**

6323.9 An independent living program shall employ counselors who are responsible for day-to-day monitoring of the resident and her or his activities.

6323.10 A counselor shall have:

(a) A high school or general equivalency diploma; and

(b) At least five (5) years' experience in human services delivery preferably working with young adults.

6323.11 A degree in social work, psychology, or a related field may be substituted for the experience required by § 6323.10(b)

6323.12 An independent living program shall:

(a) If it operates a main facility, have a minimum resident to counselor ratio of 10:2 during the daytime, 6:2 at evenings, and 15:2 at night; and

(b) If it does not operate a main facility, have a minimum resident to counselor ratio of 15:1.

6323.13 A counselor on duty pursuant to § 6323.12 shall be awake and available at all times to all staff and residents through a pager or cell phone whose number is conspicuously posted in the main facility and each residence and provided to the contracting entity and licensing agency.

6323.14 A staff member shall be in general physical condition that permits her or him to perform the duties of her or his position, be free from disease in a communicable form, and be able to work closely with residents without danger to the residents.

6323.15 A prospective staff member shall undergo a pre-employment medical examination and provide a physician's opinion concerning her or his general physical condition, freedom from disease in a communicable form, and ability to work closely with residents without danger to the residents. A staff member employed by an operating independent living program on the effective date of this chapter shall provide such a physician's opinion when the program is licensed.

6323.16 A staff member shall undergo a follow-up medical examination every two (2) years.

6323.17 An independent living program may not permit a staff member to provide transportation services to residents unless the independent living program has:

(a) Verified that the staff member has a current operator's permit; and

(b) Reviewed the staff member's driving record for at least the last five (5) years and verified the absence of any serious moving violation.

6323.18 A staff member preparing food shall have a Food Handler's Certificate from the District of Columbia Department of Health.

6323.19 An independent living program may not hire a prospective staff without receiving and confirming sufficient documentation to establish the individual's identity, qualifications, and experience. The documentation shall include:

(a) At least three (3) work references;

(b) Proof of educational degrees or certificates; and

(c) Proof of any required current professional licensure or certification.

6323.20 A staff member employed by an operating independent living program on the effective date of this chapter:

(a) If employed as the administrator, is exempt from the requirements of § 6323.3; or

(b) If employed as a counselor, is exempt from the requirements of §6323.10.

6323.21 All staff shall possess current American Red Cross Standard First Aid and CPR certifications or the equivalent prior to commencing work at the independent living program, and shall continue to possess current certifications throughout their employment. A staff member employed by an operating independent living program on the effective date of this chapter shall possess such certification when the program is licensed.

**Subsections 6323.22 to 6323.27 are deleted.**

**Section 6324, CRIMINAL RECORDS CHECK, is amended as follows:**

**Subsection 6324.4 is amended to read as follows:**

6324.4 Notwithstanding a conviction as set forth in § 6324.2 or § 6324.3, CFSA may permit the employment of an individual if it determines, after the individual's satisfactory completion of all other applicable requirements of this chapter and a review of the conviction and current circumstances, that the individual would be able to provide care for young adults consistent with this chapter and the health, safety, and welfare of the residents.

**Subsection 6324.6 is amended to read as follows:**

6324.6 An independent living program shall provide CFSA with the results of criminal records checks for all prospective and existing staff when applying for an original annual license or annual license renewal.

**New Subsections 6324.7 and 6324.8 are added to read as follows:**

6324.7 An independent living program shall provide the results of a criminal records check for any staff member upon request of CFSA.

6324.8 An independent living program shall keep confidential the results of all criminal records checks, except that the results shall be available to CFSA.

**Section 6325, CHILD PROTECTION REGISTER CHECK, is amended as follows:**

**Subsection 6325.3 is amended to read as follows:**

6325.3 Notwithstanding § 6325.2, CFSA may permit the employment of an individual if it determines, after the individual's satisfactory completion of all other applicable requirements of this chapter and a review of the child protection register results and current circumstances, that the individual would be able to provide care for young adults consistent with this chapter and the health, safety, and welfare of the residents.

**Subsections 6325.5 is amended to read as follows:**

6325.5 An independent living program shall provide the results of child protection register checks for all prospective and existing staff to CFSA when applying for an original annual license or annual license renewal.

**New Subsections 6325.6 and 6325.7 are added to read as follows:**

6325.6 An independent living program shall provide the result of a child protection register check for any staff member upon request of CFSA.

6325.7 An independent living program shall keep confidential the results of all child protection register checks, except that the results shall be available to CFSA.

**Section 6326, STAFF TRAINING, is amended as follows:**

**Subsection 6326.3(e) is amended to read as follows:**

(e) An introduction to daily living skills for young adults;

**New paragraphs (f) through (j) are added to read as follows:**

(f) The independent living program’s discipline policy, including acceptable methods of discipline;

(g) Recognizing and understanding the effects of trauma;

(h) Recognition of substance abuse symptoms and treatment resources;

(i) Domestic violence prevention and intervention; and

(j) Truancy prevention and intervention.

**Subsection 6326.4 is amended to read as follows:**

6326.4 A full-time staff member shall receive at least forty (40) hours of annual in-service training. A part-time staff member shall receive at least twenty (20) hours of annual in-service training.

**Subsection 6326.5(i) is amended to read as follows:**

(i) Methods of working with young adults that take into account their culture and interests;

**Subsection 6326.6 is amended to read as follows:**

6326.6 In-service and pre-service training may be provided by an entity other than the independent living program provided that the trainer is proficient in the subject area.

**New Subsections 6326.7 and 6326.8 are added to read as follows:**

6326.7 No more than one-half (1/2) of the required in-service and pre-service training may be conducted online, by video, or other means of distance learning.

6326.8 An independent living program shall maintain records of attendance and completion of required training.

**Section 6327, PERSONNEL POLICIES, is amended as follows:**

**Subsection 6327.1 is amended to read as follows:**

6327.1 At the time of her or his employment, an independent living program shall give a staff member a written description of his or her position that defines the qualifications, duties, and responsibilities of the position and his or her salary and obtain a written statement signed by the staff member acknowledging receipt of the position description.

**Subsection 6327.3(b) is amended to read as follows:**

(b) Reports of medical examinations as required by §§ 6323.15 and 6323.16;

**Subsection 6327.3(g) is amended to read as follows:**

(g) Documentation of training, including copies of all certifications, received pursuant to § 6326, including the type, duration, and date of training and the person or agency conducting the training;

**Section 6328, RESIDENCE PHYSICAL PLANT REQUIREMENTS, is amended as follows:**

**Subsection 6328.13 is amended to read as follows:**

6328.13 A patio door shall have a charlie or sliding door lock in addition to a secondary security device. All other exterior doors shall have a dead bolt lock and a secondary security device such as a door knob lock or a safety chain. If a residence does not have such locks, the independent living program shall provide for their installation.

**A new Subsection 6328.15 is added to read as follows:**

6328.15 For residences built before March 1, 1978 in which a child under six (6) years old may reside, the independent living program shall obtain a lead-based paint certificate indicating no risk from lead-based paint.

**Section 6329, HOUSEHOLD SUPPLIES, FURNITURE, FURNISHINGS, AND EQUIPMENT, is amended as follows:**

**Subsection 6329.2 is amended to read as follows:**

6329.2 Furniture and supplies provided pursuant to § 6329 shall be in new or good condition and repair.

**Subsections 6329.3 and 6329.4 are amended to read as follows:**

6329.3 An independent living program shall pay for the installation of a telephone and internet service in each residence, and pay monthly for a single telephone line, basic telephone service, and internet service.

6329.4 An independent living program shall conspicuously post the following in the main facility, to the extent possible in an area that is available only to residents and staff or in a manner which maintains the home-like atmosphere, and place a copy in each resident handbook:

(a) Names, titles, and telephone numbers of program staff;

(b) Section 6303, as required by § 6303.6;

(c) Telephone number for CFSA's twenty-four (24) hour Child Abuse and Neglect Hotline (202-671-SAFE);

(d) Policies and procedures relating to child abuse or neglect and risks to resident's health or safety pursuant to § 6304.13;

(e) Grievance procedure pursuant to § 6305.5;

(f) Pager and cell phone, if any, of staff members on duty pursuant to § 6323.13;

(g) Residence's fire safety and evacuation plan pursuant to § 6330.1;

(h) Written plan of daily living activities pursuant to § 6330.6;

(i) Emergency plan pursuant to § 6335.4; and

(j) Notice of residents' council meetings pursuant to § 6345.5.

**Subsection 6329.5 is deleted.**

**Section 6330, LIFE SKILLS, is amended as follows:**

**Subsection 6330.5 is amended to read as follows:**

6330.5 Daily living activities shall not conflict with a resident's service plan.

**Subsection 6330.7 is amended by deleting paragraphs (j), (y), (aa), (bb), and (cc) and the remaining paragraphs are renumbered as paragraphs (j) to (x).**

**Subsection 6330.8, paragraphs (c) and (d), are amended to read as follows:**

(c) Age appropriate discipline;

(d) Parental rights and responsibilities;

**Section 6331, MONITORING, is amended as follows:**

**Subsection 6331.2 is amended to read as follows:**

6331.2 An independent living program shall conduct both announced and unannounced inspections on a monthly basis.

**Subsection 6331.3 is amended to read as follows:**

6331.3 Monitoring shall assess and evaluate:

(a) The residence's general maintenance and upkeep;

(b) The resident's ability to maintain adequate and appropriate houseware, pantry items, and food supplies;

(c) The resident's maintenance of a balanced diet;

(d) The resident's ability to maintain an adequate and appropriate wardrobe;

(e) The resident's proper personal care, hygiene, and grooming;

(f) The resident's ability to do her or his laundry;

(g) The storage of poisonous, toxic, or flammable substances in accordance with the manufacturer's instructions and in accordance with § 6336; and

(h) The resident's awareness of the fire safety plan.

**Section 6332, MONTHLY STIPEND AND WEEKLY ALLOWANCE, is amended as follows:**

**Subsection 6332.2 is amended to read as follows:**

6332.2 If the resident resides in the main facility, the monthly stipend shall be at least six hundred and fifteen ($ 615) dollars of which at least:

(a) Three hundred dollars shall be for food and toiletries;

(b) One hundred twenty-five ($ 125) dollars shall be for clothing;

(c) One hundred and five ($ 105) dollars shall be for transportation;

(d) Eighty-five ($ 85) dollars shall be for incidentals.

**Subsection 6332.3 is amended to read as follows:**

6332.3 If the resident does not reside in the main facility, the monthly stipend shall be at least thirteen hundred and fifteen ($ 1315) dollars, which shall include at least:

(a) The amounts set forth in § 6332.2 for food, clothing, transportation, toiletries, and incidentals; and

(b) Seven hundred ($ 700) dollars for rent and utilities.

**Subsection 6332.7 is deleted.**

**Section 6333, RESIDENT BANK ACCOUNT, is amended as follows:**

**Subsection 6333.1 is amended to read as follows:**

6333.1 A resident shall have an individual checking account and an interest bearing

savings account in a financial institution that is federally insured.

**Subsections 6333.2 and 6333.3 are deleted.**

**Section 6339, ADMISSION AND PLACEMENT, is amended to read as follows:**

6339.1 The decision to admit a young adult to an independent living program shall be made jointly between the contracting entity, the independent living program, and the young adult.

6339.2 To be eligible for admission to an independent living program, a foster youth shall:

(a) Be at least twenty (20) years of age;

(b) Have graduated from high school, received a GED, or obtained vocational certification;

(c) Be attending college or a vocational program as a full-time student, or employed at least twenty (20) hours per week for the last three (3) consecutive months;

(d) Have no pending criminal charges or investigations; and

(e) Have a checking account with a minimum balance of one hundred dollars ($100) and a savings account with consistent deposits over a three (3) month period.

6339.3 A foster youth shall submit an application package that includes but is not limited to:

(a) A completed application, using a form provided or approved by CFSA; and

(b) A written recommendation from the foster youth's current placement. The recommendation shall address whether the foster youth has demonstrated a sufficient level of maturity, self-sufficiency and life skills to live independently.

6339.4 No foster youth may be admitted to an independent living program without the prior written approval of the Director of CFSA or designee.

6339.5 The Director of CFSA or designee may waive any of the admission requirements for a foster youth for good cause.

6339.6 To be admitted to an independent living program, a young adult other than a

foster youth shall be:

(a) At least eighteen (18) years of age;

(b) Either:

(1) Employed at least part-time;

(2) Within 18 months of attaining a high school diploma;

(3) Attending a GED program;

(4) Actively engaged in a vocational program; or

(5) Attending college; and

(c) Have demonstrated sufficient maturity to enable the young adult to live independently.

6339.7 Prior to admission, the contracting entity shall determine and document in writing that the services, activities, and programs provided by the independent living program adequately can meet the needs of the young adult, and that the independent living program is the least restrictive, most home-like environment for the young adult that is clinically appropriate. In making its determination, the contracting entity shall consider:

(a) Whether the young adult's level of life skills, knowledge and training are appropriate for the independent living program;

(b) Whether the services and environment provided by the independent living program are appropriate for the young adult's needs;

(c) Whether the location of the main facility and residences are convenient for the young adult's education program and other services;

(d) The ages and level of development of residents currently in the independent living program relative to the young adult's age and level of development;

(e) The mental, physical, or emotional condition of the residents currently in the independent living program relative to that of the young adult; and

(f) The young adult's health needs relative to the capabilities of the independent living program to meet such needs.

6339.8 Prior to accepting a young adult into an independent living program, the program

shall provide the resident with:

(a) A tour of the main facility;

(b) If the young adult would reside in the main facility, a tour of the particular residence in which he or she would reside, or, if the young adult would not reside in the main facility, a tour of a residence similar in location and layout to the one in which he or she would reside;

(c) An introduction to and the opportunity to speak with staff and residents;

(d) An explanation of the independent living program's plans, policies and procedures listed in § 6307.2(l).

6339.9 An independent living program shall provide staff with information to facilitate the resident's placement, including but not limited to the reason for placement, the resident's medical condition and any medications, allergies, behavioral issues, and necessary instructions related to the resident's individual needs.

6339.10 To the greatest extent practicable, the resident's arrival at the independent living program shall be timed so as to cause the least distress to the resident and the least disruption to the staff and other residents.

6339.11 An independent living program shall maintain an admissions log that includes the name and date of birth of each resident, the date of admission, and the date of discharge or transfer.

6339.12 Within twenty-four (24) hours of a resident's admission, an independent living program shall identify all emergency medical and mental health needs, allergies, basic needs, and non-emergency medical and mental health conditions and physical infirmities, including all visible signs of illness or injury, and document this information in the resident's case record, along with documentation of a pre-admission medical screen.

**Section 6340, INTAKE SERVICES, is amended as follows:**

**Subsection 6340.2(a) is amended to read as follows:**

(a) The resident's name, date and place of birth, date of admission, and citizenship;

**Section 6341, INITIAL INDIVIDUAL TRANSITIONAL INDEPENDENT LIVING PLAN (“INITIAL ITILP”) AND INDIVIDUAL TRANSITIONAL INDEPENDENT LIVING PLAN (“ITILP”), is repealed and replaced with the following:**

**6341 SERVICE PLANS**

6341.1 Within five (5) days of a resident’s admission, CFSA or the contracting entity shall provide the independent living program with the resident’s service plan(s).

6341.2 An independent living program shall record and maintain in the resident’s case record the resident’s progress towards completion of the goals outlined in the service plan(s).

6341.3 An independent living program shall provide CFSA or the contracting entity with progress reports regarding the resident’s completion of the goals outlined in the service plan(s).

**Section 6343, TRANSPORTATION SERVICES, is amended as follows:**

**Subsection 6343.1 is amended to read as follows:**

6343.1 An independent living program shall provide or arrange for transportation necessary to implement each resident’s service plan, including assisting the resident to access public transportation.

**Section 6344, RECREATIONAL ACTIVITIES, is amended as follows:**

**Subsection 6344.1, paragraphs (a) and (b), are amended to read as follows:**

(a) Sufficient supervised, organized or structured individual and group recreational programs, both indoors and outdoors, appropriate to the resident’s age, interests, and needs.

(b) Free time for residents to pursue their individual interests, with protective supervision as required.

**Subsection 6344.2 is amended to read as follows:**

6344.2 An independent living program shall provide at least two (2) recreational activities per month for the participation of all residents.

**Section 6346, VISITATION AND CONTACT, is amended as follows:**

**Subsection 6346.1(e) is amended to read as follows:**

(e) A prohibition against overnight visits in residences; and

**Section 6348, DISCHARGE, is amended as follows:**

**Subsection 6348.3 is amended to read as follows:**

6348.3 The discharge plan shall include:

(a) The reason for the discharge;

(b) A summary of the services that were provided during care;

(c) The supports and resources to be provided to the resident in preparation for discharge.

**Section 6399, DEFINITIONS, Subsection 6399.1, is amended as follows:**

**The definitions for "Adolescent and young adults," "Initial ITILP", "ITILP", "OLM" and "YSA" are deleted.**

**The following definitions are added:**

**DYRS** – Department of Youth Rehabilitation Services.

**Foster youth—**a young adult committed to the legal custody of the Child and Family Services Agency.

**OFL** - The CFSA Office of Facility Licensing.

**Service plan** - A plan that addresses the resident's needs, provision of appropriate services and a description of programs and services that will help the resident prepare for independent living.

**Young adults -** Persons age eighteen (18) to twenty-one (21) years of age.

**The following definitions are amended to read as follows:**

**Contracting entity -** A public or private entity or individual that places or offers to place a young adult in an independent living program.

**Independent living program -** A residential program for persons who:

(a) Are eighteen (18) to twenty-one (21) years of age;

(b) Have sufficient maturity to live without regular and continuous supervision and monitoring;

(c) Reside in apartments; and

(d) Are provided with monitoring and services that reflect and support the person's ability to reside in the community without regular and continuous supervision and monitoring.

**Planning team -** The persons who plan a resident's service plan, or discharge plan and consisting of:

(a) A representative from the contracting entity;

(b) Staff who have direct responsibility for implementing the service plan on a daily basis;

(c) The resident;

(d) To the extent that they participate, the resident's parent(s) or guardian(s) and the resident's guardian ad litem; and

(e) To the extent that they participate, representatives of service providers including health, mental health, and education representatives.

**Resident -** A person age eighteen (18) to twenty-one (21) years of age participating in an independent living program.

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to Sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.04 and 2-1801.05 (2016 Repl.)), Mayor's Order 1986-38, dated March 4, 1986, and Mayor's Order 2004-46, dated March 22, 2004, hereby gives notice of the adoption of the following amendments to Chapter 33 (Department of Consumer and Regulatory Affairs (DCRA) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking updates the civil infractions schedules in Title 16 DCMR to include specific references to the Zoning Regulations of 2016.

A Notice of Proposed Rulemaking was published August 10, 2018 at 65 DCR 8413. No comments were submitted.

The Council approved this rulemaking through PR22-1125 on December 14, 2018. This rulemaking was adopted as final on December 14, 2018 and will be effective upon publication of this notice in the *D.C. Register*.

**Title 16, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, of the District Columbia Municipal Regulations is amended as follows:**

**Chapter 33, DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS (DCRA) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:**

**The title of Section 3312, ZONING DIVISION INFRACTIONS, is amended to read as follows:**

**3312 ZONING DIVISION INFRACTIONS – ZONING REGULATIONS OF 1958**

**A new Section 3315, ZONING DIVISION INFRACTIONS – ZONING REGULATIONS OF 2016, is added to read as follows:**

**3315 ZONING DIVISION INFRACTIONS – ZONING REGULATIONS OF 2016**

3315.1 Violation of any of the following provisions shall be a Class 1 infraction:

(a) 11-A DCMR § 302.1 (Failure to obtain a certificate of occupancy or use beyond the scope of the certificate of occupancy);

(b) 11-A DCMR § 303 (Failure to comply with conditions in Board of Zoning Adjustment or Zoning Commission orders);

(c) Failure to provide required parking:

(1) 11-C DCMR § 701 (Failure to provide required parking in the R, RF, RA, MU, NC or PDR Zones);

(2) 11-C DCMR § 704 (Failure to provide required parking for additions to existing buildings or structures);

(3) 11-C DCMR § 705 (Failure to provide required parking for expansions or changes in use to existing buildings or structures);

(4) 11-K DCMR § 200.10 (Failure to provide required parking in the SEFC Zones);

(5) 11-K DCMR § 608 (Failure to comply with parking requirements of the StE Zones);

(6) 11-K DCMR § 906.3 (Failure to comply with surface parking limitations of the WR-6 Zone); or

(7) 11-K DCMR § 915 (Failure to comply with parking requirements of the WR Zones); or

(d) Failure to comply with the Inclusionary Zoning (“IZ”) requirements:

(1) 11-C DCMR § 1003 (Failure to comply with IZ set-aside requirements);

(2) 11-C DCMR § 1004 (Failure to comply with IZ purchase or tenancy requirements); or

(3) 11-C DCMR § 1005 (Failure to comply with IZ development standards).

3315.2 Violation of any of the following provisions shall be a Class 2 infraction:

(a) Failure to comply with green area ratio (“GAR”) requirements:

(1) 11-C DCMR § 606 (Failure to comply with GAR maintenance requirements);

(2) Failure to comply with GAR requirements in the RA Zones:

(A) 11-F DCMR § 307 (Failure to comply with GAR requirements in the RA-1, RA-2, RA-3, RA-4 or RA-5 Zones);

(B) 11-F DCMR § 407 (Failure to comply with GAR requirements in the RA-6 Zone);

(C) 11-F DCMR § 507 (Failure to comply with GAR requirements in the RA-7 Zone); or

(D) 11-F DCMR § 607 (Failure to comply with GAR requirements in the RA-8, RA-9 or RA-10 Zones);

(3) Failure to comply with GAR requirements in the MU Zones:

(A) 11-G DCMR § 307 (Failure to comply with GAR requirements in the MU-1 or MU-2 Zones);

(B) 11-G DCMR § 407 (Failure to comply with GAR requirements in the MU-3, MU-4, MU-5A, MU-5B, MU-6, MU-7, MU-8, MU-9, MU-10 or MU-30 Zones);

(C) 11-G DCMR § 507 (Failure to comply with GAR requirements in the MU-12, MU-13 or MU-14 Zones);

(D) 11-G DCMR § 607 (Failure to comply with GAR requirements in the MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21 or MU-22 Zones);

(E) 11-G DCMR § 707 (Failure to comply with GAR requirements in the MU-23, MU-24, MU-25 or MU-26 Zones);

(F) 11-G DCMR § 807 (Failure to comply with GAR requirements in the MU-27 Zone); or

(G) 11-G DCMR § 907 (Failure to comply with GAR requirements in the MU-28 or MU-29 Zones);

(4) Failure to comply with GAR requirements in the NC Zones:

(A) 11-H DCMR § 308 (Failure to comply with GAR requirements in the NC-1 Zone);

(B) 11-H DCMR § 408 (Failure to comply with GAR requirements in the NC-2 Zone);

(C) 11-H DCMR § 508 (Failure to comply with GAR requirements in the NC-3 Zone);

(D) 11-H DCMR § 608 (Failure to comply with GAR requirements in the NC-4 or NC-5 Zones);

(E) 11-H DCMR § 708 (Failure to comply with GAR requirements in the NC-6 Zone);

(F) 11-H DCMR § 808 (Failure to comply with GAR requirements in the NC-7 or NC-8 Zones); or

(G) 11-H DCMR § 908 (Failure to comply with GAR requirements in the NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16 or NC-17 Zones);

(5) 11-I DCMR § 208 (Failure to comply with GAR requirements in the D Zones);

(6) 11-J DCMR § 208 (Failure to comply with GAR requirements in the PDR Zones); or

(7) Failure to comply with GAR requirements in the Special Purpose Zones:

(A) 11-K DCMR § 209 (Failure to comply with GAR requirements in the SEFC-1 Zone);

(B) 11-K DCMR § 220 (Failure to comply with GAR requirements in the SEFC-2 Zone);

(C) 11-K DCMR § 228 (Failure to comply with GAR requirements in the SEFC-3 Zone);

(D) 11-K DCMR § 501.11 (Failure to comply with GAR requirements in the CG-1 Zone);

(E) 11-K DCMR § 707 (Failure to comply with GAR requirements in the RC Zones);

(F) 11-K DCMR § 808 (Failure to comply with GAR requirements in the ARTS Zones); or

(G) 11-K DCMR § 919 (Failure to comply with GAR requirements in the WR-2, WR-3, WR-4, WR-5, WR-7 or

WR-8 Zones); or

(b) Failure to comply with parking requirements:

(1) 11-C DCMR § 706 (Failure to comply with maximum parking requirements);

(2) 11-C DCMR § 708 (Failure to comply with car-share parking space provisions);

(3) 11-C DCMR § 710 (Failure to comply with parking space location requirements);

(4) 11-C DCMR § 711 (Failure to comply with parking space access requirements);

(5) 11-C DCMR § 712 (Failure to comply with parking space size requirements); or

(6) 11-C DCMR § 716 (Failure to comply with drive-through queuing requirements);

(c) Failure to comply with loading requirements:

(1) 11-C DCMR § 901 (Failure to provide required loading facilities);

(2) 11-C DCMR § 903 (Failure to comply with location requirements for required loading facilities);

(3) 11-C DCMR § 904 (Failure to comply with access requirements for required loading facilities);

(4) 11-C DCMR § 905 (Failure to comply with size or layout requirements for required loading facilities);

(5) 11-C DCMR § 906 (Failure to comply with maintenance requirements for required loading facilities);

(6) 11-C DCMR § 907 (Failure to comply with trash room or receptacle requirements for required loading facilities); or

(7) 11-C DCMR § 908 (Failure to comply with screening or lighting requirements for required loading facilities);

(d) Failure to comply with limitations on driveway or garage access to parking, loading berths or loading areas:

(1) 11-F DCMR § 600.5 (Failure to comply with limitations on driveway or garage access to parking or loading berths in the RA-8, RA-9 or RA-10 Zones);

(2) 11-G DCMR § 600.10 (Failure to comply with limitations on driveway or garage access to parking or loading berths in the MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21 or MU-22 Zones);

(3) 11-H DCMR § 204.1 (Failure to comply with limitations on driveway access to parking or loading berths in the NC Zones);

(4) 11-I DCMR § 401 (Failure to comply with limitations on entrances to garages or loading areas in the D Zones);

(5) 11-K DCMR § 211 (Failure to comply with limitations on driveway access to parking in the SEFC-1 Zone);

(6) 11-K DCMR § 212 (Failure to comply with limitations on driveway access to loading spaces in the SEFC-1 Zone);

(7) 11-K DCMR § 408 (Failure to comply with limitations on driveway access to parking or loading berths in the HE Zone);

(8) 11-K DCMR § 609 (Failure to comply with limitations on driveway access to parking or loading berths in the StE Zones); or

(9) 11-K DCMR § 918 (Failure to comply with screening or lighting requirements for required loading facilities in the WR Zones);

(e) Failure to comply with antenna requirements:

(1) 11-C DCMR § 1303 (Failure to comply with the ground mounted antenna requirements);

(2) 11-C DCMR § 1304 (Failure to comply with the roof-mounted antenna requirements);

(3) 11-C DCMR § 1305 (Failure to comply with the building-mounted antenna requirements); or

(4) 11-C DCMR § 1306 (Failure to comply with stealth structure-mounted antenna requirements);

(f) Failure to comply with penthouse requirements:

(1) 11-C DCMR § 1502 (Failure to comply with penthouse setback requirements);

(2) 11-C DCMR § 1503 (Failure to comply with penthouse area requirements); or

(3) 11-C DCMR § 1505 (Failure to comply with penthouse affordable housing production requirements);

(g) Failure to comply with pervious surface requirements:

(1) Failure to comply with pervious surface requirements in the R Zones:

(A) 11-C DCMR § 1609 (Failure to comply with general pervious surface requirements in the R Zones);

(B) 11-D DCMR § 308 (Failure to comply with pervious surface requirements in the R-1-A, R-1-B, R-2 or R-3 Zones);

(C) 11-D DCMR § 408 (Failure to comply with pervious surface requirements in the R-6 or R-7 Zones);

(D) 11-D DCMR § 508 (Failure to comply with pervious surface requirements in the R-8, R-9 or R-10 Zones);

(E) 11-D DCMR § 608 (Failure to comply with pervious surface requirements in the R-11 Zones);

(F) 11-D DCMR § 708 (Failure to comply with pervious surface requirements in the R-12 or R-13 Zones);

(G) 11-D DCMR § 808 (Failure to comply with pervious surface requirements in the R-14 or R-15 Zones);

(H) 11-D DCMR § 908 (Failure to comply with pervious surface requirements in the R-16 Zone);

(I) 11-D DCMR § 1008 (Failure to comply with pervious surface requirements in the R-17 Zone);

(J) 11-D DCMR § 1208 (Failure to comply with pervious surface requirements in the R-19 or R-20 Zones);

(K) 11-D DCMR § 1308 (Failure to comply with pervious surface requirements in the R-21 Zone); or

(L) 11-D DCMR § 5107 (Failure to comply with pervious surface requirements for alley lots in the R Zones);

(2) Failure to comply with pervious surface requirements in the RF Zones;

(A) 11-E DCMR § 204 (Failure to comply with pervious surface requirements in the RF Zones);

(B) 11-E DCMR § 5107 (Failure to comply with pervious surface requirements for alley lots in the RF Zones);

(3) 11-F DCMR § 5106 (Failure to comply with pervious surface requirements for alley lots in the RA Zones); or

(4) 11-K DCMR § 901.2 (Failure to comply with pervious surface requirements in the WR-1 Zone);

(h) Failure to comply with height or story limitations for buildings, including penthouses:

(1) Failure to comply with height or story limitations for buildings, including penthouses, allowed in Residential (R) Zones:

(A) 11-D DCMR § 303 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-1-A, R-1-B, R-2 or R-3 Zones);

(B) 11-D DCMR § 403 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-6 or R-7 Zones);

(C) 11-D DCMR § 503 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-8, R-9 or R-10 Zones);

(D) 11-D DCMR § 603 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-11 Zone);

(E) 11-D DCMR § 703 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-12 or R-13 Zones);

(F) 11-D DCMR § 803 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-14 or R-15 Zones);

(G) 11-D DCMR § 903 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-16 Zone);

(H) 11-D DCMR § 1003 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-17 Zone);

(I) 11-D DCMR § 1203 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the R-19 or R-20 Zones);

(J) 11-D DCMR § 1303 (Failure to comply with height or story limitations for buildings, including the penthouse, allowed in the R-21 Zone);

(K) 11-D DCMR § 5002 (Failure to comply with height or story limitations for accessory buildings, including penthouses, allowed in the R Zones); or

(L) 11-D DCMR § 5102 (Failure to comply with height or story limitations for buildings, including penthouses, on alley lots in the R Zones);

(2) Failure to comply with height or story limitations for buildings, including penthouses, allowed in Residential Flat (RF) Zones:

(A) 11-E DCMR § 303 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the RF-1 Zone);

(B) 11-E DCMR § 403 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the RF-2 Zone);

(C) 11-E DCMR § 503 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the RF-3 Zone);

(D) 11-E DCMR § 603 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in

the RF-4 or RF-5 Zones);

(E) 11-E DCMR § 5002 (Failure to comply with height or story limitations for accessory buildings, including penthouses, allowed in the RF Zones); or

(F) 11-E DCMR § 5102 (Failure to comply with height or story limitations for buildings, including penthouses, on alley lots in the RF Zones);

(3) Failure to comply with height or story limitations for buildings, including penthouses, allowed in the Residential Apartment (RA) Zones:

(A) 11-F DCMR § 203 (Failure to comply with height or story limitations for certain buildings, not including penthouses, allowed in the RA-1, RA-2, RA-3, RA-4, RA-5, RA-8, RA-9 or RA-10 Zones);

(B) 11-F DCMR § 204 (Failure to comply with height or story limitations for mechanical penthouses in non-residential buildings in the RA-1, RA-2, RA-3, RA-4, RA-5, RA-8, RA-9 or RA-10 Zones);

(C) 11-F DCMR § 303 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the RA-1, RA-2, RA-3, RA-4 or RA-5 Zones);

(D) 11-F DCMR § 403 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the RA-6 Zone);

(E) 11-F DCMR § 503 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the RA-7 Zone);

(F) 11-F DCMR § 603 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the RA-8, RA-9 or RA-10 Zones);

(G) 11-F DCMR § 5002 (Failure to comply with height or story limitations for accessory buildings, including penthouses, allowed in the RA Zones); or

(H) 11-F DCMR § 5102 (Failure to comply with height or story limitations for buildings, including penthouses, on alley

lots allowed in the RA Zones);

(4) Failure to comply with height or story limitations for buildings, including penthouses, allowed in Mixed-Use (MU) Zones:

(A) 11-G DCMR § 303 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the MU-1 or MU-2 Zones);

(B) 11-G DCMR § 403 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the MU-3, MU-4, MU-5A, MU-5B, MU-6, MU-7, MU-8, MU-9, MU-10 or MU-30 Zones);

(C) 11-G DCMR § 503 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the MU-11, MU-12, MU-13 or MU-14 Zones);

(D) 11-G DCMR § 603 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21 or MU-22 Zones);

(E) 11-G DCMR § 703 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the MU-23, MU-24, MU-25 or MU-26 Zones);

(F) 11-G DCMR § 803 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the MU-27 Zone);

(G) 11-G DCMR § 903 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the MU-28 or MU-29 Zones; or

(H) 11-G DCMR § 1102 (Failure to comply with height or story limitations for buildings, including penthouses, on alley lots in the MU Zones);

(5) Failure to comply with height or story limitations for buildings, including penthouses, in Neighborhood Mixed-Use (NC) Zones:

(A) 11-H DCMR § 303 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the NC-1 Zone);

(B) 11-H DCMR § 403 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the NC-2 Zone);

(C) 11-H DCMR § 503 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the NC-3 Zone);

(D) 11-H DCMR § 603 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the NC-4 or NC-5 Zones);

(E) 11-H DCMR § 703 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the NC-6 Zone);

(F) 11-H DCMR § 803 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the NC-7 or NC-8 Zones); or

(G) 11-H DCMR § 903 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16 or NC-17 Zones);

(6) Failure to comply with height or story limitations for buildings, including penthouses, allowed in Downtown (D) Zones:

(A) 11-I DCMR § 201 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D Zones);

(B) 11-I DCMR § 503 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-1-R Zone);

(C) 11-I DCMR § 510 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-2 Zone);

(D) 11-I DCMR § 517 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-3 Zone);

(E) 11-I DCMR § 525 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in

the D-4 Zone);

(F) 11-I DCMR § 532 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-4-R Zone);

(G) 11-I DCMR § 540 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-5 Zone);

(H) 11-I DCMR § 548 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-5-R Zone);

(I) 11-I DCMR § 556 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-6 Zone);

(J) 11-I DCMR § 563 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-6-R Zone);

(K) 11-I DCMR § 570 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-7 Zone); or

(L) 11-I DCMR § 577 (Failure to comply with height or story limitations for buildings, including penthouses, allowed in the D-8 Zone);

(7) Failure to comply with height or story limitations for buildings, including penthouses, in the Production, Distribution, and Repair (PDR) Zones:

(A) 11-J DCMR § 203 (Failure to comply with height or story limitations for buildings, including penthouses, in the Production, Distribution, and Repair (PDR) Zones);

(B) 11-J DCMR § 204 (Failure to comply with transitional height limitations for buildings, including penthouses, in the Production, Distribution, and Repair (PDR) Zones) for lots directly abutting a residentially-Zoned property with a lower height limit; or

(C) 11-J DCMR § 301 (Failure to comply with height or story limitations for buildings, including penthouses, on alley

lots in the Production, Distribution, and Repair (PDR) Zones); or

(8) Failure to comply with height or story limitations for buildings or penthouses in Special Purpose Zones:

(A) 11-K DCMR § 203 (Failure to comply with height or story limitations for buildings, including penthouses, in the SEFC-1 Zone);

(B) 11-K DCMR § 215 (Failure to comply with height or story limitations for buildings, including penthouses, in the SEFC-2 Zone);

(C) 11-K DCMR § 223 (Failure to comply with height or story limitations for buildings, including penthouses, in the SEFC-3 Zone);

(D) 11-K DCMR § 231 (Failure to comply with height or story limitations for buildings, including penthouses, in the SEFC-4 Zone);

(E) 11-K DCMR § 305 (Failure to comply with height or story limitations for buildings, not including penthouses, in the USN Zone);

(F) 11-K DCMR § 306 (Failure to comply with height or story limitations for building penthouses in the USN Zone);

(G) 11-K DCMR § 403 (Failure to comply with height or story limitations for buildings, including penthouses, in the HE Zones);

(H) 11-K DCMR § 501.4 (Failure to comply with height or story limitations for buildings, not including penthouses, in the CG-1 Zone);

(I) 11-K DCMR § 501.5 (Failure to comply with height or story limitations for building penthouses in the CG-1 Zone);

(J) 11-K DCMR § 502.4 (Failure to comply with height or story limitations for buildings, not including penthouses, in the CG-2 Zone);

(K) 11-K DCMR § 502.5 (Failure to comply with height or

story limitations for building penthouses in the CG-2 Zone);

(L) 11-K DCMR § 503.4 (Failure to comply with height or story limitations for buildings, not including penthouses, in the CG-3 Zone);

(M) 11-K DCMR § 503.5 (Failure to comply with height or story limitations for building penthouses in the CG-3 Zone);

(N) 11-K DCMR § 504.4 (Failure to comply with height or story limitations for buildings, not including penthouses, in the CG-4 Zone);

(O) 11-K DCMR § 504.5 (Failure to comply with height or story limitations for building penthouses, in the CG-4 Zone);

(P) 11-K DCMR § 505.4 (Failure to comply with height or story limitations for buildings, including penthouses, in the CG-5 Zone);

(Q) 11-K DCMR § 505.5 (Failure to comply with height or story limitations for building penthouses in the CG-5 Zone);

(R) 11-K DCMR § 603 (Failure to comply with height or story limitations for buildings, including penthouses, in the StE Zones);

(S) 11-K DCMR § 702 (Failure to comply with height or story limitations for buildings, including penthouses, in the RC Zones); or

(T) 11-K DCMR § 803 (Failure to comply with height or story limitations for buildings, including penthouses, in the ARTS Zones); or

(i) Failure to comply with specific design or use requirements:

(1) Failure to comply with waterfront setback or use requirements for properties fronting on the Anacostia or Potomac Rivers:

(A) 11-C DCMR § 1102 (Failure to comply with general waterfront set back or use requirements);

(B) 11-C DCMR § 508 (Failure to comply with waterfront setback requirements in the MU-11 Zone); or

(C) 11-K DCMR § 505.8 (Failure to comply with waterfront setback requirements in the CG-5 Zone);

(2) Failure to comply with design requirements in the Mixed-Use (MU) Zones:

(A) 11-G DCMR § 408 (Failure to comply with plaza requirements in the MU-10 Zone);

(B) 11-G DCMR § 608 (Failure to comply with plaza requirements in the MU-22 Zone);

(C) 11-G DCMR § 908 (Failure to comply with setback or screening requirements in the MU-28 or MU-29 Zones);

(D) 11-G DCMR § 909 (Failure to comply with plaza requirements in the MU-28 or MU-29 Zones); or

(E) 11-G DCMR § 1105 (Failure to comply with alley centerline setback requirements for alley lots in the MU Zones);

(3) Failure to comply with design requirements in the NC Zones (NC) Zones:

(A) 11-H DCMR § 409 (Failure to comply with design requirements lots in the NC-2 Zone);

(B) 11-H DCMR § 809 (Failure to comply with design requirements lots in the NC-7 or NC-8 Zones); or

(C) 11-H DCMR § 909 (Failure to comply with design requirements lots in the NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16 or NC-17 Zones);

(4) Failure to comply with design or use requirements in the Downtown (D) Zones:

(A) 11-I DCMR § 203 (Failure to comply with front build-to lines in the D-1-R, R-3, D-4-R, D-5, D-5-R, D-6, D-6-R or D-7 Zones);

(B) 11-I DCMR § 402 (Failure to comply with security grille requirements in the D Zones);

(C) 11-I DCMR § 403 (Failure to comply with open arcade requirements in the D Zones);

(D) 11-I DCMR § 601 (Failure to comply with use requirements for buildings on designated primary or secondary street segments in the D Zones);

(E) 11-I DCMR § 602 (Failure to comply with design requirements for buildings on designated primary or secondary street segments in the D Zones);

(F) 11-I DCMR § 603 (Failure to comply with use or design requirements for buildings on designated tertiary street segments in the D Zones);

(G) 11-I DCMR § 605 (Failure to comply with design or use requirements for buildings in the Capitol Security Sub-Area in the D Zones);

(H) 11-I DCMR § 606 (Failure to comply with design or use requirements for buildings in the Downtown Retail Core Sub-Area in the D Zones);

(I) 11-I DCMR § 607 (Failure to comply with design or use requirements for buildings in the Capitol Security Sub-Area in the D Zones);

(J) 11-I DCMR § 608 (Failure to comply with design or use requirements for buildings in the Pennsylvania Avenue Sub-Area in the D Zones);

(K) 11-I DCMR § 609 (Failure to comply with design or use requirements for buildings in the Chinatown Sub-Area in the D Zones);

(L) 11-I DCMR § 610 (Failure to comply with design or use requirements for buildings in the Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area in the D Zones);

(M) 11-I DCMR § 611 (Failure to comply with design or use requirements for buildings in the Mount Vernon Triangle (MVT) Sub-Area in the D Zones);

(N) 11-I DCMR § 612 (Failure to comply with design or use requirements for buildings in the Mount Vernon Triangle Principal Intersection Sub-Area in the D Zones);

(O) 11-I DCMR § 613 (Failure to comply with design or use requirements for buildings in the Blagden Alley Residential Transition Sub-Area in the D Zones);

(P) 11-I DCMR § 614 (Failure to comply with design or use requirements for buildings in the Lower Connecticut Avenue Corridor Sub-Area in the D Zones);

(Q) 11-I DCMR § 615 (Failure to comply with design or use requirements for buildings in the North of Massachusetts Avenue (NOMA) Sub-Area in the D Zones);

(R) 11-I DCMR § 616 (Failure to comply with design or use requirements for buildings in the M and South Capitol Streets Sub-Area in the D Zones);

(S) 11-I DCMR § 617 (Failure to comply with design or use requirements for buildings in the North Capitol Street Corridor Sub-Area in the D Zones); or

(T) 11-I DCMR § 618 (Failure to comply with design or use requirements for buildings in the Independence Avenue Sub-Area in the D Zones);

(5) 11-J DCMR § 207 (Failure to comply with transition setback design requirements in the Production, Distribution, and Repair (PDR) Zones); or

(6) Failure to comply with design or use requirements in the Special Purpose Zones:

(A) 11-K DCMR § 205 (Failure to comply with front setback for new buildings with frontage on designated streets in the SEFC-1 Zone);

(B) 11-K DCMR § 314 (Failure to comply with preferred use requirements for new buildings with frontage on designated streets in the USN Zone);

(C) 11-K DCMR § 405 (Failure to comply with specific setback requirements of the HE Zones);

(D) 11-K DCMR § 418 (Failure to comply with ground floor preferred use design requirements in the HE Zones);

(E) 11-K DCMR § 419 (Failure to comply with design requirements of the HE Zones);

(F) 11-K DCMR § 420 (Failure to comply with design requirements for buildings with frontage on designated streets in the HE Zones);

(G) 11-K DCMR § 509.3 (Failure to comply with use limitations for new buildings with frontage on designated streets in the CG Zones);

(H) 11-K DCMR § 510 (Failure to comply with design requirements for new buildings with frontage on designated streets in the CG Zones);

(I) 11-K DCMR § 515.2 (Failure to comply with preferred use requirements in the Ballpark District in the CG Zones);

(J) 11-K DCMR § 619 (Failure to comply with preferred use requirements in the StE Zones);

(K) 11-K DCMR § 810 (Failure to comply with street frontage requirements in the ARTS Zones); or

(L) Failure to comply with design requirements in the Walter Reed (WR) Zones:

(i) 11-K DCMR § 901 (Failure to comply with design requirements in the WR-1 Zone);

(ii) 11-K DCMR § 902 (Failure to comply with design requirements in the WR-2 Zone);

(iii) 11-K DCMR § 903 (Failure to comply with design requirements in the WR-3 Zone);

(iv) 11-K DCMR § 904 (Failure to comply with design requirements in the WR-4 Zone);

(v) 11-K DCMR § 905 (Failure to comply with design requirements in the WR-5 Zone);

(vi) 11-K DCMR § 906 (Failure to comply with design

requirements in the WR-6 Zone);

(vii) 11-K DCMR § 907 (Failure to comply with design requirements in the WR-7 Zone);

(viii) 11-K DCMR § 908 (Failure to comply with design requirements in the WR-8 Zone); or

(ix) 11-K DCMR § 910 (Failure to comply with streetscape design requirements for buildings in the WR Zones).

3315.3 Violation of any of the following provisions shall be a Class 3 infraction:

(a) 11-A DCMR § 302.3 (Failure to conspicuously post a certificate of occupancy);

(b) Failure to comply with parking space specification requirements:

(1) 11-C DCMR § 713 (Failure to comply with parking space maintenance requirements);

(2) 11-C DCMR § 714 (Failure to comply with parking space screening requirements); or

(3) 11-C DCMR § 715 (Failure to comply with parking space landscaping requirements);

(c) Failure to comply with bicycle parking requirements:

(1) 11-C DCMR § 801 (Failure to comply with bicycle parking requirements);

(2) 11-C DCMR § 802 (Failure to provide minimum required bicycle parking);

(3) 11-C DCMR § 804 (Failure to comply with short-term bicycle parking space requirements);

(4) 11-C DCMR § 805 (Failure to comply with long-term bicycle parking space requirements);

(5) 11-C DCMR § 806 (Failure to provide shower or changing facilities in buildings required to have long-term bicycle parking spaces);

(6) 11-K DCMR § 310 (Failure to comply with bicycle parking requirements in the USN Zone); or

(7) 11-K DCMR § 916 (Failure to comply with bicycle parking requirements in the WR zones);

(d) 11-C DCMR § 1401 (Failure to comply with retaining wall requirements);

(e) Failure to comply with limitations on floor area ratios ("FAR"):

(1) Failure to comply with limitations on FAR allowed in Residential Apartment (RA) Zones:

(A) 11-F DCMR § 302 (Failure to comply with limitations on FAR allowed in the RA-1, RA-2, RA-3, RA-4 or RA-5 Zones);

(B) 11-F DCMR § 402 (Failure to comply with limitations on FAR allowed in the RA-6 Zone);

(C) 11-F DCMR § 502 (Failure to comply with limitations on FAR allowed in the RA-7 Zone); or

(D) 11-F DCMR § 602 (Failure to comply with limitations on FAR allowed in the RA-8, RA-9 or RA-10 Zones);

(2) Failure to comply with limitations on FAR allowed in Mixed-Use (MU) Zones:

(A) 11-G DCMR § 302 (Failure to comply with limitations on FAR allowed in the MU-1 or MU-2 Zones);

(B) 11-G DCMR § 402 (Failure to comply with limitations on FAR allowed in the MU-3, MU-4, MU-5A, MU-5B, MU-6, MU-7, MU-8, MU-9, MU-10 or MU-30 Zones);

(C) 11-G DCMR § 502 (Failure to comply with limitations on FAR allowed in the MU-11, MU-12, MU-13 or MU-14 Zones);

(D) 11-G DCMR § 602 (Failure to comply with limitations on FAR allowed in the MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21 or MU-22 Zones);

(E) 11-G DCMR § 702 (Failure to comply with limitations on FAR allowed in the MU-23, MU-24, MU-25 or MU-26

Zones);

(F) 11-G DCMR § 802 (Failure to comply with limitations on FAR allowed in the MU-27 Zone); or

(G) 11-G DCMR § 902 (Failure to comply with limitations on FAR allowed in the MU-28 or MU-29 Zones);

(3) Failure to comply with limitations on FAR allowed in Neighborhood Mixed-Use (NC) Zones:

(A) 11-H DCMR § 302 (Failure to comply with limitations on FAR allowed in the NC-1 Zone);

(B) 11-H DCMR § 402 (Failure to comply with limitations on FAR allowed in the NC-2 Zone);

(C) 11-H DCMR § 502 (Failure to comply with limitations on FAR allowed in the NC-3 Zone);

(D) 11-H DCMR § 602 (Failure to comply with limitations on FAR allowed in the NC-4 or NC-5 Zones);

(E) 11-H DCMR § 702 (Failure to comply with limitations on FAR allowed in the NC-6 Zone);

(F) 11-H DCMR § 802 (Failure to comply with limitations on FAR allowed in the NC-7 or NC-8 Zones); or

(G) 11-H DCMR § 902 (Failure to comply with limitations on FAR allowed in the NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16 or NC-17 Zones);

(4) Failure to comply with limitations on FAR allowed in Downtown (D) Zones:

(A) 11-I DCMR § 502 (Failure to comply with limitations on FAR allowed in the D-1-R Zone);

(B) 11-I DCMR § 509 (Failure to comply with limitations on FAR allowed in the D-2 Zone);

(C) 11-I DCMR § 516 (Failure to comply with limitations on FAR allowed in the D-3 Zone);

(D) 11-I DCMR § 524 (Failure to comply with limitations on

FAR allowed in the D-4 Zone);

(E) 11-I DCMR § 531 (Failure to comply with limitations on FAR allowed in the D-4-R Zone);

(F) 11-I DCMR § 539 (Failure to comply with limitations on FAR allowed in the D-5 Zone);

(G) 11-I DCMR § 547 (Failure to comply with limitations on FAR allowed in the D-5-R Zone);

(H) 11-I DCMR § 555 (Failure to comply with limitations on FAR allowed in the D-6 Zone);

(I) 11-I DCMR § 562 (Failure to comply with limitations on FAR allowed in the D-6-R Zone);

(J) 11-I DCMR § 569 (Failure to comply with limitations on FAR allowed in the D-7 Zone); or

(K) 11-I DCMR § 576 (Failure to comply with limitations on FAR allowed in the D-8 Zone);

(5) 11-J DCMR § 202 (Failure to comply with limitations on FAR allowed in Production, Distribution, and Repair (PDR) Zones); or

(6) Failure to comply with limitations on FAR allowed in Special Purpose Zones:

(A) 11-K DCMR § 202 (Failure to comply with limitations on FAR allowed in the SEFC-1 Zone);

(B) 11-K DCMR § 214 (Failure to comply with limitations on FAR allowed in the SEFC-2 Zone);

(C) 11-K DCMR § 222 (Failure to comply with limitations on FAR allowed in the SEFC-3 Zone);

(D) 11-K DCMR § 230 (Failure to comply with limitations on FAR allowed in the SEFC-4 Zone);

(E) 11-K DCMR § 307 (Failure to comply with limitations on FAR allowed in the USN Zone);

(F) 11-K DCMR § 402 (Failure to comply with limitations on FAR allowed in the HE Zones);

(G) 11-K DCMR § 501.3 (Failure to comply with limitations on FAR allowed in the CG-1 Zone);

(H) 11-K DCMR § 502.3 (Failure to comply with limitations on FAR allowed in the CG-2 Zone);

(I) 11-K DCMR § 503.3 (Failure to comply with limitations on FAR allowed in the CG-3 Zone);

(J) 11-K DCMR § 504.3 (Failure to comply with limitations on FAR allowed in the CG-4 Zone);

(K) 11-K DCMR § 505.3 (Failure to comply with limitations on FAR allowed in the CG-5 Zone);

(L) 11-K DCMR § 602 (Failure to comply with limitations on FAR allowed in StE Zones);

(M) 11-K DCMR § 701 (Failure to comply with limitations on FAR allowed in RC Zones);

(N) 11-K DCMR § 801 (Failure to comply with limitations on FAR allowed in ARTS Zones);

(O) 11-K DCMR § 902.2 (Failure to comply with limitations on FAR allowed in WR-2 Zones);

(P) 11-K DCMR § 903.2 (Failure to comply with limitations on FAR allowed in WR-3 Zones);

(Q) 11-K DCMR § 904.2 (Failure to comply with limitations on FAR allowed in WR-4 Zones);

(R) 11-K DCMR § 905.2 (Failure to comply with limitations on FAR allowed in WR-5 Zones);

(S) 11-K DCMR § 906.2 (Failure to comply with limitations on FAR allowed in the WR-6 Zone);

(T) 11-K DCMR § 907.2 (Failure to comply with limitations on FAR allowed in WR-7 Zones); or

(U) 11-K DCMR § 908.2 (Failure to comply with limitations on FAR allowed in WR-8 Zones);

(f) 11-U DCMR § 251 (Failure to obtain a home occupation permit or to comply with use permissions or limitations of a home occupation permit); or

(g) Failure to comply with use permissions or limitations:

(1) 11-I DCMR Chapter 3 (Failure to comply with use permissions or limitations in Downtown (D) Zones)

(2) 11-U DCMR Chapter 2 (Failure to comply with use permissions or limitations in Residential (R) Zones);

(3) 11-U DCMR Chapter 3 (Failure to comply with use permissions or limitations in Residential Flat (RF) Zones);

(4) 11-U DCMR Chapter 4 (Failure to comply with use permissions or limitations in Residential Apartment (RA) Zones);

(5) 11-U DCMR Chapter 5 (Failure to comply with use permissions or limitations in Mixed-Use (MU) Zones);

(6) 11-U DCMR Chapter 6 (Failure to comply with use permissions or limitations for alley lots);

(7) 11-U DCMR Chapter 7 (Failure to comply with use permissions or limitations in Mixed-Use Uptown Arts (ARTS) or Downtown (D) Zones); or

(8) 11-U DCMR Chapter 8 (Failure to comply with use permissions or limitations in Production, Distribution, and Repair (PDR) Zones.

3315.4 Violation of any of the following provisions shall be a Class 4 infraction:

(a) 11-C DCMR § 801.1 (Failure to post a sign stating where bicycle parking spaces are located in the building when bicycle parking spaces are required);

(b) Failure to comply with limitations on lot occupancy allowed in Residential (R) Zones:

(1) 11-D DCMR § 304 (Failure to conform with limitations on lot occupancy allowed in the R-1-A, R-1-B, R-2 or R-3 Zones);

(2) 11-D DCMR § 404 (Failure to conform with limitations on lot occupancy allowed in the R-6 or R-7 Zones);

(3) 11-D DCMR § 504 (Failure to conform with limitations on lot occupancy allowed in the R-8, R-9 or R-10 Zones);

(4) 11-D DCMR § 604 (Failure to conform with limitations on lot occupancy allowed in the R-11 Zone);

(5) 11-D DCMR § 704 (Failure to conform with limitations on lot occupancy allowed in the R-12 or R-13 Zones);

(6) 11-D DCMR § 804 (Failure to conform with limitations on lot occupancy allowed in the R-14 or R-15 Zones);

(7) 11-D DCMR § 904 (Failure to conform with limitations on lot occupancy allowed in the R-16 Zone);

(8) 11-D DCMR § 1004 (Failure to conform with limitations on lot occupancy allowed in the R-17 Zone);

(9) 11-D DCMR § 1204 (Failure to conform with limitations on lot occupancy allowed in the R-19 or R-20 Zones);

(10) 11-D DCMR § 1304 (Failure to conform with limitations on lot occupancy allowed in the R-21 Zone);

(11) 11-D DCMR § 5003 (Failure to conform with limitations on lot occupancy for accessory buildings allowed in R Zones); or

(12) 11-D DCMR § 5103 (Failure to conform with limitations on lot occupancy on alley lots in R Zones);

(c) Failure to comply with limitations on lot occupancy allowed in Residential Flat (RF) Zones:

(1) 11-E DCMR § 304 (Failure to conform with limitations on lot occupancy allowed in the RF-1 Zone);

(2) 11-E DCMR § 404 (Failure to conform with limitations on lot occupancy allowed in the RF-2 Zone);

(3) 11-E DCMR § 504 (Failure to conform with limitations on lot occupancy allowed in the RF-3 Zone); or

(4) 11-E DCMR § 604 (Failure to conform with limitations on lot occupancy allowed in RF-4 or RF-5 Zones);

(d) Failure to comply with limitations on lot occupancy allowed in Residential

Apartment (RA) Zones:

(1) 11-F DCMR § 304 (Failure to comply with limitations on lot occupancy allowed in RA-1, RA-2, RA-3, RA-4 or RA-5 Zones);

(2) 11-F DCMR § 404 (Failure to comply with limitations on lot occupancy allowed in RA-6 Zones);

(3) 11-F DCMR § 504 (Failure to comply with limitations on lot occupancy allowed in RA-7 Zones); or

(4) 11-F DCMR § 604 (Failure to comply with limitations on lot occupancy allowed in RA-8, RA-9 or RA-10 Zones);

(e) Failure to comply with limitations on lot occupancy allowed in Mixed-Use (MU) Zones:

(1) 11-G DCMR § 304 (Failure to comply with limitations on lot occupancy allowed in MU-1 or MU-2 Zones);

(2) 11-G DCMR § 404 (Failure to comply with limitations on lot occupancy allowed in MU-3, MU-4, MU-5A, MU-5B, MU-6, MU-7, MU-8, MU-9, MU-10 or MU-30 Zones);

(3) 11-G DCMR § 504 (Failure to comply with limitations on lot occupancy allowed in MU-11, MU-12, MU-13 or MU-14 Zones);

(4) 11-G DCMR § 604 (Failure to comply with limitations on lot occupancy allowed in MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21 or MU-22 Zones);

(5) 11-G DCMR § 704 (Failure to comply with limitations on lot occupancy allowed in MU-23, MU-24, MU-25 or MU-26 Zones);

(6) 11-G DCMR § 804 (Failure to comply with limitations on lot occupancy allowed in MU-27 Zones); or

(7) 11-G DCMR § 904 (Failure to comply with limitations on lot occupancy allowed in MU-28 or MU-29 Zones);

(f) Failure to comply with limitations on lot occupancy allowed in Neighborhood Mixed-Use (NC) Zones:

(1) 11-H DCMR § 304 (Failure to comply with limitations on lot occupancy allowed in the NC-1 Zone);

(2) 11-H DCMR § 404 (Failure to comply with limitations on lot occupancy allowed in the NC-2 Zone);

(3) 11-H DCMR § 504 (Failure to comply with limitations on lot occupancy allowed in NC-3 Zone);

(4) 11-H DCMR § 604 (Failure to comply with limitations on lot occupancy allowed in NC-4 or NC-5 Zones);

(5) 11-H DCMR § 704 (Failure to comply with limitations on lot occupancy in the NC-6 Zone);

(6) 11-H DCMR § 804 (Failure to comply with limitations on lot occupancy in the NC-7 or NC-8 Zones); or

(7) 11-H DCMR § 904 (Failure to comply with limitations on lot occupancy limitations in the NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16 or NC-17 Zones);

(g) 11-I DCMR § 202 (Failure to comply with limitations on lot occupancy allowed in Downtown (D) Zones);

(h) Failure to comply with limitations on lot occupancy allowed in Special Purpose Zones:

(1) 11-K DCMR § 204 (Failure to comply with limitations on lot occupancy allowed in SEFC-1 Zone);

(2) 11-K DCMR § 216 (Failure to comply with limitations on lot occupancy allowed in SEFC-2 Zone);

(3) 11-K DCMR § 224 (Failure to comply with limitations on lot occupancy allowed in SEFC-3 Zone);

(4) 11-K DCMR § 232 (Failure to comply with limitations on lot occupancy allowed in SEFC-4 Zone);

(5) 11-K DCMR § 404 (Failure to comply with limitations on lot occupancy allowed in HE Zones);

(6) 11-K DCMR § 501.6 (Failure to comply with limitations on lot occupancy allowed in CG-1 Zone);

(7) 11-K DCMR § 502.6 (Failure to comply with limitations on lot occupancy allowed in CG-2 Zone);

(8) 11-K DCMR § 504.6 (Failure to comply with limitations on lot occupancy allowed in the CG-4 Zone);

(9) 11-K DCMR § 505.12 (Failure to comply with limitations on residential use lot occupancy allowed in the CG-5 Zone);

(10) 11-K DCMR § 604 (Failure to comply with limitations on lot occupancy allowed in the StE Zones);

(11) 11-K DCMR § 703 (Failure to comply with limitations on lot occupancy allowed in the RC Zones);

(12) 11-K DCMR § 804 (Failure to comply with limitations on lot occupancy allowed in the ARTS Zones);

(13) 11-K DCMR § 901.2 (Failure to comply with limitations on lot occupancy allowed in the WR-1 Zone);

(14) 11-K DCMR § 902.2 (Failure to comply with limitations on lot occupancy allowed in the WR-2 Zone);

(15) 11-K DCMR § 903.2 (Failure to comply with limitations on lot occupancy allowed in the WR-3 Zone);

(16) 11-K DCMR § 904.2 (Failure to comply with limitations on lot occupancy allowed in the WR-4 Zone);

(17) 11-K DCMR § 905.2 (Failure to comply with limitations on lot occupancy allowed in the WR-5 Zone);

(18) 11-K DCMR § 907.2 (Failure to comply with limitations on lot occupancy allowed in the WR-7 Zone); or

(19) 11-K DCMR § 908.2 (Failure to comply with limitations on lot occupancy allowed in the WR-8 Zone);

(i) Failure to comply with rear yard requirements of Residential (R) Zones:

(1) 11-D DCMR § 306 (Failure to comply with rear yard requirements of the R-1-A, R-1-B, R-2 or R-3 Zones);

(2) 11-D DCMR § 406 (Failure to comply with rear yard requirements of the R-6 or R-7 Zones);

(3) 11-D DCMR § 506 (Failure to comply with rear yard requirements of the R-8, R-9 or R-10 Zones);

(4) 11-D DCMR § 606 (Failure to comply with rear yard requirements of the R-11 Zone);

(5) 11-D DCMR § 706 (Failure to comply with rear yard requirements of the R-12 or R-13 Zones);

(6) 11-D DCMR § 806 (Failure to comply with rear yard requirements of the R-14 or R-15 Zones);

(7) 11-D DCMR § 906 (Failure to comply with rear yard requirements of the R-16 Zone);

(8) 11-D DCMR § 1006 (Failure to comply with rear yard requirements of the R-17 Zone);

(9) 11-D DCMR § 1206 (Failure to comply with rear yard requirements of the R-19 or R-20 Zones);

(10) 11-D DCMR § 1306 (Failure to comply with rear yard requirements of the R-21 Zone);

(11) 11-D DCMR § 5004 (Failure to comply with rear yard requirements of accessory buildings in the R Zones); or

(12) 11-D DCMR § 5104 (Failure to comply with rear yard requirements of alley lots in the R Zones);

(j) Failure to comply with rear yard requirements of Residential Flat (RF) Zones:

(1) 11-E DCMR § 306 (Failure to comply with rear yard requirements of the RF-1 Zone);

(2) 11-E DCMR § 406 (Failure to comply with rear yard requirements of the RF-2 Zone);

(3) 11-E DCMR § 506 (Failure to comply with rear yard requirements of the RF-3 Zone); or

(4) 11-E DCMR § 606 (Failure to comply with rear yard requirements of the RF-4 or RF-5 Zones);

(k) Failure to comply with rear yard requirements in Residential Apartment (RA) Zones:

(1) 11-F DCMR § 305 (Failure to comply with rear yard requirements of the RA-1, RA-2, RA-3, RA-4 or RA-5 Zones);

(2) 11-F DCMR § 405 (Failure to comply with rear yard requirements of the RA-6 Zone);

(3) 11-F DCMR § 505 (Failure to comply with rear yard requirements of the RA-7 Zone); or

(4) 11-F DCMR § 605 (Failure to comply with rear yard requirements of the RA-8, RA-9 or RA-10 Zones);

(l) Failure to comply with rear yard requirement in Mixed-Use (MU) Zones:

(1) 11-G DCMR § 305 (Failure to comply with rear yard requirements of the MU-1 or MU-2 Zones);

(2) 11-G DCMR § 405 (Failure to comply with requirements for rear yards of the MU-3, MU-4, MU-5A, MU-5B, MU-6, MU-7, MU-8, MU-9, MU-10 or MU-30 Zones);

(3) 11-G DCMR § 505 (Failure to comply with rear yard requirements of the MU-11, MU-12, MU-13 or MU-14 Zones);

(4) 11-G DCMR § 605 (Failure to comply with rear yard requirements of the MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21 or MU-22 Zones);

(5) 11-G DCMR § 705 (Failure to comply with rear yard requirements of the MU-23, MU-24, MU-25 or MU-26 Zones);

(6) 11-G DCMR § 805 (Failure to comply with rear yard requirements of the MU-27 Zone); or

(7) 11-G DCMR § 905 (Failure to comply with rear yard requirements of the MU-28 or MU-29 Zones);

(m) Failure to comply with rear yard requirements of Neighborhood Mixed-Use (NC) Zones:

(1) 11-H DCMR § 305 (Failure to comply with rear yard requirements of the NC-1 Zone);

(2) 11-H DCMR § 405 (Failure to comply with rear yard requirements of the NC-2 Zone);

(3) 11-H DCMR § 505 (Failure to comply with rear yard requirements of the NC-3 Zone);

(4) 11-H DCMR § 605 (Failure to comply with rear yard requirements of the NC-4 or NC-5 Zones);

(5) 11-H DCMR § 705 (Failure to comply with rear yard requirements of the NC-6 Zone);

(6) 11-H DCMR § 805 (Failure to comply with rear yard requirements of the NC-7 or NC-8 Zones); or

(7) 11-H DCMR § 905 (Failure to comply with rear yard requirements of the NC-9. NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16 or NC-17 Zones);

(n) 11-I DCMR § 205 (Failure to comply with rear yard requirements of Downtown (D) Zones);

(o) 11-J DCMR § 205 (Failure to comply with rear yard requirements of Production, Distribution, and Repair (PDR) Zones);

(p) Failure to comply with rear yard requirements of Special Purpose Zones:

(1) 11-K DCMR § 206 (Failure to comply with rear yard requirements of the SEFC-1 Zone);

(2) 11-K DCMR § 217 (Failure to comply with rear yard requirements of the SEFC-2 Zone);

(3) 11-K DCMR § 225 (Failure to comply with rear yard requirements of the SEFC-3 Zone);

(4) 11-K DCMR § 406 (Failure to comply with rear yard requirements of the HE Zones);

(5) 11-K DCMR § 501.7 (Failure to comply with rear yard requirements of the CG-1 Zone);

(6) 11-K DCMR § 502.7 (Failure to comply with rear yard requirements of the CG-2 Zone);

(7) 11-K DCMR § 503.6 (Failure to comply with rear yard requirements of the CG-3 Zone);

(8) 11-K DCMR § 504.8 (Failure to comply with rear yard

requirements of the CG-4 Zone);

(9) 11-K DCMR § 505.7 (Failure to comply with the requirements for rear yards in the CG-5 Zone);

(10) 11-K DCMR § 606 (Failure to comply with rear yard requirements of the StE Zones);

(11) 11-K DCMR § 704 (Failure to comply with rear yard requirements of the RC Zones); or

(12) 11-K DCMR § 805 (Failure to comply with rear yard requirements of the ARTS Zones);

(q) Failure to comply with side yard requirements allowed in Residential (R) Zones:

(1) 11-D DCMR § 307 (Failure to comply with side yard requirements of the R-1-A, R-1-B, R-2 or R-3 Zones);

(2) 11-D DCMR § 407 (Failure to comply with side yard requirements of the R-6 or R-7 Zones);

(3) 11-D DCMR § 507 (Failure to comply with side yard requirements of the R-8, R-9 or R-10 Zones);

(4) 11-D DCMR § 607 (Failure to comply with side yard requirements of the R-11 Zone);

(5) 11-D DCMR § 707 (Failure to comply with side yard requirements of the R-12 or R-13 Zone);

(6) 11-D DCMR § 807 (Failure to comply with side yard requirements of the R-14 or R-15 Zones);

(7) 11-D DCMR § 907 (Failure to comply with side yard requirements of the R-16 Zone);

(8) 11-D DCMR § 1007 (Failure to comply with side yard requirements of the R-17 Zone);

(9) 11-D DCMR § 1207 (Failure to comply with side yard requirements of the R-19 or R-20 Zones);

(10) 11-D DCMR § 1307 (Failure to comply with side yard requirements of the R-21 Zone);

(11) 11-D DCMR § 5005 (Failure to comply with side yard requirements for accessory buildings allowed in the R Zones); or

(12) 11-D DCMR § 5105 (Failure to comply with side yard requirements for alley lots in the R Zones);

(r) Failure to comply with side yard requirements of the Residential Flat (RF) Zones:

(1) 11-E DCMR § 307 (Failure to comply with side yard requirements of the RF-1 Zone);

(2) 11-E DCMR § 407 (Failure to comply with side yard requirements of the RF-2 Zone);

(3) 11-E DCMR § 507 (Failure to comply with side yard requirements of the RF-3 Zone); or

(4) 11-E DCMR § 607 (Failure to comply with side requirements of the RF-4 or RF-5 Zones);

(s) Failure to comply with side yard requirements of the Residential Apartment (RA) Zones:

(1) 11-F DCMR § 306 (Failure to comply with side yard requirements of the RA-1, RA-2, RA-3, RA-4 or RA-5 Zones);

(2) 11-F DCMR § 406 (Failure to comply with side yard requirements of the RA-6 Zone);

(3) 11-F DCMR § 506 (Failure to comply with side yard requirements of the RA-7 Zone); or

(4) 11-F DCMR § 606 (Failure to comply with side yard requirements of the RA-8, RA-9 or RA-10 Zones);

(t) Failure to comply with side yard requirements of the Mixed-Use (MU) Zones:

(1) 11-G DCMR § 306 (Failure to comply with side yard requirements of the MU-1 or MU-2 Zone);

(2) 11-G DCMR § 406 (Failure to comply with side yard requirements of the MU-3, MU-4, MU-5A, MU-5B, MU-6, MU-7, MU-8, MU-9, MU-10 or MU-30 Zones);

(3) 11-G DCMR § 506 (Failure to comply with side yard requirements of the MU-11, MU-12, MU-13 or MU-14 Zones);

(4) 11-G DCMR § 606 (Failure to comply with side yard requirements of the MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21 or MU-22 Zones);

(5) 11-G DCMR § 706 (Failure to comply with side yard requirements of the MU-23, MU-24, MU-25 or MU-26 Zones);

(6) 11-G DCMR § 806 (Failure to comply with side yard requirements of the MU-27 Zone); or

(7) 11-G DCMR § 906 (Failure to comply with side yard requirements of the MU-28 or MU-29 Zones);

(u) Failure to comply with side yard requirements of Neighborhood Mixed-Use (NC) Zones:

(1) 11-H DCMR § 306 (Failure to comply with side yard requirements of the NC-1 Zone);

(2) 11-H DCMR § 406 (Failure to comply with side yard requirements of the NC-2 Zone);

(3) 11-H DCMR § 506 (Failure to comply with side yard requirements of the NC-3 Zone);

(4) 11-H DCMR § 606 (Failure to comply with side yard requirements of the NC-4 or NC-5 Zones);

(5) 11-H DCMR § 706 (Failure to comply with side yard requirements of the NC-6 Zone);

(6) 11-H DCMR § 806 (Failure to comply with side yard requirements of the NC-7 or NC-8 Zones); or

(7) 11-H DCMR § 906 (Failure to comply with side yard requirements of the NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16 or NC-17 Zones);

(v) 11-I DCMR § 206 (Failure to comply with requirements for side yards allowed in Downtown (D) Zones);

(w) 11-J DCMR § 206 (Failure to comply with requirements for side yards in

Production, Distribution, and Repair (PDR) Zones); or

(x) Failure to comply with requirements for side yards allowed in Special Purpose Zones:

(1) 11-K DCMR § 207 (Failure to comply with side yard requirements of the SEFC-1 Zone);

(2) 11-K DCMR § 218 (Failure to comply with side yard requirements of the SEFC-2 Zone);

(3) 11-K DCMR § 226 (Failure to comply with side yard requirements of the SEFC-3 Zone);

(4) 11-K DCMR § 233 (Failure to comply with side yard requirements of the SEFC-4 Zone);

(5) 11-K DCMR § 407 (Failure to comply with side yard requirements of the HE Zones);

(6) 11-K DCMR § 501.8 (Failure to comply with side yard requirements of the CG-1 Zone);

(7) 11-K DCMR § 502.8 (Failure to comply with side yard requirements of the CG-2 Zone);

(8) 11-K DCMR § 503.7 (Failure to comply with side yard requirements of the CG-3 Zone);

(9) 11-K DCMR § 504.9 (Failure to comply with side yard requirements of the CG-4 Zone);

(10) 11-K DCMR § 505.6 (Failure to comply with side yard requirements of the CG-5 Zone);

(11) 11-K DCMR § 705 (Failure to comply with the requirements for side yards in RC Zones);

(12) 11-K DCMR § 806 (Failure to comply with the requirements for side yards in ARTS Zones); or

(13) 11-K DCMR § 901.2 (Failure to comply with the requirements for side yards in the WR-1 Zone).

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

## NOTICE OF FINAL RULEMAKING

The State Superintendent of Education ("State Superintendent"), pursuant to authority set forth in Sections 3(b)(9) and 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(9) and (11)) (2012 Repl. & 2018 Supp.); the Day Care Policy Act of 1979, effective September 19, 1979 (D.C. Law 3-16; D.C. Official Code §§ 4-401 *et seq*. (2012 Repl. & 2018 Supp.)); Mayor's Order 2009-3, dated January 15, 2009; and pursuant to the Social Security Act, approved August 22, 1996 (110 Stat. 2279; 42 USC § 618(c)); the Child Care and Development Block Grant Act of 2014 ("CCDBG Act"), approved November 19, 2014 (128 Stat. 1971; 42 USC §§ 9858 *et seq.*), and regulations promulgated thereunder at 45 CFR Parts 98 and 99, hereby amends Chapter 2 (Child Development Facilities: District-Subsidized Child Care Services) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the District of Columbia Municipal Regulations ("DCMR").

### I. Purpose

The purpose of this final rulemaking is to ensure equal access to stable, high-quality child care for low-income children in the District by: (1) implementing the Quality Rating and Improvement System (QRIS) transition from "Going for the Gold" to "Capital Quality" and aligning the District's tiered-rate reimbursement system with Capital Quality; (2) updating reimbursement rates for subsidized child care services for Fiscal Year 2019 based on the results of the Office of the State Superintendent of Education ("OSSE") 2018 cost estimation methodology; and (3) increasing reimbursement rates for subsidized child care services pursuant to a $10 million enhancement in local funds and an increase in the federal Child Care and Development Block Grant discretionary funding; and (4) updating the sliding fee schedule to align with the "2018 Federal Poverty Guidelines for the 48 Contiguous States and the District of Columbia." There is an immediate need to ensure the health, safety and welfare of children under the care of subsidized child care providers in the District of Columbia.

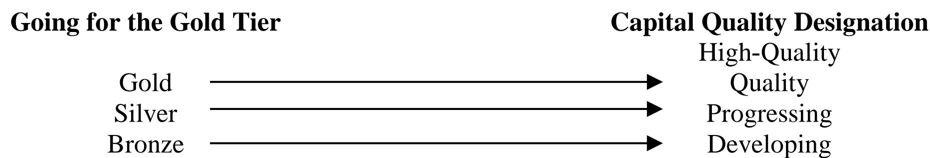
### II. D.C.'s Redesigned Quality Rating and Improvement System (QRIS): Capital Quality

A Quality Rating and Improvement System (QRIS) is a systemic approach to evaluate, improve and communicate the level of quality in early care and education facilities. The five main components are: (1) ensuring and promoting quality standards for facilities and practitioners; (2) aligning supports and infrastructure to meet quality standards; (3) ensuring continuous monitoring of facilities to promote quality; (4) enhancing incentives linked to meeting quality standards; and (5) increasing consumer information to promote public transparency. OSSE launched Capital Quality, the District of Columbia's redesigned QRIS, in April 2016. Capital Quality has three components, a designation which is determined by the use of research-based metrics, a continuous quality improvement plan (CQIP) that is aligned with research-based quality standards and a public-facing quality profile to support families in selecting an early care and education setting that best meets their child's needs. The previous QRIS system, Going for

the Gold, was based on national accreditation. OSSE recognized the need to update Going for the Gold due to changes in the District's early care and education sector, including the success of universal pre-Kindergarten, significant local investments in quality initiatives and the growing body of research that higher-quality programs are positively associated with young children's outcomes. Specifically, research has increasingly shown that higher-quality programs (e.g., safe and nurturing settings, more responsive teachers and staff) are positively associated with young children's cognitive, behavioral and social-emotional skills and development. Utilizing a common metric of quality that is specific to each type of early care and education setting (*e.g*., child development homes and child development centers), Capital Quality yields valid and reliable data that can inform parents, providers, practitioners and policymakers.

In accordance with shifts in federal requirements to make facility-specific QRIS information available to parents, the public-facing quality profile will be posted on My Child Care DC, the District's consumer website, which allows parents to review and compare the quality of various child development facilities throughout the District and make more informed decisions when deciding where to enroll their child. Though some information (*e.g*., licensing, hours of operation, accreditation status) has been available to parents since Sept. 2017, the data available through the quality profile will enable parents to more specifically understand the extent to which the early care and education program promotes children's health, safety, and supportive interactions between children and teachers.

As noted above, one of the purposes of this final rulemaking is to transition licensed child development facilities that provide subsidized care from their Going for the Gold rating to a Capital Quality designation by setting forth tiered reimbursement rates based on Capital Quality designations. Under the Going for the Gold QRIS, providers were tiered at Gold, Silver, or Bronze levels. Effective Oct. 1, 2018, OSSE automatically transitioned all subsidized child care providers from their Going for the Gold rating to a Capital Quality Designation: (1) Quality, (2) Progressing, or (3) Developing (see below). Through this rulemaking, all subsidized child care providers will be reimbursed based on its Capital Quality designation.




Note, any providers who were receiving reimbursement at the Quality Improvement Network (QIN) rate for QIN enrolled children will continue to be reimbursed at the QIN rate for those children. For additional information regarding Capital Quality, visit: https://osse.dc.gov/page/capital-quality-qris.

After October 1, 2018, licensed child development facilities that enter the subsidized child care program for the first time will receive a Preliminary designation, as they are still in the process of being rated to determine their Capital Quality designation.

## III. The District's 2018 Cost Estimation Model

To advance the important work of serving more low-income families in high-quality care, it is federally mandated for states to periodically assess the cost of delivering high-quality early care and education services and to then use this data to inform rates for subsidized child care. Prior to 2015, the District's tiered reimbursement rates were determined using a statistically valid and reliable market rate survey; however, research shows that the child care market does not always reflect the actual cost of providing care at different levels of quality care. Therefore, in 2015, to better understand the actual cost of providing child care in the District of Columbia, OSSE, with the assistance of national financing experts, developed an alternative methodology to understand the actual cost of delivering child care services at different levels of quality in both centers and homes. This interactive model used the QRIS framework, to estimate the cost of quality in both child development centers and homes at each QRIS designation. Unlike the market rate survey, this alternative methodology allowed OSSE to examine how the various factors affect both revenues and expenditures including size of the center (*e.g.*, number of classrooms), ages of children served, group size and ratio, income mix of families, enrollment efficiency, fee collectability, and other revenue sources (*e.g.*, the Child and Adult Care Food Program).

The 2015 alternative methodology demonstrated whether there is a gap between the costs and the revenue sources generated when providing quality early care and education programs at each QRIS designation. Knowing the size of the gap at different QRIS designation (*i.e.*, at different levels of quality), and for different provider types (*i.e.*, home and center-based), helps inform the subsidy tiered reimbursement rates, design of financial incentive packages, and development of supportive policies to encourage financial success. For example, based on the results of the alternative methodology and increased local funding, in Fiscal Year (FY) 2017, OSSE raised the toddler rate to align with the infant rate which had the same licensing requirements for group size and ratios. Another example of how OSSE used results of the 2015 alternative methodology to inform rates is the FY18 increase to the infant and toddler rate for each QRIS designation. Centers received a four percent increase and homes increased by approximately ten percent (10%). The greater increase to the reimbursement rates for homes was informed by the 2015 alternative methodology, which revealed that homes experience more difficulty in maintaining financial sustainability. Further, the cost model demonstrated an opportunity to provide financial stability by linking a network of homes through a shared administration, or a shared-services framework to support enrollment efficiency and fee collection. Accordingly, in addition to increasing the reimbursement rates for homes, OSSE incentivized homes to join a Shared Services Business Alliance by authorizing homes in the Alliance to collect the full reimbursement rate from the District plus the parent co-payment.

The CCDBG Act requires that OSSE conduct either a market rate survey or an alternative cost estimation methodology, with approval, every three years. Because the District was able to use the results from the 2015 alternative cost estimation methodology to make targeted and meaningful investments in supporting providers' financial sustainability while also maintaining high-quality care, OSSE, with the support of the State Early Childhood Development Coordinating Council ("SECDCC"), the District's state advisory council, submitted a request for approval to the U.S. Department of Health and Human Services, Administration for Children and Families (ACF), Office of Child Care, to use the same alternative cost estimation methodology,

with updated elements and assumptions. On May 14, 2018 ACF approved the District's request to use an updated alternative cost estimation methodology to inform new subsidy reimbursement rates.

As done in 2015, using the 2018 alternative cost estimation methodology, OSSE developed a Cost Estimation Model for Child Development Centers ("Center Model") and a Cost Estimation Model for Child Development Homes and Expanded Homes ("Home Model"). Each model is based on updated elements and assumptions that contribute to cost based on the type of setting. For example, both the Center Model and the Home Model include the changes set forth in the 2016 child development facility licensing regulations, specifically costs based on professional development training requirements and staff credential requirements; and the 2018 increases in the minimum wage, living wage and the new employer tax in accordance with the District's Paid Family Leave Act.

In addition, both the Center Model and the Home Model includes different scenarios that vary by QRIS designation or participation in specific revenue driving OSSE programs such as the Pre-K Enhancement or Expansion program, the Quality Improvement Network, or Shared Services Business Alliance. Scenarios were updated to align with Capital Quality's four evaluation-based designations: High-Quality, Quality, Progressing, and Developing. Additionally, both models include the increases to the subsidy reimbursement rates in FY17 and FY18 and the Center Model includes increases to the Uniform per Student Funding Formula for pre-K students and at-risk funding.

With these updated baseline elements in both the Center Model and the Home Model that accurately reflect a provider's current experiences, OSSE analyzed how changing different variables would financially impact specific scenarios. Variables include the number of classrooms in a facility, age groups of children, income mix (number of children with private paying parents and the number of publicly funded children), participation in the Child and Adult Care Food Program (CACFP), number of classrooms participating in the Pre-K Enhancement or Expansion program, full collection of revenues, and enrollment efficiency.

The 2018 alternative cost estimation methodology revealed that, in most cases, a provider's likely cost of delivering early care and education services exceeded the revenue needed to provide care at different levels of quality. Since 2015, the costs have increased due to the new Paid Family Leave tax, increases in the minimum wage (from $10.50 in 2015 to $13.25 in 2018) and the living wage (from $13.80 in 2015 to $14.20 in 2018), the need to increase staff hours to comply with the federal health and safety training requirements while maintaining adult to child ratios and group size requirements, and the continued increase in the average rent due per square foot (the cost models assumed $30 per square foot in 2015 and $42 per square foot in 2018). Additionally, similar to findings in 2015, OSSE again found that centers and homes who are not fully enrolled continue to have significant revenue losses, so maintaining enrollment is key to a provider's financial sustainability. Further, the cost models demonstrate that delivering care to infants and toddlers is the most financially challenging type of program to operate without increased financial resources and other supports such as a shared services business alliance. However, the cost models also demonstrate an opportunity for providers to diversify the ages of children served by providing before and after school care and by maximizing its enrollment

efficiency to ensure adequate revenues for providing safe and healthy care. For example, OSSE also found that providing before and after care for school age children can have a positive financial impact on a provider's bottom line. Recognizing the positive financial impact of providing before and after care is particularly relevant as the District continues to seek ways to support more families in accessing high-quality care for their children before and after school, and during summer and holiday breaks. Finally, the cost models also demonstrate the importance of tapping all available funding streams to strengthen a provider's financial sustainability.

## IV. Final Rulemaking

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* for a thirty (30) day public comment period on November 2, 2018, at 65 DCR 012192. The comment period officially closed on December 3, 2018. OSSE did not receive any comments and has not made any changes in the Final Rulemaking.

The preamble of the Emergency and Proposed Rulemaking provided a discussion explaining the amendments and intent set forth in the Emergency and Proposed Rulemaking, which is provided again below.

Section 201 sets forth the factors for determining initial eligibility for subsidized child care, establishes a minimum twelve-month eligibility period, provides a framework for maintaining eligibility and describes eligibility redeterminations. This final rulemaking specifically amends this section to align the age of a child with the CCDBG Act, which defines an eligible child as under thirteen (13) years old, or under nineteen (19) years of age with special needs, and expected amendments to the definition of "child" in the Day Care Act of 1979, as amended by the Birth-to-Three for All DC Amendment Act of 2018, effective Oct. 30, 2018 (D.C. Law 22-178; D.C. Official Code § 4-401 (2012 Repl.)).

Additionally, §§ 201.7 and 201.8 set forth that a family is no longer considered eligible if their income at re-determination has exceeded 85% of the state median income or three hundred percent (300%) of the federal poverty level (FPL). However, the recent guidance from ACF has emphasized that states shall allow families to remain eligible at re-determination if their income does not exceed eighty-five percent (85%) of the state median income, regardless of what federal poverty threshold the state initially set. Therefore, OSSE strikes the phrase 300% of FPL in this rulemaking. OSSE has received feedback that the income eligibility requirements based on family size at initial determination and at re-determination are not clear given the two different standards. In response to this feedback, OSSE has provided a table setting forth the maximum income levels based on family size for initial determination and re-determination, below.

**FY19 MAXIMUM INCOME GUIDELINES FOR SUBSIDIZED CHILD CARE**

| Family Size | Maximum Gross Annual Income at INITIAL DETERMINATION | Maximum Gross Annual Income at RE-DETERMINATION |
|---|---|---|
| 1 | $ 30,350 | $ 43,800 |
| 2 | $ 41,150 | $ 57,277 |
| 3 | $ 51,950 | $ 70,754 |
| 4 | $ 62,750 | $ 84,231 |
| 5 | $ 73,550 | $ 97,708 |

| | | |
|---|---|---|
| 6 | $ 84,350 | $ 111,185 |
| 7 | $ 95,150 | $ 113,712 |
| 8 | $ 105,950 | $ 116,238 |
| 9 | $ 116,750 | $ 118,765 |
| 10 | $ 121,292 | $ 121,292 |

Section 203 establishes the rates paid by the District of Columbia to providers for the early care and education services provided to eligible children through the District's subsidized child care program. This final rulemaking specifically amends this section to (1) replace the Going for the Gold tiered payment structure with the Capital Quality tiered payment structure; (2) update the actual reimbursement rates; (3) establish reimbursement rates for new subsidized child care providers; and (4) establish a reimbursement for initial registration fees, when applicable.

OSSE conducted the cost estimation methodology to assess the cost of delivering care in different settings, to children of different ages, and ultimately estimate the average cost of care at the varying levels of quality for both the Center Model and the Home Model. In order to determine the actual rates for FY19, OSSE balanced this estimated average cost of care, current child eligibility requirements, and actual subsidy enrollment rates against the total available local and federal funding, which included the FY19 local enhancement and federal increase. Based on these projections, OSSE estimates that the total amount of local and federal funds appropriated for subsidized child care services is sufficient to justify the rates based on the 2018 cost estimation model's average cost of care. As such, OSSE amends this Section to increase rates for all age groups in all settings across all Capital Quality designations.

The new FY19 subsidy reimbursement rates set forth in Section 203 were informed by the average cost of care developed in the cost models. Based on this, the Developing designation experienced the highest increase, due to the increased requirements for health and safety that were promulgated in the 2016 child care licensing regulations and the reauthorized CCDBG Act. These new requirements raised the level of all basic health and safety standards for all providers, and results in the largest reimbursement rate increase for centers and homes designated as Developing.

For both centers and homes, the School Age rate was raised to the same dollar amount for each service type, regardless of a provider's Capital Quality designation. School Age before and after care programs do not currently receive a designation in the Capital Quality QRIS, so the District has established one rate for all school age programs. On average, centers received a 57% increase and homes received a 24% increase in tiered reimbursement rates from FY18 to FY19.

In addition to increasing the reimbursement rates, OSSE established a reimbursement rate for new subsidized child care providers who receive a Preliminary designation in Capital Quality. These providers are still in the process of being rated to determine their Capital Quality designation of Developing, Progressing, Quality or High-Quality

In an effort to further ensure equal access to early care and education programs, and because providers are prohibited from requesting any payments from parents beyond the co-payment, OSSE amended Section 203 to reimburse providers $75 for an initial registration fee for newly enrolled children if the facility would charge private paying families an initial registration fee

when enrolling their child. OSSE will only reimburse providers who charge an initial registration fee, regardless of whether the registration fee charged is more or less than $75.

In Section 204, OSSE has also updated the sliding fee scale based on 2018 FPL.

These rules were adopted as final on December 10, 2018 and will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 2, CHILD DEVELOPMENT FACILITIES: DISTRICT-SUBSIDIZED CHILD CARE SERVICES, of Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is amended as follows:**

**Section 201, ELIGIBILITY DETERMINATIONS, is amended as follows:**

**Subsection 201.1(a) is amended to read as follows:**

(a) Be under thirteen (13) years old, or under nineteen (19) years old if the child has special needs.

**Subsection 201.4(c) is amended to read as follows:**

(c) A change in the child's age, including turning thirteen (13) during the eligibility period; or

**Subsection 201.7 is amended to read as follows:**

201.7 Families who are classified as being over the income threshold at the end of the twelve (12) month eligibility period are to still be considered eligible for subsidized child care services if the gross annual family income does not exceed eighty-five percent (85%) of the current SMI.

**Subsection 201.8 is amended to read as follows:**

201.8 Any family already designated as eligible for subsidized child care and receiving such services whose income reaches eighty-five percent (85%) of the current SMI shall continue to receive subsidized care for no more than three (3) months. At the end of the three (3) month period of continued assistance, if the gross annual family income is below 85% of the most current SMI, assistance cannot be terminated and the child shall continue receiving assistance until the next scheduled redetermination.

**Section 202, TERMINATION OF SUBSIDIZED CHILD CARE SERVICES, is amended as follows:**

**Subsection 202.3 is amended to read as follows:**

202.3 An applicant who has been confirmed through investigation to have committed fraud may be permanently barred from receiving subsidized child care services through the District's subsidy program. Recipient fraud includes, but is not limited to, the following:

(a) With intent to deceive, withholding information regarding eligibility factors such as gross annual family income, number of family members, ages of family members, or the recipient's hours of employment or training;

(b) Knowingly using child care services for an ineligible child; or

(c) Intentionally failing to report any changes which would affect the child's eligibility for child care benefits.

**Section 203, RATES PAID BY DISTRICT OF COLUMBIA, is amended in its entirety to read as follows:**

**203 RATES PAID BY DISTRICT OF COLUMBIA**

203.1 The District of Columbia shall pay the rates set forth in this section per day for child care services, less the parent fee as required by the parent sliding fee scale, to child development facilities that meet their respective requirements of the Quality Rating and Improvement System, when appropriate and funds are available.

203.2 **Developing**: The rates for child development centers, homes and expanded homes designated as Developing, for traditional, extended day, and nontraditional hours of care, shall be as follows:

| Developing - Child Development Center | | | | | | |
|---|---|---|---|---|---|---|
| | Traditional | | Extended Day | | Nontraditional | |
| | Full-Time | Part-Time | Full-Time | Part-Time | Full-Time | Part-Time |
| Infant and Toddler | $65.43 | $39.26 | $71.97 | $45.80 | $81.79 | $49.07 |
| Infant and Toddler Special Needs | $77.78 | $46.40 | -- | -- | -- | -- |
| Pre-school | $48.87 | $29.32 | $53.76 | $34.21 | $61.09 | $36.65 |
| Pre-school Before and After | $48.87 | $29.32 | $53.76 | $34.21 | -- | -- |
| School-Age Before *and* After | $36.06 | $21.64 | $39.67 | $25.24 | $45.08 | $27.05 |
| School-Age Before *or* After | $36.06 | $18.03 | -- | -- | -- | -- |
| Pre-school and School-Age Special Needs | $61.49 | $36.68 | -- | -- | -- | -- |

| Developing - Child Development Home and Expanded Home | | | | | | |
|---|---|---|---|---|---|---|
| | Traditional | | Extended Day | | Nontraditional | |
| | Full-Time | Part-Time | Full-Time | Part-Time | Full-Time | Part-Time |
| Infant and Toddler | $50.46 | $30.28 | $55.51 | $35.32 | $63.08 | $37.85 |
| Pre-school | $30.84 | $18.51 | $33.93 | $21.59 | $38.55 | $23.13 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Pre-school Before and After | $30.84 | $18.51 | $33.93 | $21.59 | | |
| School-Age Before *and* After | $28.00 | $16.80 | $30.80 | $19.60 | $35.00 | $21.00 |
| School-Age Before *or* After | $28.00 | $14.00 | -- | -- | -- | -- |

203.3 **Progressing**: The rates for child development centers, homes and expanded homes designated as Progressing, for traditional, extended day, and nontraditional hours of care, shall be as follows:

| **Progressing - Child Development Center** | | | | | | |
|---|---|---|---|---|---|---|
| | **Traditional** | | **Extended Day** | | **Nontraditional** | |
| | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** |
| Infant and Toddler | $68.32 | $40.99 | $75.15 | $47.82 | $85.40 | $51.24 |
| Infant and Toddler Special Needs | $77.78 | $46.40 | -- | -- | -- | -- |
| Pre-school | $50.96 | $30.58 | $56.06 | $35.67 | $63.70 | $38.22 |
| Pre-school Before and After | $50.96 | $30.58 | $56.06 | $35.67 | -- | -- |
| School-Age Before *and* After | $36.06 | $21.64 | $39.67 | $25.24 | $45.08 | $27.05 |
| School-Age Before *or* After | $36.06 | $18.03 | -- | -- | -- | -- |
| Pre-school and School-Age Special Needs | $61.49 | $36.68 | -- | -- | -- | -- |

| **Progressing - Child Development Home and Expanded Home** | | | | | | |
|---|---|---|---|---|---|---|
| | **Traditional** | | **Extended Day** | | **Nontraditional** | |
| | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** |
| Infant and Toddler | $55.02 | $33.01 | $60.52 | $38.51 | $68.78 | $41.27 |
| Pre-school | $34.34 | $20.61 | $37.78 | $24.04 | $42.93 | $25.76 |
| Pre-school Before and After | $34.34 | $20.61 | $37.78 | $24.04 | | |
| School-Age Before *and* After | $28.00 | $16.80 | $30.80 | $19.60 | $35.00 | $21.00 |
| School-Age Before *or* After | $28.00 | $14.00 | -- | -- | -- | -- |

203.4 **Quality**: The rates for child development centers, homes and expanded homes designated as Quality, for traditional, extended day, and nontraditional hours of care, shall be as follows:

| **Quality - Child Development Center** | | | | | | |
|---|---|---|---|---|---|---|
| | **Traditional** | | **Extended Day** | | **Nontraditional** | |
| | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** |
| Infant and Toddler | $76.78 | $46.07 | $84.46 | $53.75 | $95.98 | $57.59 |
| Infant and Toddler Special Needs | $77.78 | $46.40 | -- | -- | -- | -- |
| Pre-school | $57.05 | $34.23 | $62.76 | $39.94 | $71.31 | $42.79 |
| Pre-school Before and After | $57.05 | $34.23 | $62.76 | $39.94 | -- | -- |
| School-Age Before *and* After | $36.06 | $21.64 | $39.67 | $25.24 | $45.08 | $27.05 |
| School-Age Before *or* After | $36.06 | $18.03 | -- | -- | -- | -- |
| Pre-school and School-Age Special Needs | $61.49 | $36.68 | -- | -- | -- | -- |

| Quality - Child Development Home and Expanded Home | | | | | | |
|---|---|---|---|---|---|---|
| | Traditional | | Extended Day | | Nontraditional | |
| | Full-Time | Part-Time | Full-Time | Part-Time | Full-Time | Part-Time |
| Infant and Toddler | $59.78 | $35.87 | $65.76 | $41.85 | $74.73 | $44.84 |
| Pre-school | $39.20 | $23.52 | $43.12 | $27.44 | $49.00 | $29.40 |
| Pre-school Before and After | $39.20 | $23.52 | $43.12 | $27.44 | | |
| School-Age Before *and* After | $28.00 | $16.80 | $30.80 | $19.60 | $35.00 | $21.00 |
| School-Age Before *or* After | $28.00 | $14.00 | -- | -- | -- | -- |

203.5 **High-Quality:** The rates for child development centers, homes and expanded homes designated as High-Quality, for traditional, extended day, and nontraditional hours of care, shall be as follows:

| High-Quality - Child Development Center | | | | | | |
|---|---|---|---|---|---|---|
| | Traditional | | Extended Day | | Nontraditional | |
| | Full-Time | Part-Time | Full-Time | Part-Time | Full-Time | Part-Time |
| Infant and Toddler | $93.91 | $56.35 | $103.30 | $65.74 | $117.39 | $70.43 |
| Infant and Toddler Special Needs | $77.78 | $46.40 | -- | -- | -- | -- |
| Pre-school | $61.49 | $36.89 | $67.64 | $43.04 | $76.86 | $46.12 |
| Pre-school Before and After | $61.49 | $36.89 | $67.64 | $43.04 | -- | -- |
| School-Age Before *and* After | $36.06 | $21.64 | $39.67 | $25.24 | $45.08 | $27.05 |
| School-Age Before *or* After | $36.06 | $18.03 | -- | -- | -- | -- |
| Pre-school and School-Age Special Needs | $61.49 | $36.68 | -- | -- | -- | -- |

| High-Quality - Child Development Home and Expanded Home | | | | | | |
|---|---|---|---|---|---|---|
| | Traditional | | Extended Day | | Nontraditional | |
| | Full-Time | Part-Time | Full-Time | Part-Time | Full-Time | Part-Time |
| Infant and Toddler | $69.78 | $41.78 | $76.76 | $48.85 | $87.23 | $52.34 |
| Pre-school | $43.18 | $25.91 | $47.50 | $30.23 | $53.98 | $32.39 |
| Pre-school Before and After | $43.18 | $25.91 | $47.50 | $30.23 | $53.98 | $32.39 |
| School-Age Before *and* After | $28.00 | $16.80 | $30.80 | $19.60 | $35.00 | $21.00 |
| School-Age Before *or* After | $28.00 | $14.00 | -- | -- | -- | -- |

203.6 **Quality Improvement Network:** The payment rates for infants and toddlers enrolled in a child development facility that is in the Quality Improvement Network shall be as follows:

(a) The payment rate for infants and toddlers enrolled in a child development home in the Quality Improvement Network shall be $65.07.

(b) The payment rate for Quality Improvement Network enrolled infants and toddlers in a child development center shall be $83.75.

203.7 **Preliminary**: Beginning October 1, 2018, licensed child development facilities that enter the District of Columbia's subsidized child care program for the first time will receive a Preliminary designation in Capital Quality. The rates for child development centers, homes and expanded homes designated as Preliminary, for traditional, extended day, and nontraditional hours of care, shall be as follows:

| **Preliminary - Child Development Center** | | | | | | |
|---|---|---|---|---|---|---|
| | **Traditional** | | **Extended Day** | | **Nontraditional** | |
| | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** |
| Infant and Toddler | $65.43 | $39.26 | $71.97 | $45.80 | $81.79 | $49.07 |
| Infant and Toddler Special Needs | $77.78 | $46.40 | -- | -- | -- | -- |
| Pre-school | $48.87 | $29.32 | $53.76 | $34.21 | $61.09 | $36.65 |
| Pre-school Before and After | $48.87 | $29.32 | $53.76 | $34.21 | -- | -- |
| School-Age Before *and* After | $36.06 | $21.64 | $39.67 | $25.24 | $45.08 | $27.05 |
| School-Age Before *or* After | $36.06 | $18.03 | -- | -- | -- | -- |
| Pre-school and School-Age Special Needs | $61.49 | $36.68 | -- | -- | -- | -- |

| **Preliminary - Child Development Home and Expanded Home** | | | | | | |
|---|---|---|---|---|---|---|
| | **Traditional** | | **Extended Day** | | **Nontraditional** | |
| | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** | **Full-Time** | **Part-Time** |
| Infant and Toddler | $50.46 | $30.28 | $55.51 | $35.32 | $63.08 | $37.85 |
| Pre-school | $30.84 | $18.51 | $33.93 | $21.59 | $38.55 | $23.13 |
| Pre-school Before and After | $30.84 | $18.51 | $33.93 | $21.59 | | |
| School-Age Before *and* After | $28.00 | $16.80 | $30.80 | $19.60 | $35.00 | $21.00 |
| School-Age Before *or* After | $28.00 | $14.00 | -- | -- | -- | -- |

203.8 The District of Columbia shall pay child development centers in the Level II Provider program the full amount of the payment rate pursuant to Section 203 and shall allow such centers to collect a parent co-pay, based on the sliding fee scale set forth in Subsection 204.8, if applicable.

203.9 The District of Columbia shall pay child development homes in OSSE's Shared Services Business Alliance the full amount of the payment rate pursuant to Section 203 and shall allow such homes to collect a parent co-pay, based on the sliding fee scale set forth in Subsection 204.8, if applicable.

203.10 The District of Columbia shall pay the following rates per day for child care services to relative and in-home caregivers, when appropriate and funds are available:

(a) The rates for relative caregivers for traditional, extended day, and nontraditional hours of care shall be as follows:

| Relative Child Care Rates | | | | | | |
|---|---|---|---|---|---|---|
| | Traditional | | Extended Day | | Nontraditional | |
| | Full-Time | Part-Time | Full-Time | Part-Time | Full-Time | Part-Time |
| Infant and Toddler | $ 24.18 | $ 14.50 | $ 26.60 | $ 16.93 | $ 30.23 | $ 18.14 |
| Pre-school | $ 14.33 | $ 8.60 | -- | -- | -- | -- |
| Pre-school Before and After | $ 14.33 | $ 8.60 | -- | -- | -- | -- |
| School-Age Before ***and*** After | $ 13.92 | $ 8.35 | $ 15.31 | $ 9.74 | $ 17.40 | $ 10.44 |
| School-Age Before ***or*** After | $ 13.92 | $ 4.18 | -- | -- | -- | -- |

(b) The rates for in-home caregivers for traditional, extended day, and nontraditional hours of care shall be as follows:

| In-Home Child Care Rates | | | | | | |
|---|---|---|---|---|---|---|
| | Traditional | | Extended Day | | Nontraditional | |
| | Full-Time | Part-Time | Full-Time | Part-Time | Full-Time | Part-Time |
| Infant and Toddler | $ 14.18 | $ 8.51 | $ 15.60 | $ 9.93 | $ 17.73 | $ 10.64 |
| Pre-School | $ 8.70 | $ 5.22 | $ 9.57 | $ 6.09 | $ 10.88 | $ 6.53 |
| Pre-school Before and After | $ 8.70 | $ 5.22 | $ 9.57 | $ 6.09 | -- | -- |
| School-Age Before ***and*** After | $ 7.54 | $ 4.52 | $ 8.29 | $ 5.28 | $ 9.43 | $ 5.66 |
| School-Age Before ***or*** After | $ 7.54 | $ 4.14 | -- | -- | -- | -- |

203.11 The District shall pay the regular rate to providers on holidays when providers may be closed. Holidays shall include:

(a) Labor Day
(b) Columbus Day
(c) Veteran's Day
(d) Thanksgiving Day
(e) Christmas Day
(f) New Year's Day
(g) Martin Luther King, Jr. Day
(h) President's Day
(i) Emancipation Day
(j) Memorial Day
(k) Independence Day
(l) The District shall also consider as a holiday January 20th during years when there is a presidential inauguration.

203.12 The District of Columbia shall pay a provider $75 per child to cover an initial registration fee charged to parents when enrolling a child, as follows:

(a) The registration fee must be documented in the Parent Handbook submitted to OSSE at the beginning of the Fiscal Year; and

(b) Fees will not be paid for children who enroll at a new site within the same multi-site provider.

**Section 204, SCHEDULE OF PAYMENTS BY FAMILIES, is amended as follows:**

**Subsection 204.8 is amended to read as follows:**

204.8 The following schedule of co-payments shall apply to services provided by a child development facility or relative or in-home caregiver providing child care services subsidized by the District of Columbia:

| Sliding Fee Scale FY19 | | | | | | Daily Co-Pay Children in Care | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Annual Income by Family Size | | | | | Full Time | | Part Time | |
| %FPG | 1 | 2 | 3 | 4 | 5 | First | Second | First | Second |
| 0-50% | $6,070 | $8,230 | $10,390 | $12,550 | $14,710 | $ - | $ - | $ - | $ - |
| 51-60% | $7,284 | $9,876 | $12,468 | $15,060 | $17,652 | $ - | $ - | $ - | $ - |
| 61-70% | $8,498 | $11,522 | $14,546 | $17,570 | $20,594 | $ - | $ - | $ - | $ - |
| 71-80% | $9,712 | $13,168 | $16,624 | $20,080 | $23,536 | $ - | $ - | $ - | $ - |
| 81-90% | $10,926 | $14,814 | $18,702 | $22,590 | $26,478 | $ - | $ - | $ - | $ - |
| 91-100% | $12,140 | $16,460 | $20,780 | $25,100 | $29,420 | $ - | $ - | $ - | $ - |
| 101-110% | $13,354 | $18,106 | $22,858 | $27,610 | $32,362 | $ 1.03 | $ 0.37 | $ 0.51 | $ 0.18 |
| 111-120% | $14,568 | $19,752 | $24,936 | $30,120 | $35,304 | $ 1.31 | $ 0.47 | $ 0.65 | $ 0.23 |
| 121-130% | $15,782 | $21,398 | $27,014 | $32,630 | $38,246 | $ 1.62 | $ 0.58 | $ 0.81 | $ 0.29 |
| 131-140% | $16,996 | $23,044 | $29,092 | $35,140 | $41,188 | $ 1.96 | $ 0.70 | $ 0.98 | $ 0.35 |
| 141-150% | $18,210 | $24,690 | $31,170 | $37,650 | $44,130 | $ 2.33 | $ 0.83 | $ 1.17 | $ 0.42 |
| 151-160% | $19,424 | $26,336 | $33,248 | $40,160 | $47,072 | $ 2.74 | $ 0.97 | $ 1.37 | $ 0.49 |
| 161-170% | $20,638 | $27,982 | $35,326 | $42,670 | $50,014 | $ 3.18 | $ 1.13 | $ 1.59 | $ 0.56 |
| 171-180% | $21,852 | $29,628 | $37,404 | $45,180 | $52,956 | $ 3.64 | $ 1.30 | $ 1.82 | $ 0.65 |
| 181-190% | $23,066 | $31,274 | $39,482 | $47,690 | $55,898 | $ 4.14 | $ 1.47 | $ 2.07 | $ 0.74 |
| 191-200% | $24,280 | $32,920 | $41,560 | $50,200 | $58,840 | $ 4.67 | $ 1.66 | $ 2.33 | $ 0.83 |
| 201-210% | $25,494 | $34,566 | $43,638 | $52,710 | $61,782 | $ 5.23 | $ 1.86 | $ 2.61 | $ 0.93 |
| 211-220% | $26,708 | $36,212 | $45,716 | $55,220 | $64,724 | $ 5.82 | $ 2.07 | $ 2.91 | $ 1.04 |
| 221-230% | $27,922 | $37,858 | $47,794 | $57,730 | $67,666 | $ 6.44 | $ 2.29 | $ 3.22 | $ 1.15 |
| 231-240% | $29,136 | $39,504 | $49,872 | $60,240 | $70,608 | $ 7.10 | $ 2.53 | $ 3.55 | $ 1.26 |
| 241-250% | $30,350 | $41,150 | $51,950 | $62,750 | $73,550 | $ 7.78 | $ 2.77 | $ 3.89 | $ 1.38 |
| 251-260% | $31,564 | $42,796 | $54,028 | $65,260 | $76,492 | $ 8.50 | $ 3.02 | $ 4.25 | $ 1.51 |
| 261-270% | $32,778 | $44,442 | $56,106 | $67,770 | $79,434 | $ 9.25 | $ 3.29 | $ 4.62 | $ 1.64 |
| 271-280% | $33,992 | $46,088 | $58,184 | $70,280 | $82,376 | $ 10.02 | $ 3.57 | $ 5.01 | $ 1.78 |
| 281-290% | $35,206 | $47,734 | $60,262 | $72,790 | $85,318 | $ 10.83 | $ 3.85 | $ 5.42 | $ 1.93 |
| 291-300% | $36,420 | $49,380 | $62,340 | $75,300 | $88,260 | $ 11.67 | $ 4.15 | $ 5.84 | $ 2.08 |
| 301-350% | $42,490 | $57,277 | $70,754 | $84,231 | $97,708 | $ 14.16 | $ 5.04 | $ 7.08 | $ 2.52 |
| 351-400% | $43,800 | | | | | $ 16.81 | $ 5.98 | $ 8.40 | $ 2.99 |

| Sliding Fee Scale FY19 | | | | | | Daily Co-Pay Children in Care | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Annual Income by Family Size | | | | | Full Time | | Part Time | |
| %FPG | 6 | 7 | 8 | 9 | 10 | First | Second | First | Second |
| 0-50% | $16,870 | $19,030 | $21,190 | $23,350 | $25,510 | $ - | $ - | $ - | $ - |
| 51-60% | $20,244 | $22,836 | $25,428 | $28,020 | $30,612 | $ - | $ - | $ - | $ - |
| 61-70% | $23,618 | $26,642 | $29,666 | $32,690 | $35,714 | $ - | $ - | $ - | $ - |
| 71-80% | $26,992 | $30,448 | $33,904 | $37,360 | $40,816 | $ - | $ - | $ - | $ - |
| 81-90% | $30,366 | $34,254 | $38,142 | $42,030 | $45,918 | $ - | $ - | $ - | $ - |
| 91-100% | $33,740 | $38,060 | $42,380 | $46,700 | $51,020 | $ - | $ - | $ - | $ - |
| 101-110% | $37,114 | $41,866 | $46,618 | $51,370 | $56,122 | $ 1.03 | $ 0.37 | $ 0.51 | $ 0.18 |
| 111-120% | $40,488 | $45,672 | $50,856 | $56,040 | $61,224 | $ 1.31 | $ 0.47 | $ 0.65 | $ 0.23 |
| 121-130% | $43,862 | $49,478 | $55,094 | $60,710 | $66,326 | $ 1.62 | $ 0.58 | $ 0.81 | $ 0.29 |
| 131-140% | $47,236 | $53,284 | $59,332 | $65,380 | $71,428 | $ 1.96 | $ 0.70 | $ 0.98 | $ 0.35 |
| 141-150% | $50,610 | $57,090 | $63,570 | $70,050 | $76,530 | $ 2.33 | $ 0.83 | $ 1.17 | $ 0.42 |
| 151-160% | $53,984 | $60,896 | $67,808 | $74,720 | $81,632 | $ 2.74 | $ 0.97 | $ 1.37 | $ 0.49 |
| 161-170% | $57,358 | $64,702 | $72,046 | $79,390 | $86,734 | $ 3.18 | $ 1.13 | $ 1.59 | $ 0.56 |
| 171-180% | $60,732 | $68,508 | $76,284 | $84,060 | $91,836 | $ 3.64 | $ 1.30 | $ 1.82 | $ 0.65 |
| 181-190% | $64,106 | $72,314 | $80,522 | $88,730 | $96,938 | $ 4.14 | $ 1.47 | $ 2.07 | $ 0.74 |
| 191-200% | $67,480 | $76,120 | $84,760 | $93,400 | $102,040 | $ 4.67 | $ 1.66 | $ 2.33 | $ 0.83 |
| 201-210% | $70,854 | $79,926 | $88,998 | $98,070 | $107,142 | $ 5.23 | $ 1.86 | $ 2.61 | $ 0.93 |
| 211-220% | $74,228 | $83,732 | $93,236 | $102,740 | $112,244 | $ 5.82 | $ 2.07 | $ 2.91 | $ 1.04 |
| 221-230% | $77,602 | $87,538 | $97,474 | $107,410 | $117,346 | $ 6.44 | $ 2.29 | $ 3.22 | $ 1.15 |
| 231-240% | $80,976 | $91,344 | $101,712 | $112,080 | $121,292 | $ 7.10 | $ 2.53 | $ 3.55 | $ 1.26 |
| 241-250% | $84,350 | $95,150 | $105,950 | $116,750 | | $ 7.78 | $ 2.77 | $ 3.89 | $ 1.38 |
| 251-260% | $87,724 | $98,956 | $110,188 | $118,765 | | $ 8.50 | $ 3.02 | $ 4.25 | $ 1.51 |
| 261-270% | $91,098 | $102,762 | $114,426 | | | $ 9.25 | $ 3.29 | $ 4.62 | $ 1.64 |
| 271-280% | $94,472 | $106,568 | $116,238 | | | $ 10.02 | $ 3.57 | $ 5.01 | $ 1.78 |
| 281-290% | $97,846 | $110,374 | | | | $ 10.83 | $ 3.85 | $ 5.42 | $ 1.93 |
| 291-300% | $101,220 | $113,712 | | | | $ 11.67 | $ 4.15 | $ 5.84 | $ 2.08 |
| 301-350% | $111,185 | | | | | $ 14.16 | $ 5.04 | $ 7.08 | $ 2.52 |

**Section 299, DEFINITIONS, is amended as follows:**

**Subsection 299.1 is amended as follows:**

**The following definitions are amended to read as follows:**

**Child** -- an individual who is less than thirteen (13) years of age, or under nineteen (19) years of age with special needs.

**Temporary change** -- A temporary change shall include any of the following:

(a) Any time limited absence from work for employed parent or guardian due to reasons such as need to care for a family member or an illness;

(b) Any interruption in work for a seasonal worker who is not working between regular industry work seasons;

(c) Any student holiday or break for a parent or guardian participating in training or education;

(d) Any reduction in work, training or education hours to less than twenty hours per week, as long as the parent or guardian is still working or attending training or education;

(e) Any other cessation of work or attendance at a training or education program that does not exceed ninety (90) calendar days;

(f) Any change in age, including turning thirteen (13) years old during the eligibility period; and

(g) Any change in residency within the District of Columbia.

**Vulnerable child** - For the purposes of eligibility:

(a) A child with documented special needs;

(b) A child experiencing homelessness;

(c) A child in foster care;

(d) A child receiving or needing to receive protective services;

(e) A child of a parent with disabilities, either medical, psychological or psychiatric in nature that prevents them from performing a substantial amount of work; or

(f) A child of recipients of vocational rehabilitation services.

## DEPARTMENT OF FOR-HIRE VEHICLES

## NOTICE OF FINAL RULEMAKING

The Interim Director of the Department of For-Hire Vehicles, pursuant to the authority set forth in Sections 8(c)(12), (13), and (19) and 20a(b) of the Department of For-Hire Vehicles Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.07 (c)(12), (13), and (19) and 50-301.20(b) (2014 Repl. & 2018 Supp.)), hereby gives notice of the adoption of amendments to Chapter 11 (Public Vehicles For Hire Consumer Service Fund) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapter 11 to establish a financial assistance program that will allow the Department of For-Hire Vehicles ("Department" or "DFHV") to provide assistance to owners of taxicabs in furtherance of the Department's mandates to encourage the use of alternative-fuel vehicles and wheelchair-accessible vehicles, ensure transportation options are available in and to underserved areas and communities, establish policies that reduce traffic congestion and promote a more livable city, and promote and maintain a healthy and viable taxicab industry.

A Notice of Emergency and Proposed Rulemaking was adopted by the Department on October 2, 2018, took effect immediately, was published in the *D.C. Register* at 65 DCR 11773 (October 19, 2018) and remains in effect for one hundred twenty (120) days (expiring January 30, 2019) unless earlier superseded by an amendment or publication of a final rulemaking in the *D.C. Register*.

The Department received one comment in response to the proposed rulemaking, submitted by the Dupont Circle Advisory Neighborhood Commission 2B on November 21, 2018, after the comment period (which expired on November 18, 2018). The commenter recommended that the Department make changes in the proposed rulemaking to take into account the number of charging stations available to electric taxicabs, and to prevent the financial assistance program established by the rulemaking from being used to support the for-hire activities of private sedan businesses or non-District residents. DFHV did not alter the rulemaking in response to this comment because the rulemaking allows the agency to make programmatic decisions of the type suggested by the commenter. No substantial changes have been made to this final rulemaking from the proposed rulemaking; any changes made are solely to correct errors in grammar, typography, or formatting.

These rules were adopted as final December 10, 2018 and will take effect upon publication of this notice in the *D.C. Register*.

**Chapter 11, PUBLIC VEHICLES FOR HIRE CONSUMER SERVICE FUND, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**

**Section 1102, PUBLIC VEHICLE FOR HIRE CONSUMER SERVICE FUND USES, is amended as follows:**

**A new Subsection 1102.4 is added to read as follows:**

1102.4 The Department hereby establishes a financial assistance program to provide grants and procure goods and services for the purpose of meeting the mandates of the Act, including incentivizing the purchase and use of alternative-fuel vehicles, offsetting the cost of acquiring, maintaining and operating wheelchair-accessible vehicles, providing fare discounts for low-income senior citizens and persons with disabilities, incentivizing licensed taxicabs to serve underserved areas and communities, and offsetting cost associated with meeting these and other mandates of the Act. All program contracts will be awarded in accordance with the Procurement Practices Reform Act of 2010, D.C. Official Code §§ 2-201.01 *et seq*., and its implementing regulations, and all program grants will be awarded in accordance with the Grant Administration Act of 2013, D.C. Official Code §§ 1-328.11 *et seq*. and its implementing regulations.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**

**NOTICE OF FINAL RULEMAKING**

**RM-40-2017-01, IN THE MATTER OF 15 DCMR CHAPTER 40 — DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES**

**and**

**FORMAL CASE NO. 1050, IN THE MATTER OF THE INVESTIGATION OF IMPLEMENTATION OF INTERCONNECTION STANDARDS IN THE DISTRICT OF COLUMBIA**

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under D.C. Official Code §§ 34-301, 34-302, 34-802, and 34-1516 and in accordance with D.C. Official Code § 2-505,[1] hereby gives notice of its intent to amend Chapter 40 (District of Columbia Small Generator Interconnection Rules) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations ("DCMR"). The changes presented in this Notice of Final Rulemaking (NOFR) shall become effective upon publication in the *D.C. Register*.

2. On September 21, 2018, the Commission issued the Third NOPR in this matter.[2] The First NOPR was published on February 17, 2017, and the Second NOPR was published on October 6, 2017.[3] The proposed amendments in the Third NOPR to Section 4000 addressed: (a) the enactment of the Renewable Portfolio Standard Expansion Amendment Act of 2016,[4] which increases the size of solar facilities qualified for solar renewable energy credits in D.C.; (b) the need for adding a deadline for the Authorization to Operate as discussed in the merger commitments; (c) the evolution of best practice of interconnection of small generators over time; and (d) amendments to Institute of Electrical and Electronics Engineers ("IEEE") 1547 and the rapidly evolving nature of interconnection rules. Additionally, the proposed amendments contained several areas of significant changes, including, but not limited to the following: (1) integration of a Pre-Application report that helps developers identify more accommodating sites for installation; (2) updating several parts of the interconnection criteria; incorporating a Supplemental Review Process; (3) adding an Applicant Options Meeting prior to consideration as a Level 4 application; and (4) updating the capacity size limit and other criteria for each level of review. Also, the proposed amendments introduced compressed timelines in a number of

[1] D.C. Official Code §§ 34-301 and 302 (2012 Repl.); D.C. Official Code § 34-1516 (2012 Repl.); D.C. Official Code § 2-505 (a) (2016 Repl.) and D.C. Official Code § 34-802 (2012 Repl.).

[2] 65 DCR 9763-9834 (September 21, 2018).

[3] 64 DCR 1753-1817 (February 17, 2017); 64 DCR 9930-9993 (October 6, 2017).

[4] Renewable Portfolio Standard Expansion Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-154; 63 DCR 10138 (August 5, 2016)).

areas of the interconnection process and have incorporated a deadline for the Authorization to Operate timeline.

3. Comments were received on the Third NOPR between October 22, 2018 and November 6, 2018. In response to the comments filed, the Commission made non-substantive changes in this final rulemaking clarifying application of the rules and correcting language and/or grammatical errors. As none of the changes were substantive in nature, the Commission issued Order No. 19795 on January 9, 2019, adopting the attached rules becoming effective upon publication of this NOFR in the *D.C. Register*.

**Chapter 40, DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended to read as follows:**

## CHAPTER 40 DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES

**Section**

**4000** **Purpose and Applicability**
**4001** **Interconnection Requests, Fees, and Forms**
**4002** **Applicable Standards**
**4003** **Interconnection Review Levels**
**4004** **Level 1 Interconnection Reviews**
**4005** **Level 2 Interconnection Reviews**
**4006** **Level 3 Interconnection Reviews**
**4007** **Level 4 Interconnection Reviews**
**4008** **Technical Requirements**
**4009** **Disputes**
**4010** **Waiver**
**4011** **Supplemental Review**
**4012** **Applicant Options Meeting**
**4013-4098** **[RESERVED]**
**4099** **Definitions**

### 4000 PURPOSE AND APPLICABILITY

4000.1 This chapter establishes the District of Columbia Small Generator Interconnection Rules ("DSGIR") which apply to facilities satisfying the following criteria:

(a) The total Nameplate Capacity of the Small Generator Facility is equal to or less than twenty (20) megawatts ("MW").

(b) The Small Generator Facility is not subject to the interconnection requirements of PJM Interconnection.

(c) The Small Generator Facility is designed to operate in parallel with the Electric Distribution System.

**4001 INTERCONNECTION REQUESTS, FEES, AND FORMS**

4001.1 Interconnection customers seeking to interconnect a Small Generator Facility shall submit an Interconnection Request using a standard form approved by the Commission to the Electric Distribution Company ("EDC") that owns the Electric Distribution System to which interconnection is sought. The EDC shall establish processes for accepting Interconnection Requests electronically.

4001.2 The Commission shall determine the appropriate interconnection fees, and the fees shall be posted on the EDC's website and listed in the EDC's tariffs. There shall be no application fee for submitting Level 1 Interconnection Request.

4001.3 In circumstances where standard forms and agreements are used as part of the interconnection process defined in this document, electronic versions of those forms shall be approved by the Commission and posted on the EDC's website. The EDC's Interconnection Request forms shall be provided in a format that allows for electronic entry of data.

4001.4 The EDC shall allow Interconnection Request to be submitted through the EDC's website. The EDC shall allow electronic signatures to be used for Interconnection Request.

4001.5 In accordance with Subsection 4003.2 herein, Interconnection Customers may request an optional Pre-Application Report from the EDC to get information about the Electric Distribution System conditions at their proposed Point of Common Coupling without submitting a completed Interconnection Request form.

**4002 APPLICABLE STANDARDS**

4002.1 Unless waived by the EDC, a Small Generator Facility must comply with the following standards, as applicable:

(a) Institute of Electrical and Electronics Engineers ("IEEE") Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems for Generating Facilities up to 20 MW in size;

(b) IEEE 1547.1 Standard for Conformance Test Procedures for Equipment Interconnecting Distributed Energy Resources with Electric Power Systems;

(c) Underwriters Laboratories ("UL") 6142 Standard for Small Wind Turbine Systems; and

(d) UL 1741 Standard for Inverters, Converters and Controllers for Use in Independent Power Systems. UL 1741 compliance must be recognized or Certified by a Nationally Recognized Testing Laboratory as designated by the U.S. Occupational Safety and Health Administration. Certification of a particular model or a specific piece of equipment is sufficient. It is also sufficient for an inverter built into a Generating Facility to be recognized as being UL 1741 compliant by a Nationally Recognized Testing Laboratory.

**4002.2-4002.4 [RESERVED]**

4002.5 The Interconnection Equipment shall meet the requirements of the most current approved version of each document listed in Subsection 4002.1, as amended and supplemented at the time the Interconnection Request is submitted.

4002.6 Nothing herein shall preclude the need for an on-site Witness Test or operational test by the Interconnection Customer.

**4003 INTERCONNECTION REVIEW LEVELS**

4003.1 The EDC shall review Interconnection Requests using one (1) or more of the four (4) levels of review procedures established by this chapter. The EDC shall first use the level of agreement specified by the Interconnection Customer in the Interconnection Request form. If a Small Generator Facility fails a screen at any level, the EDC may elect to complete the evaluation at the current level, if safety and reliability are not adversely impacted, or at the next appropriate level. The EDC may not impose additional requirements not specifically authorized unless the EDC and the Interconnection Customer mutually agree to do so in writing.

4003.2 If an Interconnection Customer requests a Pre-Application Report from the EDC, the request shall include:

(a) Contact information (name, address, phone and email).

(b) A proposed Point of Common Coupling, including latitude and longitude, site map, street address, utility equipment number (*e.g.*, pole number), meter number, account number or some combination of the above sufficient to clearly identify the location of the Point of Common Coupling.

(c) Generation technology and fuel source (if applicable).

(d) A three hundred dollar ($300) non-refundable processing fee.

4003.3 For each Pre-Application Report requested, which includes the requisite information and fee, the EDC shall furnish a report, within ten (10) business days of receipt of the completed Pre-Application Report request, which:

(a) Advises the Interconnection Customer that the existence of "Available Capacity" in no way implies that an interconnection up to this level may be completed without impacts since there are many variables studied as part of the interconnection review procedures.

(b) Informs the Interconnection Customer that the Electric Distribution System is dynamic and subject to change.

(c) Informs the Interconnection Customer that data provided in the Pre-Application Report may become outdated and not useful at the time of submission of the complete Interconnection Request.

(d) Includes the following information, if available:

(1) Total Capacity (MW) of substation/area bus or bank and distribution circuit likely to serve proposed Point of Common Coupling.

(2) Allocated Capacity (MW) of substation/area bus or bank and distribution circuit likely to serve proposed Point of Common Coupling.

(3) Queued Capacity (MW) of substation/area bus or bank and distribution circuit likely to serve proposed Point of Common Coupling.

(4) Available Capacity (MW) of substation/area bus or bank and distribution circuit most likely to serve proposed Point of Common Coupling.

(5) Whether the proposed Small Generator Facility is located on an area, spot or radial network.

(6) Substation nominal distribution voltage or transmission nominal voltage if applicable.

(7) Nominal distribution circuit voltage at the proposed Point of Common Coupling.

(8) Approximate distribution circuit distance between the proposed Point of Common Coupling and the substation.

(9) Relevant Line Section(s) peak load estimate, and minimum load data, when available.

(10) Number of protective devices and number of voltage regulating devices between the proposed Point of Common Coupling and the substation/area.

(11) Whether or not three-phase power is available at the proposed Point of Common Coupling and/or distance from three-phase service.

(12) Limiting conductor rating from proposed Point of Common Coupling to the electrical distribution substation.

(13) Based on proposed Point of Common Coupling, existing or known constraints such as, but not limited to, electrical dependencies at that location, short circuit interrupting capacity issues, power quality or stability issues on the circuit, capacity constraints, or secondary networks.

(14) The Pre-Application Report need only include pre-existing data. The EDC is not obligated in its preparation of a Pre-Application Report to conduct a study or other analysis of the proposed project in the event that data is not available. If the EDC cannot complete all or some of a Pre-Application Report due to lack of available data, the EDC will provide the potential Applicant with a Pre-Application Report that includes the information that is available and identify the information that is unavailable. Notwithstanding any of the provisions of this Section, the EDC shall, in good faith, provide Pre-Application Report data that represents the best available information at the time of reporting.

(e) As an alternative to information required pursuant to § 4003.3(d), the EDC may elect to perform a power flow-based study providing the Interconnection Customer with the maximum size DER that can be installed at a specified location without Distribution System Upgrades and the constraint encountered precluding installation of a larger system without upgrades. EDC shall make available, upon request, a copy of its power flow-based study for each Interconnection Customer to the Commission.

**4004 LEVEL 1 INTERCONNECTION REVIEWS**

4004.1 For Level 1 Interconnection Review, the EDC shall use Level 1 procedures for evaluation of all Interconnection Requests to connect inverter-based small generation facilities.

4004.2 For Level 1 Adverse System Impact screens, the EDC shall evaluate the potential for Adverse System Impacts using the following screens, which must be satisfied:

(a) The Small Generator Facility has a Nameplate Capacity of twenty (20) kW or less.

(b) For interconnection of a proposed Small Generator Facility to a Line Section on a Radial Distribution Circuit, the aggregated generation on the Line Section, including the proposed Small Generator Facility and all other generator facilities capable of coincidental export of energy on the Line Section, shall not exceed the anticipated minimum load on the Line Section, as determined by the results of a power flow-based study performed by the EDC to evaluate the impact of the proposed Small Generator Facility. If such results are unavailable, the aforementioned aggregate generating capacity shall not exceed fifteen percent (15%) of the Line Section's annual peak load as most recently measured at the substation or calculated for the Line Section. Should the EDC have previously identified the aforementioned Line Section as exceeding fifteen percent of the Line Section's annual peak load, the EDC shall use its best efforts to complete a power-flow based study to evaluate the impact of the proposed Small Generator Facility as described herein. The EDC shall not fail the Small Generator Facility based solely on the application of the 15 percent peak load limitation if the EDC has valid power flow-based study results that can be used to evaluate the impact of the proposed Small Generator Facility.

(c) When a proposed Small Generator Facility is to be interconnected on a single-phase shared Secondary Line, the aggregate generation capacity on the shared Secondary Line, including the proposed Small Generator Facility, may not exceed twenty (20) kW.

(d) When a proposed Small Generator Facility is single-phase and is to be interconnected on a transformer center tap neutral of a two hundred forty (240) volt service, its addition may not create an imbalance between the two sides of the 240 volt service of more than twenty percent (20%) of the nameplate rating of the service transformer.

(e) For interconnection of a Small Generator Facility within a Spot Network or Area Network, the aggregate generating capacity including the Small Generator Facility may exceed fifty percent (50%) of the network's anticipated minimum load if the EDC determines that safety and reliability are not adversely impacted. If solar energy small generator facilities are used, only the anticipated daytime minimum load shall be considered. The EDC may select any of the following methods to determine anticipated minimum load:

(1) The network's measured minimum load in the previous year, if available;

(2) Five percent (5%) of the network's maximum load in the previous year;

(3) The Interconnection Customer's good faith estimate, if provided; or

(4) The EDC's good faith estimate, if provided in writing to the Interconnection Customer, along with the reasons why the EDC considered the other methods to estimate minimum load inadequate.

(f) Construction of facilities by the EDC on its own system is not required in order to accommodate the Small Generator Facility.

(g) The EDC may use results from a valid power flow-based study performed to evaluate the impact of the proposed Small Generator Facility, provided such results are not used to fail any of the Subsection § 4004.2 (c), (d), or (e) screens. EDC shall make available upon request a copy of its power flow-based study for each applicant to the Commission.

(h) If a Small Generator Facility fails a Level 1 Adverse System Impact screen, the EDC may elect to complete the evaluation at Level 1, if safety and reliability are not adversely impacted, or at the next appropriate level.

4004.3 The Level 1 Interconnection Review shall be conducted in accordance with the following procedures:

(a) The EDC shall, within five (5) business days after receipt of Part 1 of the Interconnection Request, notify the Interconnection Customer in writing or by electronic mail of the review results, which shall indicate that the Interconnection Request is complete or incomplete, and what materials, if any, are missing.

(b) When an Interconnection Request is complete, the EDC shall assign the request a Queue Position.

(c) Within five (5) business days after the EDC acknowledges receipt of a complete Interconnection Request, the EDC shall notify the Interconnection Customer of the Level 1 Adverse System Impact screening results. If the proposed interconnection meets all of the applicable Level 1 Adverse System Impact screens or the EDC determines that the Small Generator Facility can be interconnected safely and reliably to its system, the EDC shall provide the Interconnection Customer with an Approval to Install.

(d) Unless extended by mutual agreement of the Interconnection Customer and the EDC, within six (6) months of receiving an Approval to Install or six (6) months from the completion of any upgrades, whichever is later, the Interconnection Customer shall provide the EDC a completed Level 1 PART II - Small Generator Facility Interconnection Certificate of Completion Form, including the signed inspection certificate.

(e) The EDC may, within ten (10) business days of receiving a completed Level 1 PART II – Small Generator Facility Interconnection Certificate of Completion Form and the inspection certificate from the Interconnection Customer, conduct a Witness Test at a time mutually agreeable to the parties. If the Witness Test fails to reveal that all equipment has been appropriately installed and that all electrical connections have been made in accordance with applicable codes, the EDC shall offer to redo the Witness Test at the Interconnection Customer's expense at a time mutually agreeable to the parties. If the EDC determines that the Small Generator Facility fails the inspection it must provide a written explanation detailing the reasons and any standards violated. If the EDC does not perform the Witness Test within ten (10) business days or other time as is mutually agreed to by the parties, the Witness Test is deemed waived.

(f) The EDC shall provide the Interconnection Customer with the Authorization to Operate within twenty (20) business days of receiving a completed Level 1 PART II - Small Generator Facility Interconnection Certificate of Completion Form, including the signed inspection certificate. An Interconnection Customer may begin interconnected operation of a Small Generator Facility provided that there is an Interconnection Agreement in effect, the EDC has received proof of the electrical code official's approval, the Small Generator Facility has passed any Witness Test by the EDC, and the EDC has issued the Authorization to Operate

(g) The EDC may require photographs of the site, Small Generator Facility components, meters or any other aspect of the Interconnection Facilities as part of the Level 1 Interconnection Review process, provided that failure to provide a photo in a timely manner will not be a reason for the EDC to deem an Interconnection Request incomplete.

4004.4 Modifications to proposed Level 1 interconnections shall be treated in the following manner:

(a) If the proposed interconnection requires only the addition of Interconnection Facilities to the Electric Distribution System, a non-binding good faith cost estimate and construction schedule for such upgrades, along with an Approval to Install, shall be provided within

fifteen (15) business days after notification of the Level 1 Interconnection Review results.

(b) If the Interconnection Request requires more than the addition of Interconnection Facilities to the Electric Distribution System, the EDC may elect to either provide a non-binding good faith cost estimate and construction schedule for such upgrades within thirty (30) business days after notification of the Level 1 Interconnection Review results, or the EDC may notify the Interconnection Customer that the EDC will need to complete a Facilities Study under Subsection 4007.2, paragraphs (d)(3)(B), (C), (D) and (E) to determine the necessary Distribution System Upgrades.

4004.5 **[RESERVED]**

4004.6 The EDC, at its sole option, may approve the interconnection provided that such approval is consistent with safety and reliability. If the EDC cannot determine that the Small Generator Facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards, the EDC shall provide the Interconnection Customer with detailed information on the reason(s) for failure in writing. In addition, the EDC shall either:

(a) Notify Interconnection Customer that the EDC is continuing to evaluate the small generating facility under Supplemental Review if the EDC concludes that the Supplemental Review might determine that the Small Generator Facility could continue to qualify for interconnection pursuant to Level 2; or

(b) Offer to continue evaluating the Interconnection Request under Level 4.

4004.7 If, on an annual basis, the EDC fails to issue at least ninety percent (90%) of All Authorizations to Operate in the Level 1 interconnection process within the twenty (20) business days as required in § 4004.3(f), it shall be required to develop a corrective action plan.

4004.8 The corrective action plan shall describe the cause(s) of the EDC's non-compliance with Subsection 4004.7, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).

4004.9 Progress on current corrective action plans shall be included in the electric distribution utility's Small Generator Interconnection Annual Report.

4004.10 The EDC shall report the actual performance of compliance with 15 DCMR § 4004.7 during the reporting period in the Small Generator Interconnection Annual Report of the following year.

## 4005 LEVEL 2 INTERCONNECTION REVIEWS

4005.1 For a Level 2 Interconnect Review, the EDC shall use the Level 2 procedures for an Interconnection Request.

4005.2 For Level 2 Adverse System Impact screens, the EDC shall evaluate the potential or Adverse System Impacts using the following screens, which must be satisfied:

(a) The Small Generator Facility Nameplate Capacity rating does not exceed the limits identified in the table below, which vary according to the voltage of the line at the proposed Point of Common Coupling. Small Generator Facilities located within two and a half (2.5) miles of a substation and on a main distribution line with minimum six hundred (600)-amp capacity are eligible for Level 2 Interconnection Review under higher thresholds.

| **Line Capacity** | **Level 2 Eligibility** | |
|---|---|---|
| | **Regardless of location** | **On ≥ 600 amp line and ≤ 2.5 miles from substation** |
| ≤ 4 kV | < 1 MW | < 2 MW |
| 4.1 kV – 14 kV | < 2 MW | < 3 MW |
| 15 kV – 30 kV | < 3 MW | < 4 MW |
| 31 kV – 60 kV | ≤ 4 MW | ≤ 5 MW |

(b) For interconnection of a proposed Small Generator Facility to a Radial Distribution Circuit, the Small Generator Facility aggregated with all other generation capable of coincidental exporting energy on the Line Section may not exceed the anticipated minimum load on the Line Section, as determined by the results of a power flow-based study performed by the EDC to evaluate the impact of the proposed Small Generator Facility. If such results are unavailable, the aforementioned aggregate generating capacity shall not exceed fifteen percent (15%) of the Line Section annual peak load, as most recently measured at the substation or calculated for the Line Section. Should the EDC have previously identified the aforementioned Line Section as exceeding fifteen percent of the Line Section's annual peak load, the EDC shall use its best efforts to complete a power-flow based study to evaluate the impact of the proposed Small Generator Facility as described herein. The EDC shall not fail the Small Generator Facility based solely on the application of the 15 percent peak load limitation if the EDC has valid power flow-based study results that can be used to evaluate the impact of the proposed Small Generator Facility.

(c) For interconnection of a proposed Small Generator Facility within a Spot or Area Network, the proposed Small Generator Facility shall utilize an inverter-based equipment package and use a minimum import relay or other protective scheme that will ensure power imported from the EDC to the network will, during normal EDC operations, remain above twenty percent (20%) of the minimum load on the network transformer based on historical data, or will remain above an import point reasonably set by the EDC in good faith. For interconnection of a proposed small generation facility within an Area Network, the proposed Small Generator Facility shall utilize an inverter-based equipment package and adhere to a maximum aggregate export level of eighty percent (80%) of the generation level that would cause reverse flow on a network transformer, or will remain below an export point reasonably set by the EDC in good faith. At the EDC's discretion, the requirement for minimum import relays or other protective schemes may be waived.

(d) The proposed Small Generator Facility, in aggregation with other generation on the distribution circuit, may not contribute more than ten percent (10%) to the distribution circuit's maximum Fault Current at the point on the high voltage (primary) level nearest the Point of Common Coupling.

(e) The proposed Small Generator Facility, in aggregate with other generation on the distribution circuit, may not cause any distribution protective devices and equipment (including substation breakers, fuse cutouts, and line reclosers), or EDC customer equipment on the Electric Distribution System, to exceed ninety percent (90%) of the short circuit interrupting capability. The Interconnection Request may not receive approval for interconnection on a circuit that already exceeds 90% of the short circuit interrupting capability.

(f) The proposed Small Generator Facility's Point of Common Coupling may not be on a transmission line.

(g) The Small Generator Facility complies with the applicable type of interconnection, based on the table below. This screen includes a review of the type of electrical service provided to the Interconnecting Customer, including line configuration and the transformer connection to limit the potential for creating over-voltages on the EDC's Electric Distribution System due to a loss of ground during the operating time of any anti-islanding function. This screen does not apply to small generator facilities with a gross rating of 11 kVA or less.

| **Primary Distribution Line Configuration** | **Type of Interconnection to be Made to the Primary Circuit** | **Results/Criteria** |
|---|---|---|
| Three-phase, three-wire | Any type | Pass Screen |
| Three-phase, four-wire | Single-phase, line-to-neutral | Pass Screen |
| Three-phase, four-wire (For any line that has such a section, or mixed three wire and four wire) | All Others | To pass, aggregate Small Generator Facility Nameplate Capacity must be less than or equal to 10% of Line Section peak load |

(h) When the proposed Small Generator Facility is to be interconnected on single-phase shared Secondary Line, the aggregate generation capacity on the shared Secondary Line, including the proposed Small Generator Facility, shall not exceed sixty-five percent (65%) of the transformer nameplate power rating.

(i) When a proposed Small Generator Facility is single-phase and is to be interconnected on a transformer center tap neutral of a 240 volt service, its addition may not create an imbalance between the two sides of the 240-volt service of more than twenty percent (20%) of the nameplate rating of the service transformer.

(j) A Small Generator Facility, in aggregate with other generation interconnected to the distribution low-voltage side of a substation transformer feeding the electric distribution circuit where the Small Generator Facility proposes to interconnect, may not exceed 20MW in an area where there are known or posted transient stability limitations to generating units located in the general electrical vicinity (*e.g*. three or four transmission voltage level buses from the Point of Common Coupling), or the proposed Small Generator Facility shall not have interdependencies, known to the EDC, with earlier-queued Interconnection Requests.

(k) Except as permitted by an additional review in Level 2 procedures, Subsection 4005.7, no construction of facilities by the EDC on its own system shall be required to accommodate the Small Generator Facility.

(l) The EDC may use results from a valid power flow-based study performed to evaluate the impact of the proposed Small Generator Facility, provided

such results are not used to fail any of the Subsection § 4005.2 (c), (d), (e), (f), (g), (h), (i), or (j) screens.

(m) If a power-flow analysis is performed based on 4005.2 (b) or (l), the EDC shall make available upon request a copy of its power flow-based study for each applicant to the Commission.

**4005.3 [RESERVED]**

4005.4 The Level 2 Interconnection Review shall be conducted in accordance with the following procedures:

(a) The EDC shall, within five (5) business days after receipt of Part 1 of the Interconnection Request, acknowledge, in writing or by electronic mail, receipt of the Interconnection Request, indicating whether it is complete or incomplete, and the appropriate application fee.

(b) When the Interconnection Request is deemed incomplete, the EDC shall provide a written list detailing all information that must be provided to complete the request. The Interconnection Customer shall have ten (10) business days after receipt of the list to revise the Interconnection Request to include the requested information and resubmit the Interconnection Request or request an extension of time to provide such information. If the Interconnection Request is not resubmitted with the requested information within ten (10) days, the Interconnection Request shall be deemed withdrawn. The EDC shall notify the Interconnection Customer within three (3) business days of receipt of a revised Interconnection Request whether the request is complete or incomplete. The EDC may deem the request withdrawn if it remains incomplete.

(c) When an Interconnection Request is complete, the EDC shall assign a Queue Position. The Queue Position of an Interconnection Request shall be used to determine the cost responsibility necessary for the Small Generator Facilities to accommodate the interconnection. The EDC shall notify the Interconnection Customer about other higher-queued Interconnection Customer Requests that have the potential to impact the cost responsibility.

(d) Within fifteen (15) business days after the EDC notifies the Interconnection Customer that it has received a completed Interconnection Request, the EDC shall evaluate the Interconnection Request using the Level 2 screening criteria and notify the Interconnection Customer whether the Small Generator Facility meets all of the applicable Level 2 Adverse System Impact screens. If the proposed interconnection meets all of the applicable Level 2 Adverse System Impact screens and the EDC determines that the Small Generator Facility can be interconnected safely

and reliably to the Electric Distribution System, the EDC shall provide the Interconnection Customer an Approval to Install. If the Interconnection Request requires no construction of facilities by the EDC on its own system, including any metering or commercial devices, the EDC shall provide an EDC-executed Interconnection Agreement within three (3) business days after notification of Level 2 Interconnection Review results.

(e) Unless extended by mutual agreement of the Interconnection Customer and the EDC, within twenty-four (24) months of receiving an Approval to Install or six (6) months of completion of any Electric Distribution System Upgrades, whichever is later, the Interconnection Customer shall provide the EDC with the signed Level 2-4 Part II – Small Generator Interconnection Certificate of Completion, including the signed inspection certificate. An Interconnection Customer shall communicate with the EDC no less frequently than every six (6) months regarding the status of a proposed Small Generator Facility to which an Interconnection Agreement refers.

(f) The EDC may conduct a Witness Test within ten (10) business days of receiving the completed Level 2-4 Part II – Small Generator Facility Interconnection Certificate of Completion and the signed inspection certificate from the Interconnection Customer, conduct a Witness Test at a time mutually agreeable to the parties. If the Witness Test fails to reveal that all equipment has been appropriately installed and that all electrical connections have been made in accordance with applicable codes, the EDC shall offer to redo the Witness Test at the Interconnection Customer’s expense at a time mutually agreeable to the parties. If the EDC determines that the Small Generator Facility fails the inspection it must provide a written explanation detailing the reasons and any standards violated. If the EDC does not perform the Witness Test within ten (10) business days or other such time as is mutually agreed to by the parties, the Witness Test is deemed waived.

(g) An Interconnection Customer may begin interconnected operation of a Small Generator Facility provided that there is an Interconnection Agreement in effect, the EDC has received proof of the electrical code official’s approval, the Small Generator Facility has passed any Witness Test by the EDC, and the EDC has issued the Authorization to Operate. Evidence of approval by an electric code official includes a signed inspection certificate.

(h) The EDC may require photographs of the site, Small Generator Facility components, meters or any other aspect of the Interconnection Facilities as part of the Level 2 Interconnection Review process, provided that failure to provide a photo in a timely manner will not be a reason for the EDC to deem an Interconnection Request incomplete.

**4005.5 [RESERVED]**

4005.6 Modifications to the Electric Distribution System that are required to interconnect a Small Generation Facility under a Level 2 Interconnection Request shall be treated in the following manner:

(a) If the Interconnection Request requires only the addition of Interconnection Facilities to the Electric Distribution System, a non-binding good faith cost estimate and construction schedule for such upgrades, along with an Approval to Install, shall be provided within fifteen (15) business days after notification of the Level 2 Interconnection Review results.

(b) If the Interconnection Request requires more than the addition of Interconnection Facilities to the Electric Distribution System, the EDC may elect to either provide a non-binding good faith cost estimate and construction schedule for such upgrades within thirty (30) business days after notification of the Level 2 Interconnection Review results, or the EDC may notify the Interconnection Customer that the EDC will need to complete a Facilities Study under Subsection 4007.2, paragraphs (d)(3)(B), (C), (D) and (E) to determine the necessary Distribution System Upgrades and complete the construction.

4005.7 When a Small Generator Facility is not approved under a Level 2 review, the EDC, at its sole option, may approve the Interconnection Request provided such approval is consistent with safety and reliability and shall provide the Interconnection Customer an Approval to Install after the determination. If the EDC cannot determine that the Small Generator Facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards, the EDC shall provide the Interconnection Customer with detailed information on the reason(s) for failure in writing. In addition, the EDC shall either:

(a) Notify Interconnection Customer that the EDC is continuing to evaluate the Interconnection Request under Supplemental Review if the EDC concludes that the Supplemental Review might determine that the Small Generator Facility could continue to qualify for interconnection pursuant to Level 2; or

(b) Offer to continue evaluating the Interconnection Request under Level 4.

**4006 LEVEL 3 INTERCONNECTION REVIEWS**

4006.1 The EDC shall use Level 2 Interconnection Review procedures for evaluating Level 3 Interconnection Requests provided the proposed Small Generator Facility has a Nameplate Capacity rating not greater than 20MW and uses reverse power relays, minimum import relays or other protective devices to assure that power may never be exported from the Small Generator Facility to the EDC's electrical

distribution system. An Interconnection Customer proposing to interconnection a Small Generator Facility to a spot or Area Network is not permitted under the Level 3 review process.

**4006.2-4006.8 [RESERVED]**

**4007 LEVEL 4 INTERCONNECTION REVIEWS**

4007.1 The EDC shall use the Level 4 Interconnection Review procedures for evaluating Interconnection Requests when:

(a) The Interconnection Request was not approved under a Level 1, Level 2, or Level 3 Interconnection Review and the Interconnection Customer has submitted a new Interconnection Request for consideration under a Level 4 Interconnection Review or requested that an existing Interconnection Request already in the EDC's possession be treated as a Level 4 Interconnection Request; and

(b) The Interconnection Request does not meet the criteria for qualifying for a review under Level 1, Level 2 or Level 3 Interconnection Review procedures.

4007.2 The Level 4 Interconnection Review shall be conducted in accordance with the following process:

(a) Within five (5) business days from receipt of Part I of an Interconnection Request or transfer of an existing request to a Level 4 Interconnection Request, the EDC shall notify the Interconnection Customer whether or not the request is complete. When the Interconnection Request is deemed not complete, the EDC shall provide the Interconnection Customer with a written list detailing information required to complete the Interconnection Request. The Interconnection Customer shall have twenty (20) business days to revise the Interconnection Request to include the requested information and resubmit the Interconnection Request, or the Interconnection Request shall be considered withdrawn. The parties may agree to extend the time for receipt of the revised Interconnection Request. The EDC shall notify the Interconnection Customer within five (5) business days of receipt of the revised Interconnection Request whether or not the Interconnection Request is complete. The EDC may deem the Interconnection Request withdrawn if it remains incomplete.

(b) When an Interconnection Request is complete, the EDC shall assign a Queue Position. The Queue Position of an Interconnection Request shall be used to determine the cost responsibility necessary for the facilities to accommodate the interconnection. The EDC shall notify the

Interconnection Customer about other higher-queued Interconnection Customers that have the potential to impact the cost responsibility.

(c) The following procedures shall be followed in performing a Level 4 Interconnection Review:

(1) By mutual agreement of the parties, the Scoping Meeting, interconnection feasibility study, interconnection impact study, or Facilities Study provided for in a Level 4 Interconnection Review and discussed in this paragraph may be waived;

(2) If agreed to by the parties, a Scoping Meeting shall be held within ten (10) business days, or other mutually agreed to time, after the EDC has notified the Interconnection Customer that the Interconnection Request is deemed complete, or the Interconnection Customer has requested that its Interconnection Request proceed after failing the requirements of a Level 2 Interconnection Review or Level 3 review. The Scoping Meeting shall take place in person, by telephone, or electronically by a means mutually agreeable to the parties. The purpose of the Scoping Meeting shall be to review the Interconnection Request; existing studies relevant to the Interconnection Request; the conditions at the proposed location including the available Fault Current at the proposed location, the existing peak loading on the lines in the general vicinity of the proposed Small Generator Facility, and the configuration of the distribution line at the proposed Point of Common Coupling; and the results of the Level 1, Level 2 or Level 3 Adverse System Impact screening criteria;

(3) When the parties agree at a Scoping Meeting that an interconnection feasibility study shall be performed, and if the parties do not waive the interconnection impact study, the EDC shall provide to the Interconnection Customer, no later than five (5) business days after the Scoping Meeting, an Interconnection System Feasibility Study Agreement, including an outline of the scope of the study and a nonbinding good faith estimate of the cost and time to perform the study;

(4) When the parties agree at a Scoping Meeting that an interconnection feasibility study is not required, and if the parties agree that an interconnection system impact study shall be performed, the EDC shall provide to the Interconnection Customer, no later than five (5) business days after the Scoping Meeting, an Interconnection System Impact Study Agreement, including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study; and

(5) When the parties agree at the Scoping Meeting that an interconnection feasibility study and interconnection system impact study are not required, the EDC shall provide to the Interconnection Customer, no later than five (5) business days after the Scoping Meeting, an Interconnection Facilities Study Agreement including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study.

(6) The EDC may elect to perform one or more of these studies concurrently.

(d) Any required Adverse System Impact studies shall be carried out using the following guidelines:

(1) An interconnection feasibility study shall include the following analyses and conditions for the purpose of identifying and addressing potential Adverse System Impacts to the EDC's Electric Distribution System that would result from the interconnection:

(A) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

(B) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;

(C) Initial review of grounding requirements and system protection;

(D) Description and nonbinding estimated cost of facilities required to interconnect the Small Generator Facility to the EDC's Electric Distribution System in a safe and reliable manner; and

(E) Additional evaluations, at the expense of the Interconnection Customer, when an Interconnection Customer requests that the interconnection feasibility study evaluate multiple potential Points of Common Coupling.

(2) An interconnection system impact study shall evaluate the impacts of the proposed interconnection on both the safety and reliability of the EDC's Electric Distribution System. The study shall identify and detail the Adverse System Impacts that result when a Small Generator Facility is interconnected without project or system modifications, focusing on the Adverse System Impacts identified

in the interconnection feasibility study or potential impacts including those identified in the Scoping Meeting. The interconnection system impact study shall consider all generating facilities that, on the date the interconnection system impact study is commenced, are directly interconnected with the EDC's Electric Distribution System, have a pending higher Queue Position to interconnect to the system, or have a signed Interconnection Agreement.

(A) A distribution interconnection system impact study shall be performed when a potential Electric Distribution System Adverse System Impact is identified in the interconnection feasibility study. The EDC shall send the Interconnection Customer an Interconnection System Impact Study Agreement within five (5) business days of transmittal of the interconnection feasibility study report. The agreement shall include an outline of the scope of the study and a good faith estimate of the cost to perform the study. The impact study shall include:

(i) A load flow study;
(ii) Identification of Affected Systems;
(iii) An analysis of equipment interrupting ratings;
(iv) A protection coordination study;
(v) Voltage drop and flicker studies;
(vi) Protection and set point coordination studies;
(vii) Grounding reviews; and
(viii) Impact on system operation.

(B) An interconnection system impact study shall consider the following criteria:

(i) A short circuit analysis;
(ii) A stability analysis;
(iii) Alternatives for mitigating Adverse System Impacts on Affected Systems;
(iv) Voltage drop and flicker studies;
(v) Protection and set point coordination studies; and
(vi) Grounding reviews.

(C) The final interconnection system impact study shall provide the following:

(i) The underlying assumptions of the study;
(ii) The results of the analyses;

(iii) A list of any potential impediments to providing the requested interconnection service;

(iv) Required distribution upgrades; and

(v) A nonbinding good faith estimate of cost and time to construct any required distribution upgrades.

(D) The parties shall use an Interconnection System Impact Study Agreement approved by the Commission.

(3) The Facilities Study shall be conducted as follows:

(A) Within five (5) business days of completion of the interconnection system impact study, the EDC shall transmit a report to the Interconnection Customer with an Interconnection Facilities Study Agreement, which includes an outline of the scope of the study and a nonbinding good faith estimate of the cost and time to perform the study;

(B) The Facilities Study shall estimate the cost of the equipment, engineering, procurement and construction work including overheads needed to implement the conclusions of the interconnection feasibility study and the interconnection system impact study to interconnect the Small Generator Facility. The Facilities Study shall identify:

(i) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;

(ii) The nature and estimated cost of the EDC's Interconnection Facilities and Distribution System Upgrades necessary to accomplish the interconnection; and

(iii) An estimate of the time required to complete the construction and installation of the facilities;

(C) The parties may agree to permit an Interconnection Customer to separately arrange for a third party to design and construct the required Interconnection Facilities. The EDC may review the design of the facilities under the Interconnection Facilities Study Agreement. When the parties agree to separately arrange for design and construction and to comply with security and confidentiality requirements, the EDC shall make all

relevant information and required specifications available to the Interconnection Customer to permit the Interconnection Customer to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the specifications;

(D) Upon completion of the Facilities Study and with the agreement of the Interconnection Customer to pay for the Interconnection Facilities and Distribution System Upgrades identified in the Facilities Study, the EDC shall issue the Approval to Install; and

(E) The parties shall use an Interconnection Facilities Study Agreement approved by the Commission.

(e) Upon completion or waiver of procedures defined in 4007.2 (c) as mutually agreed by the parties, and the EDC determines that the Small Generator Facility can be interconnected safely and reliably to the Electric Distribution System, the EDC shall provide the Interconnection Customer with an Approval to Install. If the Interconnection Request is denied, the EDC shall provide a written explanation;

(f) When Distribution System Upgrades are required, the interconnection of the Small Generator Facility shall proceed according to milestones agreed to by the parties in the Interconnection Agreement. The Authorization to Operate may not be issued until:

(1) The milestones agreed to in the Interconnection Agreement are satisfied;

(2) The Small Generator Facility is approved by electric code officials with jurisdiction over the interconnection;

(3) The Interconnection Customer provides a Certificate of Completion to the EDC. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and

(4) There is a successful completion of the Witness Test per the terms and conditions found in the Standard Agreement for Interconnection of Small Generator Facilities, unless waived.

(g) The EDC may require photographs of the site, Small Generator Facility components, meters or any other aspect of the Interconnection Facilities as part of the Level 4 Interconnection Review process, provided that failure

to provide a photo in a timely manner will not be a reason for the EDC to deem an Interconnection Request incomplete.

4007.3 An interconnection system impact study is not required when the interconnection feasibility study concludes there is no Adverse System Impact, or when the study identifies an Adverse System Impact, but the EDC is able to identify a remedy without the need for an interconnection system impact study.

4007.4 The parties shall use a form of Interconnection Feasibility Study Agreement approved by the Commission.

**4008 TECHNICAL REQUIREMENTS**

4008.1 Unless waived by the EDC, a Small Generator Facility must comply with the technical standards listed in Subsection 4002.1, as applicable. IEEE 1547.2 (2008), "Application Guide for IEEE Standard 1547," IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems and the PJM Interconnection Planning Manual 14A Attachment E, which is available at: https://www.pjm.com/~/media/documents/manuals/m14a.ashx, shall be used as a guide (but not a requirement) to detail and illustrate the interconnection protection requirements that are provided in IEEE Standard 1547.

4008.2 When an Interconnection Request is for a Small Generator Facility that includes multiple energy production devices at a site for which the Interconnection Customer seeks a single Point of Common Coupling, the Interconnection Request shall be evaluated on the basis of the aggregate Nameplate Capacity of multiple devices.

4008.3 When an Interconnection Request is for an increase in capacity for an existing Small Generator Facility, the Interconnection Request shall be evaluated on the basis of the new total Nameplate Capacity of the Small Generator Facility.

4008.4 The EDC shall maintain records of the following for a minimum of three (3) years:

(a) The total number of and the Nameplate Capacity of the Interconnection Requests received, approved and denied under Level 1, Level 2, Level 3 and Level 4 reviews;

(b) The number of Interconnection Requests that were not processed within the timelines established in this rule;

(c) The number of Scoping Meetings held and the number of feasibility studies, impact studies, and Facility Studies performed and the fees charged for these studies;

(d) The justifications for the actions taken to deny Interconnection Requests; and

(e) Any special operating requirements required in Interconnection Agreements that are not part of the EDC's written and published operating procedures applicable to small generator facilities.

4008.5 The EDC shall provide a report to the Commission containing the information required in Subsection 4008.4, paragraphs (a)-(c) within ninety (90) calendar days of the close of each year.

4008.6 The EDC shall designate a contact person and contact information on its website and the Commission's website for submission of all Interconnection Requests and from whom information on the Interconnection Request process and the EDC's Electric Distribution System can be obtained regarding a proposed project. The information shall include studies and other materials useful to an understanding of the feasibility of interconnecting a Small Generator Facility at a particular point on the EDC's Electric Distribution System, except to the extent that providing the materials would violate security requirements or confidentiality agreements, or otherwise deemed contrary to District or federal law/regulations. In appropriate circumstances, the EDC may require a confidentiality agreement prior to release of information.

4008.7 When an Interconnection Request is deemed complete, a modification other than a minor equipment modification that is not agreed to in writing by the EDC, shall require submission of a new Interconnection Request.

4008.8 When an Interconnection Customer is not currently a customer of the EDC at the proposed site, the Interconnection Customer, upon request from the EDC, shall provide proof of site control evidenced by a property tax bill, deed, lease agreement, or other legally binding contract.

4008.9 To minimize the cost of interconnecting multiple small generator facilities, the EDC or the Interconnection Customer may propose a single Point of Common Coupling for multiple small generator facilities located at a single site. If the Interconnection Customer rejects the EDC's proposal for a single Point of Common Coupling, the Interconnection Customer shall pay the additional cost, if any, of providing a separate Point of Common Coupling for each Small Generator Facility. If the EDC rejects the customer's proposal for a single Point of Common Coupling without providing a written technical explanation, the EDC shall pay the additional cost, if any, of providing a separate Point of Common Coupling for each Small Generator Facility.

4008.10 Small generator facilities shall be capable of being isolated from the EDC. For all small generator facilities interconnecting to a Primary Line, the isolation shall be by means of a lockable, visible-break isolation device accessible by the EDC. For

all small generator facilities interconnecting to a Secondary Line, the isolation shall be by means of a lockable isolation device whose status is clearly indicated and is accessible by the EDC. The isolation device shall be installed, owned and maintained by the owner of the small generation facility and located between the small generation facility and the Point of Common Coupling. A Draw-out Type Circuit Breaker with a provision for padlocking at the draw-out position can be considered an isolation device for purposes of this requirement.

4008.11 The Interconnection Customer may elect to provide the EDC access to an isolation device that is contained in a building or area that may be unoccupied and locked or not otherwise readily accessible to the EDC, by installing a lockbox provided by the EDC that shall provide ready access to the isolation device. The Interconnection Customer shall install the lockbox in a location that is readily accessible by the EDC, and the Interconnection Customer shall permit the EDC to affix a placard in a location of its choosing that provides clear instructions to the EDC's operating personnel on access to the isolation device. In the event that the Interconnection Customer fails to comply with the terms of this subsection and the EDC needs to gain access to the isolation device, the EDC shall not be held liable for any damages resulting from any necessary EDC action to isolate the Interconnection Customer.

4008.12 Any metering necessitated by a small generator interconnection shall be installed, operated and maintained in accordance with applicable tariffs. Any such metering requirements shall be clearly identified as part of the Interconnection Agreement executed by the Interconnection Customer and the EDC. The EDC is not responsible for installing, operating, or maintaining customer-owned meters.

4008.13 The EDC shall design, procure, construct, install, and own any Distribution System Upgrades. The actual cost of the Distribution System Upgrades, including overheads, shall be directly assigned to the Interconnection Customer. The Interconnection Customer may be entitled to financial contribution from any other EDC customers who may in the future utilize the Distribution System Upgrades paid for by the Interconnection Customer. Such contributions shall be governed by the rules, regulations, and decisions of the Commission.

**4008.14 [RESERVED]**

4008.15 The Interconnection Customer shall design its Small Generator Facility to maintain a composite power delivery at continuous rated power output at the Point of Common Coupling at a power factor within the power factor range required by the EDC's applicable tariff for a comparable load customer. The EDC may also require the Interconnection Customer to follow a voltage or VAR schedule if such schedules are applicable to similarly situated generators in the control area on a comparable basis and have been approved by the Commission. The specific requirements for meeting a voltage or VAR schedule shall be clearly specified in Attachment 3 of the "District of Columbia Small Generator

Interconnection Rule Level 2-4 Standard Agreement for Interconnection of Small Generator Facilities". Under no circumstance shall these additional requirements for reactive power or voltage support exceed the normal operating capabilities of the Small Generator Facility.

4008.16 For retail interconnection non-exporting Energy Storage devices, the load aspects of the storage devices will be treated the same as other load from customers, based on incremental net load.

4008.17 Interconnection of Energy Storage facilities should comply with IEEE standard 1547 technical & test specifications and requirements.

4008.18 The Energy Storage overcurrent protection (charge/discharge) ratings from inverter nameplate shall not exceed EDC capabilities.

4008.19 In front of the meter Energy Storage exporting systems will be subject to Level 4 review requirements.

4008.20 When a Microgrid reconnects to the EDC, the Microgrid must be synchronized to the grid, matching: (1) voltage, (2) frequency, and (3) phase angle. This should require an asynchronous interconnection.

4008.21 At all interconnection levels, the power conversion system performing energy conversion/control at the Point of Common Coupling must be equipped to communicate system characteristics over secured EDC protocol.

4008.22 Inverters shall meet the safety requirements of UL 1741 and 12 months after the publication of UL 1741 SA (Supplement A) utility-interactive inverters shall meet the specifications of UL 1741 SA.

**4009 DISPUTES**

4009.1 A party shall attempt to resolve all disputes regarding interconnection as provided in the DCSGIR promptly, equitably, and in a good faith manner.

4009.2 When a dispute arises, a party may seek immediate resolution through complaint procedures available through the Commission by providing written notice to the Commission and the other party stating the issues in dispute.

4009.3 When disputes relate to the technical application of the DCSGIR, the Commission may designate a technical consultant to resolve the dispute. Upon Commission designation, the parties shall use the technical consultant to resolve disputes related to interconnection. Costs for a dispute resolution conducted by the technical consultant shall be established by the technical consultant and subject to review by the Commission.

4009.4 Pursuit of dispute resolution shall not affect an Interconnection Customer with regard to consideration of an Interconnection Request or an Interconnection Customer's Queue Position.

**4010 WAIVER**

4010.1 The Commission may, in its discretion, waive any provisions of Chapter 40 upon notice to the affected persons.

**4011 SUPPLEMENTAL REVIEW**

4011.1 Within twenty (20) business days of determining that Supplemental Review is appropriate, the EDC shall perform Supplemental Review using the screens set forth below, notify the Interconnection Customer of the results, and include with the notification a written report of the analysis and data underlying the EDC's determinations under the screens.

(a) Where twelve (12) months of Line Section minimum load data is available, can be calculated, can be estimated from existing data, or can be determined from a power flow model, the aggregate Small Generator Facility Nameplate Capacity on the Line Section is less than one hundred percent (100%) of the minimum load for all Line Sections bounded by automatic sectionalizing devices upstream of the proposed Small Generator Facility. If the minimum load data is not available, or cannot be calculated or estimated, the aggregate Small Generator Facility Nameplate Capacity on the Line Section is less than thirty percent (30%) of the peak load for all Line Sections bounded by automatic sectionalizing devices upstream of the proposed Small Generator Facility.

(1) The type of generation used by the proposed Small Generator Facility will be taken into account when calculating, estimating, or determining circuit or Line Section minimum load relevant for the application of this screen. Solar photovoltaic (PV) generation systems with no battery storage use daytime minimum load (*e.g.*, 8 a.m. to 6 p.m.), while all other generation uses absolute minimum load.

(2) When this screen is being applied to a Small Generator Facility that serves some onsite electrical load, all generation will be considered as part of the aggregate generation. If a Small Generator Facility uses Energy Storage without energy production equipment, and incorporates controls which limit Energy Storage discharge schedule to periods that are fixed and known to the EDC, the EDC shall consider the Energy Storage discharge schedule when calculating, estimating, or determining circuit or Line Section minimum load relevant for the application of this screen

(b) In aggregate with existing generation on the Line Section:

(1) The voltage regulation on the Line Section can be maintained in compliance with relevant requirements under all system conditions;

(2) The voltage fluctuation is within acceptable limits as defined by IEEE 1453 or Good Utility Practice similar to IEEE 1453; and

(3) The harmonic levels meet IEEE 519 limits at the Point of Common Coupling.

(c) The locations of the proposed Small Generator Facility and the aggregate Small Generator Facility Nameplate Capacity on the Line Section do not create impacts to safety or reliability that cannot be adequately addressed without application of Level 4 Interconnection Review procedures. The EDC may consider the following factors and others in determining potential impacts to safety and reliability in applying this screen.

(1) Whether the Line Section has significant minimum loading levels dominated by a small number of customers (i.e., several large commercial customers).

(2) If there is an even or uneven distribution of loading along the feeder.

(3) If the proposed Small Generator Facility is located in close proximity to the substation (*i.e.*, < 2.5 electrical line miles), and if the distribution line from the substation to the Small Generator Facility is composed of large conductor/feeder section (*i.e.*, 600A class cable).

(4) If the proposed Small Generator Facility incorporates a time delay function to prevent reconnection of the generator to the Electric Distribution System until system voltage and frequency are within normal limits for a prescribed time.

(5) If operational flexibility is reduced by the proposed Small Generator Facility, such that transfer of the Line Section(s) of the Small Generator Facility to a neighboring distribution circuit/substation may trigger overloads or voltage issues.

(6) If the proposed Small Generator Facility utilizes certified anti-islanding functions and equipment.

(d) Modifications to the Electric Distribution System required by interconnections based on the Supplemental Review shall be treated in the following manner:

(1) If the Interconnection Request requires only Interconnection Facilities to the Electric Distribution System, a non-binding good faith cost estimate and construction schedule for the Interconnection Facilities to the Electric Distribution System, along with an Approval to Install, shall be provided within fifteen (15) business days after notification of the Supplemental Review results.

(2) If the Interconnection Request requires more than the addition of Interconnection Facilities, the EDC may elect to provide a non-binding good faith cost estimate and construction schedule for such Distribution System Upgrades within thirty (30) business days after notification of the Supplemental Review results, or the EDC may notify the Interconnection Customer that the EDC will need to complete a Facilities Study under Level 4 Interconnection Review to determine the cost estimate and construction schedule for necessary Distribution System Upgrades.

(e) If the proposed interconnection meets all of the applicable Adverse System Impact screens and the EDC determines that the Small Generator Facility can be interconnected safely and reliably to the Electric Distribution System, the EDC shall provide the Interconnection Customer an Approval to Install

(f) An Interconnection Customer that receives an Approval to Install shall provide the Small Generator Interconnection Part II – Certificate of Completion and signed inspection certificate in the following timeframes:

(1) For Level 1 Interconnection Requests: Unless extended by mutual agreement of the parties, within six (6) months of receipt of the Approval to Install or six (6) months from the completion of any Distribution System Upgrades, whichever is later, the Interconnection Customer shall provide to the EDC the Level 1 Small Generator Interconnection Part II – Certificate of Completion, including the signed inspection certificate.

(2) For Level 2 and 3 Interconnection Requests: Unless extended by mutual agreement of the parties, within twenty-four (24) months from an Interconnection Customer's receipt of the Approval to Install or six (6) months of completion of any Distribution System Upgrades, whichever is later, the Interconnection Customer shall provide to the EDC the Level 2-4 Small Generator Interconnection Part II – Certificate of Completion, including the signed certificate

of inspection. An interconnection customer shall communicate with the EDC no less frequently than every six (6) months regarding the status of a proposed small generator facility to which an Interconnection Agreement refers.

(g) The EDC may conduct a Witness Test within ten (10) business days' of issuing the Authorization to Operate at a time mutually agreeable to the parties. If a Small Generator Facility initially fails the test, the EDC shall offer to redo the Witness Test at the Interconnection Customer's expense at a time mutually agreeable to the parties. If the EDC determines that the Small Generator Facility fails the Witness Test it must provide a written explanation detailing the reasons and any standards violated.

(h) Upon EDC's issuance of the Authorization to Operate, an Interconnection Customer may begin interconnected operation of a Small Generator Facility, provided that there is an Interconnection Agreement in effect, the Small Generator Facility has passed any Witness Test required by the EDC, and that the Small Generator Facility has passed any inspection required by the EDC. Evidence of approval by an electric code official includes a signed inspection certificate.

(i) As an alternative to the Supplemental Review procedures prescribed in this section, the EDC may elect to perform a power flow-based study, providing the Interconnection Customer with the results and the required mitigation, if necessary. The EDC shall make available, upon request, a copy of its power flow-based study for each applicant to the Commission within thirty (30) days after analysis completion.

(j) The EDC may require photographs of the site, Small Generator Facility components, meters or any other aspect of the Interconnection Facilities as part of the Supplemental Review process.

**4012 APPLICANT OPTIONS MEETING**

4012.1 If the EDC determines the Interconnection Request cannot be approved without evaluation under Level 4 Interconnection Review, at the time the EDC notifies the Interconnection Customer of either the Level 1, 2 or 3 Interconnection Review, or Supplemental Review, results, it shall provide the Interconnection Customer the option of proceeding to a Level 4 Interconnection Review or of participating in an applicant options meeting with the EDC to review possible Small Generator Facility modifications or the screen analysis and related results, to determine what further steps are needed to permit the Small Generator Facility to be connected safely and reliably. The Interconnection Customer shall notify the EDC that it requests an applicant options meeting or that it would like to proceed to Level 4 Interconnection Review in writing within fifteen (15) business days of the EDC's notification or the Interconnection Request shall be deemed withdrawn. If the

Interconnection Customer requests an applicant options meeting, the EDC shall offer to convene a meeting at a mutually agreeable time within the next fifteen (15) business days.

**4013-4098 [RESERVED]**

**4099 DEFINITIONS**

4099.1 When used in this chapter, the following terms and phrases shall have the following meaning:

**"Adverse System Impact"** means a negative effect, due to technical or operational limits on conductors or equipment being exceeded, that compromises the safety and reliability of the Electric Distribution System.

**"Affected System"** means an electric system not owned or operated by the Electric Distribution Company reviewing the Interconnection Request that may suffer an Adverse System Impact from the proposed interconnection.

**"Area Network"** means a type of Electric Distribution System served by multiple transformers interconnected in an electrical network circuit, which is generally used in large metropolitan areas that are densely populated. Area networks are also known as grid networks. Area network has the same meaning as the term distribution secondary grid networks in Section 9.2 of IEEE Standard 1547.

"**Approval to Install**" means written notification that the Small Generator Facility is conditionally approved for installation contingent upon the terms and conditions of the Interconnection Request,_and the EDC shall provide such conditional approval by furnishing to Interconnection Customer an EDC-executed copy of the Interconnection Agreement.

**"Authorization to Operate"** means written notification that the Small Generator Facility is approved for operation under the terms and conditions of the District of Columbia Small Generator Interconnection Rules.

**"Certificate of Completion"** means a certificate in a completed form approved by the Commission containing information about the Interconnection Equipment to be used, its installation and local inspections.

**"Commission"** means the Public Service Commission of the District of Columbia.

**"Commissioning Test"** means the tests applied to a Small Generator Facility by the Interconnection Customer after construction is completed to verify that the facility does not create Adverse System Impacts. The scope of the

Commissioning Tests performed shall include the Commissioning Test specified IEEE Standard 1547 Section 11.2.5 "Commissioning tests".

**"Distribution System Upgrade"** means a required addition or modification to the EDC's Electric Distribution System at or beyond the Point of Common Coupling to accommodate the interconnection of a Small Generator Facility. Distribution upgrades do not include interconnection facilities.

**"District of Columbia Small Generator Interconnection Rule (DCSGIR)"** means the most current version of the procedures for interconnecting Small Generator Facilities adopted by the Public Service Commission of the District of Columbia.

**"Draw-out Type Circuit Breaker"** means a switching device capable of making, carrying and breaking currents under normal and abnormal circuit conditions such as those of a short circuit. A draw-out circuit breaker can be physically removed from its enclosure, creating a visible break in the circuit. For the purposes of these regulations, the draw-out circuit breaker shall be capable of being locked in the open, draw-out position.

**"Electric Distribution Company" or "EDC"** means an electric utility entity that distributes electricity to customers and is subject to the jurisdiction of the Commission.

**"Electric Distribution System"** means the facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which Electric Distribution Systems operate differ among areas but generally carry less than sixty-nine (69) kilovolts of electricity. Electric distribution system has the same meaning as the term Area EPS, as defined in IEEE Standard 1547.

**"Energy Storage"** A resource capable of absorbing electric energy from the grid, from a behind-the-meter generator, or other DER, storing it for a period of time and thereafter dispatching the energy for use on-site or back to the grid, regardless of where the resource is located on the electric distribution system. These resources include all types of energy storage technologies, regardless of their size, storage medium (*e.g.*, batteries, flywheels, electric vehicles, compressed air), or operational purpose.

**"Facilities Study"** means an engineering study conducted by the EDC to determine the required modifications to the EDC's Electric Distribution System, including the cost and the time required to build and install such modifications as necessary to accommodate an Interconnection Request.

**“Fault Current”** means the electrical current that flows through a circuit during an electrical fault condition. A fault condition occurs when one or more electrical conductors contact ground or each other. Types of faults include phase to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase. Fault current is several times larger in magnitude than the current that normally flows through a circuit.

**“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result of the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**“Governmental Authority”** means any federal, State, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other Governmental Authority having jurisdiction over the Parties, respective facilities, or services provided, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, EDC or any affiliate thereof.

**“IEEE Standard 1547”** refers to the Institute of Electrical and Electronics Engineers, Inc. (IEEE) Standard 1547 (2018) “Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces,” as amended and supplemented at the time the Interconnection Request is submitted.

**“IEEE Standard 1547.1”** refers to the IEEE Standard 1547.1 (2015) “Conformance Test Procedures for Equipment Interconnecting Distributed Energy Resources with Electric Power Systems,” as amended and supplemented at the time the Interconnection Request is submitted.

**“Interconnection Customer”** means an entity that has submitted either an Interconnection Request to interconnect a Small Generator Facility to the EDC’s Electric Distribution System or a pre-application report to get information about EDC’s electrical distribution system at a proposed Point of Common Coupling.

**“Interconnection Equipment”** means a group of equipment, components, or an integrated system connecting an electric generator with a Local Electric

Power System or an Electric Distribution System that includes all interface equipment including switchgear, protective devices, inverters or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

**"Interconnection Facilities**" means facilities and equipment required by the EDC to accommodate the interconnection of a Small Generator Facility. Collectively, Interconnection Facilities include all facilities and equipment between the Small Generator Facility and the Point of Common Coupling, including modification, additions, or upgrades that are necessary to physically and electrically interconnect the Small Generator Facility to the Electric Distribution System. Interconnection Facilities are sole use facilities and do not include Distribution System Upgrades.

**"Interconnection Request"** means an Interconnection Customer's application and interconnection agreement, in a form approved by the Commission, requesting to interconnect a new Small Generator Facility, or to increase the capacity or modify operating characteristics of an existing approved Small Generator Facility that is interconnected with the EDC's Electric Distribution System.

**"Line Section"** means that portion of the EDC's Electric Distribution System connected to an Interconnection Customer, bounded by automatic sectionalizing devices or the end of the distribution line.

**"Local Electric Power System" or "Local EPS"** means facilities that deliver electric power to a load that are contained entirely within a single premises or group of premises. Local electric power system has the same meaning as the term Local Electric Power System defined in IEEE Standard 1547.

**"Microgrid"** means a collection of interconnected loads, generation assets, and advanced control equipment, installed across a limited geographic area and within a defined electrical boundary that is capable of disconnecting from the larger Electric Distribution System. A Microgrid may serve a single customer with several structures or serve multiple customers. A Microgrid can connect and disconnect from the distribution system to enable it to operate in both interconnected or island mode.

**"Nameplate Capacity"** means the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer and is usually indicated on a nameplate physically attached to the power production equipment.

**"Nationally Recognized Testing Laboratory" or "NRTL**" means a qualified private organization that meets the requirements of the Occupational

Safety and Health Administration's (OSHA) regulations. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in the NRTL program.

**"Parallel Operation" or "Parallel"** means the sustained state of operation over one hundred (100) milliseconds, which occurs when a Small Generator Facility is connected electrically to the Electric Distribution System and thus has the ability for electricity to flow from the Small Generator Facility to the Electric Distribution System.

**"PJM Interconnection"** means the regional transmission organization that is regulated by the Federal Energy Regulatory Commission and functionally controls the transmission system for the region that includes the District of Columbia.

**"Point of Common Coupling"** means the point where the Small Generator Facility is electrically connected to the Electric Distribution System. Point of common coupling has the same meaning as defined in IEEE Standard 1547.

**"Primary Line"** means a distribution line rated at greater than six hundred (600) volts.

**"Production Test"** is defined in IEEE Standard 1547.

**"Queue Position"** means the order of a valid Interconnection Request, relative to all other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by the EDC.

**"Radial Distribution Circuit**" means a circuit configuration where independent feeders branch out radially from a common source of supply. From the standpoint of a utility system, the area described is between the generating source or intervening substations and the customer's entrance equipment. A radial distribution system is the most common type of connection between a utility and load in which power flows in one direction from the utility to the load.

**"Scoping Meeting"** means a meeting between representatives of the Interconnection Customer and EDC conducted for the purpose of discussing alternative interconnection options, exchanging information including any Electric Distribution System data and earlier study evaluations that would be reasonably expected to impact interconnection options, analyzing information, and determining the potential feasible points of interconnection.

**"Secondary Line"** means a service line subsequent to the Primary Line that is rated for six hundred (600) volts or less, also referred to as the customer's service line.

**"Shared Transformer"** means a transformer that supplies secondary source voltage to more than one customer.

**"Small Generator Facility"** means the equipment used by an Interconnection Customer to generate or store electricity that operates in parallel with the Electric Distribution System and, for the purposes of this standard, is rated at twenty (20) MW or less. A Small Generator Facility typically includes an electric generator, Energy Storage, prime mover, and the Interconnection Equipment required to safely interconnect with the Electric Distribution System or Local Electric Power System as mutually agreed between the parties of the Interconnection Request.

**"Spot Network"** means a type of Electric Distribution System that uses two or more inter-tied transformers to supply an electrical network circuit. A Spot Network is generally used to supply power to a single customer or a small group of customers. Spot network has the same meaning as the term distribution secondary Spot Networks defined in Section 9.3 of IEEE Standard 1547.

**"Standard Agreement for Interconnection of Small Generator Facilities, Interconnection Agreement, or Agreement"** means a set of standard forms of Interconnection Agreements approved by the Commission which are applicable to Interconnection Requests pertaining to small generating facilities. The agreement between the Interconnection Customer and the EDC, which governs the connection of the Small Generator Facility to the EDC's Electric Distribution System, as well as the ongoing operation of the Small Generator Facility after it is connected to the EDC's Electric Distribution System.

**"UL Standard 1741"** means Underwriters Laboratories' standard titled "Inverters Converters, and Controllers for Use in Independent Power Systems," as amended and supplemented at the time the Interconnection Request is submitted.

**"Witness Test"** means verification (either by an on-site observation or review of documents) by the EDC that the installation evaluation required by IEEE Standard 1547 Section 11.2.4 and the Commissioning Test required by IEEE Standard 1547 Section 11.2.5 have been adequately performed. For Interconnection Equipment that has not been certified, the Witness Test shall also include the verification by the EDC of the on-site design tests as required by IEEE Standard 1547 Section 11.2.4 and verification by the EDC of Production Tests required by IEEE Standard 1547 Section 11.2.3. All tests verified by the EDC are to be performed in accordance with the applicable test procedures specified by IEEE Standard 1547.1.

**LEVEL 1**
**INTERCONNECTION REQUEST APPLICATION FORM AND AGREEMENT**

**Interconnection Customer Contact Information**
Name________________________________________________

Mailing Address: ________________________________________

City: ______________________ State: ______________ Zip Code: _______

Telephone (Daytime): ______________ (Mobile): ______________________

Facsimile Number: ________________ E-Mail Address: __________________

**Alternative Contact Information (if different from Customer Contact Information)**
Name: _______________________________________________

Mailing Address: ________________________________________

City: ______________________ State: ______________ Zip Code: _______

Telephone (Daytime): ______________ (Mobile): ______________________

Facsimile Number: ________________ E-Mail Address: __________________

**Equipment Contractor**
Name: _______________________________________________

Mailing Address: ________________________________________

City: ______________________ State: ______________ Zip Code: _______

Telephone (Daytime): ______________ (Mobile): ______________________

Facsimile Number: ________________ E-Mail Address: __________________

**Electrical Contractor** (if Different from Equipment Contractor):
Name: _______________________________________________

Mailing Address: ________________________________________

City: ______________________ State: ______________ Zip Code: _______

Telephone (Daytime): ______________ (Mobile): ______________________

Facsimile Number: ________________ E-Mail Address: __________________

License number: ___________________________

Active License? Yes ___ No ___

**Facility Information (building where the small generator facility is located)**

Electric Distribution Company (EDC) Serving Facility Site: ______________________________

Electric Supplier (if different from EDC):________________________________________

Account Number of Facility site (existing EDC customers): ______________________________

**Facility Address (building where the small generator facility is located)**

Address: ________________________________________________________________________

City: _________________________________ State: ___________________ Zip Code: _______

**Small Generator Facility Information**

Inverter Manufacturer:________________________ Model:_______________________

Nameplate Rating: ____(kW) ____(kVA) ____ (AC Volts)

System Design Capacity: _________ (kW) _______ (kVA)

Prime Mover: Photovoltaic ☐ Reciprocating Engine ☐ Fuel Cell ☐

Turbine ☐ Other _________________________________

Energy Source: Solar ☐ Wind ☐ Hydro ☐ Diesel ☐ Natural Gas

Fuel Oil ☐ ☐ Energy Storage

Other_________________________________

Is the inverter lab certified? Yes ☐

(If yes, attach manufacturer's cut sheet showing listing and label information from the appropriate listing authority, e.g. UL 1741 listing. If no, facility is not eligible for Level 1 Application.)

**Intent of Generation/Storage (choose one)**

Generator (or PV Panel) Manufacturer, Model #: ___________________________________

Number of Generators (or PV Panels): __________

Type of Tracking if PV: Fixed ☐ Single Axis ☐ Double Axis ☐

Array Azimuth if PV: __________º Array Tilt if PV: ___________º

Shading Angles if PV at E, 120º, 150º, S, 210º, 240º, W (Separate with comas: ____________º

☐ Offset Load (Unit will operate in parallel, but will not export power to EDC.)

☐ Net Energy Metering (Small generator facility will export power pursuant to District of

Columbia Customer Net Energy Metering Contract.)

☐ Community Renewable Energy Facility (interconnection with EDC).

☐ Export Power (CG SPP Schedule) (Unit will operate in parallel and will export power, but does not fit the criteria established in the District of Columbia Customer Net Energy Metering Contract for net metering.)

Note: if Unit will operate in parallel and participate in the PJM market(s), unit will need to obtain an interconnection agreement from PJM.

☐ Back-up Generation (Units that temporarily parallel for more than 100 milliseconds.)

Note: Backup units that do not operate in parallel for more than 100 milliseconds do not need an interconnection agreement.

☐ PJM Demand Response Market Participant (System will not export energy):

Energy, Capacity, Load Reduction and/or Synchronized Reserve Markets: ☐ Yes ☐ No

Regulation Market: ☐ Yes ☐ No (if no, would have to re-apply in future if change to frequency regulation)

Estimated Commissioning Date: _______________

**Insurance Disclosure**

The attached terms and conditions contain provisions related to liability, and indemnification and should be carefully considered by the interconnection customer. The interconnection customer is not required to obtain general liability insurance coverage as a precondition for interconnection approval; however, the interconnection customer is advised to consider obtaining appropriate insurance coverage to cover the interconnection customer's potential liability under this agreement.

**Customer Signature**

I hereby certify that: 1) I have read and understand the terms and conditions which are attached hereto by reference and are a part of this agreement; 2) I hereby agree to comply with the attached terms and conditions; and 3) to the best of my knowledge, all of the information provided in this application request form is complete and true.

Interconnection Customer Signature: __________________________________

Title: ______________________________________ Date:____________________

**Conditional Agreement to Interconnect Small Generator Facility**

By its signature below, the EDC has determined the interconnection request is complete, and that the Small Generator Facility has the Approval to Install. This approval is contingent upon the attached terms and conditions of this agreement, the return of the attached Certificate of Completion duly executed, and the verification of electrical inspection and successful witness test or EDC waiver thereof.

EDC Signature: _________________________________Date: ____________________

Printed Name:___________________________Title:___________________________

**Terms and Conditions for Interconnection**

(1) **Construction of the Small Generator Facility**. The interconnection customer may proceed to construct (including operational testing not to exceed two (2) hours) the Small Generator Facility once the conditional agreement to interconnect a Small Generator Facility has been signed by the EDC.

(2) **Final Interconnection and Operation.** The interconnection customer may operate the Small Generator Facility and interconnect with the EDC's electric distribution system once all of the following have occurred:

(a) Electrical Inspection**:** Upon completing construction, the interconnection customer will cause the Small Generator Facility to be inspected by the local electrical wiring inspector with jurisdiction who shall establish that the Small Generator Facility meets the requirements of the National Electrical Code.

(b) Certificate of Completion: The interconnection customer shall provide the EDC with a completed copy of the Certificate of Completion, including evidence of the electrical inspection performed by the local authority having jurisdiction. The evidence of completion of the electrical inspection may be provided on inspection forms used by local inspecting authorities. The interconnection request shall not be finally approved until the EDC's representative signs the Certificate of Completion.

(c) The EDC has either waived the right to a Witness Test in the interconnection request, or completed its Witness Test as per the following:

(i) Within ten (10) business days of receiving the notice of the anticipated start date, at a time mutually agreeable to the parties, the EDC may conduct a Witness Test of the Small Generator Facility to ensure that all equipment has been appropriately installed and that all electrical connections have been made in accordance with applicable codes.

(ii) If the EDC does not perform the Witness Test within the ten (10) day period or other time as is mutually agreed to by the parties, the Witness Test is deemed waived.

(3) **IEEE 1547**. The small generator facility is installed, operated, and tested in accordance with the requirements of IEEE Standard 1547 (2018), "Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces", as amended and supplemented, at the time the interconnection request is submitted.

(4) **Access.** The EDC shall have direct, unabated access to the metering equipment of the small generator facility at all times. The EDC shall provide reasonable notice to the customer when possible prior to using its right of access.

(5) **Metering.** Any required metering shall be installed pursuant to appropriate tariffs and tested by the EDC pursuant to the EDCs meter testing requirements.

(6) **Disconnection.** The EDC may temporarily disconnect the small generator facility upon the following conditions:

(a) For scheduled outages upon reasonable notice;
(b) For unscheduled outages or emergency conditions;
(c) If the small generator facility does not operate in the manner consistent with this agreement;
(d) Improper installation or failure to pass the Witness Test;
(e) If the small generator facility is creating a safety, reliability or a power quality problem; or
(f) The interconnection equipment used by the small generator facility is de-listed by the Nationally Recognized Testing Laboratory that provided the listing at the time the interconnection was approved.

(7) **Indemnification**. The parties shall at all times indemnify, defend, and save the other party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other party's action or inactions of its obligations under this agreement on behalf of the indemnifying party, except in cases of gross negligence or intentional wrongdoing by the indemnified party.

(8) **Limitation of Liability**. Each party's liability to the other party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either party be liable to the other party for any indirect, incidental, special, consequential, or punitive damages of any kind whatsoever.

(9) **Termination**. This agreement may be terminated under the following conditions:

(a) By interconnection customer - The interconnection customer may terminate this application agreement by providing written notice to the EDC.

(b) By the EDC - The EDC may terminate this agreement if the interconnection customer fails to remedy a violation of terms of this agreement within thirty (30) calendar days after notice, or such other date as may be mutually agreed to prior to the expiration of the thirty (30) calendar day remedy period. The termination date can be no less than thirty (30) calendar days after the interconnection customer receives notice of its violation from the EDC.

(10) **Modification of Small Generator Facility**. The interconnection customer shall provide written notification to the EDC before making any modifications to the Small Generator Facility. The EDC will determine if the modifications are minor or non-minor in nature. Written authorization from the EDC is required for non-minor changes if the EDC determines that the interconnection customer's modifications may have a significant impact on the safety or reliability of the Electric Distribution System. If the interconnection customer makes such modifications without the EDC's prior written authorization the EDC shall have the right to temporarily disconnect the Small Generator Facility until such time as the EDC reasonably concludes the modification poses no threat to the safety or reliability of its Electric Distribution System.

(11) **Permanent Disconnection.** In the event the agreement is terminated, the EDC shall have the right to disconnect its facilities or direct the customer to disconnect its Small Generator Facility.

(12) **Disputes.** Each party agrees to attempt to resolve all disputes regarding the provisions of these interconnection procedures pursuant to the dispute resolution provisions of the District of Columbia Small Generator Interconnection Rules.

(13) **Governing Law, Regulatory Authority, and Rules.** The validity, interpretation and enforcement of this agreement and each of its provisions shall be governed by the laws of the District of Columbia. Nothing in this agreement is intended to affect any other agreement between the EDC and the interconnection customer. However, in the event that the provisions of this agreement are in conflict with the provisions of the EDC's tariff, the EDC tariff shall control.

(14) **Survival Rights**. This agreement shall continue in effect after termination to the extent necessary to allow or require either party to fulfill rights or obligations that arose under the agreement.

(15) **Assignment/Transfer of Ownership of the Small Generator Facility**: This agreement shall terminate upon the transfer of ownership of the Small Generator Facility to a new owner unless the transferring owner assigns the agreement to the new owner and so notifies the EDC in writing prior to the transfer of electric service.

(16) **Definitions**. Any capitalized term used herein and not defined shall have the same meaning as the defined terms used in the District of Columbia Small Generator Interconnection Rule.

(17) **Notice**. Unless otherwise provided in this agreement, any written notice, demand, or request required or authorized in connection with this agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

(If Notice is sent to the Interconnection Customer)

Use the contact information provided in the agreement for the interconnection customer. The interconnection customer is responsible for notifying the EDC of any change in the contact party information, including change of ownership.

(If Notice is sent to the EDC)

Use the contact information provided on the EDC's web page for small generator interconnection.

**DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULE**
**LEVEL 2-4**
**STANDARD AGREEMENT FOR INTERCONNECTION OF**
**SMALL GENERATOR FACILITIES**

This Agreement is made and entered into this ___ day of ________, by and between ________________________, a __________________ organized and existing under the laws of ________________________, (''Interconnection Customer,'') and ___________________, a ____________________________, existing under the laws of _________________________, (''EDC''). The Interconnection Customer and the EDC each may be referred to as a ''Party,'' or collectively as the ''Parties.''

**Recitals:**

**Whereas,** Interconnection Customer is proposing to, install or direct the installation of a Small Generator Facility, or is proposing a generating capacity addition to an existing Small Generator Facility, consistent with the Interconnection Request completed by Interconnection Customer on ________________; and

**Whereas,** the Interconnection Customer will operate and maintain, or cause the operation and maintenance of the Small Generator Facility; and

**Whereas**, Interconnection Customer desires to interconnect the Small Generator Facility with the EDC's Electric Distribution System.

**Now, therefore**, in consideration of the promises and mutual covenants set forth herein, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties covenant and agree as follows:

**Article 1. Scope and Limitations of Agreement**

**1.1** This Agreement shall be used for all approved Level 2, Level 3 and Level 4 Interconnection Requests according to the procedures set forth in the District of Columbia Small Generator Interconnection Rules.

**1.2** This Agreement governs the terms and conditions under which the Small Generator Facility will interconnect to, and operate in Parallel with, the EDC's Electric Distribution System. This Agreement provides the Interconnection Customer with the Approval to Install contingent upon satisfying all terms and conditions.

**1.3** This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power.

**1.4** Nothing in this Agreement is intended to affect any other agreement between the

EDC and the Interconnection Customer. However, in the event that the provisions of this Agreement are in conflict with the provisions of the EDC's tariff, the EDC tariff shall control.

**1.5 Responsibilities of the Parties**

1.5.1 The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations.

1.5.2 The EDC shall construct, own, operate, and maintain its Interconnection Facilities in accordance with this Agreement, IEEE Standard 1547, the National Electrical Safety Code and applicable standards promulgated by the District of Columbia Public Service Commission.

1.5.3 The Interconnection Customer shall construct, own, operate, and maintain its Interconnection Facilities in accordance with this Agreement, IEEE Standard 1547, the National Electrical Code and applicable standards promulgated by the District of Columbia Public Service Commission.

1.5.4 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the Point of Common Coupling.

1.5.5 The Interconnection Customer agrees to design, install, maintain and operate its Small Generator Facility so as to minimize the likelihood of causing an Adverse System Impact on an electric system that is not owned or operated by the EDC.

**1.6 Metering**

The Interconnection Customer shall be responsible for the cost of the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Attachments 4 and 5 of this Agreement.

**1.7 Reactive Power**

The Interconnection Customer shall design its Small Generator Facility to maintain a composite power delivery at continuous rated power output at the Point of common coupling at a power factor within the power factor range required by the EDC's applicable tariff for a comparable load customer. The EDC may also require the Interconnection Customer to follow a voltage or VAR schedule if such schedules are applicable to similarly situated generators in the control area on a

comparable basis and have been approved by the Commission. The specific requirements for meeting a voltage or VAR schedule shall be clearly specified in Attachment 3. Under no circumstance shall these additional requirements for reactive power or voltage support exceed the normal operating capabilities of the Small Generator Facility.

**1.8 Capitalized Terms**

Capitalized terms used herein shall have the meanings specified in the Definitions section of the District of Columbia Small Generator Interconnection Rules or the body of this Agreement.

**Article 2. Inspection, Testing, Authorization, and Right of Access**

**2.1 Equipment Testing and Inspection**

The Interconnection Customer shall test and inspect its Small Generator Facility including the Interconnection Equipment prior to interconnection in accordance with IEEE Standard 1547, IEEE Standard 1547.1, and the technical and procedural requirements in the District of Columbia Small Generator Interconnection Rule. The Interconnection Customer shall not operate its Small Generator Facility in Parallel with the EDC's Electric Distribution System without prior written authorization by the EDC as provided for in Articles 2.1.1 – 2.1.3.

2.1.1 The EDC shall have the option of performing a Witness Test after construction of the Small Generator Facility is completed. The Interconnection Customer shall provide the EDC at least twenty (20) days' notice of the planned Commissioning Test for the Small Generator Facility. If the EDC elects to perform a Witness Test, it shall contact the Interconnection Customer to schedule the Witness Test at a mutually agreeable time within ten (10) business days of the scheduled Commissioning Test. If the EDC does not perform the Witness Test within ten (10) business days of the Commissioning Test, the Witness Test is deemed waived unless the parties mutually agree to extend the date for scheduling the Witness Test. If the Witness Test fails to reveal that all equipment has been appropriately installed and that all electrical connections have been made in accordance with applicable codes, the EDC shall offer to redo the Witness Test at the Interconnection Customer's expense at a time mutually agreeable to the parties. If the EDC determines that the Small Generator Facility fails the inspection it must provide a written explanation detailing the reasons and any standards violated. If the EDC does not perform the Witness Test within ten (10) business days or other time as is mutually agreed to by the parties, the Witness Test is deemed waived. After considering the "redo" option, if the Witness Test is still not acceptable to the EDC, the Interconnection

Customer will be granted a period of thirty (30) calendar days to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies may be extended upon the mutual agreement of the EDC and the Interconnection Customer. If the Interconnection Customer fails to address and resolve the deficiencies to the satisfaction of the EDC, the applicable termination provisions of Article 3.3.7 shall apply. If a Witness Test is not performed by the EDC or an entity approved by the EDC, the Interconnection Customer must still satisfy the interconnection test specifications and requirements set forth in IEEE Standard 1547 Section 11.2. The Interconnection Customer shall, if requested by the EDC, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

2.1.2 To the extent that the Interconnection Customer decides to conduct interim testing of the Small Generator Facility prior to the Witness Test, it may request that the EDC observe these tests and that these tests be deleted from the final Witness Test. The EDC may, at its own expense, send qualified personnel to the Small Generator Facility to observe such interim testing. Nothing in this Section 2.1.2 shall require the EDC to observe such interim testing or preclude the EDC from performing these tests at the final Witness Test. Regardless of whether the EDC observes the interim testing, the Interconnection Customer shall obtain permission in advance of each occurrence of operating the Small Generator Facility in parallel with the EDC's system.

2.1.3 Upon successful completion of the Witness Test, the EDC shall affix an authorized signature to the Certificate of Completion and return it to the Interconnection Customer approving the interconnection and authorizing Parallel Operation. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

**2.2 Commercial Operation**

The Interconnection Customer shall not operate the Small Generator Facility, except for interim testing as provided in Article 2.1, until such time as the Certificate of Completion is signed by all Parties.

**2.3 Right of Access**

The EDC shall have access to the disconnect switch and metering equipment of the Small Generator Facility at all times. The EDC shall provide reasonable notice to the customer when possible prior to using its right of access.

**<u>Article 3.</u> Effective Date, Term, Termination, and Disconnection**

**3.1 Effective Date**

This Agreement shall become effective upon execution by the Parties.

**3.2 Term of Agreement**

This Agreement shall become effective on the Effective Date and shall remain in effect in perpetuity unless terminated earlier in accordance with Article 3.3 of this Agreement.

**3.3 Termination**

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination.

3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the EDC thirty (30) calendar days prior written notice.

3.3.2 Either Party may terminate this Agreement after default pursuant to Article 6.5.

3.3.3 The EDC may terminate upon sixty (60) calendar days' prior written notice for failure of the Interconnection Customer to complete construction of the Small Generator Facility within twelve (12) months of the in-service date as specified by the Parties in Attachment 1, which may be extended by mutual agreement of the Parties which shall not be unreasonably withheld.

3.3.4 The EDC may terminate this Agreement upon sixty (60) calendar days' prior written notice if the Interconnection Customer fails to operate the Small Generator Facility in parallel with EDC's electric system for three consecutive years.

3.3.5 Upon termination of this Agreement, the Small Generator Facility will be disconnected from the EDC's Electric Distribution System. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

3.3.6 The provisions of this Article shall survive termination or expiration of this Agreement.

3.3.7 The EDC may terminate this Agreement if the Interconnection Customer fails to comply with the Witness Test requirement in Article 2.2.1.

**3.4 Temporary Disconnection**

A Party may temporarily disconnect the Small Generator Facility from the Electric Distribution System in the event of an Emergency Condition for as long

as the Party determines it is reasonably necessary in the event one or more of the following conditions or events occurs:

3.4.1 Emergency Conditions - Emergency Conditions shall mean any condition or situation: (1) that in the judgment of the Party making the claim is reasonably likely to endanger life or property; or (2) that, in the case of the EDC, is reasonably likely to cause an Adverse System Impact; or (3) that, in the case of the Interconnection Customer, is reasonably likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Small Generator Facility or the Interconnection Equipment. Under Emergency Conditions, the EDC or the Interconnection Customer may immediately suspend interconnection service and temporarily disconnect the Small Generator Facility. The EDC shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer's operation of the Small Generator Facility. The Interconnection Customer shall notify the EDC promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the EDC's Electric Distribution System. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

3.4.2 Scheduled Maintenance, Construction, or Repair – The EDC may interrupt interconnection service or curtail the output of the Small Generator Facility and temporarily disconnect the Small Generator Facility from the EDC's Electric Distribution System when necessary for scheduled maintenance, construction, or repairs on the EDC's Electric Distribution System. The EDC shall provide the Interconnection Customer with five business days' notice prior to such interruption. The EDC shall use reasonable efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

3.4.3 Forced Outages - With any forced outage, the EDC may suspend interconnection service to effect immediate repairs on the EDC's Electric Distribution System. The EDC shall use reasonable efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the EDC shall, upon written request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

3.4.4 Adverse Operating Effects – The EDC shall provide the Interconnection Customer with a written notice of its intention to disconnect the Small Generator Facility if, based on the operating requirements specified in Attachment 3, the EDC determines that operation of the Small Generator

Facility will likely cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Small Generator Facility could cause damage to the EDC's Electric Distribution System. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon written request. The EDC may disconnect the Small Generator Facility if, after receipt of the notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time unless Emergency Conditions exist in which case the provisions of Article 3.4.1 apply.

3.4.5 Modification of the Small Generator Facility - The Interconnection Customer shall provide written notification to the EDC before making any modifications to the Small Generator Facility. The EDC will determine if the modifications are minor or non-minor in nature. Written authorization from the EDC is required for non-minor changes if the EDC determines that the Interconnection Customer's modifications could cause an Adverse System Impact. If the Interconnection Customer makes such modifications without the EDC's prior written authorization the EDC shall have the right to temporarily disconnect the Small Generator Facility until such time as the EDC reasonably concludes the modification poses no threat to the safety or reliability of its Electric Distribution System.

3.4.6 Reconnection - The Parties shall cooperate with each other to restore the Small Generator Facility, Interconnection Facilities, and EDC's Electric Distribution System to their normal operating state as soon as reasonably practicable following any disconnection pursuant to this section; provided, however, if such disconnection is done pursuant to Article 3.4.5 due to the Interconnection Customer's failure to obtain prior written authorization from the EDC for Non- Minor Equipment Modifications, the EDC shall reconnect the Interconnection Customer only after determining the modifications do not impact the safety or reliability of its Electric Distribution System.

## Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades

### 4.1 Interconnection Facilities

4.1.1 The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Attachment 2 of this Agreement if required under the additional review procedures of a Level 2 review or under a Level 4 review. If a Facilities Study was performed, the EDC shall identify the Interconnection Facilities necessary to safely interconnect the Small Generator Facility with the EDC's Electric Distribution System, the cost of those facilities, and the time required to build and install those facilities.

4.1.2 The Interconnection Customer shall be responsible for its expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its Interconnection Equipment, and (2) its reasonable share of operating, maintaining, repairing, and replacing any Interconnection Facilities owned by the EDC as set forth in Attachment 2.

**4.2 Distribution Upgrades**

The EDC shall design, procure, construct, install, and own any Distribution Upgrades. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer. The Interconnection Customer may be entitled to financial contribution from any other EDC customers who may in the future utilize the upgrades paid for by the Interconnection Customer. Such contributions shall be governed by the rules, regulations and decisions of the District of Columbia Public Service Commission.

**Article 5. Billing, Payment, Milestones, and Financial Security**

**5.1 Billing and Payment Procedures and Final Accounting (Applies to additional reviews conducted under Levels 2, 3 or 4)**

5.1.1 The EDC shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of the EDC provided Interconnection Facilities and Distribution Upgrades contemplated by this Agreement as set forth in Attachment 2, on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within thirty (30) calendar days of receipt, or as otherwise agreed to by the Parties.

5.1.2 Within ninety (90) calendar days of completing the construction and installation of the EDC's Interconnection Facilities and Distribution Upgrades described in the Attachments 1 and 2 to this Agreement, the EDC shall provide the Interconnection Customer with a final accounting report of any difference between (1) the actual cost incurred to complete the construction and installation and the budget estimate provided to the Interconnection Customer and a written explanation for any significant variation; and (2) the Interconnection Customer's previous deposit and aggregate payments to the EDC for such Interconnection Facilities and Distribution Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous deposit and aggregate payments, the EDC shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the EDC within thirty (30) calendar days. If the Interconnection Customer's previous deposit and aggregate payments exceed its cost responsibility under this Agreement, the EDC shall refund to the Interconnection Customer an

amount equal to the difference within thirty (30) calendar days of the final accounting report.

5.1.3 If a Party in good faith disputes any portion of its payment obligation pursuant to this Article 5, such Party shall pay in a timely manner all non-disputed portions of its invoice, and such disputed amount shall be resolved pursuant to the dispute resolution provisions contained in Article 8. Provided such Party's dispute is in good faith, the disputing Party shall not be considered to be in default of its obligations pursuant to this Article.

**5.2 Interconnection Customer Deposit**

When a Level 4 Interconnection Feasibility Study, Interconnection System Impact Study, or Interconnection Facility Study or a Level 2 Review of Minor Modifications is required under the District of Columbia Small Generator Interconnection Rules, the EDC may require the Interconnection Customer to pay a deposit equal to fifty percent (50%) of the estimated cost to perform the study or review. At least twenty (20) business days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the EDC's Interconnection Facilities and Distribution Upgrades, the Interconnection Customer shall provide the EDC with a deposit equal to fifty percent (50%) of the estimated costs prior to its beginning design of such facilities, provided the total cost is in excess of one thousand dollars ($1,000).

**Article 6. Assignment, Limitation on Damages, Indemnity, Force Majeure, and Default**

**6.1 Assignment**

This Agreement may be assigned by either Party upon fifteen (15) business days' prior written notice, and with the opportunity to object by the other Party. Should the Interconnection Customer assign this agreement, the EDC has the right to request that the assignee agree to the assignment and the terms of this Agreement in writing. When required, consent to assignment shall not be unreasonably withheld; provided that:

6.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate (which shall include a merger of the Party with another entity), of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement;

6.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the EDC, for collateral security purposes to aid in providing financing for the Small Generator Facility. For Small Generator systems that are integrated into a building facility, the sale of the building or property will result in an automatic transfer of this

agreement to the new owner who shall be responsible for complying with the terms and conditions of this Agreement.

6.1.3 Any attempted assignment that violates this Article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same obligations as the Interconnection Customer.

**6.2 Limitation on Damages**

Except for cases of gross negligence or willful misconduct, the liability of any Party to this Agreement shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances, except for cases of gross negligence or willful misconduct, shall any Party or its directors, officers, employees and agents, or any of them, be liable to another Party, whether in tort, contract or other basis in law or equity for any special, indirect, punitive, exemplary or consequential damages, including lost profits, lost revenues, replacement power, cost of capital or replacement equipment. This limitation on damages shall not affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement. The provisions of this Article 6.2 shall survive the termination or expiration of the Agreement.

**6.3 Indemnity**

6.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 6.2.

6.3.2 The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

6.3.3 Promptly after receipt by an indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

6.3.4 If an indemnified Party is entitled to indemnification under this Article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

6.3.5 If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified person shall be the amount of such indemnified Party's actual loss, net of any insurance or other recovery.

**6.4 Force Majeure**

6.4.1 As used in this Article, a Force Majeure Event shall mean any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of gross negligence or intentional wrongdoing.

6.4.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Party of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking and will take to mitigate the effects of the event on its performance, and if the initial notification was verbal, it should be promptly followed up with a written notification. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party shall be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be reasonably mitigated. The Affected Party shall use reasonable efforts to resume its performance as soon as possible.

**6.5 Default**

6.5.1 No default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement, or the result of an act or omission of the other Party.

6.5.2 Upon a default of this Agreement, the non-defaulting Party shall give written notice of such default to the defaulting Party. Except as provided in Article 6.5.3 the defaulting Party shall have sixty (60) calendar days from receipt of the default notice within which to cure such default; provided however, if such default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within twenty (20) calendar days after notice and continuously and diligently complete such cure within six months from receipt of the default notice; and, if cured within such time, the default specified in such notice shall cease to exist.

6.5.3 If a Party has made an assignment of this Agreement not specifically authorized by Article 6.1, fails to provide reasonable access pursuant to Article 2.3, is in default of its obligations pursuant to Article 7, or if a Party is in default of its payment obligations pursuant to Article 5 of this Agreement, the defaulting Party shall have thirty (30) days from receipt of the default notice within which to cure such default.

6.5.4 If a default is not cured as provided for in this Article, or if a default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

**Article 7. Insurance**

For Small Generator Facilities, the Interconnection Customer shall carry adequate insurance coverage that shall be acceptable to the EDC; provided, that the maximum comprehensive/general liability coverage that shall be continuously maintained by the Interconnection Customer during the term for non-inverter based systems 500 kW up to 2 MW shall have one million dollars ($1 million) of insurance, two million dollars ($2 million) for non-inverter based systems larger than 2 MW up to 5 MW, and three million dollars ($3 million) for non-inverter systems larger than 5 MW. For inverter-based generating facilities, systems between 1 MW and 5 MW have $1 million of insurance and systems larger than 5 MW have $2 million of insurance. The EDC, its officers, employees and agents will be added as an additional insured on this policy.

**Article 8. Dispute Resolution**

**8.1** A party shall attempt to resolve all disputes regarding interconnection as provided in this Agreement and the District of Columbia Small Generator Interconnection Rule promptly, equitably, and in a good faith manner.

**8.2** When a dispute arises, a party may seek immediate resolution through complaint procedures available through the Commission, or an alternative dispute resolution process approved by the Commission, by providing written notice to the Commission and the other party stating the issues in dispute. Dispute resolution will be conducted in an informal, expeditious manner to reach resolution with minimal costs and delay. When available, dispute resolution may be conducted by phone.

**8.3** When disputes relate to the technical application of this Agreement and the District of Columbia Small Generator Interconnection Rule, the Commission may designate a technical consultant to resolve the dispute. Upon Commission designation, the parties shall use the technical consultant to resolve disputes related to interconnection. Costs for a dispute resolution conducted by the technical consultant shall be established by the technical consultant, subject to review by the Commission.

**8.4** Pursuit of dispute resolution may not affect an Interconnection Customer with regard to consideration of an Interconnection Request or an Interconnection Customer's Queue Position.

**8.5** If the Parties fail to resolve their dispute under the dispute resolution provisions of this Article, nothing in this Article shall affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement.

**Article 9. Miscellaneous**

**9.1 Governing Law, Regulatory Authority, and Rules**

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the District of Columbia, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations.

**9.2 Amendment**

Modification of this Agreement shall be only by a written instrument duly executed by both Parties.

**9.3 No Third-Party Beneficiaries**

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

**9.4 Waiver**

9.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement shall not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

9.4.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from EDC. Any waiver of this Agreement shall, if requested, be provided in writing.

**9.5 Entire Agreement**

This Agreement, including all attachments, constitutes the entire Agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

**9.6 Multiple Counterparts**

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

**9.7 No Partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

**9.8 Severability**

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall

be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

**9.9 Environmental Releases**

Each Party shall notify the other Party, first orally and then in writing, of the release any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Small Generator Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four (24) hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

**9.10 Subcontractors**

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

9.10.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

9.10.2 The obligations under this Article will not be limited in any way by any limitation of subcontractor's insurance.

**<u>Article 10.</u> Notices**

**10.1 General**

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

**<u>If to Interconnection Customer:</u>**

Interconnection Customer: ___________________________________________
Attention: ___________________________________
Address: _________________________________________________________
City: _________________________________ State:____________ Zip:_______
Phone: ________________ Fax: ________________ E-mail_______________

**<u>If to EDC:</u>**

EDC_______________________________________________________
Attention: ___________________________________
Address: ____________________________________________________________

City: ______________________________ State:_____________ Zip:_______
Phone: ________________ Fax: __________________E-mail______________

**10.2 Billing and Payment**

Billings and payments shall be sent to the addresses set forth below:

**<u>If to Interconnection Customer:</u>**

Interconnection Customer: ______________________________________________
Attention: ___________________________________
Address: ____________________________________________________________
City: _________________________________ State:_____________ Zip:_______

**<u>If to EDC</u>**

EDC: ______________________________________________
Attention: ___________________________________
Address: ____________________________________________________________
City: ________________________________ State:______________ Zip:_______

**10.3 Designated Operating Representative**

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

**<u>Interconnection Customer's Operating Representative</u>**:

Attention: ___________________________________

Address: ___________________________________________________________
City: _______________________________ State:_____________ Zip:_______
Phone: ________________ Fax: _________________E-Mail_______________

**EDC's Operating Representative:**

Attention: _________________________________

Address: ___________________________________________________________

City: ________________________________ State:______________ Zip:______

Phone: ________________ Fax: ________________ E-Mail_______________

**10.4 Changes to the Notice Information**

Either Party may change this notice information by giving five business days written notice prior to the effective date of the change.

**Article 11. Signatures**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

**For the Interconnection Customer:**

Name: ____________________________________________

Title: _____________________________________________

Date: _____________________________________________

**For EDC**:

Name: ____________________________________________

Title: _____________________________________________

Date: _____________________________________________

# ATTACHMENT 1

## CONSTRUCTION SCHEDULE, PROPOSED EQUIPMENT & SETTINGS

This attachment shall include the following:

1. The construction schedule for the Small Generator Facility
2. A one-line diagram indicating the Small Generator Facility, Interconnection Equipment, Interconnection Facilities, Metering Equipment, and Distribution Upgrades
3. Component specifications for equipment identified in the one-line diagram
4. Component settings
5. Proposed sequence of operations

## ATTACHMENT 2

## DESCRIPTION, COSTS AND TIME REQUIRED TO BUILD AND INSTALL THE EDC'S INTERCONNECTION FACILITIES

The EDC's Interconnection Facilities including any required metering shall be itemized and a best estimate of itemized costs, including overheads, shall be provided based on the Facilities Study.

Also, a best estimate for the time required to build and install the EDC's Interconnection Facilities will be provided based on the Facilities Study.

## ATTACHMENT 3

## OPERATING REQUIREMENTS FOR SMALL GENERATOR FACILITIES OPERATING IN PARALLEL

Applicable sections of the EDC's operating manuals applying to the small generator interconnection shall be listed and Internet links shall be provided. Any special operating requirements not contained in the EDC's existing operating manuals shall be clearly identified. The EDC's operating requirements shall not impose additional technical or procedural requirements on the Small Generator Facility beyond those found in the District of Columbia Small Generator Interconnection Rules, except those required for safety.

## ATTACHMENT 4

## METERING REQUIREMENTS

Metering requirements for the Small Generator Facility shall be clearly indicated along with an identification of the appropriate tariffs that establish these requirements and an internet link to these tariffs.

## ATTACHMENT 5

## AS BUILT DOCUMENTS

After completion of the Small Generator Facility, the Interconnection Customer shall provide the EDC with documentation indicating the as built status of the following when it returns the Certificate of Completion to the EDC:

1. A one-line diagram indicating the Small Generator Facility, Interconnection Equipment, Interconnection Facilities, Metering Equipment, and Distribution Upgrades
2. Component specifications for equipment identified in the one-line diagram
3. Component settings
4. Proposed sequence of operations

**LEVEL 2, LEVEL 3 AND LEVEL 4**

**INTERCONNECTION REQUEST APPLICATION FORM**

**Interconnection Customer Contact Information**

Name_______________________________________________________________

Mailing Address: ____________________________________________________

City: ______________________________ State: _________________ Zip Code: _______

Telephone (Daytime): _________________ (Mobile): ______________________________

Facsimile Number: ___________________ E-Mail Address: ________________________

**Alternative Contact Information (if different from Customer Contact Information)**

Name: _____________________________________________________________

Mailing Address: ____________________________________________________

City: ______________________________ State: _________________ Zip Code: _______

Telephone (Daytime): _________________ (Mobile): ______________________________

Facsimile Number: ___________________ E-Mail Address: ________________________

**Facility Address (Building where the Small Generator Facility is located)**

Address: ___________________________________________________________

City: ______________________________ State: _________________ Zip Code: _______

**Equipment Contractor**

Name: _____________________________________________________________

Mailing Address: ____________________________________________________

City: ______________________________ State: _________________ Zip Code: _______

Telephone (Daytime): _________________ (Mobile): ______________________________

Facsimile Number: ___________________ E-Mail Address: ________________________

**Electrical Contractor** (if Different from Equipment Contractor):

Name: _____________________________________________________________

Mailing Address: ____________________________________________________

City: ______________________________ State: _________________ Zip Code: _______

Telephone (Daytime): _________________ (Mobile): ______________________________

Facsimile Number: ___________________ E-Mail Address: ________________________

License number: ____________________________________

Active License? Yes ___ No ___

**Electric Service Information for Customer Facility Where Generator Will Be Interconnected**

Electric Distribution Company (EDC) serving Facility site: ____________________________

Electric Supplier (if different from EDC):_____________________________________

Account Number of Facility site (existing EDC customers): ____________________________

Capacity: __________(Amps) Voltage: __________(Volts)

Type of Service: ☐ Single Phase ☐ Three Phase

If 3 Phase Transformer, Indicate Type

Primary Winding ☐ Wye ☐ Delta

Secondary Winding ☐ Wye ☐ Delta

Transformer Size: _____________________ Impedance: ______________________

**Intent of Generation (choose one)**

☐ Offset Load (Unit will operate in parallel, but will not export power to EDC.)

☐ Net Energy Metering (Small Generator Facility will export power pursuant to District of Columbia Customer Net Energy Metering Contract.)

☐ Community Renewable Energy Facility (interconnection with EDC).

☐ Export Power (CG SPP Schedule) (Unit will operate in parallel and will export power but does not fit the criteria established in the District of Columbia Customer Net Energy Metering Contract for net energy metering.)

Note: If Unit will operate in parallel and participate in the PJM market(s), Unit will need to obtain an Interconnection Agreement from PJM.

☐ Back-up Generation (Units that temporarily parallel for more than 100 milliseconds.)

Note: Backup units that do not operate in parallel for more than 100 milliseconds do not need an Interconnection Agreement.

☐ PJM Demand Response Market Participant (System will not export energy)
Energy, Capacity, Load Reduction and/or Synchronized Reserve Markets: ☐ Yes ☐ No
Regulation Market: ☐ Yes ☐ No (if no, would have to re-apply in future if change to

frequency regulation)

☐ Microgrid: No__ Yes ___; If Yes indicate below any/all Energy Production Equipment/Inverter Information that is to be used

**Requested Procedure Under Which to Evaluate Interconnection Request**
Please indicate below which review procedure applies to the Interconnection Request.

☐ **Level 2 -** Certified Interconnection Equipment with an aggregate electric Nameplate Capacity less than or equal to 5 MW. Indicate type of certification below. (Application fee amount is $500.)

☐ **Level 3 –** Small generator facility does not export power. Nameplate capacity rating is equal to or less than 20 MW if connecting to a radial distribution feeder. An Interconnection Customer proposing to interconnect a small generator to a spot or Area Network is not permitted under the Level 3 review process. (Application fee amount is $500.)

☐ **Level 4 –** Nameplate capacity rating is less than 20 MW and the Small Generator Facility does not qualify for a Level 1, Level 2 or Level 3 review or, the Small Generator Facility has been reviewed but not approved under a Level 1, Level 2 or Level 3 review. (Application fee amount is $1,000, to be applied toward any subsequent studies related to this application.)

For Level 1, 2, 3 applications before EDC's considering a Level 4 review, the applicant can request a meeting based on "Applicant Options Meeting" section of Chapter 40.

**Descriptions for interconnection review categories do not list all criteria that must be satisfied. For a complete list of criteria, please refer to the District of Columbia Small Generator Interconnection Rules.**

**Small Generator Facility Information**

**Energy Production Equipment/Inverter Information**

Energy Source: ☐ Hydro ☐ Wind ☐ Solar ☐ Diesel ☐ Biomass ☐ Natural Gas
☐ Coal ☐ Oil ☐ Other ☐ Solar + Energy Storage ☐ Energy Storage

Energy Converter Type: ☐ Water Turbine ☐ Wind Turbine ☐ Photovoltaic Cell
☐ Steam Turbine ☐ Combustion Turbine ☐ Reciprocating Engine
☐ Other _______________

Generator Type: ☐ Synchronous ☐ Induction ☐ Inverter ☐ Other _________

Rating: __________ kW Rating: __________ kVA Number of Units: _______________
Rated Voltage: ________________Volts
Rated Current: ____________________Amps
System Type Tested (Total System): ☐ Yes ☐ No; attach product literature

**Interconnection components/system(s) to be used in the Small Generation Facility that are lab certified (required for Level 2 and Level 3 Interconnection requests only).**

Component/System NRTL Providing Label & Listing
1.________________________________________________________________________
2.________________________________________________________________________
3.________________________________________________________________________
4.________________________________________________________________________
*Please provide copies of manufacturer brochures or technical specifications.*

**For Synchronous Machines:**

*Note:* Contact EDC to determine if all the information requested in this section is required for the proposed Small Generator Facility.

Manufacturer: _____________________________________________
Model No. ________________ Version No. ____________________
Submit copies of the Saturation Curve and the Vee Curve
☐ Salient ☐ Non-Salient
Torque: _____ lb-ft Rated RPM: _______ Field Amperes: ________ at rated generator voltage and current and ________% PF over-excited
Type of Exciter: _________________________________________________
Output Power of Exciter: __________________________________________
Type of Voltage Regulator: ________________________________________ Locked Rotor Current: ________ Amps Synchronous Speed: ______RPM
Winding Connection: _________ Min. Operating Freq./Time: __________
Generator Connection: ☐ Delta ☐ Wye ☐ Wye Grounded
Direct-axis Synchronous Reactance (Xd) _______ohms
Direct-axis Transient Reactance (X'd) _______ohms
Direct-axis Sub-transient Reactance (X"d) _______ohms
Negative Sequence Reactance: _____________ ohms
Zero Sequence Reactance: ________________ ohms
Neutral Impedance or Grounding Resister (if any): ___________ ohms

**For Induction Machines:**

Note: Contact EDC to determine if all the information requested in this section is required for the proposed Small Generator Facility.

Manufacturer: ______________________________________________
Model No. ________________ Version No. ____________________
Locked Rotor Current: ________ Amps
Rotor Resistance (Rr)_____ohms Exciting Current ____Amps
Rotor Reactance (Xr)_____ohms Reactive Power Required: ________
Magnetizing Reactance (Xm)_____ohms ___VARs (No Load)
Stator Resistance (Rs)_____ohms ___VARs (Full Load)
Stator Reactance (Xs)_____ohms
Short Circuit Reactance (X"d)_____ohms
Phases: ☐ Single ☐ Three-Phase
Frame Size: _________ Design Letter: ____ Temp. Rise: ___________°C.

**Reverse Power Relay Information (Level 3 Review Only)**
Manufacturer: ________________________
Relay Type: ________________ Model Number: _________________
Reverse Power Setting: ____________________________
Reverse Power Time Delay (if any): ____________________

**Additional Information For Inverter Based Facilities**
Inverter Information:
Manufacturer:_______________________ Model: ____________________
Type: ☐ Forced Commutated ☐ Line Commutated
Number of Inverters: ____________________
Rated Output _________ Watts ________ Volts
Efficiency ________% Power Factor ________%
Inverter UL1547 Listed: ☐ Yes ☐ No

D.C. Source / Prime Mover:
Rating: __________ kW Rating: __________ kVA
Rated Voltage: ________________Volts
Open Circuit Voltage (If applicable): ________________Volts
Rated Current: ____________________Amps
Short Circuit Current (If applicable): ____________________Amps
Generator (or PV Panel) Manufacturer, Model #: __________________________________
Number of Generators (or PV Panels): __________
Type of Tracking if PV: Fixed ☐ Single Axis ☐ Double Axis ☐
Array Azimuth if PV: __________º Array Tilt if PV: ___________º
Shading Angles if PV at E, 120º, 150º, S, 210º, 240º, W (Separate with comas: ____________º

**Other Facility Information:**
One Line Diagram attached: ☐ Yes

Plot Plan attached: ☐ Yes

**Estimated Commissioning Date: ________________________________**

**Customer Signature**

I hereby certify that all of the information provided in this application request form is true.

Interconnection Customer Signature: _________________________________

Title: ____________________________________ Date:___________________

An invoice will be emailed for the application fee. An application fee is required before the application can be processed. Please verify that the appropriate fee is included with the application:

Application fee included ☐

Amount____________________

**OFFICE OF TAX AND REVENUE**

**NOTICE OF FINAL RULEMAKING**

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-874 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub. L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the adoption of amendments to Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The newly amended regulations provide authority to the Office of Tax and Revenue to require solely electronic filing of the income and expense forms and attachments thereto. Paper filing will no longer be accepted.

A version of these rules was originally published in the *D.C. Register* as a proposed rulemaking on November 30, 2018 at 65 DCR 13256. No public comments were received.

This rule was adopted as final on January 10, 2019 and will take effect immediately upon publication of this notice in the *D.C. Register*.

**Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:**

**Section 330, INCOME AND EXPENSE REPORTING BY OWNERS OF INCOME-PRODUCING PROPERTY, is amended follows:**

**Subsection 330.12 is amended to read as follows:**

330.12 Any information, form or documents required by §§ 330-334 to be received by the specified date shall be electronically submitted as instructed in the notice on or before 11:59 PM of midnight of such date.

**New Subsection 330.13 is added to read as follows:**

330.13 The Deputy Chief Financial Officer shall provide an electronic receipt of such submission to the indicated email address provided by the filer.

**Section 332, TIME LIMITS FOR FILING FORMS, is amended follows:**

**Subsection 332.1 is amended to read as follows:**

332.1 The income and expense form, with accompanying attachments and documents, shall be electronically submitted to the Deputy Chief Financial Officer on or

before 11:59 PM of April 15th of the year in which written notice of a filing requirement of such form is mailed to the affected taxpayer. Electronic submission shall require the use of the appropriate and approved forms and document upload and submission functions available through the Deputy Chief Financial Officer's website portal.

**Section 334, THE INCOME-EXPENSE REPORTING FORM, is amended follows:**

**Subsections 334.1, 334.2, 334.5, 334.6, 334.7 and 334.8(a) are amended to read as follows:**

334.1 In addition to the collection of the information set forth in § 333.4, the Deputy Chief Financial Officer may, in his or her discretion, by written notice to the affected taxpayer, require the taxpayer to submit electronically additional records and documents that will assist in determining or substantiating the income and economic benefits of the income-producing property.

334.2 In the absence of any extension of time granted by the Deputy Chief Financial Officer, all records and documents shall be electronically submitted on or before 11:59 PM of April 15th midnight of the year in which written notice of a filing requirement of such form is mailed to the affected taxpayer.

…

334.5 Income producing properties (excepting hotels) shall provide complete rent rolls in the format provided by the Deputy Chief Financial Officer. The rent rolls shall be as of December 31 of the preceding calendar year. The rent rolls shall be an attachment to and integral part of the income-expense form completed and filed electronically with the income-expense form by the affected taxpayer.

334.6 REPEALED.

334.7 REPEALED.

334.8

(a) Tenant names, unless residential apartment units are allowed to be substituted therefor by the Deputy Chief Financial Officer;

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in the Second Omnibus Regulatory Reform Amendment Act of 1999, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.10(a)(12) (2015 Repl.)), and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, the amendment of Chapters 18 (Reserved), 19 (Reserved) and 35 (Licensing Fees) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The amendments would create new regulations to govern professional design firms and landscape architects in accordance with the Regulation of Landscape Architecture and Professional Design Firms Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-249; D.C. Official Code §§ 47-2853.116 *et seq.* (2015 Repl.).

This proposed rulemaking would establish professional license regulations to govern the licensure of professional design firms and landscape architects seeking to operate in the District of Columbia. Specifically, this proposed rulemaking would outline processes for applicants, set eligibility requirements for those seeking licensure, create practice standards for licensees, and implement continuing education requirements for licensed landscape architects seeking to renew or reinstate a license in the District.

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

**Chapter 18, [RESERVED], is renamed PROFESSIONAL DESIGN FIRMS, and amended to read as follows:**

**1800 APPLICABILITY**

1800.1 This chapter applies to applicants for licenses and licensed professional design firms.

1800.2 Chapters 19 (Landscape Architects), 32 (Interior Designers), 33 (General Rules: Funeral Directors, Veterinarians, Interior Designers and Real Estate Appraisers), and 34 (Architects) of this title supplement this chapter.

**1801 APPLICATION FOR A LICENSE AS A PROFESSIONAL DESIGN FIRM**

1801.1 Each applicant for a license as a Professional Design Firm in the District of Columbia shall duly file with the Board an application on a form prescribed and provided by the Board.

1801.2 Each application shall be sworn to or affirmed before a notary public or, if applicable, by electronic signature or other authentication methods as authorized by the Council of the District of Columbia or the Mayor.

1801.3 The proper fees and all required documents shall accompany the application at the time of filing.

1801.4 An authorized agent of the applicant shall provide the following:

(a) Proof that the applicant exists and is properly organized under applicable District and federal law;

(b) Proof that at least one (1) partner, officer, shareholder, member, or manager is an architect, interior designer, or landscape architect who is licensed and in good standing in the District of Columbia. Acceptable proof of ownership may include, but is not limited to, the following:

(1) Stock certificates;

(2) Corporate registration documents;

(3) Articles of organization;

(4) Partnership agreements; or

(5) Tax forms.

(c) If the applicant is a corporation, the names and street addresses of each of its directors and principal officers, and a copy of the certificate of incorporation; and

(d) If the applicant is a partnership, the names and street addresses of each of the general partners.

1801.5 To be eligible for licensure, each applicant shall designate at least one (1) member who is licensed and in good standing as an architect, interior designer, or landscape architect in the District of Columbia who will assume responsible charge of all professional design services solicited or provided by the firm in accordance with D.C. Official Code § 47-2853.66(a) (2015 Repl.).

**1802 ISSUANCE AND DISPLAY OF LICENSE**

1802.1 The Director shall issue a license to a firm, franchise, partnership, association, or corporation if the Board determines that it is in compliance with D.C. Official Code § 47-2853.65 (2015 Repl.) and this chapter.

1802.2 The Director shall issue a license only for the person or persons named as applicants in the application. The license is not assignable or transferable, or valid for use by any person other than that designated on the license.

1802.3 A licensee shall display its license in a conspicuous place on its premises, and shall make the license available for inspection by the Department upon request.

**1803 TERM OF LICENSE**

1803.1 All licenses issued prior to April 30, 2020, pursuant to this chapter, shall be valid from the date of issuance through the close of the initial licensing period, which shall end on April 30, 2020. All licenses issued thereafter shall be valid from the date of issuance through the close of the two (2) year licensing period, which ends on April 30 of each even-numbered year.

1803.2 The Director may change the license cycle for administrative convenience.

1803.3 If the Director changes the license cycle, the term of a license that is in effect on the date of the Director's determination to change the cycle may, at the Board's discretion, be extended up to three (3) years in order to permit an orderly transition. Any extension of the license term implemented under this section shall only be made upon approval by the Board.

**1804 REQUIRED NOTIFICATIONS**

1804.1 A licensee shall notify the Board of the admission or withdrawal of a member or shareholder within thirty (30) days of the occurrence.

1804.2 The notice required by § 1804.1 shall:

(a) Be signed by a registered partner, officer, shareholder, member, or manager of the professional design firm;

(b) State the date of the admission or withdrawal; and

(c) State whether the licensee intends to continue to operate the professional design firm, and, if so, include the name, license number, street address, of any new partner, officer, shareholder, member, or manager.

1804.3 A licensee shall notify the Board of the termination of the business relationship between the licensee and any member who was designated to assume responsible charge of all professional design services solicited or provided by the firm within ten (10) business days of the occurrence.

1804.4 The notice required by § 3108.3 shall:

(a) Be signed by a registered partner, officer, shareholder, member, or manager of the professional design firm;

(b) State the date of the termination; and

(c) State whether the licensee intends to continue to operate the professional design firm, and, if so, include the name and license number of any new responsible member.

**1805 STANDARDS OF PRACTICE**

1805.1 In the provision of professional design services, a professional design firm shall be subject to the applicable rules of professional conduct and any standards of practice established in Chapters 19 (Landscape Architects), 32 (Interior Designers), and 34 (Architects) of this title.

1805.2 All architecture services solicited or provided by a professional design firm shall be under the responsible charge of a supervising architect who is licensed in the District.

1805.3 All interior design services solicited or provided by a professional design firm shall be under the responsible charge of a supervising architect or interior designer who is licensed in the District.

1805.4 All landscape architecture services solicited or provided by a professional design firm shall be under the responsible charge of a supervising landscape architect who is licensed in the District.

1805.5 No person shall sign and stamp a professional design document on behalf of a professional design firm except an architect, interior designer, or landscape architect licensed in the District.

**1899 DEFINITIONS**

1899.1 When used in this chapter, the words and phrases set forth in this section shall have the following meanings:

**Act** - The Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.01, *et seq*. (2015 Repl.)).

**Applicant** – A person who has submitted an application for licensure as a professional design firm to the Board.

**Board** – The Board of Architecture, Interior Design, and Landscape Architecture as established by the Act.

**Department** - Unless otherwise defined, the Department of Consumer and Regulatory Affairs.

**Director** - The Director of the Department of Consumer and Regulatory Affairs.

**Professional design document** – Any drawing, specification, report, request for information, construction and administration document, or contract that in any way calls for the professional services of an architect, interior designer, or landscape architect.

**Professional design firm** – Any firm, franchise, partnership, association, or corporation that is licensed to solicit or provide architecture, interior design, or landscape architecture services in the District.

**Professional design services –** Architecture, interior design, or landscape architecture services provided in the District.

**Responsible charge** – Direct control and personal supervision of the professional services provided by a licensed landscape architect in the practice of landscape architecture. The degree of control necessary shall be such that the licensee personally makes design decisions or reviews and approves proposed decisions prior to their implementation, including consideration of alternatives, whenever technical decisions are to be made, and judges the qualifications of technical specialists and the validity and applicability of their recommendations before such recommendations are incorporated in the work.

**Chapter 19, [RESERVED], is renamed LANDSCAPE ARCHITECTS, and amended to read as follows:**

**1900 APPLICABILITY**

1900.1 This chapter applies to applicants for licenses and licensed landscape architects.

1900.2 Chapter 33 (General Rules: Funeral Directors, Veterinarians, Interior Designers and Real Estate Appraisers) of this title supplements this chapter.

**1901 APPLICATIONS FOR LICENSURE**

1901.1 Each applicant for a license as a Landscape Architect in the District of Columbia shall duly file with the Board an application on a form prescribed and provided by the Board.

1901.2 Each application shall be sworn to or affirmed before a notary public or, if applicable, by electronic signature or other authentication methods as authorized by the Council of the District of Columbia or the Mayor.

1901.3 The proper fees and all required documents shall accompany the application at the time of filing.

1901.4 Each applicant shall provide the following:

(a) A copy of his or her official government-issued photo identification card, such as a driver's license or permanent resident card, as proof that the applicant is at least eighteen (18) years of age;

(b) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2 in. x 2 in.);

(c) A business or a home address, which cannot be a post office box number;

(d) Proof of having completed the education and experience requirements specified by the Board. The Board may accept verified records compiled by the Council of Landscape Architectural Registration Boards (CLARB) as sufficient documentation; or

(e) A certification by CLARB that the applicant has met the minimum standards of education, examination, experience and professional conduct established by CLARB;

(f) If an applicant is applying by reciprocity or endorsement, proof of his or her current licensure as a landscape architect in another jurisdiction with requirements that are substantially equivalent to those of the District; and

(g) Proof that the applicant has met any other requirements established by the Board to ensure the applicant is qualified to engage in the practice of landscape architecture.

1901.5 If an applicant has been convicted of a criminal offense, other than a minor traffic violation, the applicant shall provide the following:

(a) Copies of the relevant court records which describe the nature of the conviction;

(b) A written statement from the applicant explaining the circumstances surrounding the conviction; and

(c) Any information regarding the applicant's rehabilitation and good conduct.

**1902 QUALIFICATIONS FOR LICENSURE**

1902.1 To be eligible for licensure as a Landscape Architect, an applicant:

(a) Shall be at least eighteen (18) years of age;

(b) Shall be of good moral character;

(c) Shall not have been convicted of an offense that bears directly on the applicant's fitness to be licensed, as determined by the Board in accordance with the guidelines set forth in 17 DCMR § 3312 and the Act;

(d) Except as otherwise provided in this chapter, shall pass the Landscape Architect Registration Examination (L.A.R.E.) administered by the Council of Landscape Architectural Registration Boards (CLARB);

(e) Shall have obtained or completed the following education in landscape architecture:

(1) A four-year baccalaureate degree in landscape architecture from a program accredited by the Landscape Architectural Accreditation Board (LAAB) or the Canadian Society of Landscape Architects Accreditation Council (CSLAAC); or

(2) A degree or combined coursework that is deemed by the Board to be substantially equivalent to programs that are accredited by LAAB. A transcript evaluation prepared and submitted by a provider approved by the Board shall serve as the Board's guide for assessment; and

(f) Shall have obtained three (3) or more years of work experience indicating that he or she is competent to practice landscape architecture. An applicant's work experience must be verified by one or more individuals who:

(1) At the time the experience was gained, held a license as a landscape architect in the District or another jurisdiction;

(2) Have obtained personal knowledge of the applicant sufficient to issue judgments concerning the applicant's experience, ability, character, or reputation;

(3) Are not related to the applicant; and

(4) Are not currently members of the Board.

**1903 LICENSURE BY EXAMINATION**

1903.1 If an applicant holds a four-year baccalaureate degree in landscape architecture from a program accredited by the Landscape Architectural Accreditation Board (LAAB) or the Canadian Society of Landscape Architects Accreditation Council (CSLAAC), he or she shall be deemed eligible to sit for the L.A.R.E. without prior application to the Board. Such applicants must apply directly to the Council of Landscape Architectural Registration Boards (CLARB) to sit for the examination, and may apply to the Board for licensure after having passed the examination in accordance with § 1904 of this chapter.

1903.2 If an applicant does not hold a four-year baccalaureate degree in landscape architecture from a program accredited by LAAB or CSLAAC, he or she may not register or sit for the L.A.R.E. until the Board has established that the applicant is qualified to take the examination.

1903.3 To be eligible to sit for the examination, an applicant who requires prior approval in accordance with § 1903.2 must have attained a degree, or completed combined coursework, that is deemed by the Board to be substantially equivalent to programs that are accredited by LAAB, and shall submit with the application a transcript evaluation that has been prepared and submitted by a provider approved by the Board which shall serve as the Board's guide for assessment.

**1904 LICENSURE BY CERTIFICATION, RECIPROCITY OR ENDORSEMENT**

1904.1 The Board shall waive the examination requirement for an applicant when the applicant holds a current and valid certification issued by the Council of Landscape Architectural Registration Boards (CLARB), or other proof of having previously passed the L.A.R.E in accordance with CLARB standards in effect at the time the applicant took the examination.

1904.2 An applicant for a license by reciprocity or endorsement shall furnish proof satisfactory to the Board that the following requirements are met:

(a) The applicant is licensed and in good standing as a landscape architect in a jurisdiction of the United States with requirements that are substantially equivalent to the requirements of the Act and this chapter;

(b) The jurisdiction in which the applicant is licensed admits landscape architects licensed by the District of Columbia in like manner; and

(c) The applicant has paid the required fees to the District.

**1905 ISSUANCE AND DISPLAY OF LICENSE**

1905.1 The Director shall issue a license to any applicant who has met the requirements of the Act and this chapter.

1905.2 The Director shall issue a license only for the individual named as applicant in the application. The license is not assignable or transferable, or valid for use by any individual other than that designated on the license.

1905.3 A licensee shall display his or her license conspicuously in the licensee's principal place of business or employment.

**1906 TERM OF LICENSE**

1906.1 All licenses issued prior to April 30, 2020, pursuant to this chapter, shall be valid from the date of issuance through the close of the initial licensing period, which shall end on April 30, 2020. All licenses issued thereafter shall be valid from the date of issuance through the close of the two (2) year licensing period, which ends on April 30 of each even-numbered year.

1906.2 The Director may change the license cycle for administrative convenience.

1906.3 If the Director changes the license cycle, the term of a license that is in effect on the date of the Director's determination to change the cycle may, at the Board's discretion, be extended up to three (3) years in order to permit an orderly transition. Any extension of the license term implemented under this section shall only be made upon approval by the Board.

**1907 CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OR REINSTATEMENT OF A LICENSE**

1907.1 This section shall apply to all applicants for the renewal or reinstatement of a license to practice landscape architecture, except those applicants seeking first renewal of a license granted by examination or certification.

1907.2 An applicant for renewal of an expired license shall submit proof pursuant to this section of having completed twenty-four (24) hours of credit in approved continuing education programs during the term of the license. At least eighteen (18) of these hours shall be in health, safety, and welfare subjects.

1907.3 An applicant for reinstatement of an expired license or renewal of an inactive license shall submit proof pursuant to this section of having completed twenty-four (24) hours of credit in approved continuing education programs, and an additional six (6) hours of credit for each year the license was expired or inactive, up to a maximum of thirty-six (36) hours. At least seventy-five percent (75%) of these hours shall be in health, safety, and welfare subjects. To be creditable,

courses shall not have been completed more than two (2) years prior to the date of application.

1907.4 An applicant under this section shall prove completion of required continuing education credits by submitting with the renewal or reinstatement application the following information with respect to each program:

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

(b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;

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

(d) The hours of credit claimed; and

(e) A certificate of successful completion from the sponsor or provider.

1907.5 A continuing education credit shall be valid only if it is part of a program approved by the Board in accordance with § 1908 of this chapter. Licensees are responsible for ensuring that continuing education courses taken to satisfy the Board's renewal or reinstatement requirements are approved by the Board.

1907.6 An applicant for the renewal of a license who fails to submit proof of having completed the continuing education requirements by or before the expiration date may renew the license within sixty (60) days after expiration by submitting proof of course completion and by paying the required late fee. Upon renewal, the Board shall deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal.

1907.7 If an applicant for the renewal of a license fails to submit proof of completion of continuing education requirements within sixty (60) days after the expiration of the applicant's license, the license shall be deemed to have lapsed on the date of expiration, and the applicant shall be required to apply for reinstatement of the expired license pursuant to § 3308 of this title.

1907.8 The Board may grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion of continuing education requirements was for good cause. For purposes of this subsection, "good cause" includes proof of the following:

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

(b) The death or serious and protracted illness of a member of the applicant's immediate family, which death or illness resulted in the applicant's

inability to complete the continuing education requirements within the specified time. For the purposes of this subsection, the term "immediate family" means the applicant's spouse and any parent, brother, sister, or child of the applicant and the spouse of any such parent, brother, sister, or child; or

(c) Active military service.

1907.9 An extension granted under this section shall not relieve an applicant from complying with the continuing education requirement for the next renewal period.

**1908 APPROVED CONTINUING EDUCATION PROGRAMS**

1908.1 The Board, in its sole discretion, may approve continuing education programs that contribute to the growth of an applicant in professional competence in the practice of landscape architecture and which meet the other requirements of this section.

1908.2 To qualify for approval by the Board, a continuing education program shall be:

(a) Prepared, offered, administered, or accepted by an entity approved by the Council of Landscape Architectural Registration Boards (CLARB); or

(b) Administered in accordance with the current edition of the CLARB Uniform Continuing Education Standards, as determined by the Board.

1908.3 A continuing education program or activity shall be deemed approved by the Board if the offering is provided or sponsored by one of the following:

(a) Landscape Architects Continuing Education System (LA CES);

(b) American Society of Landscape Architects (ASLA);

(c) CLARB;

(d) A licensing board of another jurisdiction that regulates the practice of landscape architecture;

(e) National Society of Professional Engineers;

(f) American Institute of Architects;

(g) Federal or state agencies offering training in landscape architecture; and

(h) Accredited colleges and universities offering training in landscape architecture.

**1909 REQUIRED NOTIFICATIONS**

1909.1 A licensee shall notify the Board in writing within thirty (30) days of any name change, or any change of business, email, or residence address.

1909.2 A licensee shall inform the Board in writing within thirty (30) days of pleading guilty or *nolo contendere*, or being convicted or found guilty of any felony.

1909.3 A licensee shall inform the Board in writing within thirty (30) days of the suspension, revocation, or surrender of his or her license as a landscape architect in any other jurisdiction.

**1910 RULES OF PROFESSIONAL CONDUCT**

1910.1 In engaging in the practice of landscape architecture, a licensee shall act with reasonable care and competence, and shall apply the technical knowledge and skill that are ordinarily applied by licensed landscape architects of good standing practicing in the same locality.

1910.2 In designing a project, a licensee shall take into account all applicable federal, state, and municipal building laws and regulations. While a licensee may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, a licensed landscape architect shall not knowingly design a project in violation of such laws and regulations.

1910.3 A licensed landscape architect shall undertake to perform professional services only when he or she, together with those whom the licensee may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.

1910.4 A licensed landscape architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed in writing and agreed to by all interested parties.

1910.5 A licensee shall fully disclose in writing to his or her client or employer any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services.

1910.6 When making public statements concerning the practice of landscape architecture, a licensee shall disclose when he or she is being compensated for making such statements.

1910.7 If, in the course of his or her work on a project, a licensed landscape architect becomes aware of a decision made by his or her employer or client, against such

licensee's advice, which will result in a violation of any applicable federal, state, or municipal building laws or regulations and which will, in the licensee's judgment, materially and adversely affect the safety to the public of the finished project, the licensed landscape architect shall:

(a) Report the decision to the local building inspector or other public official charged with enforcement of the applicable federal, state, or municipal building laws and regulations; and

(b) Refuse to consent to the decision.

1910.8 A licensed landscape architect shall not willfully make a materially false statement or fail willfully to disclose a material fact requested in connection with his or her application for a license or renewal or reinstatement of a license.

1910.9 A licensed landscape architect shall not assist in the application for licensure of an individual known by the licensed architect to be unqualified with respect to education, training, experience, or character.

1910.10 A licensed landscape architect shall not sign or seal technical submissions unless they were prepared by the licensee or under his or her responsible charge; provided, however, that a licensee may sign and seal those portions of any technical submissions that were prepared under the responsible charge of another licensed landscape architect if he or she has reviewed such portions and has coordinated their preparation.

1910.11 A licensed landscape architect shall not, in the conduct of his or her practice, knowingly violate any municipal, state, or federal criminal law.

1910.12 A licensed landscape architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent to influence the official's judgment in connection with a prospective or existing project in which the licensee is interested.

1910.13 A licensee possessing knowledge of a violation of the provisions set forth in § 1909.1 through § 1909.12 by another licensed landscape architect shall report such knowledge to the Board.

**1911 SEALS**

1911.1 Each licensed landscape architect shall procure a seal, which shall contain the following information:

(a) District of Columbia;

(b) Licensee's name;

(c) License number;

(d) The words "Landscape Architect"; and

(e) Any other information requested by the Board.

1911.2 The seal shall be evidence of the authenticity of a document and shall be imprinted on all technical submissions, as follows:

(a) Each design and each drawing;

(b) On the cover and index pages identifying each set of specifications; and

(c) On the cover page (and index, if applicable) of all other technical submissions.

1911.3 The seal appearing on any technical submission shall be prima facie evidence that the technical submission was prepared by or under the responsible charge of the named licensee appearing on the seal.

1911.4 No licensed landscape architect shall affix or permit to be affixed his or her seal or signature to any technical submission which depicts work which he or she is not competent to perform.

1911.5 No licensed landscape architect shall affix his or her seal or signature to any technical submission, or any portion thereof, that was not prepared by him or her or under his or her responsible charge, provided that a licensee may sign or seal technical submissions prepared by another licensed landscape architect if he or she has reviewed, approved, or modified and adopted the work under his or her responsible charge.

1911.6 Computer-generated seals not signed with a digital signature may be used to authenticate technical submissions provided a manual signature is placed adjacent to or across the seal and the date is written below it. Technical submissions which do not require certification may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of licensee), L.A.#_______ on (date of sealing). This document should not be considered a certified document."

1911.7 Technical submissions that are signed using a digital signature, as defined in this chapter, shall contain the following:

(a) An authentication procedure that includes the following elements:

(1) A unique signature;

(2) Capability to verify the source;

(3) Sole control by the person using it; and

(4) A link to the document in such a manner that the digital signature is invalidated if any data in the document is changed; and

(b) A list of the hardware, software, and parameters used to prepare the document(s).

**1999 DEFINITIONS**

1999.1 When used in this chapter, the words and phrases set forth in this section shall have the following meanings:

**Act** - The Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code §§ 47-2853.01, *et seq*. (2015 Repl.)).

**Applicant** – A person who has submitted an application for licensure as a landscape architect to the Board.

**Board** – The Board of Architecture, Interior Design, and Landscape Architecture as established by the Act.

**CLARB** – The Council of Landscape Architectural Registration Boards.

**Department** - Unless otherwise defined, the Department of Consumer and Regulatory Affairs.

**Digital Signature** - An electronic authentication process attached to or logically associated with an electronic document utilizing technology that meets the National Institute of Standards and Technology (NIST) standards for security and privacy to provide the same degree of assurance and certainty as the traditional "paper and ink" method of signatures.

**Director** - The Director of the Department of Consumer and Regulatory Affairs.

**LAAB** – The Landscape Architectural Accreditation Board.

**L.A.R.E.** – The current Landscape Architect Registration Examination prepared by CLARB.

**Licensed landscape architect or Licensee**– A person licensed to practice landscape architecture under this chapter and the Act.

**Manual signature** – The handwritten name of a person applied to a document that identifies the person, serves as a means of authentication of the contents of the document, and provides responsibility for the creation of the document and accountability for the contents of the document.

**Practice of landscape architecture –** Rendering or offering to render services, including consultation, evaluation, planning, and preparation of studies, designs, specifications, and other technical submissions, in connection with the development of land areas where, and to the extent that the dominant purpose of such services is preservation, enhancement, or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, grading and drainage and the consideration and determination of inherent problems of the land relating to the erosion, wear and tear, blight or other hazards, and the administration of contracts relative to projects principally directed at the functional and aesthetic use of land, and the location and arrangement of such tangible objects and features as are incidental and necessary to carry out the purposes outlined herein. However, the term does not include the design of structures or facilities with separate and self-contained purposes such as are ordinarily included in the practice of engineering or architecture or the making of land surveys or final land plats for official approval or recording.

**Responsible charge** – Direct control and personal supervision of the professional services provided by a licensed landscape architect in the practice of landscape architecture. The degree of control necessary shall be such that the licensee personally makes design decisions or reviews and approves proposed decisions prior to their implementation, including consideration of alternatives, whenever technical decisions are to be made, and judges the qualifications of technical specialists and the validity and applicability of their recommendations before such recommendations are incorporated in the work.

**Seal** - A symbol, image, or list of information that may be found in the form of a rubber stamp, embossed seal, computer-generated data, or other form.

**Technical submissions** – Studies, designs, drawings, specifications, and any other technical documentation prepared in the course of the practice of landscape architecture.

**Chapter 35, LICENSING FEES, is amended as follows:**

**Section 3500, FEES, is amended as follows:**

**Add paragraphs (w) and (x) to Subsection 3500.2:**

(w) PROFESSIONAL DESIGN FIRM:

| | | |
|---|---|---|
| Application | $65.00 | |
| License | $120.00 | (up to 2 years) |
| Renewal | $155.00 | (up to 2 years) |
| Late Renewal Fee | $50.00 | |
| Examination/Re-examination | See § 3500.3 | |
| Reinstated License | $155.00 | (up to 2 years) |
| Inactive Status | $155.00 | |
| Duplicate License | $30.00 | |
| Verification of Records | $30.00 | |

(x) LANDSCAPE ARCHITECTS:

| | | |
|---|---|---|
| Application | $65.00 | |
| License | $120.00 | (up to 2 years) |
| Renewal | $155.00 | (up to 2 years) |
| Late Renewal Fee | $50.00 | |
| Examination/Re-examination | See § 3500.3 | |
| Reinstated License | $155.00 | (up to 2 years) |
| Inactive Status | $155.00 | |
| Duplicate License | $30.00 | |
| Verification of Records | $30.00 | |

All persons desiring to comment on these proposed regulations should submit comments in writing to Robert Finn, Legislative and Public Affairs Officer, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., 5th Floor, Washington, D.C. 20024, or via e-mail at Monique.Bocock@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. The agency can be reached by telephone at 202-442-4400. A copy fee of one dollar ($1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at dcra.dc.gov by going to the "About DCRA" tab, clicking "News Room", and clicking on "Rulemaking."

## DEPARTMENT OF HEALTH

## NOTICE OF SECOND EMERGENCY RULEMAKING

The Director of the Department of Health ("Department"), pursuant to the authority set forth in Section 1301 of the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq*. (2012 Repl.)) (the "Act") and in accordance with Mayor's Order 2005-137, dated September 27, 2005, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 101 (Assisted Living Residences) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations ("DCMR").

The Department has determined that there are a number of gaps in the Act which put residents at risk of injury to their persons and to the rights granted to them under the Act. This rulemaking is necessary to preserve the health, safety, and welfare of District residents to address those gaps and immediately preserve and promote the health, safety, and welfare of the public by establishing emergency regulations for Assisted Living Residences ("ALRs") in order to set forth requirements to meet emergency preparedness and fire prevention guidelines, as well as clear and comprehensive requirements for operating an ALR in a manner that preserves the health, safety, and welfare of the residents within.

This emergency rulemaking is necessary to immediately implement ALR rules that: ensure all ALRs comply with fire prevention codes or emergency preparedness guidelines; ensure a background check of ALR license applicants; require all ALRs to investigate and report unusual incidents that jeopardize the health and safety of ALR residents; protect ALR residents from entering into agreements that would relieve ALRs from their duty to administer a medication to a resident; ensure that residents who are involuntarily discharged receive proper written notice of the resources and the rights to challenge the discharge that are due to them under D.C. Law 6-108; establish a standard for the types of health information that must accompany a resident who is discharged or transferred to another facility to ensure the receiving facility has an adequate medical history for the resident to immediately resume care upon receipt; ensure that each ALR has no less than one (1) registered nurse available to the ALR twenty-four (24) hours a day, seven (7) days a week; require all ALRs to implement policies and procedures to ensure the supervision of visitors who are likely to have access to resident living units; ensure that all ALRs maintain sufficient supervision of the healthcare professionals that are hired privately by ALR residents; establish a standard for medication self-administration assessments; ensure safe medication storage parameters; or require ALRs to document, investigate, and report all adverse drug reactions. This emergency action will supplement the provisions of the Act in order to ensure that the aforementioned provisions are in place to immediately preserve the health, safety, and welfare of ALR residents.

In addition to establishing the aforementioned provisions, this rulemaking action will also enhance and clarify the Act's existing provisions as necessary to address current industry practices and challenges while promoting and protecting ALR residents' rights, health, and safety. Lastly, this rulemaking relocates the section titled "Fees" from 22-B DCMR § 10101 to 22-B DCMR § 10105, but does not make any changes to the existing language in the section.

The Department is aware that regulations governing the practice of assisted living administrators and the licensure of said practice have not yet been published. Consequently, the Department will not enforce the portions of this rulemaking that require an individual to be licensed by the District of Columbia Board of Long-Term Care Administration or otherwise authorized by the Director to practice assisted living administration until rules have been promulgated to govern said licensure and authorization.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on August 24, 2018 at 65 DCR 8785 to immediately preserve and promote the health, safety and welfare of the public for the reasons addressed above. Those emergency regulations were adopted on August 16, 2018 and expired one hundred twenty (120) days from their date of adoption, *i.e.*, on December 14, 2018. The Department received comments on the proposed regulations that were published on August 24, 2018 and seeks to adopt some of the comments in a second proposed rulemaking, which will then be subject to the statute-mandated public comment period and forty-five (45) day Council review period. Thus, it is not possible for final, permanent rulemaking to have become effective prior to the December 14, 2018 expiration date of the emergency regulations that were adopted on August 16, 2018. The emergency regulations that were adopted on August 16, 2018 are the only municipal regulations governing the operation and emergency preparedness of assisted living residences in the District of Columbia. Therefore, this emergency rulemaking action is necessary to maintain the status quo and preserve the District's entire body of regulations governing the operation and emergency preparedness of assisted living residences, which expired on December 14, 2018.

This emergency rulemaking is identical to the Notice of Emergency and Proposed Rulemaking published in the *D.C. Register* on August 24, 2018.

This emergency rule was adopted on December 10, 2018, and became effective immediately on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption (*i.e.*, on April 9, 2019), or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

**Chapter 101, ASSISTED LIVING RESIDENCES, of Title 22-B, PUBLIC HEALTH AND MEDICINE, is amended in its entirety to read as follows:**

## CHAPTER 101 ASSISTED LIVING RESIDENCES

**Secs.**

**10100** **General Provisions**
**10101** **Purpose**
**10102** **Authority to Operate an Assisted Living Residence (ALR) in the District of Columbia**
**10103** **Restrictions**
**10104** **Qualification and Eligibility**
**10105** **Fees**
**10106** **Initial ALR Licensure**
**10107** **Licensure Inspections**

**10108 Admissions**
**10109 Resident's Rights and Quality of Life**
**10110 Required Policies and Procedures**
**10111 Disclosure**
**10112 Financial Agreements**
**10113 Individualized Service Plans (ISPs)**
**10114 Shared Responsibility Agreements (SRAs)**
**10115 Discharge and Transfer**
**10116 Staffing Standards**
**10117 Assisted Living Administrators (ALAs)**
**10118 Private Duty Healthcare Professionals**
**10119 Companions**
**10120 Unlicensed Personnel Criminal Background Check**
**10121 Pre-admission Medication Management Assessment**
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**10123 Medication Storage**
**10124 Medication Administration**
**10125 Reporting Abuse, Neglect, Exploitation, and Unusual Incidents**
**10126 Inspections**
**10127 Sanctions**
**10128 Civil Penalties**
**10129 Criminal Penalties**
**10130 Referrals to Regulatory Entities**
**10131–10198 [RESERVED]**
**10199 Definitions**


## 10100 GENERAL PROVISIONS

10100.1 These rules are implemented pursuant to and in accordance with the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127, D.C. Official Code §§ 44-101.01 *et seq*.), as amended from time to time (hereinafter, "the Act").

10100.2 The provisions set forth in this chapter have been issued to supplement provisions of the Act. Accordingly, each assisted living residence ("ALR") licensed pursuant to the Act must comply with the Act and with this chapter, which together constitute standards for licensing and operation of assisted living residences within the District of Columbia.

10100.3 Nothing in this chapter shall be construed to contradict the provisions of the Act or abridge the residents' rights provided therein.

10100.4 An ALR that participates in the Medicaid Home Community-Based Services Waiver program for the Elderly and Persons with Physical Disabilities, as approved by the Council of the District of Columbia and the Centers for Medicare and Medicaid Services, shall maintain compliance with Chapter 42 (Home and

Community-Based Services Waiver for Persons Who Are Elderly and Individuals with Physical Disabilities) of Title 29 of the District of Columbia Municipal Regulations ("DCMR").

**10101 PURPOSE**

10101.1 The purpose of this chapter is to supplement provisions of the Act, which sets minimum, reasonable standards for licensure of assisted living residences ("ALRs") in the District of Columbia. This chapter is intended to maximize independence and promote the principles of individuality, personal dignity, autonomy, freedom of choice, and fairness for all individuals residing in assisted living programs while establishing reasonable standards to protect the individuals' health and safety.

**10102 AUTHORITY TO OPERATE AN ASSISTED LIVING RESIDENCE (ALR) IN THE DISTRICT OF COLUMBIA**

10102.1 The provision of housing under a landlord-tenant arrangement does not, in and of itself, exclude a person from the requirements to be licensed and in compliance with the provisions of the Act and this chapter.

10102.2 A separate license shall be required to operate each ALR, regardless of whether multiple ALRs are operated by the same person, or whether the ALR is on premises shared with another ALR or facility. Each ALR license shall be specific to the location of the ALR.

10102.3 An ALR shall post its license to operate on its premises in a manner conspicuous to residents and visitors.

10102.4 A Licensee shall be responsible for the health and safety of the ALR's residents.

10102.5 A Licensee shall be responsible for the operation of the ALR, including the ALR's compliance with the Act, this chapter, or any other applicable District or federal laws or regulations.

10102.6 An ALR's failure to comply with the Act, this chapter, or any other applicable District or federal laws or regulations may be grounds for sanctions or penalties, including suspension or revocation of licensure, as specified in the Act and this chapter.

**10103 RESTRICTIONS**

10103.1 An ALR shall not provide services beyond the scope of its license.

10103.2 An entity may not use the term "assisted living" to advertise its services unless the entity is licensed under the Act to provide assisted living services.

10103.3 A person may not advertise, represent, or imply to the public that an ALR is authorized to provide a service that the service provider is not licensed, certified, or otherwise authorized to provide.

10103.4 A person may not advertise the facilities or services provided by the assisted living residence in a manner that is false, misleading, or fraudulent. Facilities or services that are provided at an additional cost shall be identified in a manner that indicates such.

10103.5 The Director shall issue each license only for the premises and person or persons named as applicants in the application and the license shall not be valid for use by any other person or persons or at any place other than that designated in the license. Any transfer as to person or place shall cause the immediate forfeiture of the license.

10103.6 Each license to operate an ALR that is in the Licensee's possession shall be the property of the District Government and shall be returned to the Director immediately upon any of the following events:

(a) Suspension or revocation of the license;

(b) Refusal to renew the license;

(c) Voluntary forfeiture of the license; or

(d) The ALR's operation is discontinued by voluntary action of the Licensee.

**10104 QUALIFICATION AND ELIGIBILITY**

10104.1 The Director may conduct background checks on an applicant for licensure or for renewal of licensure in order to determine the applicant's suitability or capability to operate or to continue operating an assisted living residence. If applicant is a partnership or non-corporation business entity, the background checks may be conducted on the owners. If applicant is a corporation, the background checks may be conducted on the directors, officers, and any person owning or controlling ten percent (10%) of common stock in the corporation.

10104.2 Background checks may consist of, but not be limited to, investigating the following:

(a) Whether the applicant, or the individual identified on the application to serve as assisted living administrator ("ALA") for the ALR, holds a current, valid license to practice assisted living administration in the District of Columbia;

(b) Applicant's history of compliance with the District of Columbia or any other state's licensing requirements and with any federal certification requirements, including any license revocation or denial; and

(c) The arrest and criminal records of the applicant, including but not limited to the following:

(1) Crimes or acts involving abuse, neglect or mistreatment of a person or misappropriation of property of the person;

(2) Crimes or acts related to the manufacture, distribution, prescription, use, or dispensing of a controlled substance;

(3) Fraud or substantial or repeated violations of applicable laws and rules in the operation of any health care facility or in the care of dependent persons;

(4) A conviction or pending criminal charge which substantially relates to the care of adults or minors, to the funds or property of adults or minors, or to the operation of a residential or health care facility; or

(5) Currently under investigation by Law Enforcement Agencies to include, but not limited to the FBI, Office of Inspector General, Department of Health, and Department of Health Care Finance.

**10105 FEES**

10105.1 As provided in Section 302(b) of the Act (D.C. Official Code § 44-103.02(b)), each assisted living residence facility seeking an initial license shall pay a base fee of one hundred dollars ($100.00), plus a fee of six dollars ($6.00) per resident based on license capacity. These fees shall be paid at the time of the facility's application for the initial license.

10105.2 As provided in Section 304(d) of the Act (D.C. Official Code § 44-103.04(d)), each assisted living residence facility seeking a renewal of its license shall pay a base fee of one hundred dollars ($100.00), plus a fee of six dollars ($6.00) per resident based on license capacity. These fees shall be paid at the time of the facility's application for the renewal license.

10105.3 Each assisted living residence facility seeking an initial license or renewal license which fails to submit its application timely, as provided in Sections 302(a) and 304(b) of the Act (D.C. Official Code §§ 44-103.02(a), 44-103.04(b)), shall pay, in addition to the base fee and per-resident fee specified herein, a late fee of one hundred dollars ($100.00). This fee shall be paid at the time of the facility's application for the license.

10105.4 As provided in Section 305 of the Act (D.C. Official Code § 44-103.05), each assisted living residence facility seeking a revised license as required due to changes within the facility shall pay the following fees, as applicable, which fees shall be paid at the time of the facility's request for revision of the license:

(a) For a revision based on changes any of which require re-inspection of the facility, a base fee of one hundred dollars ($100.00), plus a fee of six dollars ($6.00) per resident based on license capacity; or

(b) For a revision based on changes which do not require re-inspection of the facility, a fee of one hundred dollars ($100.00).

**10106 INITIAL ALR LICENSURE**

10106.1 To obtain and maintain a license, an applicant shall meet all of the requirements of this chapter and other applicable federal and local laws and regulations.

10106.2 An application for a license to operate an assisted living residence shall be submitted to the Director for review, and shall not be approved for licensure unless determined by the Director to meet the requirements of the Act and this chapter.

10106.3 An applicant for an ALR license shall pay the licensure fees set forth in Section 10105 of this chapter.

10106.4 In addition to the requirements in Section 302(d) of the Act (D.C. Official Code § 44-103.02(d), an application for an ALR license shall include evidence of a current, valid license issued to the assisted living administrator ("ALA") named in the application, issued by the District of Columbia.

10106.5 A certificate of occupancy required by Section 302(e)(2)(A) of the Act (D.C. Official Code § 44-103.02(e)(2)(A)) shall only be required if the applicant is seeking licensure to operate an ALR with seven (7) or more resident beds.

10106.6 In addition to the information required under Section 302(e)(2) of the Act (D.C. Official Code § 44-103.02(e)(2), an applicant for licensure shall provide the following information:

(a) The policies and procedures required by Section 10110 of this chapter;

(b) A floor plan specifying dimensions of the ALR, exits and planned room usage;

(c) Proof that the ALR's proposed location has passed an inspection for compliance with fire codes conducted by the District of Columbia Fire &

EMS Department's Fire Prevention Division or a successor entity that becomes responsible for conducting such inspections on behalf of the District; and

(d) Any additional information requested by the Director.

10106.7 The documentation required under Section 302(e)(2) of the Act (D.C. Official Code § 44-103.02(e)(2)) and Subsection 10106.06 of this chapter shall be provided to the Director during the pre-licensure inspection period, after on-site inspection of the applicant's ALR has been conducted.

**10107 LICENSURE INSPECTIONS**

10107.1 A Licensee shall be responsible for the compliance of an ALR with this chapter and the Act.

10107.2 An ALR or prospective ALR that seeks to accept the Director's suggested remedy or propose its own remedy, pursuant to Section 306(e) of the Act (D.C. Official Code § 44-306(e)), shall do so by submitting the remedy to the Director in a written, signed and dated plan of corrective action to abate the cited deficiencies. The plan of corrective action shall be submitted to the Director no later than fifteen (15) working days following the ALR's receipt of the written notice of violations.

**10108 ADMISSIONS**

10108.1 An ALR shall accept as residents only individuals for whom the ALR can provide appropriate services unless the ALR arranges for third party services or the resident does so with the agreement of the ALR. No ALR may have more residents, including respite care residents, than the maximum bed capacity on its license.

10108.2 An ALR may deny admission to an individual if the individualized service plan ("ISP") that is developed prior to the applicant's admission, pursuant to Section 604(d) of the Act (D.C. Official Code § 44-106.04(d)), does not indicate that the applicant requires the minimal level of assisted living services provided by the ALR.

10108.3 In addition to the provisions in Section 601(d)(1) of the Act (D.C. Official Code § 44-106.01(d)(1)), no individual may be admitted who at the time of initial admission, and as established by the initial assessment is dangerous to him or herself or others or exhibits behavior that significantly and negatively impacts the lives of others, to include physical or mental abuse of others or destruction of property, where the ALR would be unable to eliminate such danger or behavior through the use of appropriate treatment modalities.

**10109 RESIDENT'S RIGHTS AND QUALITY OF LIFE**

10109.1 The ALR shall promote and facilitate resident self-determination through support of resident choice and all the rights specified in this chapter.

10109.2 The ALR shall support the resident in exercising his or her rights under this chapter without interference, coercion, discrimination, or retaliation.

10109.3 A resident shall have the right to view, upon demand, a copy of the ALR policies and procedures required under Section 10110 of this chapter.

10109.4 As provided by Section 505(a)(7) of the Act (D.C. Official Code § 44-105.05(a)(7)):

(a) A resident shall have the right to organize and participate in resident groups in the ALR;

(b) A resident shall have the right to invite family members to resident group meetings in the ALR; and

(c) The ALR must designate an ALR employee who shall assist with the meeting, and through whom the resident group may submit its written requests to the ALR and may receive the ALR's response to those requests.

10109.5 An ALR shall consider the views of a resident group and respond promptly to the grievances indicated in the resident group's written requests that concern issues of resident care and life in the ALR.

10109.6 An ALR must be able to demonstrate their responses to written requests from a resident group. Nothing in this subsection shall be construed to imply that the ALR must implement as recommended every request of the resident group.

10109.7 Staff, family members, visitors, and other guests may attend resident group meetings only at the group's invitation. Nothing in this subsection shall prevent a resident's surrogate from attending a resident group meeting with, or instead of, the resident he or she represents.

10109.8 For the purpose of Section 506(a)(1) of the Act (D.C. Official Code § 44-105.06(a)(1)) an ALA record shall be interpreted to mean the aggregate of the following records maintained by the ALR with respect to a particular resident:

(a) Signed resident agreements written pursuant to Section 602 of the Act (D.C. Official Code § 44-106.02, including the financial provisions required by Section 603 of the Act (D.C. Official Code § 44-106.03);

(b) Healthcare records;

(c) Individualized service plans (ISPs);

(d) Medication administration records; and

(e) Medication and treatment orders.

**10110 REQUIRED POLICIES AND PROCEDURES**

10110.1 The ALR shall develop and implement written policies on all of the following, which shall meet the requirements set forth by the Department:

(a) Medication management, administration of medication, medication administration errors, and medication storage;

(b) Developing, reviewing, and revising resident's individualized service plan;

(c) Private duty nurses, aides, and other healthcare professionals;

(d) Companions;

(e) Admission, transfer, and discharge;

(f) Complaints and grievances;

(g) Preventing, remediating, and reporting abuse, neglect and exploitation of residents;

(h) Criteria to determine the care needs required by each resident upon initial assessment and throughout the duration of the resident's stay, including how staffing, emergency triage, and fees assessed to residents are impacted by the level of care needs assigned to a resident;

(i) Alcohol, tobacco, and marijuana use;

(j) Infection control, sanitation, and universal precautions;

(k) Emergency preparedness, which shall meet the same standards for emergency preparedness as those set for long term care facilities by the Centers for Medicare and Medicaid Services, at 42 CFR § 483.73;

(l) Use of audio-visual monitoring systems to monitor the ALR's internal and external premises;

(m) Resident's right to visitation;

(n) Supervision of independent contractors performing work on the ALR's premises on behalf of the ALR or resident;

(o) Availability of the ALA to the ALR staff;

(p) Contacting the ALR's registered nurse; and

(q) Determining when an ambulance or emergency medical services are contacted during a health emergency.

10110.2 An ALR shall develop and implement written procedures in connection with the policies in Subsection 10110.01, which shall meet the requirements set forth by the Director.

**10111 DISCLOSURE**

10111.1 An ALR shall not provide any service or item that will be at a cost additional to the aggregate of assisted living services most recently billed to, or on behalf of, the resident unless the ALR has first:

(a) Provided the resident (or surrogate) with:

(1) Oral and written notice of all fees, rates, and charges he or she will incur for the provision of the service or item; and

(2) The dollar amount, frequency, and number of recurring charges that will occur for the provision of that service or item; and

(b) Obtained the resident's (or surrogate's) signature confirming receipt of the advance disclosures required by paragraph (a) of this subsection.

10111.2 An ALR shall keep a copy of the signed confirmation required by this subsection in the resident's record.

10111.3 An ALR shall be excused from the requirements of Subsection 10111.01 if emergency circumstances necessitate the immediate provision of an item or service that would otherwise have required advance disclosure of the fees, rates, and charges. An ALR shall provide the disclosures described in Subsection 10111.01(a) and obtain the signature confirmation described in Subsection 10111.01(b) upon concluding its assessment of the resident following the emergency.

**10112 FINANCIAL AGREEMENTS**

10112.1 The ALR shall report the resident's financial record to the resident on a quarterly basis. The resident's financial record shall also be made available to the resident, upon request of the resident (or surrogate), within twenty-four (24) hours or the next business day, whichever occurs last.

10112.2 Upon the discharge, eviction, or death of a resident with a personal fund deposited with the ALR, the ALR shall convey within thirty (30) days the resident's funds, and a final accounting of those funds, to the resident, or in the case of death, the individual or probate jurisdiction administering the resident's estate in accordance with the laws of the District of Columbia.

10112.3 The complete terms of all financial provisions in a resident's agreement shall be made available for the resident (or surrogate) to review prior to admission.

**10113 INDIVIDUALIZED SERVICE PLANS (ISPs)**

10113.1 An ISP shall be developed for each resident not more than thirty (30) days prior to admission.

10113.2 In accordance with Section 604 of the Act (D.C. Official Code § 44-106.04), the ISP developed following the completion of the "post move-in" assessment shall be based on the following assessments conducted by or on behalf of the ALR:

(a) The medical, rehabilitation, and psychosocial assessment of the resident, conducted in accordance with Section 802 of the Act (D.C. Official Code § 44-108.02;

(b) The functional assessment of the resident, conducted in accordance with Section 803 of the Act (D.C. Official Code § 44-108.03 (2012 Repl.); and

(c) The reasonable accommodation of the resident (or surrogate) preferences.

10113.3 A "post move-in" assessment required by Section 604 of the Act (D.C. Official Code § 44-106.04) shall be conducted by or on behalf of the ALR within forty-eight (48) hours of a resident's admission.

10113.4 At each review of a resident's ISP conducted pursuant to Section 604(d) of the Act (D.C. Official Code § 44-106.04(d)), the ALR shall obtain from the resident (or surrogate) a signed statement confirming that the resident (or surrogate):

(a) Was invited to participate in the review of the ISP; and

(b) Did or did not participate in the review of the ISP.

10113.5 An ALR shall provide the resident (or surrogate) no less than seven (7) days' notice prior to the review of a resident's ISP conducted pursuant to Section 604(d) of the Act (D.C. Official Code § 44-106.04(d)), unless seven days' (7) notice is made impractical due to a significant change in the resident's condition that necessitates review of the resident's ISP at a sooner date.

10113.6 A resident's disagreement with an ISP that is updated pursuant to Section 604(d) of the Act (D.C. Official Code § 44-106.04(d)) and in accordance with the Act and this chapter shall not, in and of itself, prevent implementation of the ISP.

**10114 SHARED RESPONSIBILITY AGREEMENTS (SRAs)**

10114.1 Shared responsibility agreements ("SRAs") may be developed and entered into between an ALR and a prospective or admitted resident (or surrogate,) at any time prior to or subsequent to the resident's admittance to the ALR.

10114.2 An ALR shall not enter into a shared responsibility agreement with a prospective or admitted resident that:

(a) Intentionally or unintentionally waives liability of the ALR to the resident, in whole or in part, beyond the scope necessary to accommodate the resident's (or surrogate's) reasonable, requested arrangement or course of action;

(b) Relieves the ALR of its duty under law or the ISP to ensure that the resident is provided or administered all prescription and non-prescription medications and dietary supplements required to be provided or administered by the ALR;

(c) Violates any applicable District or federal criminal law; or

(d) Violates or will cause the violation of any provision of the Act or this chapter.

10114.3 An ALR may decline to enter into a shared responsibility agreement if satisfaction of the SRA will result in an adverse risk to the health, welfare, or safety of other residents or ALR staff.

10114.4 Attempts to develop a shared responsibility agreement shall be conducted in good-faith. For purposes of this section, a good-faith attempt to negotiate a SRA shall mean a two-way negotiation between the ALR and the resident (or surrogate), where both parties have equal opportunity to offer and reject terms of the SRA, and suggest reasonable alternatives to accommodate the course of action the resident wishes to pursue.

10114.5 In the event that a good-faith attempt to negotiate a SRA is unsuccessful, the

ALR:

(a) Shall not obstruct the resident from pursuing the course of action sought after;

(b) Shall use the ISP to document the ALR's consultations with the resident to dissuade the course of action, including but not limited to:

(1) The date and time each consultation was held;

(2) The content of the consultations;

(3) The alternative courses of action proposed by the resident and ALR, and why the proposed alternatives were not acceptable to the resident or ALR; and

(4) Notify the resident that harm to self or others as a result of the persisted course of action may result in discharge.

**10115 DISCHARGE AND TRANSFER**

10115.1 The ALA shall determine if the care needs of a resident exceed the resources that can be marshalled by the ALR or third-party services to support the resident safely, making transfer to another facility necessary.

10115.2 Prior to the voluntary or involuntary transfer of a resident to another facility, or discharge, the ALR shall complete and transmit to the receiving facility or, if no receiving facility has been identified, to the resident (or surrogate), any information related to the resident that is necessary to ensure continuity of care and services, including at a minimum, the:

(a) Contact information of the healthcare practitioner or practitioners responsible for the primary care of the resident;

(b) Current medication and treatment orders from the resident's healthcare practitioner or practitioners;

(c) Dosage and date of each medication last administered to the resident;

(d) Resident's most recent ISP, which shall include the resident's assessments;

(e) Resident's name, date of birth, and a personal identifier number, such as a social security number or health insurance information, for purposes of continuing medical care services;

(f) Primary medical diagnoses and allergies;

(g) Name and contact information for the resident's surrogate, if applicable; and

(h) Resident's Advanced Directive information.

10115.3 An ALR shall not transmit the information prescribed in Subsection 10115.02 to the receiving facility without the prior, written, uncoerced consent of the resident (or surrogate). In the event that consent is withheld, an ALR shall transmit the information prescribed in Subsection 10115.02 directly to the resident (or surrogate) prior to transfer or discharge.

10115.4 Although an ALR shall make every effort to avoid discharge, grounds for involuntary discharge may include the following:

(a) Failure to pay all fees and costs as specified in the contract;

(b) Inability of the ALR to meet the care needs of the resident as provided in the ISP;

(c) Engaging in sexual harassment, exploitation, or other degrading conduct to the detriment of another residents' dignity, in violation of the victim's rights under this chapter;

(d) Resident presents a risk of physical self-harm, or harm to one or more other residents or staff, for which no other reasonable means of mitigation are available;

(e) The resident does not require any assisted living services provided by the ALR, as indicated by the resident's most recent ISP review conducted pursuant to Section 604(d) of the Act (D.C. Official Code § 44-106.04(d));

(f) Discharge is essential to meet the ALR's reasonable administrative needs and no practicable alternative is available;

(g) The ALR is ceasing to operate;

(h) The licensed capacity of the ALR is being reduced by the District; or

(i) The license to operate the ALR is suspended or revoked.

10115.5 An ALR shall conform to the notices and procedures for involuntary discharge, transfer, or relocation provided by subchapter 3 of Chapter 10 of Title 44 of the District of Columbia Official Code (D.C. Official Code §§ 44-1003.01 – 1003.13).

10115.6 As provided for by D.C. Official Code § 44-1003.02(d), the written notice due to a resident prior to an involuntary discharge, transfer, or relocation shall be on a form prescribed by the Director and shall, at a minimum, contain:

(a) The specific reason(s), stated in detail and not in conclusory language, for the proposed discharge, transfer, or relocation;

(b) The proposed effective date of the discharge, transfer, or relocation;

(c) A statement in not less than twelve (12)-point type that reads:

"You have a right to challenge this facility's decision to discharge, transfer, or relocate you. If the decision is to discharge you from the facility or to transfer you to another facility and you think you should not have to leave, you or your representative have 7 days from the day you receive this notice to inform the Administrator or a member of the staff that you are requesting a hearing and to complete the enclosed hearing request form and mail it in the preaddressed envelope provided. If you are mailing the hearing request form from the facility, the day you place it in the facility's outgoing mail or give it to a member of the staff for mailing shall be considered the date of mailing for purposes of the time limit. In all other cases, the postmark date shall be considered the date of mailing. If, instead, the decision is to relocate you within the facility and you think you should not have to move to another room, you or your representative have only 5 days to do the above.

"If you or your representative request a hearing, it will be held no later than 5 days after the request is received in the mail, and, in the absence of emergency or other compelling circumstances, you will not be moved before a hearing decision is rendered. If the decision is against you, in the absence of an emergency or other compelling circumstances you will have at least 5 days to prepare for your move if you are being discharge or transferred to another facility, and at least 3 days to prepare for your move if you are being relocated to another room within the facility.

"To help you in your move, you will be offered counseling services by the staff, assistance by the District government if you are being discharged or transferred from the facility, and, at your request, additional support from the Long-Term Care Ombudsman program. If you have any questions at all, please do not hesitate to call one of the phone numbers listed below for assistance.";

(d) A hearing request form, together with a postage paid envelope preaddressed to the appropriate District official or agency;

(e) The name, address, and telephone number of the person charged with the responsibility of supervising the discharge, transfer, or relocation;

(f) The names, addresses, and telephone numbers of the Long-Term Care Ombudsman program and local legal services organizations; and

(g) The location to which the resident will be transferred.

10115.7 The involuntary discharge of a resident on one or more grounds enumerated in Subsection 10115.04 shall be canceled, and the resident shall be entitled to remain in the ALR, upon rectification of the ground or grounds for discharge. Rectification may be, if applicable, the payment of all monies owed at any time prior to discharge, or negotiation of a new ISP that meets the care needs of the resident.

10115.8 Within thirty (30) days of the date of discharge, the ALR shall:

(a) Give each resident or their surrogate:

(1) A final statement of account; and

(2) Any refunds due; and

(b) Return any money, property, or valuables held in trust or custody by the ALR.

10115.9 An ALR may temporarily transfer a resident to another living unit within the ALR on an involuntary basis if:

(a) The transfer is necessary to protect the resident from an imminent and physical harm present in the living unit;

(b) The imminent and physical harm is due to a curable condition of the living unit; and

(c) The transfer lasts no longer than necessary to cure the threat to physical harm posed by the condition of the living unit and return the living unit to its habitable condition.

**10116 STAFFING STANDARDS**

10116.1 An ALR shall be supervised by an assisted living administrator ("ALA") who shall be responsible for all personnel and services within the ALR, including, but not limited to, resident care and services, personnel, finances, and the ALR's physical premises.

10116.2 A Licensee may designate a person to serve as ALA to supervise the ALR provided that the designee holds a current, valid license to practice assisted living

administration issued by the District of Columbia's Board of Long-Term Care Administration. The Licensee shall submit the name of the person designated to be ALA to the Director on a form approved by the Director not more than 10 days after the designation is made or the designee has begun employment as the ALA, whichever occurs first.

10116.3 In addition to the staffing standards for ALAs set forth by Section 701 of the Act (D.C. Official Code § 44-107.01.), an ALA shall meet all requirements to practice assisted living administration prescribed by the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), as amended by the Omnibus Health Regulation Amendment Act of 2014, effective March 26, 2014 (D.C. Law 20-96), and all requirements to practice assisted living administration set forth by the Director by rulemaking.

10116.4 At all times one (1) or more residents are on the premises of an ALR, an ALA or Acting Administrator shall also be on the premises. At all times an ALA is not on the premises, an ALA shall:

(a) Ensure that an Acting Administrator is designated and assumes the responsibilities of the ALA required by the Act and this chapter, a that the Acting Administrator is a staff member who is at least eighteen (18) years of age, meets the staffing standards for an ALA required by Section 701 of the Act (D.C. Official Code § 44-107.01), and is authorized to temporarily practice as an Acting Administrator without an ALA license by rulemaking promulgated by the Director to regulate the practice of assisted living administration; and

(b) Be available to the ALR staff by telephone, at a minimum, and shall respond to the ALR staff's attempts to contact him or her by telephone within one (1) hour of the staff's initial attempt, except as provided for in Subsection 10116.06.

10116.5 The Licensee or ALA may, during an ALA's leave of absence, designate a staff member who meets the requirements in paragraph (a) of Subsection 10116.04 to serve as Acting Administrator for the ALR and perform the duties of the ALA for up to six (6) cumulative weeks in a twelve (12) month period. For purposes of this section, a "leave of absence" shall mean an ALA's scheduled or unscheduled absence from his or her supervision of the ALR for more than one (1) work day during which the ALA would normally have been expected to oversee the ALR's day-to-day operations.

10116.6 An ALA shall not be subject to Subsection 10116.04(b) during a leave of absence described in Subsection 10116.05.

10116.7 An Acting Administrator who is designated pursuant to Subsection 10116.05 shall

be held responsible for all duties prescribed to an ALA under the Act and this chapter for the duration of the ALA's leave of absence, or until relieved from duty as the Acting Administrator.

10116.8 An Acting Administrator who is designated pursuant to Subsection 10116.05 shall, at all times one (1) or more residents are on the ALR's premises and he or she is not, comply with paragraphs (a) and (b) of Subsection 10116.04.

10116.9 An ALR shall not be administrated by any person other than a licensed ALA for more than six (6) cumulative weeks in a twelve (12) month period without prior, written approval by the Director. A request for written authorization under this subsection shall be submitted to the Director in writing, and shall contain all information deemed necessary by the Director to determine the qualifications of the individual or individuals who will be serving as an Acting Administrator beyond the sixth ($6^{th}$) cumulative week of the ALA's leave of absence.

10116.10 An ALR shall not permit any person or persons, other than a licensed ALA, to administrate the ALR for more than a total of twelve (12) cumulative weeks in a twelve (12) month period.

10116.11 An ALR shall give to the Director prior written notice if an ALA's leave of absence will be for a period longer than three (3) consecutive weeks in duration. The notice shall include the name or names of the staff member or members designated to serve as Acting Administrator during the ALA's leave of absence, as well as the telephone number by which the Acting Administrators are to be contacted pursuant to Subsection 10116.04(b).

10116.12 An ALR shall be responsible for maintaining accurate record of the ALA's leaves of absence from the ALR. Record of the ALA's leaves of absence shall be made available to the Director or the Director's designee upon request during an inspection of an ALR authorized by this chapter or the Act.

10116.13 An ALR shall cause no less than one (1) registered nurse to be available to the ALA and the ALR's staff members twenty-four (24) hours a day, seven (7) days a week. For the purpose of this subsection, "available" means the registered nurse is required to:

(a) Be accessible to the ALA and ALR staff members in-person or by real-time communication methods, such as telephone, text message, or video call; and

(b) Respond to the ALA or ALR staff members' attempts to contact him or her within 1 hour; and

(c) Be able to present him or herself, in person, to the ALR's premises to respond to a significant change in a resident's health status if the nurse

determines, in his or her professional opinion, that the change in health status necessitates his or her presence.

10116.14 The contact information for the available registered nurse shall be posted conspicuously for, and shall be easily accessible to, the ALR staff.

10116.15 Personnel records maintained by the ALA for each employee pursuant to Section 701(d)(11) of the Act (D.C. Official Code § 44-107.01(d)(11)) shall be accurate and current and shall contain documentation including, but not limited to, the following:

(a) A description of the employment, signed and dated by the employee, that includes the employee's duties and responsibilities, and the qualifications required for the position;

(b) Initial date of hire;

(c) Proof of license, registration, certificate, or other authority for the employee to practice his or her profession in the District, if applicable;

(d) A completed criminal background check, performed as required by the District laws and regulations applicable to each individual;

(e) Employee training required by the Act or this chapter, or the individual's exemption therefrom; and

(f) A healthcare practitioner's written statement as to whether the employee bears any communicable diseases, including communicable tuberculosis.

10116.16 Employee records shall be made available for review by the Department of Health upon request during any inspection of an ALR that is authorized by the Act or this chapter.

10116.17 All employees, including the ALA, shall be required on an annual basis to document freedom from tuberculosis in a communicable form. Documentation shall be provided by the employee's licensed healthcare practitioner.

10116.18 All employees shall wear identification badges on their persons, which shall remain visible at all times the employee is on the ALR premises, and shall conspicuously display the employee's full name and job title.

**10117 ASSISTED LIVING ADMINISTRATORS (ALAs)**

10117.1 The ALA shall maintain a current, valid license to practice assisted living administration in the District at all times he or she is responsible for the administration of an ALR. For purposes of this subsection, an ALA shall not be

considered responsible for the administration of an ALR for the period of time he or she is on a leave of absence described in Subsection 10116.05 of this chapter.

10117. 2 The ALA shall ensure that the ALR is in compliance with the Act and this chapter.

10117.3 An ALA shall be subject to action by the District of Columbia Board of Long-Term Care Administration for failure to comply with the requirements of this section, this chapter, or the Act.

**10118 PRIVATE DUTY HEALTHCARE PROFESSIONALS**

10118.1 Pursuant to Section 701(a) of the Act (D.C. Official Code § 44-107.01(a)), the ALA shall be responsible for all personnel within the ALR, including private duty healthcare professionals that provide healthcare-related services on the ALR's premises.

10118.2 An ALR shall require that private duty healthcare professionals arranged by a resident, surrogate, or party other than the ALR to provide healthcare-related services to the resident on the ALR's premises on a recurring basis:

(a) Be certified, registered, licensed, or otherwise authorized by the District of Columbia to render the healthcare-related service they will provide to the resident;

(b) Maintain an accurate and current personnel record with the ALR that includes, but is not limited to, the following:

(1) A signed and dated description of the services to be rendered to the resident;

(2) A copy of the registration, certification, license, or other authorization required for the nurse, aide, or other healthcare professional to lawfully practice the healthcare-related services being rendered in the District of Columbia;

(3) Initial date and final date, if known, of providing service to resident on the ALR's premises;

(4) A healthcare practitioner's written statement as to whether the nurse, aide, or other healthcare professional bears any communicable diseases, including communicable tuberculosis; and

(5) If the nurse, aide, or other healthcare professional is providing care to the resident under the employ of an agency:

(A) The name, address, telephone number of the agency;

(B) The name and telephone number of the private nurse, aide, or other healthcare professional's immediate supervisor; and

(C) A copy of the agency's license or other authorization to operate in the District; and

(c) Be subject to immediate removal from the premises upon determination by the ALA or designee that the nurse, aide, or other healthcare professional has, or is suspected to have, a communicable disease, is mentally or physically incapable of performing his or her duties, or otherwise presents a risk to the health and safety of one (1) or more residents in the ALR.

10118.3 An ALR shall have a written agreement with each private duty healthcare professional described in this section, or the agency that employs him or her, if applicable, describing his or her obligations to report to the ALR:

(a) Medication errors and adverse drug reactions; and

(b) Abuse, neglect, exploitation, or unusual incidents, such as changes in the resident's condition.

10118.4 Pursuant to Section 607(a)(1) of the Act (D.C. Official Code § 44-106.07(a)(1)), the ALR shall be responsible for the safety and well-being of its residents, including residents receiving services from private duty healthcare professionals on the ALR's premises.

10118.5 The requirements for a private duty nurse, aide, or other healthcare professional under this section shall not apply to companions of a resident.

**10119 COMPANIONS**

10119.1 A companion shall not be permitted to provide any healthcare services to a resident or perform any services that constitute hands-on care of the resident.

10119.2 A companion may provide such services as cooking, housekeeping, errands, and providing social interaction with a resident.

10119.3 An ALR shall require that, prior to performing companion services for a resident, a companion provide to the ALR:

(a) A completed criminal background check for unlicensed professionals performed in accordance with D.C. Official Code §§ 44-551 *et seq.* and 22-B DCMR §§ 4700 *et seq.*; and

(b) A healthcare practitioner's written statement as to whether the companion bears any communicable diseases, including communicable tuberculosis.

10119.4 A companion shall be subject to immediate removal from the ALR premises upon determination by the ALA or designee that he or she has, or is suspected to have, a communicable disease, is mentally or physically incapable of performing his or her duties, or otherwise presents a risk to the health and safety of the residents.

10119.5 Pursuant to Section 701(a) of the Act (D.C. Official Code § 44-107.01(a)), the ALA shall be responsible for all personnel within the ALR, including companions providing companion services on the ALR's premises.

10119.6 Pursuant to Section 607(a)(1) of the Act (D.C. Official Code § 44-106.07(a)(1)), the ALR shall be responsible for the safety and well-being of its residents, including residents receiving companion services from companions on the ALR's premises.

**10120 UNLICENSED PERSONNEL CRIMINAL BACKGROUND CHECK**

10120.1 No ALR shall employ or contract an unlicensed person for work on the ALR's premises until a criminal background check has been conducted for that person.

10120.2 An ALR shall implement and comply with the criminal background check standards and requirements for unlicensed personnel prescribed by D.C. Official Code §§ 44-551 *et seq.* and 22-B DCMR §§ 4700 *et seq*.

**10121 PRE-ADMISSION MEDICATION MANAGEMENT ASSESSMENT**

10121.1 In addition to the consultations required by Section 902 of the Act (D.C. Official Code § 44-109.02), the ALR shall consult with the prospective resident's healthcare practitioner regarding the prospective resident's ability to self-administer medication within thirty (30) days prior to admission.

**10122 ON-SITE MEDICATION REVIEW**

10122.1 The on-site medication review arranged to occur every forty-five (45) days, pursuant to Section 903 of the Act (D.C. Official Code § 44-109.03), shall include documentation of any changes to the resident's medication profile, including changes in dosing and any medications that have been added or discontinued.

**10123 MEDICATION STORAGE**

10123.1 Medication that is entrusted to the ALR for storage shall be stored in accordance with the requirements of Section 904 of the Act (D.C. Official Code § 44-109.04).

10123.2 An ALR shall keep a current record of each prescription and non-prescription medication and dietary supplement kept by a resident in his or her living unit pursuant to Section 904(e)(8) of the Act (D.C. Official Code § 44-109.04(e)(8)), which shall be retained in the resident's medical record and include:

(a) Name of the medication;

(b) Strength of medication and quantity;

(c) Lot number; and

(d) If a prescribed medication:

(1) Name of prescriber;

(2) Name and phone number of the pharmacy that filled the prescription;

(3) Date the prescription was filled; and

(4) The frequency and directions for use provided by the prescriber.

10123.3 In the event of voluntary or involuntary discharge, or upon a resident's death, the ALR shall notify and attempt to return all medications to the resident (or surrogate) or resident's caregiver within thirty (30) days of the resident's discharge or death, unless return of the medication is prohibited by federal or other District law. If the resident's medications remain unclaimed for more than thirty (30) days after the resident or surrogate have been notified, the medication shall be considered abandoned and disposed of in accordance with the Section 904 of the Act (D.C. Official Code § 44-109.04) and applicable District law.

**10124 MEDICATION ADMINISTRATION**

10124.1 A resident shall be permitted to self-administer his or her medications, provided that the resident has been deemed capable of self-administering his or her own medication without assistance by the most recent on-site medication review required under the Act or, if he or she is a new resident, by the initial assessment conducted during the ALR's admission process.

10124.2 The initial assessment and periodic medication review performed pursuant to Sections 901 and 903 of the Act (D.C. Official Code §§ 44-109.01 and 44-109.03) for the purpose of determining whether a resident is capable of self-administering medication shall make one the following findings based on an assessment of the associated tasks below:

(a) A resident is capable of self-administering his or her own medication if the

resident can:

(1) Correctly read the label on the medication's container;

(2) Correctly interpret the label;

(3) Correctly follow instructions as to route, dosage, and frequency of administration;

(4) Correctly ingest, inject, or otherwise apply the medication;

(5) Correctly measure or prepare the medication, including mixing, shaking, and filling syringes;

(6) Safely store the medication;

(7) Correctly follow instructions as to the time the medication must be administered; and

(8) Open the medication container, remove the medication from the container, and close the container;

(b) A resident is capable of self-administering his or her own medication, but requires a reminder to take medications or requires physical assistance with opening and removing medications from the container, or both, if the resident can:

(1) Correctly read the label on the medication's container;

(2) Correctly interpret the label;

(3) Correctly follow instructions as to route, dosage, and frequency of administration;

(4) Correctly ingest, inject, or otherwise apply the medication;

(5) Correctly measure or prepare the medication, including mixing, shaking, and filling syringes; and

(6) Safely store the medication; or

(c) A resident is not capable of self-administering his or her own medication if the resident needs assistance to properly carry out one or more of the tasks enumerated in paragraph (b) of this subsection.

10124.3 A resident who cannot, or chooses not to, self-administer medication without full

or partial assistance may arrange with a third-party for a licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, trained medication employee ("TME"), or certified medication aide to administer medication to the resident or assist the resident with taking his or her medications to the extent of the healthcare professional's authority to do so under District and federal laws or regulations. A healthcare professional arranged to administer or assist in the administration of medication to a resident in accordance with this subsection shall be required to conform to the requirements of private duty healthcare professionals provided in Section 10118 of this chapter.

10124.4 An ALR may employ or arrange for a licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, TME, or certified medication aide to administer, or assist in the administration of, medication to a resident, provided that:

(a) The healthcare professional holds the requisite certificate, registration, or license to practice issued by the District;

(b) The healthcare professional does not exceed his or her authority to administer or assist in the administration of medication to the resident under District and federal laws or regulations;

(c) The ALR discloses, orally and in writing, any fees, rates, or charges associated with providing assistance with or administration of medication that are additional to the resident's existing bill, in accordance with Section 10111 of this chapter;

(d) Prior to the provision of the medication administration or assistance, the resident provides in writing:

(1) Acceptance of the medication administration or assistance offered by the ALR; and

(2) Acknowledgment of receiving the ALR's medication administration policy and the disclosure of fees required in paragraph (c) of this subsection; and

(e) The ALR has in place education, remediation, and discipline procedures by which to address recurring medication errors perpetrated by the licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, TME, or medication aide.

10124.5 An ALR shall require that administration or assistance in the administration of medication to a resident by a healthcare professional pursuant to Subsections 10124.03 and 10124.04 be in accordance with the prevailing standard of acceptable medication administration rights in the healthcare professional's field.

10124.6 An ALR shall ensure that all medication administered to a resident by licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, TME, or certified medication aide on its premises shall be recorded on a written or electronic medication administration record that is kept as part of the resident's medical records.

10124.7 An ALR shall ensure that all employees and all licensed practical nurses, registered nurses, advanced practice registered nurses, physicians, physician assistants, TMEs, or certified medication aides responsible for administering or assisting in the administration of medication to a resident while on the ALR's premises, immediately report any medication error or adverse drug reactions to the ALR's available registered nurse and ALA upon discovery. The ALR shall require the ALA or Acting Administrator to report the medication error or adverse drug reaction, to the resident's healthcare practitioner, prescriber, pharmacist, and the resident (or surrogate), as appropriate.

10124.8 An ALR shall require all medication errors and adverse drug reactions be documented in the resident's record.

10124.9 An ALR shall initiate an investigation of any reported medication error or adverse drug reaction within twenty-four (24) hours of discovery. Upon the completion of the investigation, the ALR shall compose a report documenting the findings and conclusion of the investigation, which shall be kept as part of the ALR's records for no less than five (5) years. A report required under this subsection shall also be made available to the Director or the Director's designee upon request during an inspection authorized by this chapter or the Act.

10124.10 An ALR shall submit to the Director a copy of any report of an adverse drug reaction required by Subsection 10124.09 within thirty (30) days of the discovery of the adverse drug reaction, in addition to the requirements of Subsection 10124.09 and the notification requirements of Subsection 10125.02.

**10125 REPORTING ABUSE, NEGLECT, EXPLOITATION, AND UNUSUAL INCIDENTS**

10125.1 The results of an ALR's investigation into allegations of abuse, neglect, or exploitation of a resident pursuant to Section 509(b)(3) of the Act (D.C. Official Code 44-105.09(b)(3)) shall be reported to the Director within thirty (30) days of the complaint or fifteen (15) days of the conclusion of the investigation, whichever occurs first.

10125.2 In addition to the requirements to report abuse, neglect, and exploitation of a resident provided in Section 509 of the Act (D.C. Official Code § 44-105.09), each ALR shall notify the Director of any unusual incident that substantially affects a resident. Notifications of unusual incidents shall be made by contacting

the Department of Health by phone immediately, and shall be followed up by written notification to the same within twenty-four (24) hours or the next business day.

10125.3 For purposes of Subsection 10125.02, an "unusual incident that substantially affects a resident" shall mean any occurrence related to the operation of an assisted living residence or to the conduct of the ALR's personnel that results in significant harm, or the potential for significant harm, to any resident's health, welfare, or wellbeing. Unusual incidents include, but are not limited to: an accident resulting in injury to a resident, death, theft of a resident's property or funds, or any occurrence requiring or resulting in intervention from law enforcement or emergency response personnel.

**10126 INSPECTIONS**

10126.1 In addition to the inspections authorized by the Act, the Director may inspect an ALR at the Director's discretion to ensure compliance with this chapter.

10126.2 Inspections of an ALR for purposes of initial licensure or compliance with this chapter after license renewal shall be conducted by the Director following the procedures set forth in D.C. Official Code § 44-505 and the requirements of the Act and this chapter.

**10127 SANCTIONS**

10127.1 Failure of a Licensee to comply with the requirements of this chapter shall be grounds for sanctions, which shall be imposed in accordance with the Act and this chapter.

10127.2 On determining that a Licensee has violated this chapter, the Director may impose, or cause to be imposed, the sanctions set forth in Section 401 of the Act (D.C. Official Code § 44-104.01).

10127.3 If the Director determines that the Licensee has violated a condition or requirement of a sanction imposed under the authority of this chapter, the Director may suspend or revoke the license.

10127.4 Appeals under this section may be taken pursuant to Section 1201 of the Act (D.C. Official Code § 44-1012.01).

**10128 CIVIL PENALTIES**

10128.1 The Director may impose, or cause to be imposed, one or more of the civil penalties authorized under Section 402 of the Act (D.C. Official Code § 44-104.02) against persons who:

(a) Maintain or operate an unlicensed ALR; or

(b) Otherwise violate provisions of this chapter.

10128.2 Notwithstanding any other provision of law, penalties authorized under Subsection 10128.01 shall not be imposed by the Director unless a violation cited during an inspection:

(a) Is within the control of the ALR; and

(b) Poses an immediate or serious and continuing danger to the health, safety, welfare, or rights of resident.

10128.3 If, during a follow-up inspection, the Director determines that violations of this chapter which are within the control of the facility and were cited in an immediately prior inspection have not been corrected or have recurred, the Director may impose the penalties authorized under Section 402 of the Act (D.C. Official Code § 44-104.02).

10128.4 Appeals under this section may be taken as provided by Section 402(d) of the Act (D.C. Official Code § 44-104.02(d).).

**10129 CRIMINAL PENALTIES**

10129.1 The criminal penalties authorized by Section 403 of the Act (D.C. Official Code § 44-104.03) of the Act shall apply to an ALR.

**10130 REFERRALS TO REGULATORY ENTITIES**

10130.1 The Director may refer an ALA suspected of conduct prohibited by the Act, this chapter, or other District or federal law to the District of Columbia Board of Long-Term Care Administration for review of the suspected conduct.

10130.2 The Director may refer any healthcare professional who practices his or her healthcare profession on the premises of an ALR and who suspected of conduct prohibited by the Act, this chapter, or other District of federal law to the appropriate regulatory entity with jurisdiction over the healthcare professional for review of the suspected conduct.

10130.3 Nothing in this section shall prohibit the Director from referring any individual suspected of conduct prohibited by District or federal law or regulation to the appropriate District or federal regulatory entity.

**10131–10198 [RESERVED]**

**10199 DEFINITIONS**

10199.1 The definitions of terms provided in the Act (at D.C. Official Code § 44-102.01) shall apply to this chapter, unless provided another definition under subsection 10199.02.

10199.2 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**"Act" or "the Act"** – means the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.*).

**Acting Administrator** – means a member of the ALR staff who is designated by the Licensee or Assisted Living Administrator to assume the responsibilities of the Assisted Living Administrator for a temporary period of time.

**"ALA"** – means "Assisted Living Administrator," as defined by the Act (at D.C. Official Code § 44-102.01).

**"ALR"** – means "Assisted Living Residence," as defined by the Act (at D.C. Official Code § 44-102.01).

**Audio-visual monitoring** – means the surveillance of the ALR facility, its employees, or its residents by audio, visual, or audio-visual means.

**Certified Medication Aide** – means a person certified to practice as a medication aide by the District of Columbia Board of Nursing, who shall not practice independently, but shall work under the supervision of a registered nurse of licensed practical nurse.

**Companion** – means an individual who is employed or volunteers to provide a resident with non-healthcare related services such as cooking, housekeeping, errands, and social interaction on the ALR's premises.

**Department** – means the District of Columbia Department of Health.

**Director** – means the Director of the District of Columbia Department of Health.

**Employee** – means any person who works under the employ of an ALR or a separate entity that is owned or operated or a subsidiary of the ALR; or any person who is contracted through an entity independent of an ALR for the purpose of working under the direction and supervision of the ALR.

**Healthcare Professional** – means the practitioner of a healthcare occupation, the practice of which requires authorization pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*), as amended from time to time.

**"ISP"**- means "Individualized Service Plan," as defined by the Act (at D.C. Official Code § 44-102.01).

**Medication Error** – means any error in the prescribing, dispensing, or administration of a drug, irrespective of whether such errors lead to adverse consequences or not.

**Private Duty Healthcare Professional** – means a nurse, home health aide, nurse aide, or any other healthcare professional arranged by a resident, surrogate, or party other than the ALR to provide healthcare-related services to the resident on the ALR's premises.

**"SRA"** – means "Shared Responsibility Agreement," as defined by the Act (at D.C. Official Code § 44-102.01).

**"Staff" or "Staff member"** – means "Employee," as defined by this subsection.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2019-003
January 23, 2019

**SUBJECT:** District of Columbia Financial Services Regulatory Sandbox and Innovation Council

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) 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(11) (2016 Repl.), it is hereby **ORDERED** that:

## I. ESTABLISHMENT

There is established in the Executive Branch of the District of Columbia government a District of Columbia Financial Services Regulatory Sandbox and Innovation Council **("Council").**

## II. PURPOSE AND FUNCTIONS

A. The Council shall, within six (6) months after its first meeting, produce a report to the Mayor of legislative, programmatic, and policy recommendations after having examined issues germane to the purpose of the Council, which issues shall include:

1. Investigating the feasibility of developing a regulatory sandbox for financial services that will enable existing and new financial services licensees to test innovative products, services, business models, and delivery methods without immediately incurring all the normal regulatory consequences of engaging in the proposed activity.

2. Investigating the benefits of establishing a financial services regulatory sandbox in the District.

3. Studying how innovative financial technology services can improve service to consumers and the financial services market.

4. Reviewing barriers FinTech, InsurTech, RegTech, and other technology businesses face in bringing innovative services and products to the District's financial services market, and how they can be mitigated or eliminated to encourage innovation.

5. Reviewing the amendment or elimination of unnecessary or unduly burdensome regulatory provisions that impede financial services innovation.

6. Studying the dangers to consumers and the market from regulatory relief of a regulatory sandbox and the necessary safeguards to protect consumers and the financial services markets.

7. Reviewing the legal challenges that must be overcome and any necessary legislative changes in the establishment of a regulatory sandbox.

8. Studying how blockchain, including smart contract technology, can be used to improve the cost and delivery of financial services and how the District can assist financial services providers in the development and use of blockchain in the District, including how the District can utilize blockchain to reduce the regulatory burden on the District's financial services providers.

9. Studying how other innovations such as artificial intelligence and the use of big data can be deployed to improve financial services.

10. Identifying how a regulatory sandbox can facilitate the implementation of autonomous vehicles in the District.

11. Reviewing and addressing consumer protection issues that may arise with financial services innovation.

12. Options for the development, implementation, and administration of a regulatory sandbox for financial services in the and establishment of a blockchain and innovation regulatory framework, to improve the District's financial services market and attract and retain financial services businesses and financial technology businesses to the District by developing the District into a smart financial services center.

B. The report required by section II.A of this Order shall include recommendations regarding the following:

1. Establishment and implementation of a Blockchain and Innovation Regulatory Framework ("Framework") for the regulation of blockchain and other financial services innovations.

2. Development, implementation, and administration of a regulatory sandbox ("Sandbox") in the District for FinTech, InsurTech, RegTech, and other technology businesses impacting the financial services market in the District, which shall include:

a. Recommended scope of the Sandbox;

b. Criteria and eligibility for use of the Sandbox;

c. Level of, and criteria for, regulatory relief to be provided by the Sandbox;

d. Consumer safeguards;

e. Safety and soundness and other market safeguards; and

f. Monitoring and compliance standards and activities.

C. The report required by section II.A of this Order shall be include draft legislation, regulations, policies, and procedures, or other specific steps recommended for implementing the recommendations.

D. The Council shall meet every six (6) months, or more frequently as determined by the Council, to review and examine operations of the Sandbox and to review the effectiveness of the Blockchain and Innovation Regulatory Framework.

## III. MEMBERSHIP

The Council shall consist of the following twenty-one (21) members:

A. The Commissioner of the Department of Insurance, Securities and Banking, or his or her designee, who shall serve as Chairperson of the Council;

B. The District of Columbia Chief Technology Officer, or his or her designee; and

C. The following nineteen (19) public members appointed by the Mayor:

1. Three (3) members from the insurance industry;

2. Three (3) members from the securities industry;

3. Three (3) members from the banking and lending industries;

4. Four (4) members representing consumers;

5. Three (3) members from the technology industries;

6. Two (2) members who specialize in financial services regulation; and

7. One (1) member from the captive insurance industry.

**IV. TERMS**

Each member of the Council shall serve for a term of three (3) years, unless earlier removed by the Mayor.

**V. COMPENSATION**

The members of the Council shall serve without compensation.

**VI. ADMINISTRATION**

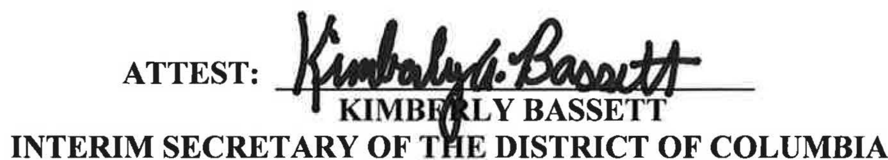
A. The Chairperson shall convene Council meetings and may form subcommittees as deemed necessary to accomplish specific tasks.

B. The Department of Insurance, Securities, and Banking shall provide technical and administrative support to the Council.

**VII. EFFECTIVE DATE**

This Order shall become effective immediately.

**MURIEL BOWSER**
**MAYOR**



**ATTEST:** **KIMBERLY BASSETT**
**INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA**

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

**NOTICE OF PUBLIC HEARINGS**
**CALENDAR**

**WEDNESDAY, JANUARY 30, 2019**
**2000 14TH STREET, N.W., SUITE 400S**
**WASHINGTON, D.C. 20009**

**Donovan W. Anderson, Chairperson**
**Members: Nick Alberti, Mike Silverstein,**
**James Short, Bobby Cato, Rema Wahabzadah**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00218;** Red & Black, LLC t/a 12 Twelve DC/Kyss Kyss, 1210 H Street NE, License #72734, Retailer CT, ANC 6A
**Failed to have a Sidewalk Café Endorsement**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00196;** Stephen Lawrence, t/a 600 T, 600 T Street NW License #100515, Retailer CT, ANC 6E
**Substantial Change in Operation Without Board Approval**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00185;** SST Management, LLC, t/a BIN-1301, 1301 U Street NW, License #91682, Retailer CT, ANC 1B
**Substantial Change in Operation Without Board Approval**

**Show Cause Hearing (Status)**
**Case # 18-CMP-00204;** Cavit Ozturk, t/a Café Divan, 1834 Wisconsin Ave NW **9:30 AM**
License #60603, Retailer CR, ANC 2E
**Failed to Take Steps Necessary to Ensure Property is Free of Litter, Substantial Change in Operation Without Board Approval**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00220;** The Big Stick, LLC, t/a The Big Stick, 20 M Street SE License #94844, Retailer CR, ANC 6D
**Allowed a Patron to leave the Establishment with an Alcoholic Beverage in an Open Container, No ABC Manager on Duty**

Board's Calendar
January 30, 2019

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00210;** H&H, LLC, t/a American Ice Company, 917 V Street NW, License #84577, Retailer CT, ANC 1B
**Substantial Change in Operation Without Board Approval**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00191;** Ima Pizza Store 12, LLC, t/a Broccoli Bar (Formerly-& Pizza), 1817 7th Street NW (Formerly-705 H Street NW), License #98584 Retailer CR , ANC 2C
**No ABC Manager on Duty, Substantial Change in Operation Without Board Approval**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00202;** Queen of Sheba, Inc., t/a Queen of Sheba, 1503 9th Street NW, License #73644, Retailer CR, ANC 6E
**Operating After Hours, Interfered with an Investigation**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-CMP-00207;** Los Cuates Restaurant, Inc., t/a Los Cuates Restaurant 1546 Wisconsin Ave NW, License #79261, Retailer CR, ANC 2E
**No ABC Manager on Duty**

**Show Cause Hearing (Status)** **9:30 AM**
**Case # 18-AUD-00089;** Betty's Gojo Restaurant and Lounge, LLC, t/a Betty's Gojo, 7616 Georgia Ave NW, License #102500, Retailer CR, ANC 4A
**Failed to File Quarterly Statements**

**Show Cause Hearing*** **10:00 AM**
**Case # 18-CMP-00438;** Dos Ventures, LLC, t/a Saint Yves, 1220 Connecticut Ave NW, License #99876, Retailer CT, ANC 2B
**No ABC Manager on Duty, Failed to Post License Conspicuously in the Establishment**

**Show Cause Hearing*** **10:00 AM**
**Case # 18-251-00111;** Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven & Hell, 2327 18th Street NW, License #74503, Retailer CT, ANC 1C
**Interfered with an Investigation, Failed to Comply with Board Order No. 2017-439**

**Fact Finding Hearing*** **11:30 AM**
**Case # 18-251-00157;** CUBA LIBRE DC, LLC, t/a Cuba Libre Restaurant & Rum Bar, 801 9th Street NW, License #82457, Retailer CR, ANC 2C
**Simple Assault**

Board's Calendar
January 30, 2019

**BOARD RECESS AT 12:00 PM**
**ADMINISTRATIVE AGENDA**
**1:00 PM**

**Show Cause Hearing*** **1:30 PM**
**Case # 18-CMP-00146;** Ugly Mug, LLC, t/a Jake's American Grille, 5016 Connecticut Ave NW, License #86013, Retailer CR, ANC 3F
**Substantial Change without Board Approval, Violation of Settlement Agreement**

**Show Cause Hearing*** **2:30 PM**
**Case # 18-CMP-00131;** The Juniper Group, LLC, t/a The Blaguard, 2003 18th Street NW, License #86012, Retailer CR, ANC 1C
**Violation of Settlement Agreement**

**Show Cause Hearing*** **3:30 PM**
**Case # 18-CMP-00167;** Maketto, LLC, t/a Maketto, 1351 H Street NE, License #90445, Retailer CR, ANC 6A
**Violation of Settlement Agreement**

**Show Cause Hearing*** **3:30 PM**
**Case # 18-CMP-00181;** 1336 U Street, LLC, t/a Hawthorne, 1336 U Street NW License #99603, Retailer CT, ANC 1B
**Offering Entertainment After Board Approved Entertainment Hours, Violation of Settlement Agreement**

**Show Cause Hearing*** **4:30 PM**
**Case # 18-CMP-00119;** Kiss, LLC, t/a Kiss Tavern, 637 T Street NW, License #104710, Retailer CT, ANC 1B
**Failed to Comply with Board Orders No. 2017-603 and No. 2017-151, Operating After Board Approved Hours, Violation of Settlement Agreement (Three Counts)**

**Protest Hearing*** **4:30 PM**
**Case # 18-PRO-00078;** 701 Second Street, LLC, t/a Café Fili, 701 2nd Street NE, License #110971, Retailer CR, ANC 6C
**Application for a New License**

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

**NOTICE OF MEETING**
**INVESTIGATIVE AGENDA**

**WEDNESDAY, JANUARY 30, 2019**
**2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On Wednesday, January 30, 2019 at 4:00 pm., the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed "to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations."**

1. Case# 18-CC-00133, Hazel, 808 V Street N.W., Retailer CR, License # ABRA-099839

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2. Case# 18-CC-00136, Declaration, 804 V Street N.W., Retailer CR, License # ABRA-099556

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3. Case# 18-251-00227, Rewind, 1219 Connecticut Avenue N.W., Retailer CN, License # ABRA-107182

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4. Case# 18-AUD-00115, Bambu, 5101 MacArthur Blvd. N.W., Retailer CR, License # ABRA-075442

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5. Case# 18-AUD-00116, Catrachitos Restaurant, 4608 14th Street N.W., Retailer CR, License # ABRA-095465

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6. Case# 18-251-00225, Bar Deco, 717 6th Street N.W., Retailer CR, License # ABRA-097418

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7. Case# 18-251-00219, The Green Island Café/Heaven & Hell, 2327 18th Street N.W., Retailer CT, License # ABRA-074503

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8. Case# 18-251-00221, The Green Island Café/Heaven & Hell, 2327 18th Street N.W., Retailer CT, License # ABRA-074503

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9. Case# 18-251-00220, The Green Island Café/Heaven and Hell, 2327 18th Street N.W., Retailer CT, License # ABRA-074503

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10. Case# 18-AUD-00109, Sticky Rice, 1224 H Street N.E., Retailer CR, License # ABRA-072783

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11. Case# 18-AUD-00111, The Big Stick, 20 M Street N.W., Retailer CR, License # ABRA-094844

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12. Case# 18-AUD-00107, Laliguras Indian * Nepali Bistro 4221 Connecticut Avenue N.W., Retailer CR, License # ABRA-095042

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13. Case# 18-AUD-00108, Le Desales, 1725 Desales Street, N.W., Retailer CR, License # ABRA-060754

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14. Case# 18-AUD-00106, Betty's Gojo, 7616 Georgia Avenue N.W., Retailer CR, License # ABRA-102500

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15. Case# 18-AUD-00105, Bareburger, 1647 20th Street N.W., Retailer CR, License # ABRA-102759

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16. Case# 18-AUD-00110, Sushi Capitol, 325 Pennsylvania Avenue N.W., Retailer DR, License # ABRA-092785

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17. Case# 18-CC-00134, American Ice Company, 917 V Street N.W., Retailer CT, License # ABRA-08457

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18. Case# 18-MGR-00016, Evan Prellar, ABC Manager, License # ABRA-111279

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19. Case # 118-CC-00140, Toryumon Japanese House, 1901 Pennsylvania Avenue N.W., Retailer CR, license # ABRA-109270

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20. Case# 18-CC-00142, Capitol View Market, 4920 Central Avenue N.W., Retailer B, License # ABRA-076250

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21. Case# 18-CC-00139, 2000 Pennsylvania Avenue N.W., Retailer CR, License # ABRA-111673

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22. Case# 18-MGR-00017, Yalemmbrat Haile, ABC Manager, License # ABRA-110861

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23. Case# 18-CC-00138, Watergate Vintners & Spirits, License # ABRA-101097

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24. Case# 19-251-00002, Trio Rest & Fox & hounds Lounge, 1537 17th Street N.W., Retailer CR, License # ABRA-000168

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25. Case# 18-CMP-00253, 12 Twelve DC/Kyss Kyss, 1210-1212 H Street N.E., Retailer CT, License # ABRA-072734

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26. Case# 18-251-00230, Trusty's Bar, 1420 Pennsylvania Avenue S.E., Retailer CT, License # ABRA-071352

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27. Case# 18-251-00226, Don Jaime, 3209 Mount Pleasant Street N.W., Retailer CT, License # ABRA-021925

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

**NOTICE OF MEETING**
**LICENSING AGENDA**

**WEDNESDAY, JANUARY 30, 2019 AT 1:00 PM**
**2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

1. Review Application for Safekeeping of License – Original Request. ANC 6B. SMD 6B04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Halo***, 1104 8th Street SE, Retailer CT, License No. 107918.

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2. Review Application for Safekeeping of License – Original Request. ANC 2C. SMD 2C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Hen Quarter***, 750 E Street NW, Retailer CR, License No. 076102.

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3. Review Request for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8am to 12am, Friday-Saturday 8am to 2am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ANC 4A. SMD 4A07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Moreland's Tavern***, 5501 14th Street NW, Retailer CT, License No. 106162.

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4. Review Application for Entertainment Endorsement to provide live entertainment indoors and outdoors with Dancing and Cover Charge. ***Proposed Hours of Live Entertainment Indoors:*** Sunday-Thursday 8am to 12am, Friday-Saturday 8am to 2am. ***Proposed Hours of Live Entertainment Outdoors in Sidewalk Café:*** Sunday-Saturday 10am to 9pm. ANC 4A. SMD 4A07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Moreland's Tavern***, 5501 14th Street NW, Retailer CT, License No. 106162.

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5. Review request to store alcoholic beverage inventory in underground storage area below licensed premises. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Imperial Wine & Spirits***, 620 12th Street NW, Retailer A Liquor Store, License No. 084123.

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6. Review Application for Tasting Permit. ANC 5C. SMD 5C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***7 Days Market***, 2310 Rhode Island Avenue NE, Retailer B, License No. 109916.

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***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.**

## OFFICE OF DISABILITY RIGHTS

## DC COMMISSION ON PERSONS WITH DISABILITIES (DCCPD) COMMISSION MEETING

**Thursday, January 24th, 2019 at 10:00 a.m. to 11:15 a.m.**

***All Commission Meetings are available and open to the public to attend**

**Location:** Teleconference

**Call-In Number:** (866) 628-2987
**Passcode:** 8488992

All reasonable accommodation requests must be made at least five (5) business days prior to the scheduled meeting date. Please contact julia.wolhandler@dc.gov or 202-727-2890

**AGENDA:**

**10:00 a.m.** Welcome and Call to Order – Jeremy Mann

**10:02 a.m.** Commissioners Roll-Call – Jeremy Mann

**10:04 a.m.** Public Members Roll-Call – Jeremy Mann

**10:06 a.m.** Reminder that all public comments and questions will be taken at the end of the meeting – Julia Wolhandler

**10:08 a.m.** Approval of November 2018 and December 2018 Commission Meeting Minutes (Formal Vote)

**10:10 a.m.** Updates:

- Housekeeping – Julia Wolhandler
- Open Movie Captioning Requirement Act Public Hearing - Jarvis Grindstaff
- DCFHV Accessibility Advisory Committee – Terrance Hunter
- Developmental Disabilities Council –
- Anti-Bullying Campaign/date for attending movie, Welcome to Marwan [partner with MOVA??] – Gerry Counihan
- Article featured in Capitol Hill Village News, Toast Masters – Gerry Counihan
- Facebook Page – Kamilah Martin Proctor
- Accessible bi-cycle survey – Jennifer McLaughlin
- Seeking Auxiliary Members – Kamilah Martin Proctor
- Other Updates by Commissioners – Open to all Commissioners

**10:20 a.m.** Statements:

- MLK Tribute
- Glaucoma Awareness

**10:25 a.m.** Standing Committees:

- Formal vote on Standing Committee Chairs and calendar schedules
- Policy and Planning Committee: Travis Painter
    - Straw Ban
    - Open Caption Movie Requirement Act
- Events and Outreach Committee: Hope Fuller, Denise Decker, Barbara Cline, Anjie Shelby and Jennifer McLaughlin
    - ADA Anniversary
    -
- Evaluation and Monitoring Committee:
    - Health Care survey
    -

**10:45 a.m.** Public Comment Period

**11:15 a.m.** Adjourn

## DEPARTMENT OF ENERGY AND ENVIRONMENT

## PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permits (Nos. 7234 through 7238) to the United States Government Publishing Office (GPO) to construct and operate one (1) Canon Colorstream 4-Color Inkjet Printer and four (4) Canon Colorstream 1-Color Inkjet Printers, on the fourth floor of Building C of the GPO complex at 732 North Capitol Street NW, Washington DC 20401. The contact person for the applicant is James Hodges, CHMM, Environmental Program Manager, at (202) 512-1626.

The proposed overall emission limits for the equipment are as follows:

a. No person shall discharge into the atmosphere more than fifteen (15) pounds of VOC emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]

b. No visible emissions shall be emitted from this equipment. [20 DCMR 201 and 20 DCMR 606.1]

c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

Maximum potential emissions from the unit is expected to be as follows:

| **Pollutant** | **Estimated Maximum Annual Emissions (tons/yr)** |
|---|---|
| Volatile Organic Compounds (VOC) | 3.6 |
| Total Hazardous Air Pollutants (HAP) | 3.2 |

The permit applications and supporting documentation, along with the draft permits are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality

issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the draft permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

**No comments or hearing requests submitted after February 25, 2019 will be accepted**.

For more information, please contact Stephen S. Ours at (202) 535-1747.

**DEPARTMENT OF ENERGY AND ENVIRONMENT**

**NOTICE OF FILING OF AN APPLICATION TO PERFORM VOLUNTARY CLEANUP**

**5816 Georgia Avenue, NW**
**Case No. VCP2018-061**

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the "Act")), the Voluntary Cleanup Program in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch, is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The applicant for real property located at 5816 Georgia Avenue, NW. Washington, DC 20011, is 5816 Georgia Avenue, LLC, 2702 N. Caroll Avenue, Southlake, Texas 26092. The application identifies impacted soil and groundwater associated with dry Chlorinated solvent in Sub-Slab. Though the redevelopment plan is not known at this time, applicant intends to perform remediation action to address site specific chemicals of concern.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-4C01) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
Department of Energy and Environment (DOEE)
1200 First Street, NE, 5th Floor
Washington, DC 20002

Interested parties may also request a copy of the application by contacting the Voluntary Cleanup Program at the above address or by calling (202) 481-3847. An electronic copy of the application may be viewed at http://doee.dc.gov/service/vcp-cleanup-sites.

Written comments on the proposed approval of the application must be received by the VCP office at the address listed above within twenty-one (21) days from the date of this publication. DOEE is required to consider all relevant public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP2018-061 in any correspondence related to this application.

**DEPARTMENT OF HEALTH (DC HEALTH)**

**PUBLIC NOTICE**

The District of Columbia Board of Physical Therapy ("Board") hereby gives notice of a change in its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

Due to schedule conflict, the Board's regular meeting scheduled for Wednesday, February 13, 2019, has been rescheduled to Wednesday, February 27, 2019, from 3:30 PM to 5:30 PM. The meeting will be open to the public from 3:30 PM until 4:00 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 4:30 PM to 5:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The Board meets monthly on the second Wednesday of the month from 3:30 PM to 5:30 PM. Due to the rescheduling of the February meeting, there will be no meeting on Wednesday, March 13, 2019. The next regular Board meeting will be on April 10. 2019.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health's Events webpage at www.doh.dc.gov/events to view the agenda.

**DEPARTMENT OF HEALTH (DC HEALTH)**

**STATE HEALTH PLANNING AND DEVELOPMENT AGENCY**

**NOTICE OF INFORMATION HEARING**

Pursuant to D.C. Official Code § 44-406(b) (4), the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold an information hearing on the application of LHC Group, Inc./Washington D.C. Health Care Group, LLC to Acquire Visiting Nurses Association of MD, LLC d/b/a VNA of DC - Certificate of Need Registration No. 18-6-4. The hearing will be held on Wednesday, January 30, 2019 at 10:00 a.m., at 899 North Capitol Street, N.E., 6th Floor, Room 6002, Washington, D.C. 20002.

The hearing will include a presentation by the Applicant, describing its plans and addressing the certifications required pursuant to D.C. Official Code § 44-406(b) (1). The hearing also includes an opportunity for affected/interested persons to testify. Persons who wish to testify should contact the SHPDA at (202) 442-5875 before 4:45 p.m. on Tuesday, January 29, 2019. Each member of the public who wishes to testify will be allowed a maximum of five (5) minutes. Written statements may be submitted to:

The State Health Planning and Development Agency
899 North Capitol Street, N.E.
Sixth Floor
Washington, D.C. 20002

Written statements must be received before the record closes at 4:45 p.m. on Wednesday, February 4, 2019. Persons who would like to review the Certificate of Need application or who have questions relative to the hearing may contact the SHPDA on (202) 442-5875.

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

**Limited Equity Cooperative Task Force Meeting Agenda**
January 30th, 2019
5:00 pm to 8:00 pm
DC Housing Finance Agency
815 Florida Ave NW
Washington, DC 20001

Members: Sandra Butler-Truesdale, Jade Hall, Paul Hazen, Louise Howells, Amanda Huron, Janene Jackson, Vernon Oakes, Lolita Ratchford, Ana Van Balen, Risha Williams, Elin Zurbrigg

1. Call To Order
2. Approval of Agenda
3. Understanding the Need — Guest Speakers Invited
    a. 5:00PM: Andy Reichert — Executive Director, Urban Homesteading Assistance Board
4. General Discussion
5. Subcommittee Reports
    a. 6:00PM: Asset Management
    b. 7:00PM: Shared Financing
6. Other Business
7. Adjourn

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Notes:

**THE DISTRICT OF COLUMBIA**
**DEPARTMENT OF HUMAN SERVICES**
**FAMILY SERVICES ADMINISTRATION**

**NOTICE OF FUNDING AVAILABILITY (NOFA)**

**FISCAL YEAR (FY) 2019**

**THE DISTRICT OF COLUMBIA HOMELESS YOUTH TRANSITIONAL HOUSING PROGRAM**

**Background**

The District of Columbia (District), Department of Human Services (DHS) is soliciting detailed proposals to establish transitional housing beds in the District pursuant to the End Youth Homelessness Amendment Act of 2014, D.C. Law 20-155 which amended the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35, D.C. Official Code § 4-751.01 et seq), and the Comprehensive Plan to End Youth Homelessness (CPEYH), Solid Foundations DC: Strategic Plan to Prevent and End Youth Homelessness.
https://ich.dc.gov/sites/default/files/dc/sites/ich/page_content/attachments/Solid%20Foundations%20DC%20_web%201.5.pdf

In accordance with HSRA, DHS is authorized to provide funding to establish twenty nine (29) transitional housing units in the District. The District seeks to expand the availability of youth-friendly transitional housing and homeless services to youth ages seventeen (17) through twenty-four (24) facing housing crises and in need of services and resources to enable them to grow and move toward stability and self-sufficiency.

Applications must demonstrate their intent and ability to leverage non-governmental assets; coordinate with other organizations in the homeless services Continuum of Care; and demonstrate a culturally competent, youth centric plan to support and facilitate transitions into adulthood. DHS anticipates executing up to three (3) awards for the services discussed herein.

**Target Population**

The District of Columbia transitional housing program target population includes:

- Youth between the ages of 17 and 24 who are economically or emotionally detached from their families and lack an adequate or fixed residence, including youth who are unstably housed, living in doubled up circumstances, in transitional housing, in shelter, or on the street.
    - This excludes youth who are in the physical or legal custody of the District;
- Youth who are fleeing a situation of sexual assault, domestic violence, dating violence, and/or stalking;

**Eligibility**

Organizations who meet the following eligibility requirements at the time of application may apply:

- Be a community-based organization with a Federal 501(c)(3) tax-exempt status; or evidence of a fiscal agent relationship with a 501 (c)(3) organization;
- The organization's principal place of business is located in the District;
- The organization is currently registered in good standing with the District Department of Consumer & Regulatory Affairs, the District Office of Tax and Revenue, and the United Stated Department of Treasury's Internal Revenue Service (IRS); and/or
- Current grantees must be up-to-date on all reporting obligations for the FY19 grant cycle.

**Program Scope:**

Grantees will be required, at minimum, for the following requirements:

- Operate according to Housing First principles;
- Comply with all provisions of the Homeless Services Reform Act (HSRA) and corresponding regulations;
- Utilize a culturally-competent youth development approach to facilitate developing rapport with clients of various races, ethnicities, sexual orientations, and gender identities, as well as language accessibility;
- Report client data via the Homeless Management Information System (HMIS);
- Use the TAY-SPDAT as a case management tool, conducting a formal update at least twice in the first year, and at least annually thereafter;
- Coordinate, monitor, and evaluate supportive services provided to clients; this may require accompanying the client to scheduled appointments and/or coordinating/communicating with service Providers via another forum;
- Help clients set and obtain employment and/or education goals as the client is ready to pursue them; and
- Serve as a mediator/liaison for assigned clients.
- Specific details on the program scope are listed in the RFA.

**Release Date of RFA:** Friday, January 25th , 2019

**Availability of RFA:** The RFA will be posted on the District's Grant Clearinghouse Website

**Total Estimated Available Funding:** Up to one million three hundred five thousand dollars and zero cents ($1,305,000.00)

**Total Estimated Number of Awards:** Up to three (3) awards

| | |
|---|---|
| **Total Estimated Amount per Award:** | Eligible organizations can be awarded up to one million three hundred five thousand dollars and zero cents ($1,305,000.00). No single award will exceed one million four hundred sixty thousand dollars and zero cents ($1,305,000.00). |
| **Period of Performance:** | October 1, 2018 – September 30, 2019 |
| **Length of Award:** | Time of award to the end of the fiscal year with up to five (5) additional option years |
| **Pre-Bidder's Conference:** | Friday, February 8th, 2019,<br>12:00 p.m. – 2:00 p.m.<br>The Department of Human Services Headquarters<br>64 New York Ave, NE<br>(room number disclosed upon RSVP)<br>Washington, DC 20002 |
| **Deadline for Submission:** | 4:00 PM, February 27th, 2019<br>The District of Columbia Department of Human Services<br>64 New York Avenue, NE, 5th Floor<br>Washington, DC 20002<br>tamara.mooney@dc.gov |
| **Contact Person:** | Tamara Mooney, Program Analyst<br>Email: tamara.mooney@dc.gov<br>Phone: 202-299-2158 |

## KIPP DC PUBLIC CHARTER SCHOOLS

## REVISED REQUEST FOR PROPOSALS

### Architectural Services

KIPP DC is soliciting proposals from qualified vendors for Architectural Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on February 6, 2019. Questions can be addressed to kevin.mehm@kippdc.org

**MAYA ANGELOU PUBLIC CHARTER SCHOOL**

**REQUEST FOR PROPOSALS**

**Chromebooks**

Maya Angelou Public Charter School (MAPCS) is located at 5600 East Capitol Street NE, Washington DC 20019. Our mission is to create learning communities in lower income urban areas where all students, particularly those who have not succeeded in traditional schools, can succeed academically and socially.

MAPCS is seeking proposals to purchase between 50-75 Chromebooks to complement our curriculum.

All bid proposals will be accepted until **12:00 PM on February 7, 2019**. Interested vendors will respond to the advertised Notice of RFP via upload to https://app.smartsheet.com/b/form/3442ce3ee41041bbb62d9715c0e39e56. Complete RFP details can be found at www.seeforever.org/requestforproposals.

## D.C. SENTENCING COMMISSION

## MEETING UPDATE

The D.C. Sentencing Commission hereby gives notice that the Commission meeting scheduled January 15, 2019 is cancelled. Inquiries concerning the meeting may be addressed to Mia Hebb, Staff Assistant, at (202) 727-8822 or Mia.Hebb@dc.gov.

## DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

## NOTICE OF FUNDING AVAILABILITY (NOFA)

## DC COMMERCIAL WASTE COMPACTOR DEMONSTRATION PROJECT GRANT

The Department of Small and Local Business Development (DSLBD) in partnership with the Mayor's Office of Clean City (OCC) are soliciting applications from Eligible Applicants for FY19 Commercial Waste Compactor Demonstration Project grants to install trash compactors in target areas, which will minimize sanitation and rodent issues in the District's commercial corridors. DSLBD and MOCC plan to award grants up to $80,000 (see Section 2.A. below).

**Program Objectives** -- This FY19 Commercial Waste Compactor Demonstration Project Grant Program (the "Program") aims to help businesses and multi-unit residential properties, which are located in commercial corridors, to: 1) reduce the sanitation issues (loose trash and spills), which can attract rodents; and 2) reduce number of waste hauling trips that contribute to carbon emission.

**Preference for Collaboration** -- The 2019 Program focuses on collaborative efforts to improve the public realm with a specific focus on sanitation conditions of commercial corridors by installing compactors for trash, recyclables, compost and other waste. To increase the Program's impact on rodent activity and sanitation issues, DSLBD will give preference during scoring, selection and grant award amount to demonstration projects with two (2) or more adjacent businesses ("**Multiple-business demonstration project**"). Single-business demonstration projects will also be considered.

**Grant Application Period**—DSLBD will open its second Program grant application period on January 25, 2019 and will accept online applications through April 1, 2019 at 12 p.m.

**Submission Deadlines**—There are two submission deadlines:

1. **Early Submission Deadline – February 25, 2019 at 12pm for March selection**
   DSLBD will review applications submitted by this date and make selections and grant awards in March. If all remaining grant funds are awarded to Early Submission applicants, DSLBD will close the application period and not review other applications or make additional grant awards.

2. **Second and Final Submission Deadline—April 1, 2019 at 12pm for May selection**
   If unobligated grant funds are available after the Early Submission Review, DSLBD will review applications submitted by April 1, 2019 at 12pm, and make selections and grant awards in May.

**Starting an Application**—Prospective applicants may:

1. Download and review the **Request for Application (RFA)**, which includes detailed Program requirements and application instructions at https://dslbd.dc.gov/compactor;

2. Complete the **Expression of Interest** form at http://bit.ly/CompactorGrantEOI to receive Program updates and set up an online application. Expressing interest does not obligate a business to submit an application.

**Eligible Applicants**— Eligibility requirements are in the **RFA** at https://dslbd.dc.gov/compactor. Eligible entities are:

1. **DC businesses** (for-profit entities) that are open and operating with an active business license at the address of the proposed compactor. Preference is for local businesses, i.e., a business with its headquarters in the District of Columbia.

2. **Multi-unit residential properties** (for-profit entities licensed by DCRA) that are located in commercial areas and are collaborating with an adjacent or nearby business(es) in a **multiple-business demonstration project.** Multi-unit residential properties may not submit a single-business demonstration project application.

**Collaborators or Application Helpers**—Applicant business owners must start an online application and submit it. Business owners may opt to have DC Main Streets managers, property owners, property managers, BIDs, staff and/or other entities/individuals help them with application preparation tasks including but not limited to:
1. providing access to their online application to complete the form;
2. vetting vendors to provide compactor and installation services; and
3. coordinating adjacent businesses on a multiple-business demonstration project.

**Eligible Use of Funds**—Grant funds may be used to purchase or lease a commercial-grade, sealed waste compactor, preparing space for installation, and installation services. The RFA has additional details about allowable expenses.

**Selection Criteria** for applications will include: impact on sanitation and rodent issues, demonstration of collaboration among businesses in a single application; viability of the compactor installation plan.

**Grant Award and Period of Performance**—DSLBD will notify all applicants of their status in in March (early submission) and May (second/final submission). Selected grantees shall execute Grant Agreements within two weeks of grant award offer and begin the installation preparation process. Grantees selected in March must install their compactor by June 30, 2019. Grantees selected in May must install their compactors by August 30, 2019.

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

DSLBD reserves the right to issue an addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

For more information, contact DSLBD at (202) 727-3900 or camille.nixon@dc.gov.

## DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

## NOTICE OF FUNDING AVAILABILITY (NOFA)

## HEALTHY FOODS RETAIL PROGRAM: GROWN IN DC
## UPDATED 1/15/19

The Department of Small and Local Business Development (DSLBD) is excited to announce that we are soliciting applications for Grown in DC, an initiative of the Healthy Foods Retail Program established by the District of Columbia. DSLBD intends to award up to five (5) grants from the $120,000 in total available funding to eligible DC-based for profit or non-profit organizations. Renewal of a portion of the funding is possible, for up to an additional two years. Applicants may prepare budget amounts between $20,000-$60,000 for consideration.

The Food, Environmental, and Economic Development in the District of Columbia Act of 2010 (FEED Act) established the Healthy Food Retail Program with DSLBD to expand access to healthy foods in eligible areas. The purpose of this grant is to sustainably expand local access to healthy foods either through or with farmers markets or through or with small food retailers (including cornerstores). Preference will be given to applications demonstrating hyper-local collaboration or partnerships within the eligible areas. All work must be completed within the eligible areas as defined by the FEED Act, Census Tract: 18.01, 33.01, 95.05, 95.07, or 95.08. Organizations based outside of the eligible area can apply, but partnership with organizations from the eligible area is required.

**How do I apply?**
For additional guidance please see the Request for Applications (RFA) on the DSLBD website that will be released on or before January 31, 2019: http://dslbd.dc.gov/service/current-solicitations-opportunities.

**Deadline**
The deadline to apply online is **March 15, 2019 at 2:00 p.m**. Applications will only be accepted through the online application system.

**Who can apply?**
DC-based for profit and non-profit organizations. See the Request for Applications for additional eligibility requirements.

**How can the funds be used?**
The funds can be used increase access to healthy foods in the eligible areas. Examples of allowable and disallowed uses are detailed in the RFA linked to above.

**How will awardees be selected?**
Grant recipients will be selected through a competitive application process. All applications from eligible applicants received on or before the deadline will be forwarded to an independent review panel to be evaluated, scored, and ranked based on the following criteria:

1. Capacity and Experience of the Applicant (25 points)
2. Adherence to DC Code § 2–1212.31.(25 points)
3. Strength of the Proposal (25 points)
4. Hyper-local Connectivity and Innovation (25 points)

A DC Government team will review the recommendations. The Director of DLSBD will make the final determination of grant awards. Grantees will be selected by March 31, 2019.

**Questions?**
We encourage interested applicants to attend an *Application Information Session*. Please refer to the RFA for the most accurate information about the date, time and location of this meeting.

Questions may be sent to Kate Mereand or Virginia-Marie Roure at the Department of Small and Local Business Development at Katherine.Mereand-Sinha@dc.gov or Virginia-Marie.Roure@dc.gov. All questions not asked during the information session must be submitted in writing.

**Reservations**
DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of this Notice of Funding Availability (NOFA) or RFA, or to rescind the NOFA or RFA at any time.

**THE CHILDREN'S GUILD DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL**

**INVITATION FOR BID**

**General Contractor Services**

The Children's Guild District of Columbia Public Charter School seeks qualified General Contractors (GC)s to manage the renovation of a small parking garage to a small gymnasium. The project includes working with the Director of Operations for The Children's Guild to complete the project. The GC must be able to hire and pay all sub-contractors to complete the job. The GC's bid must include all expected expenses for the completion of the project.

There will be an onsite meeting on January 30, 2019 at 2:30 pm. The address for the renovation is 2130 24th Place NE, Washington, DC 20018. The meeting address is 2146 24th Place NE, Washington, DC 20018 at The Children's Guild DC PCS. We will visit the site after a brief meeting discussing the scope of the project.

For a detailed description of the scope of work and additional requirements please email Procurement @childrensguild.org. All proposals must be received by 3 pm on February 1, 2019. All bids must be emailed to Procurement@childrensguild.org.

## DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

## BOARD OF DIRECTORS

## NOTICE OF PUBLIC MEETING

### Governance Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Tuesday, January 29, 2019 at 9:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

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

### DRAFT AGENDA

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

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Human Resources and Labor Relations Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Tuesday, January 29, 2019 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. 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 lmanley@dcwater.com.

**DRAFT AGENDA**

| | |
|---|---|
| 1. Call to Order | Committee Chairperson |
| 2. Union Topics | Union Presidents |
| 3. Other Business | Committee Chairperson |
| 4. Executive Session | Committee Chairperson |
| 5. Adjournment | Committee Chairperson |

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

**Appeal No. 19334 of Shahid Q. Qureshi**, pursuant to 11 DCMR §§ 3100 and 3101, from a decision made April 19, 2016 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to revoke Certificate of Occupancy No. CO0901692, granted to permit a parking lot in the R-1-B District at premises 2200 Channing Street, N.E. (Square 4255, Lot 28).[1]

**HEARING DATES**: September 20, 2016, December 7, 2016, April 5, 2017, and July 12, 2017

**DECISION DATE**: July 12, 2017

## ORDER DENYING APPEAL

This appeal was submitted on June 28, 2016 by Shahid Q. Qureshi (the "Appellant") to challenge a decision made April 19, 2016 by the Zoning Administrator, at the Department of Consumer and Regulatory Affairs, to issue a notice of revocation of Certificate of Occupancy No. CO0901692, which authorized a parking lot in the R-1-B District at 2200 Channing Street, N.E. (Square 4255, Lot 28) on the ground that the certificate of occupancy had been issued in error. Following a public hearing, the Board voted to deny the appeal and to affirm the determination of the Zoning Administrator.

**PRELIMINARY MATTERS**

Notice of Appeal and Notice of Hearing. By memoranda dated July 8, 2016, the Office of Zoning provided notice of the appeal and of the public hearing to the Zoning Administrator, at the Department of Consumer and Regulatory Affairs ("DCRA"); the Office of Planning; the Councilmember for Ward 5 as well as the Chairman of the Council and the four At-Large Councilmembers; Advisory Neighborhood Commission ("ANC 5C"), as the affected ANC in which the subject property is located; and Single Member District Commissioner for 5C02. On July 18, 2016 the Office of Zoning mailed letters providing notice of the hearing to the

[1] This order refers to provisions and zone districts in effect under the Zoning Regulations of 1958 when the decision was made. The 1958 Regulations were repealed as of September 6, 2016 and replaced by the 2016 Regulations; however, the repeal and adoption of the replacement text has no effect on the validity of the Board's decision in this case or of this order.

Appellant, the Zoning Administrator, ANC 5C, and All-Star Towing, Inc., the Appellant's lessee. Notice was published in the *D.C. Register* on July 22, 2016. (63 DCR 9648.)[2]

Party Status. Parties in this proceeding were automatically the Appellant, who is the owner of the property that is the subject of the appeal, DCRA, and ANC 5C. There were no requests to intervene in the proceeding.

Appellant's Case. The Appellant argued that the Zoning Administrator erred for several reasons in deciding to revoke the certificate of occupancy. According to the Appellant, the certificate of occupancy was not issued in error because the vehicle storage lot served a municipal purpose of the District of Columbia government and was therefore exempt from zoning requirements. The Appellant also asserted that the property qualified as a nonconforming use that had not been abandoned and that revocation of the certificate of occupancy would constitute a taking of real property and of business property without just compensation in violation of the due process clause of the U.S. Constitution. (Exhibit No. 2.) The Appellant also contended that the certificate of occupancy was valid as a matter of estoppel. (Exhibit No. 32.)

DCRA. The Department of Consumer and Regulatory Affairs asserted that the Zoning Administrator correctly indicated an intent to revoke the Appellant's certificate of occupancy as erroneously issued in violation of the Zoning Regulations because a "vehicle storage lot" is not a use permitted as a matter of right in the R-1-B Zone. As a "parking lot," the Appellant's use of the subject property was permitted in the R-1-B Zone only pursuant to a grant of a special exception by the Board, which has not been granted. (Exhibit No. 25.)

ANC 5C. At a public meeting on June 21, 2017 with a majority of members present, ANC 5C adopted a resolution reiterating its opposition to the continued use of the subject property for commercial purposes such as the Appellant's operation. According to the ANC, the Appellant's business "operates a storage lot for inoperable junk vehicles" at the subject property despite its zoning designation for one-family dwellings. The ANC objected that the Appellant's commercial use was a violation of the Zoning Regulations, particularly the Langdon Overlay, and "jeopardizes the Langdon Park neighborhood to maintain the general characteristics of single-family dwellings." (Exhibit No. 34.)

**FINDINGS OF FACT**

1. The property that is the subject of this appeal is an L-shaped parcel located at the northeast corner of the intersection of Channing Street and 22nd Street, N.E. at 2200

[2] The public hearing was originally scheduled for September 20, 2016 and was rescheduled at the Appellant's request to allow time to request a special exception in the alternative, and to have the hearings on the appeal and related special exception consolidated as one matter. The Appellant subsequently filed an application for a special exception (Application No. 19385) and the hearings on both the appeal and the application were scheduled on February 1, 2017. Those hearings were subsequently rescheduled to March 1, 2017 and, later, to April 5, 2017. The public hearing was completed on July 12, 2017.

Channing Street, N.E. (Square 4255, Lot 28). The lot area is approximately 8,750 square feet.

2. The subject property is not improved with any structures but for, according to the Appellant, a small shelter for use by a parking attendant. Vehicular access is provided via a curb cut on Channing Street. The property is substantially covered with paving, and no significant landscaping has been installed. At least a portion of the property is bounded by a chain link fence.

3. The subject property is zoned R-1-B. The R-1 District was designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes. (11 DCMR § 200.1.) Provisions applicable in the R-1 zones were intended to stabilize the residential areas and to promote a suitable environment for family life, where only a few additional, compatible uses are permitted. (11 DCMR § 200.2.) The uses permitted as a matter of right in the R-1 Zone do not include parking lots. (*See* 11 DCMR § 201.1.) Use as a parking lot may be permitted if approved by the Board as a special exception pursuant to §§ 213 and 3104 of the Zoning Regulations.

4. The subject property was formerly zoned C-M-1, until the Zoning Commission changed the classification of the subject property to R-1-B in 1991. (*See* Zoning Commission Order No. 685 (effective April 5, 1991).)

5. The property is owned by the Appellant and used for operation of the Appellant's business, All-Star Towing, Inc. The Appellant described the parking use as a "vehicle storage" operation, and not a commercial parking lot, because the lot did not accommodate "either hourly or daily public parking." Instead, the Appellant described the parking lot as serving "the sole needs and governmental purposes of the District of Columbia through the D.C. Department of Transportation, D.C. Parking Enforcement, D.C. Metropolitan Police, and D.C. Fire and Rescue Departments and in such capacity is performing as an instrumentality of the District Government in support of its responsibility to provide for the public health safety and welfare of its residents, invitees, tourist and visitors as well as for the Federal Government in the Nation's Capital." (Exhibit No. 27.)

6. By application dated May 15, 2007, the Appellant applied to DCRA for a certificate of occupancy to authorize use of the subject property by All-Star Towing Inc. as vehicle storage for 40 vehicles. In the application's section on "information on occupancy," the Appellant indicated that the prior use of the subject property was "House – demolished."

7. In the "Zoning Division" section of the application, headed "Office Use Only," the application contains a handwritten indication that the subject property was zoned LO/C-M-1. The Langdon Overlay (LO) District was applied to certain properties located in a Commercial-Light Manufacturing (C-M) zone. (*See* 11 DCMR §§ 800, 806.)

8. On August 19, 2009, DCRA issued Certificate of Occupancy No. CO0901692 to the Appellant to authorize use of the subject property as a "vehicle storage lot" for 40 vehicles. The certificate of occupancy indicated that the property was zoned R-1-B.

9. All-Star Towing Inc. also obtained a business license from the Department of Consumer and Regulatory Affairs for operation at the subject property.

10. A certificate of occupancy, issued September 24, 1973 to John F. and Grace B. Barnhart, had authorized use of the first floor of the building then located at the subject property as a laundromat. That building was razed pursuant to a permit issued May 24, 2002, after which the subject property became a vacant lot. (Exhibit No. 22.)

11. By letter dated April 19, 2016, the Office of the Zoning Administrator at DCRA provided notice that the Appellant's certificate of occupancy would be revoked unless the property was brought into compliance by obtaining the necessary special exception approval for the use. (*See* Exhibit No. 4.) The letter stated that, pursuant to § 110.5.3 of Title 12A of the District of Columbia Municipal Regulations, DCRA is authorized to revoke a certificate of occupancy that was issued in error. "DCRA has determined that the 2009 CofO was erroneously issued because the 'vehicle storage lot', which is a parking lot use, is not a permitted use in the R-1-B Zone District in which the Property is located, unless the Property complies with the requirements of Section 213 of the Zoning Regulations (Title 11 of the DCMR), including obtaining a special exception from the Board of Zoning Adjustment . . . . The Property does not comply with Section 213."

12. The DCRA letter also stated that the parking lot use at the subject property did not "qualify under Section 2000.4 of the Zoning Regulations as a nonconforming use that predated the Zoning Commission's change in classification of the Property from the CM-1 Zone District to the R-1-B Zone District by Order No. 685, effective April 5, 1991." After noting that the Appellant's application for the certificate of occupancy stated that "the existing use at the time of application in 2009 was not as a parking lot, but as a residential building that had been demolished" the letter explained that "Section 2005.1 of the Zoning Regulations establishes that any discontinuance of a non-conforming use for more than 3 years constitutes evidence of abandonment of that non-conforming use."

13. The letter informed the Appellant that DCRA would revoke the certificate of occupancy on June 28, 2016, 60 days after receipt of the notice (deemed to be April 29, 2016 under § 100.5.6.4 of Title 12A of the DCMR) unless (i) the property was brought into compliance before June 28 or (ii) the Appellant, as holder of the certificate of occupancy, requested an appeal hearing from the Board. The property could be brought into compliance by surrendering the certificate of occupancy to DCRA and applying for a new C of O for a use permitted in the R-1-B Zone, subject to zoning compliance approval, or by surrendering the certificate of occupancy to DCRA, submitting an

application to the Board for a use variance[3] to allow a parking lot in the R-1-B Zone, and applying for a new certificate of occupancy to reflect the authorized parking lot use subject to zoning compliance approval if the BZA approves the modification.

**CONCLUSIONS OF LAW AND OPINION**

The Board is authorized by § 8 of the Zoning Act to "hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal" made by any administrative officer in the administration or enforcement of the Zoning Regulations. (D.C. Official Code § 6-641.07(g)(1) (2008 Repl.).) (*See also* 11 DCMR Subtitle Y § 100.4.) Appeals to the Board of Zoning Adjustment "may be taken by any person aggrieved, or organization authorized to represent that person, … affected by any decision of an administrative officer…granting or withholding a certificate of occupancy…based in whole or part upon any zoning regulations or map" adopted pursuant to the Zoning Act. (D.C. Official Code § 6-641.07(f) (2008 Repl.). *See also* 11 DCMR Subtitle Y § 302.1.)

The Appellant raised several challenges to the Zoning Administrator's determination that the Appellant's certificate of occupancy should be revoked. The Board was not persuaded by any of the Appellant's arguments that the Zoning Administrator erred in deciding to revoke the certificate of occupancy, which DCRA concluded had been issued in error, and instead agrees with DCRA that the appeal must be denied.

The Appellant asserted that the certificate of occupancy was not issued in error because DCRA had inspected the property and required certain actions by the property owner (*i.e.* the Appellant) that required financial expenditures, such as for paving and landscaping the site, before issuing the certificate of occupancy. As noted by DCRA, the Appellant did not provide any evidence to support its allegation that DCRA imposed any requirements on the subject property before the Appellant obtained the certificate of occupancy. The property has not been landscaped, and the existing paving is the minimum necessary for operation of the Appellant's vehicle storage operation, not an improvement undertaken as a condition of issuance of the certificate of occupancy.

The Appellant did not provide evidence in support of his claim of expenses, including those allegedly incurred for paving, fencing, and any landscaping of the site. The D.C. Court of Appeals has held that, to invoke the doctrine of equitable estoppel successfully, the Appellant would have to show that he implemented: "(1) expensive and permanent improvements, (2) made in good faith, (3) in justifiable and reasonable reliance upon, (4) affirmative acts of the District government, (5) without notice that the improvements might violate the zoning regulations; and (6) [that the] equities [ ] strongly favor the petitioners. *Economides v. District of Columbia Bd. of Zoning Adjustment*, 954 A.2d 427 (D.C. 2008) at 444, quoting *Interdonato v. District of Columbia Bd. of Zoning Adjustment*, 429 A.2d 1000, 1003 (D.C. 1981). Because the

[3] Use as a "parking lot" may be permitted in the R-1-B Zone if approved as a special exception; a use variance is not required.

Appellant failed to substantiate any claim of detrimental reliance on the issuance of the certificate of occupancy, or otherwise address the requirements of estoppel, the Board concurs with DCRA that the Appellant's claim that the certificate of occupancy is valid and enforceable "as a matter of estoppel and/or vested rights" is without merit.

The Appellant argued that "the authorized and permitted use at the site has been continuous and uninterrupted by the owner for exclusively municipal purposes for the District of Columbia government functions" including serving "the needs of the District of Columbia Department of Transportation" for activities such as "traffic safety management for traffic emergencies cause[d] by vehicular accidents and other problems; and (2) temporary impoundment for parking enforcement program and other purposes." According to the Appellant, the parking lot was not used for "any commercial parking of cars" and, instead, the "dedicated and exclusive use of the lot by and for the District of Columbia Government entitles the property to an exemption to the Special Exception requirements of Section 213 of the Zoning Regulations (Title 11 of the DCMR)." The Appellant claimed that the Board lacked jurisdiction "over land use for governmental purposes under Section 101.1 of the D.C. Zoning Regulations" since the Appellant's "compliance with existing governmental purposes … exempt[ed] the property from the current applicable zoning requirements."

The Appellant argued that its use of the subject property was for "exclusively municipal purposes for the District of Columbia government functions" and that use by the District of Columbia Government would entitle the property to an exemption from any applicable zoning requirements. The Board does not agree with either claim. Although the certificate of occupancy stated the authorized use as a "vehicle storage lot," the Board agrees with the Zoning Administrator that, for zoning purposes, the Appellant's use of the subject property was as a "parking lot."[4] The R-1-B Zone does not allow any parking lot use except by special exception approval in accordance with § 213. The Zoning Regulations do not distinguish between types of parking lots according to whether a lot is used by a government or other user, and do not exempt parking lots used "exclusively municipal purposes for the District of Columbia government functions" from otherwise applicable requirements. Even properties of the District of Columbia Government are generally subject to zoning, with certain exceptions that do not apply to the subject property.[5] (*See* 11 DCMR § 106.5.) The Appellant did not identify any provision in the

[4] In accordance with 11 DCMR § 3203.8, a use authorized by a certificate of occupancy shall be designated on the certificate of occupancy in terms of a use classification that is established by the Zoning Regulations.

[5] The exceptions apply to (i) any governmental land or building uses that were either in existence or were substantially planned, documented, and invested in prior to May 23, 1990; and (ii) District of Columbia public buildings in the Central Area. 11 DCMR § 106.5. This section codifies Section 5 of the National Planning Act, D.C. Official Code § § 2-1004 (2018 Repl.) and Section 7 of the District of Columbia Comprehensive Plan Act of 1984, which was added effective May 23, 1990 to make the District government subject to zoning (D.C. Official Code § 1-306.07 1-306.07 (2012 Repl.).

The subject property is not located in the Central Area, which is defined for zoning purposes as "the area included within the combined boundaries of the Urban Renewal Plan for the Downtown Urban Renewal Area and the Urban Renewal Plan for the Shaw School Urban Renewal Area, as approved and modified periodically by the National Capital Planning Commission and the Council of the District of Columbia." (11 DCMR § 199.1.)

Zoning Regulations that would exempt privately owned property from zoning requirements, even if the use of that property is for a government purpose. Instead, the Zoning Regulations specify that no property in private ownership may be used for any purpose until after zoning has been designated for that property. (11 DCMR § 106.7.)

The Appellant also contended that "the property qualifies under Section 2000.4 of the Zoning Regulations as a non-conforming use" that had not been abandoned. The Board does not agree. Pursuant to § 2000.4, a nonconforming use "may be continued, operated, occupied, or maintained," subject to certain requirements so long as the use is not abandoned. However, the Appellant's use of the subject property as a parking lot is not a nonconforming use, but a use that was established pursuant to a certificate of occupancy that was issued in error. A nonconforming use is "any use of land … lawfully in existence at the time this title or any amendment to this title became effective, that does not conform to the use provisions for the district in which the use is located . . . ." (11 DCMR § 199.1.) The parking lot use was never lawfully in existence because the subject property is zoned R-1-B, where parking lot use is not permitted except by special exception, and the Appellant has not obtained a special exception for the use.[6] The parking lot use was mistakenly authorized in 2009, long after the change in zoning classification of the property in 1991 and after the effective date of § 213 on May 12, 1958. The Appellant's application for the certificate of occupancy did not describe the use of the property then as a parking lot but as a house that had been demolished, and therefore the Zoning Administrator properly concluded that any prior nonconforming use of the property had been discontinued after the property was rezoned from C-M-1 to R-1-B in 1991.[7] Accordingly, the Board agrees with DCRA that Appellant's parking lot use does not qualify as a grandfathered nonconforming use.

The Appellant argued that the Zoning Administrator's decision to revoke the certificate of occupancy constituted a taking of real property and of business property without just compensation in violation of the due process clause of the U.S. Constitution. The Board declines to address the Appellant's constitutional claims, which are outside the scope of the Board's jurisdiction. (*See, e.g.,* Appeal No. 17504 (JMM Corp.; 2007) (in denying an appeal of DCRA's revocation of a certificate of occupancy, the Board held that it had "no jurisdiction to decide questions of constitutionality, as its authority is limited to hearing appeals alleging error in the administration and enforcement of the Zoning Regulations").) Nevertheless, the Board notes that the Zoning Administrator's notice was of an intent to revoke, which would be deferred if the Appellant sought a hearing before the Board. The Appellant did that, and a full evidentiary hearing was held. The certificate of occupancy was not deemed revoked until the Board's voted to deny the appeal on July 12, 2017.

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[6] The Appellant submitted an application for a special exception under § 213 to allow a parking lot use at the subject property, but the Board voted on July 12, 2017 to deny the application. (*See* Application No. 19385.)

[7] Pursuant to § 2005.1, "[d]iscontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for any period of more than three (3) years, shall be construed as *prima facie* evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the district in which the use is located."

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)). In this case, ANC 5C adopted a resolution indicating its opposition to continued use of the subject property as a parking lot. For the reasons discussed in this order, the Board concurs with the ANC's concerns about the operation of a parking lot in a Residence Zone, absent special exception approval of the use.

Based on the findings of fact and conclusions of law, the Board concludes that the Appellant has not satisfied the burden of proof in its claims of error in the decision of the Zoning Administrator, made April 19, 2016, to issue a notice of revocation of Certificate of Occupancy No. CO0901692, which authorized a parking lot in the R-1-B District at 2200 Channing Street, N.E. (Square 4255, Lot 28) on the ground that the certificate of occupancy had been issued in error.

Accordingly, it is therefore **ORDERED** that the **APPEAL** is **DENIED** and the Zoning Administrator's determination is **SUSTAINED**.

**VOTE**: **4-0-1** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, and Robert E. Miller to DENY the Appeal and AFFIRM the Zoning Administrator's determination; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
A majority of Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** January 16, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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

**Order No. 19387-A in Application No. 19387 of Graham Smith and Alexis Diao**, as amended[1] pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the rooftop/upper floor addition requirements of Subtitle E § 206.2[2], and the height requirements of Subtitle E § 303.3, to permit the renovation of a flat in the RF-1 Zone at premises 3616 11th Street, N.W. (Square 2829, Lot 169).

**HEARING DATE:** December 14, 2016
**DECISION DATE**: December 21, 2016
**STAY DECISION DATE:** June 14, 2017

**ORDER DENYING MOTION FOR STAY**

By order issued December 28, 2016, the Board of Zoning Adjustment ("Board") granted the self-certified application of Graham Smith and Alexis Diao ("Applicants") for special exceptions under the rooftop/upper floor addition requirements of Subtitle E § 206.2, and the height requirements of Subtitle E § 303.3, to permit the renovation of a flat in the RF-1 Zone at premises 3616 11th Street, N.W. (Square 2829, Lot 169) ("Order").

The only other party in this case was ANC 1A, which was automatically deemed a party because the site of this application was within its jurisdiction. ANC 1A submitted a report recommending approval of the application.

On January 26, 2017, Nefretiti Makenta filed a petition in the District of Columbia Court of Appeals.

[1] At the hearing of December 14, 2016, the Applicant amended the application by removing the special exception relief from Subtitle U §§ 320.2 and 320.2(a) related to conversion, and changing it to a special exception under Subtitle E § 206.2 to permit the modification of an existing roof top architectural element and § 303.3 to permit a dwelling 40 feet in height, and by removing from the original request the variance from the 900 square feet per dwelling unit requirements of Subtitle U § 320.2(d), pursuant to 11 DCMR Subtitle X, Chapter 10. (See Applicant's supplemental statement and revised self-certification at Exhibit 66.) The caption has been amended accordingly.

[2] All regulatory citations are to the 2016 Zoning Regulations found at Title 11 of the DCMR ("Zoning Regulations").

On May 15, 2017, Nefretiti Makenta filed with the Board a motion to stay the Order pending her appeal of the Order to the District of Columbia Court of Appeals.

On June 14, 2017, the Board of Zoning Adjustment denied the motion.

Through an Order dated November 22, 2017, the District of Columbia Court of Appeals dismissed the petition for review.

Although the motion is moot, the Board did not change the basis of its vote, and therefore issues this Order as required under its regulations.

Ms. Makenta's motion stated that she was likely to prevail on the merits of her appeal because, she alleges, the architectural plan the BZA approved cannot be executed without violating other Zoning Regulations or District laws, the Applicants misrepresented material facts to the ANC and BZA[3], and the Applicants fraudulently obtained a building permit. It stated that she would be irreparably harmed because the Applicants did not show a tree located on Ms. Makenta's property on their plans submitted to the BZA in support of their application and because the tree could be damaged by the construction. It further alleged that the Applicants would not be harmed by the stay, and that the public interest favors granting the stay because she claims the Applicants withheld or misrepresented facts before the Board. Ms. Makenta also alleges that the Applicants' project authorized by the Order will interfere with solar panels she has a permit to install on her property. Ms. Makenta applied for the permit after the Board issued the Order.

The motion was opposed by the Applicants, who argued that the Board should deny the stay because Ms. Makenta did not establish the four elements required as set forth in Subtitle Y § 701.3.

At a public meeting held on June 14, 2017, the Board considered Ms. Makenta's motion and the Applicants' opposition, then voted to deny the motion for a stay.

**CONCLUSIONS OF LAW**

Pursuant to 11-Y DCMR § 701.2, the Board may order the effectiveness of a final decision and order of the Board stayed pending appeal of the decision and order to the Court of Appeals. A stay may be granted only upon the Board's finding that (a) the party seeking the stay is likely to prevail on the merits of the appeal; (b) irreparable injury will result if the stay is denied; (c) opposing parties will not be harmed by the stay; and (d) the public interest favors the granting of the stay. (11-Y DCMR § 701.3.)

<u>Likelihood of success on the merits</u>

In judging a special exception, "[t]he Board's discretion ... is limited to a determination of

[3] Ms. Makenta alleges the Applicants misrepresented whether or not the adjoining owners supported the application.

whether the exception sought meets the requirements of the regulation." *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981 (*quoting Stewart v. District of Columbia Bd. of Zoning Adjustment*, (D.C. 1973)). The Board believes the evidence in the record is sufficient to determine that the Applicants satisfied the requisite burden of proof for the special exceptions approved by the Order, even if the allegedly misrepresented evidence is excluded from the record. The remaining documents in the record and testimony at the hearing establish that the Applicants met their burden of proof for the requested special exception relief. The Board is therefore unpersuaded that Ms. Makenta is likely to prevail on the merits of her appeal.

Furthermore, Ms. Makenta's allegations related to whether the plans approved by the Board can be constructed by the Applicants without violating other Zoning Regulations or District laws, and the Applicants' representations to permitting authorities, are not within the scope of the Board's review in the special exception case.

Irreparable injury

Ms. Makenta alleges she will be irreparably harmed if the stay is denied because the Applicants' plans and submissions in support of their application did not show a tree located on Ms. Makenta's property, and because the tree will be damaged by the excavation necessary to complete the Applicants' plans.

The relevant Zoning Regulations do not impose an affirmative obligation on the Applicants to show the tree on Ms. Makenta's property in the materials submitted in support of their application, or an affirmative duty on the Applicants to show that the tree will not be harmed as a result of the construction authorized by their special exception application.

Even if the Applicants did have such a duty, Ms. Makenta has not established that she will be irreparably harmed if the stay is denied. As Ms. Makenta states in her submission, the Applicants could prevent irreparable harm to the tree by taking protective measures when constructing the improvements authorized by the Board's order.

Although she did not mention it in the portion of her motion that states her alleged irreparable injury, Ms. Makenta also alleges elsewhere in her motion that the Applicants' project will interfere with solar panels that she has a permit to install on her property. However, Ms. Makenta did not apply for the solar panel permit until *after* the Board issued the Order. Under Subtitle E § 206.1(c), the Applicants have a duty not to "interfere" with the operation of an "existing or permitted solar energy system on an adjacent property." Ms. Makenta did not have an existing or permitted system at the time the Board issued the Order. The Applicants therefore did not have a duty not to interfere with potential solar panels that could be installed on Ms. Makenta's property in the future. The Board therefore does not consider potential interference with these solar panels, if constructed, to be irreparable harm if the stay is denied.

Harm to the opposing party

The Board concludes that the Applicants will be harmed if the Board stays its order. The Applicants borrowed money to finance the construction of the project in reliance on the Board's order. A delay in construction caused by a stay will increase the cost of the project's financing.

Public interest

The Board concludes the public interest does not favor granting a stay. The Board entered its Order based on the evidence in the record, after a properly noticed public hearing in which Ms. Makenta had the opportunity to participate. She did not participate, and is now attempting to overturn the Board's order based on evidence that she could have presented at the hearing. The public interest favors finality in the Board's decisions.

Accordingly, it is **ORDERED** that the motion for stay is **DENIED**.

**VOTE:** **4-0-1** (Frederick L. Hill, Michael G. Turnbull, Lesylleé M. White, and Carlton Hart voting to deny the stay; one Board seat vacant)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** January 16, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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

**Application No. 19575 of Ruth Fisher**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201.1(f) from the nonconforming structure requirements of Subtitle C § 202.2, and pursuant to Subtitle X, Chapter 10, for a variance from the number of stories requirement of Subtitle E § 303.1, to construct a partial rooftop addition to an existing flat in the RF-1 Zone at premises 104 8th Street, N.E. (Square 896, Lot 34).

**HEARING DATE:** October 4, 2017
**DECISION DATE:** October 4, 2017

## DECISION AND ORDER

The owner of 104 8th Street, N.E. (the "Property"), Ruth Fisher (the "Applicant"), submitted a self-certified application requesting (i) area variance relief under Subtitle X, Chapter 10 from the maximum number of stories of Subtitle E § 303.1 and (ii) special exception relief under Subtitle X, Chapter 9 and Subtitle E § 5201.1(f) from the prohibition against additions to nonconforming structures that create new nonconformities of Subtitle C § 202.2, in order to allow the construction of a partial rooftop addition and deck to the existing flat (the "Building") on the Property. Having considered the evidence of record, including pre-hearing submissions and testimony received at the October 4, 2017 public hearing, the Board of Zoning Adjustment (the "Board") voted to deny the application for the reasons set forth below.

**PRELIMINARY MATTERS**

*Notice of Application and Notice of Hearing*. In accordance with 11 DCMR Subtitle Y § 402.1, the Office of Zoning published the notice of the public hearing on the Application in the *D.C. Register* on August 18, 2017 (64 DCR 33) and provided notice of the Application and of the October 4, 2017 hearing date by inclusion on the Office of Zoning's online calendar of Board hearings. By memoranda dated August 15, 2017, the Office of Zoning sent notice of the filing of the application to Advisory Neighborhood Commission ("ANC") 6C, in which district the Property is located; to ANC 6C01, the Single Member Commissioner in whose district the Property is located; to ANC 6A, the adjacent ANC; to the Office of Planning ("OP"); to the District Department of Transportation ("DDOT"); to the Chairman and four At-Large Councilmembers of the District of Columbia; and to the Councilmember for Ward Six in which the Property is located. By memoranda dated August 15, 2017, the Office of Zoning sent notice of the public hearing to the Applicant, ANC 6C, ANC 6C01, ANC 6A, the Councilmember for Ward 6, and the owners of all property within 200 feet of the Property. The Applicant filed the affidavit of posting required by Subtitle Y § 402.9. (Exhibit 40.)

<u>Party Status</u>. The Applicant and ANC 6C were automatically parties in this proceeding pursuant to Subtitle Y § 403.5, as was ANC 6A because 8th Street N.E. is the boundary line between ANCs 6A and 6C. The Board did not receive any requests for party status.

<u>Applicant's Case</u>. Architect Jennifer Fowler represented the Applicant and filed pre-hearing evidence to the record. At the hearing Ms. Fowler, the Applicant, and her partner, Charles Armstrong, provided testimony.

<u>OP Report</u>. The Office of Planning ("OP") filed a report dated September 22, 2017. (Exhibit 33.) The OP report set forth the area variance standards of Subtitle X §§ 1000.1 and 1002 and determined that the Application failed to meet these standards as they applied to the request for relief from the maximum number of stories allowed under Subtitle E § 303.1. The OP report also set forth the special exception standards of Subtitle X § 901.2 and found that the Application failed to meet these standards to add the proposed fourth story.

<u>DDOT Report</u>. By a memorandum dated September 22, 2017, the District Department of Transportation ("DDOT") stated that it had no objection to the approval of the application for the special exception. (Exhibit 35.)

<u>ANC Report</u>. ANC 6A did not submit a report to the Board. ANC 6C submitted a letter to the Board dated September 22, 2017, stating that at a regularly scheduled meeting, which was noticed and attended by four of six Commissioners, the Commission unanimously voted to support the application for the area variance from the maximum number of stories allowed by Subtitle E § 303.1 and the special exception from the nonconforming structure requirements of Subtitle C § 202.2. (Exhibit 34.) ANC 6C's support was based on the revision to the application that reduced the proposed height to comply with the 35-foot matter-of-right height allowed by Subtitle E § 303.1.

<u>Persons in support</u>. The Board received four letters of support for the application from the three abutting neighbors (102 and 106 8th Street, N.E. and 716 A Street, N.E.). (Exhibits 13-16.)

<u>Persons in opposition</u>. The Board received no letters in opposition to the application.

**FINDINGS OF FACT**

**The Site and the Surrounding Neighborhood**

1. The Property consists of Lot 34 in Square 896. The Property is located on the western side of 8th Street, N.E. approximately mid-block between Massachusetts Avenue, N.E. and A Street, N.E., with an address of 104 8th Street, N.E. The Property is in the RF-1 Zone.

2. The Property is rectangular, approximately 19 feet wide on 8th Street, N.E. and approximately 59 feet deep, with a lot area of approximately 1,121 square feet. (Exhibits 36, 38.) This lot area does not conform to the minimum 1,800 square feet required by Subtitle E § 201.1, but the Zoning Regulations consider such lots to be conforming for

the purposes of building permits as long as all development standards are met. (11-C DCMR § 301.1.) Where a variance from non-compliant development standards is granted, the lot is deemed to comply with the subsection.

3. The Property is improved with a three-story Building that is an attached flat with one dwelling unit in the lower level that is partly below grade and one dwelling unit on the 1st and 2nd floors.

4. The Building occupies 764.67 square feet, or 68.2% of the Property. As this lot occupancy exceeds the maximum 60% lot occupancy allowed for an attached flat in the RF-1 Zone by Subtitle E § 304.1, the Property is nonconforming for lot occupancy. (Exhibit 38.)

5. The Building is also nonconforming in its rear yard, which is 13.5 feet and so less than the 20 feet required by Subtitle E § 306.1. (Exhibit 38.)

6. The Building was constructed as a flat with the lower level having a separate entrance and no internal connection with the upper unit, which spans the 1st and 2nd floors. (Exhibit 39.)

7. The ceiling of the lower level of the Building is more than four feet above the adjacent finished grade (approximately six feet, one inch - Exhibit 37) and so the lower level is classified by the Zoning Regulations as a basement and not a cellar. (Subtitle B § 100.2, definition of "basement".) As a basement, this lower level is considered a story by the Zoning Regulations as only cellars are excluded from being classified as a story. (Subtitle B § 310.2.)

8. The Building is constructed to the front property line, with the bay window and steps projecting into public space. Therefore, the adjacent finished grade that determines the classification of the lower level of the Building as a basement is located in public space and cannot be altered to reclassify the lower level as a cellar. This public space in front of the Building is level with the sidewalk and does not have any grade change or berm between the sidewalk and the front of the Building.

9. The Building is similar to most of the other buildings on the block, including the abutting neighbors to the Property, having been built in the same period. These houses share a similar height and vertical layout, having two floors above a basement, as defined by the Zoning Regulations.

10. The Property's substandard size is very similar to the two abutting lots to the south and to the abutting lot to the north. These two adjacent lots also have buildings with roughly the same footprint as the Building, and so also exceed the lot occupancy allowed in the RF-1 Zone. (Exhibit 36.)

**Project Description**

11. The application proposed to construct a partial rooftop addition and deck that would be the 3rd floor, but the 4th story under the Zoning Regulations.

12. The application initially proposed that the addition have a height of 36.2 feet, which would require special exception relief from the maximum 35-foot height allowed in the RF-1 Zone by Subtitle E § 303.1.

13. The Applicant subsequently revised the application to reduce the proposed height to comply with the maximum 35-foot height limit and therefore withdrew its request for special exception relief for the additional height. (Exhibits 36-39.)

14. The revised application retained the proposed 3rd floor/4th story, which would exceed the maximum three stories allowed in the RF-1 Zone by Subtitle E § 303.1.

**The Variance Relief**

15. The application, as revised, requested a variance under Subtitle X, Chapter 10 from Subtitle E § 303.1 to allow the 4th story partial rooftop addition and deck.

**The Special Exception Relief**

16. Since the Building is nonconforming for lot occupancy and rear yard, and the proposed partial rooftop addition would create a nonconforming 4th story, the revised application also requested a special exception under Subtitle X, Chapter 9 and Subtitle E § 5201.1(f) from Subtitle C § 202.2's prohibition on expanding a nonconforming building in a manner that creates a new nonconformity.

## CONCLUSIONS OF LAW

The application, as revised, requested (i) variance relief under Subtitle X, Chapter 10 from the maximum number of stories allowed by Subtitle E § 303.1 and (ii) special exception relief under Subtitle X, Chapter 9 and Subtitle E § 5201.1(f) from the prohibition against additions to nonconforming structures that create new nonconformities of Subtitle C § 202.2.

**Variance Relief**

The Board is authorized to grant variances from the strict application of the Zoning Regulations where "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,'' the strict application of any zoning regulation "would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property…." (D.C. Official Code 6-641.07(g)(3) (2012 Repl.); 11-X DCMR § 1000.1.)

The District of Columbia Court of Appeals has held that "an exceptional or extraordinary situation or condition" may encompass the buildings on a property, not merely the land itself, and may arise due to a "confluence of factors." See *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974); *Gilmartin v. District of Columbia Bd. Of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

A showing of "practical difficulties" must be made for an area variance, while the more difficult showing of "undue hardship" must be made for a use variance. *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972).

An area variance is defined by Subtitle X § 1001.2 as "a request to deviate from an area requirement applicable to the zone district in which the property is located," with Subtitle X § 1001.3 providing examples. The Applicant's request for a variance from the limit on the number of stories of Subtitle E § 303.1 falls into the area variance category of Subtitle X § 1001.3(a) as relief from "requirements that affect the size, location, and placement of buildings."

The Applicant is therefore required to show that the strict application of the Zoning Regulations would result in "practical difficulties." *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995), quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). A showing of practical difficulty requires "'[t]he applicant [to] demonstrate that ... compliance with the area restriction would be unnecessarily burdensome.'" *Metropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1084 (D.C. 2016), quoting *Fleishman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561-62 (D.C. 2011).

Lastly, the Applicant must demonstrate that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (11-X DCMR § 1002).

Based on the above findings of fact, the Board concludes that the Applicant has failed to meet its burden of proof and that the application should be denied.

*Exceptional and Extraordinary Conditions*

The Board disagrees with the Applicant's assertion that the classification of the Building's lower level as a basement qualified as an extraordinary condition. The Applicant argued that the Building was exceptional because the grade in front of the house was level with the sidewalk, in contrast to other nearby squares that have a raised grade between the sidewalk and the building façade. The Applicant pointed out that properties in those nearby squares have lower levels that are classified as cellars by the Zoning Regulations and are therefore allowed a 3rd floor that is deemed a 3rd story under the Zoning Regulations. The Board disagrees with the Applicant's argument and concludes, in concurrence with OP, that the Property and Building are very similar to the abutting and nearby properties and so the classification of the lower level as a basement

does not represent an extraordinary condition because this is a characteristic shared with the adjacent properties.

*Practical Difficulties*

As the Board concludes that there is no extraordinary condition in the Property or Building, the Board does not find any practical difficulty that would result from strictly applying the maximum number of stories allowed by Subtitle E § 303.1 to the Property.

*Substantial Detriment to Public Good*

The Board finds that the requested variance would result in a four-story building out of character with the surrounding neighborhood composed of predominantly two- and three-story buildings. Thus the proposed variance would detrimentally affect the public good by authorizing a rupture in the middle of the existing urban fabric.

*Substantial Impairment of the Zone Plan*

The Board determines that the requested variance would be inconsistent with the treatment of other nearby buildings in the same zone that share a similar three story (basement + 2 floors) vertical layout with the Building. Granting this variance would therefore impair the integrity of the Zoning Regulations and Zone Map.

As a result, the Board concludes that the Applicant failed to meet its burden to establish that the proposed partial rooftop addition qualified for variance relief from the maximum number of stories allowed in the RF-1 Zone by Subtitle E § 303.1.

**Special Exception Relief**

The Board is authorized to grant special exceptions under Section 8 of the Zoning Act and Subtitle X § 900, in accordance with specific provisions of the Zoning Regulations. (D.C. Official Code 6-641.07(g)(3) (2012 Repl.); 11-X DCMR § 1002.) Pursuant to Subtitle E § 5201.1(f), the Board may grant special exception relief from the restrictions on additions to nonconforming structures of Subtitle C § 202.2 if the Applicant demonstrates, with sufficient graphical representations for the Board to render a decision, that the proposed addition meets the requirements of Subtitle X § 901 and the specific conditions of Subtitle E § 5201.1(f). The Applicant must demonstrate that the proposed addition:

(i) would be in harmony with the general purpose and intent of the Zoning Regulations,

(ii) would not adversely affect the neighboring properties,

(iii) would not unduly affect the light and air available to neighboring properties,

(iv) would not unduly compromise the privacy of use and enjoyment of neighboring properties, and

(v) would not substantially visually intrude upon the character, scale, or pattern of the street frontage.

Based on the above findings of fact, the Board concludes that the Applicant has failed to meet its burden to demonstrate that the application, as defined in the revised plans, satisfies the requirements for special exception relief from the restrictions on additions to nonconforming structures of Subtitle C § 202.2 pursuant to Subtitle E § 5201.1(f) and Subtitle X, Chapter 9. The special exception relief requested would allow the existing nonconforming structure to be enlarged to include a new nonconformity – in this case, the partial rooftop addition's 4th story – but only if the Applicant received the separate zoning relief required to authorize the new nonconformity. As the Board has determined that the Applicant failed to meet its burden to obtain the variance relief required for the 4th story partial rooftop addition, the Board concludes that the Applicant also failed to meet its burden to prove it met the special exception conditions – most notably that the proposed 4th story addition would be in harmony with the general purpose and intent of the Zoning Regulations. Without the variance relief, the special exception relief would contradict the general and specific purposes and intent of the Zoning Regulations.

**Great Weight to ANC and OP**

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.).) For the reasons discussed above, the Board concurs with OP's recommendation that the application should be denied.

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC, in this case ANC 6C. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)).) The "[ANC] statute does not require the BZA to give "great weight" to the ANC's recommendation but requires the BZA to give great weight to any issues and concerns raised by the ANC in reaching its decision." *Metropole Condominium Assoc. v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086 (D.C. 2016), citing D.C. Code 1–309.10(d)(3)(A) (2012 Repl.). ANC 6C's report stated that the ANC was concerned "about [the application's] increasing the height [beyond the maximum allowed] and creating a new precedent in the Capitol Hill historic district of approving four floors." (Exhibit 34.) When the Applicant agreed to reduce the height of the proposed addition from the initial 36.2 feet to comply with the maximum 35 feet allowed under Subtitle C § 303.1, the ANC agreed to support the revised application. However, the Board notes that the ANC mistakenly believed that this reduction in the height of the proposed addition also reduced a story from the original proposal – "[t]he application is now proposing three floors plus a basement, not four floors." Therefore, the ANC's concern over undesirability of a fourth story remained valid and persuasive.

**DECISION**

Based on these findings of facts and conclusions of law, the Board concludes that the Applicant failed to satisfy the burden of proof with respect to the requests for (i) area variance relief under Subtitle X, Chapter 10 from the maximum number of stories of Subtitle E § 303.1 and (ii) special

exception relief under Subtitle X, Chapter 9 and Subtitle E § 5201.1(f) from the prohibition against additions to nonconforming structures that create new nonconformities of Subtitle C § 202.2 in order to allow the construction of a partial rooftop addition and deck to the existing flat at premises 104 8th Street, N.E. (Square 896, Lot 34) in the RF-1 Zone. Accordingly, it is **ORDERED** that the application is **DENIED**.

**VOTE**: **4-0-1** (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Robert E. Miller to DENY; one Board seat vacant).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** January 15, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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

**Application No. 19841 of Habitat for Humanity of Washington D.C.**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 305.1 from the subdivision regulations of Subtitle C § 302.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the side yard requirements of Subtitle D §§ 307.1 and 307.4, to replace two detached dwelling units with 17 new semi-detached and detached dwelling units on a single record lot in the R-2 Zone at premises 900-914 55th Street N.E. (Square 5204, Lot 22).[1]

**HEARING DATES**: October 24, 2018 and January 16, 2019[2]
**DECISION DATE:** January 16, 2019

**SUMMARY ORDER**

## SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 41 (Revised); Exhibit 6 (Original).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on the initial application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 7C and to owners of property located within 200 feet of the site. Based on amendments to the relief requested, notice was also provided of the revised application in accordance with Subtitle Y § 402.1, except that the Board waived the requirement that revised notice be published in the *D.C. Register* at least 40 days in advance of the postponed hearing date. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. The ANC's report indicated that at a regularly scheduled, properly noticed public

[1] The Applicant amended the original application to add area variance relief from the side yard width requirements of Subtitle D § 307.1. (Exhibit 41.) At the public hearing, the Applicant requested additional area variance relief from the side yard requirements of Subtitle D § 307.4, as the Zoning Commission had not yet taken final action to remove that requirement at the time of the hearing. The caption has been revised accordingly.

[2] The hearing was originally scheduled for October 24, 2018 and postponed to January 16, 2019 at the Applicant's request.

meeting on January 10, 2019, at which a quorum was present, the ANC voted 6-1 to support the application. (Exhibit 65.)

The Office of Planning ("OP") submitted two reports for the record. OP was initially unable to make a recommendation and requested additional information from the Applicant. (Exhibit 37.) In a supplemental report, OP recommended approval of the revised plans and amended relief. (Exhibit 63.) The District Department of Transportation ("DDOT") also submitted two reports for the record. DDOT's initial report raised concerns about site access and circulation, recommending that the Applicant coordinate with DDOT on plan revisions. In a supplemental report, DDOT expressed no objection to the revised project, but proposed a condition regarding a surface easement over the private portion of the driveway from Hunt Place, N.E. to 55th Street, N.E. (Exhibit 60.) Rather than requiring the Applicant to record an easement, the Board adopted a condition requiring that the proposed private driveway remain open to public pedestrian and vehicular traffic.

One letter in opposition was submitted to the record by James White. (Exhibit 30.) Mr. White testified at the public hearing, raising concerns about construction impacts and traffic. Testimony was also given by Lynne Saffell raising concerns about the private driveway and by Mary Gaffney in support of the project.

Area Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the side yard requirements of Subtitle D §§ 307.1 and 307.4. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle D §§ 307.1 and 307.4, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exception under Subtitle C § 305.1 from the subdivision regulations of Subtitle

C § 302.2. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle C §§ 305.1 and 302.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 58A AND WITH THE FOLLOWING CONDITION:**

1. The 20-foot private driveway between Hunt Place, N.E. and 55th Street, N.E. shown on Sheet 6 of the Approved Plans shall remain open to public pedestrian and vehicular traffic.

**VOTE**: **3-0-2** (Frederick L. Hill, Lesylleé M. White, and Michael G. Turnbull to APPROVE; Lorna L. John and Carlton E. Hart not present, not participating.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** January 17, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

**BZA APPLICATION NO. 19841**
**PAGE NO. 3**

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Application No. 19890 of Heather and Nathan Gonzales,** pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story rear addition to an existing, semi-detached principal dwelling unit in the RF-1 Zone at premises 910 6th Street N.E. (Square 831, Lot 39).

**HEARING DATE**: January 9, 2019
**DECISION DATE:** January 9, 2019

## SUMMARY ORDER

### SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 6.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on December 10, 2018, at which a quorum was present, the ANC voted 5-0-0 to support the application. (Exhibit 29.)

The Office of Planning ("OP") submitted a timely report, dated December 28, 2018, in support of the application. (Exhibit 30.) The District Department of Transportation ("DDOT") submitted a report, dated December 28, 2018, of no objection to the approval of the application. (Exhibit 31.)

Two letters of support from adjacent property owners were submitted to the record. (Exhibits 11 and 12.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X §

901.2, for special exceptions under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story rear addition to an existing, semi-detached principal dwelling unit in the RF-1 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E §§ 205.5, 5201, 205.4, and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 4.**

**VOTE**: **4-0-1** (Frederick L. Hill, Lorna L. John, Lesylleé M. White, and Robert E. Miller to APPROVE; Carlton E. Hart not present, not participating).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** January 16, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING

THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**BOARD OF ZONING ADJUSTMENT**
**PUBLIC MEETING NOTICE**
**WEDNESDAY, MARCH 20, 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.**

**FOR EXPEDITED REVIEW**

**WARD ONE**

19937
ANC 6E

**Application of Martin Svetoslavov**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2, to expand an existing two-story rear addition and construct a new rear deck addition to an existing, semi-detached principal dwelling unit in the RF-1 Zone at premises 3664 Park Place N.W. (Square 3034, Lot 197).

**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

BZA PUBLIC MEETING NOTICE
MARCH 20, 2019
PAGE NO. 2

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.

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

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

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

*Korean*
참여하시는데 도움이 필요하세요?

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

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

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

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

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**
**ZONING COMMISSION ORDER NO. 06-14E**
**Z.C. Case No. 06-14E**
**Washington Gateway Three, LLC**
**(PUD Modification of Consequence @ Square 3584)**
**October 22, 2018**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on October 22, 2018. At that meeting, the Commission approved the application of Washington Gateway Three, LLC ("Applicant") for a modification of consequence to a previously approved consolidated planned unit development ("PUD") for property located at Square 3584, Lots 26, 814, 815, 820, 821, and 822[1] ("PUD Site"). The modification request was made pursuant to Subtitle Z, Chapter 7 of the District of Columbia Zoning Regulations. For the reasons stated below, the Commission hereby approves the application.

## FINDINGS OF FACT

### Background

1. The PUD Site has a land area of approximately 134,592 square feet[2] and is bounded by New York Avenue, N.E. to the northwest; Florida Avenue, N.E. to the southwest; and the Metrorail tracks to the east. The PUD Site is designated mixed-use High-Density Residential and High-Density Commercial on the Comprehensive Plan Future Land Use Map and is located in the MU-9 Zone[3] on the District of Columbia Zoning Map.

2. Z.C. Order No. 06-14, dated February 12, 2007 and effective on June 29, 2007, approved the redevelopment of the PUD Site with a mixed-use project with two buildings. As modified by Z.C. Order No. 06-14B, dated April 5, 2011 and effective June 22, 2011, the first building is the existing apartment house situated on the western portion of the site, which has 400 dwelling units and approximately 5,000 square feet of ground-floor retail space. The second building has two towers. As modified by Z.C. Order No. 06-14D, dated May 22, 2017 and effective May 4, 2018 ("Order 06-14D"), the North Tower was approved with approximately 339,543 square feet of gross floor area generating approximately 372 residential units, and the South Tower was approved with approximately 223,262 square feet of gross floor area devoted to office use and approximately 11,132 square feet of gross floor area devoted to retail use.

[1] The PUD Site was originally identified in Z.C. Case No. 06-14 as comprised of record lot 23, known as assessment and taxation lots 811, 812, and 813 in Square 3584. The identification of this same property has since been changed to record lot 26, known as assessment and taxation lots 814, 815, 820, 821, and 822 in Square 3584.

[2] The initial PUD application in Z.C. Case No. 06-14 stated that the PUD Site was comprised of 134,665 square feet, and this figure was repeated in Z.C. Order No. 06-14 and subsequent amended orders until it was corrected in Z.C. Case No. 06-14F.

[3] The MU-9 District was known as the C-3-C Zone District under the 1958 Zoning Regulations, which were in place at the time that Z.C. Order No. 06-14 was approved.

3. Order 06-14D granted flexibility to have a residential use in lieu of the office use in the South Tower, subject to the Commission approving the plans for the residential use as a modification of consequence. Specifically, Decision B.3 of Order 06-14D states that no building permit shall be issued for the South Tower unless the Commission has approved the revised project as a modification of consequence and that the Commission shall not approve a modification of consequence unless the Applicant has provided: (a) a residential design of the building's façade; and (b) an explanation of how the South Tower satisfies all requirements for residential buildings including Inclusionary Zoning.

4. Decision E.1 of Order 06-14D bifurcated the timing requirements for the North and South Tower with each tower separately subject to the requirements of 11-Z DCMR § 702.2[4] as follows:

   a. The approval of the PUD modification for the North Tower shall be valid for a period of two years from the effective date of Order 06-14D, or May 4, 2020. Within such time, an application must be filed for a building permit, with construction to commence within three years of the effective date of said order, or May 4, 2021;

   b. The approval of the PUD modification for the South Tower shall be valid for a period of two years from the effective date of Order 06-14D, or May 4, 2020. Within such time, an application must be filed for a building permit, with construction to commence within three years of the effective date of said order, or May 4, 2021; and

   c. The Applicant may seek extensions of the time for each tower, respectively, in accordance with 11-Z DCMR § 705. If no application for permit is filed, construction has not started within the period specified, or no extension is granted, the approval for the unconstructed portion of the PUD shall expire, and the zoning shall revert to the pre-existing regulations and map.

**Application**

5. On August 14, 2018, in accordance with Order 06-14D, the Applicant filed an application with the Commission for a modification of consequence seeking: (a) the Commission's approval of the plans for the South Tower as a residential use and (b) an amendment to Decision No. B.6.d of Order 06-14D as follows:

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[4] Order 16-14D incorrectly references Subtitle X § 702.2, a typographical error as the correct reference is Subtitle Z § 702.2.

| FROM | TO |
|---|---|
| Condition B.6.d.<br><br>Prior to the issuance of a Certificate of Occupancy for the South Tower, the Applicant shall demonstrate to the Zoning Administrator that it has mounted light fixtures to the South Tower adjacent to the MBT that are designed to connect to the South Tower's electrical service; | Condition B.6.d.<br><br>Prior to the issuance of a Certificate of Occupancy for the South Tower, the Applicant shall demonstrate to the Zoning Administrator that it has ~~mounted light fixtures to the South Tower adjacent to~~ **installed pole lights along** the MBT **for the length of the South Tower.** ~~that are designed to connect to the South Tower's electrical service~~; **The pole lights will be connected to the District Department of Transportation's ("DDOT") planned electrical power service and maintained by DDOT.** |

6. Under this modification application, the South Tower will have approximately 222,705[5] square feet of gross floor area generating approximately 241 residential units, and approximately 2,984 square feet of gross floor area devoted to ground-floor retail. Eight percent of the gross floor area dedicated to residential use, or approximately 17,816 square feet, will be set aside as affordable units ("IZ Units") for households earning up to 60% of the median family income ("MFI"). The mix of market and affordable unit shall be as reflected in the chart below.

| Residential Unit Type | Residential Floor Area[6]/ Percentage of Total | Units | Reserved for household earning equal to or less than | Affordable Control Period | Affordable Unit Type |
|---|---|---|---|---|---|
| **Total** | 222,705 sf (100%) | 241 | N/A | N/A | N/A |
| **Market Rate** | 204,889 sf (92%) | 222 | Market Rate | N/A | Rental |
| **IZ Units** | 17,816 sf (8%) | 19 | 60% MFI | Life of the project | Rental |

7. With this modification the overall density for the PUD remains at the 6.78 floor area ratio ("FAR") previously approved under Order 06-14D, and the project maintains the maximum building height at 130 feet, measured from New York Avenue, N.E.

[5] The Applicant provided three different residential gross floor area totals: (a) 222,705 sq. ft. - Exhibits 5, Section F (Zoning Requirements – Inclusionary Zoning, p. 6) and 5G5, Sheet A-218 (IZ Unit Locations); (b) 219,039 sq. ft. – Exhibit 5G1, Sheet G-002 (Proposed PUD Modification); and (c) 218,038 sq. ft. – Exhibit 5, Section D (Proposed Modification, p. 4). This Order reflects the first figure, as the one used in the specific sections relating to the IZ Units. This figure was also relied upon by the Office of Planning in recommending approval of the Application to the Zoning Commission (Exhibit 10, p. 4).

[6] The residential floor area includes the square footage of the cellar level of the South Tower.

**Response to Agency Comments**

8. On September 7, 2018, the Office of Planning ("OP") submitted a report recommending that the PUD modification be considered as a modification of consequence. In its report OP also: (a) raised certain design concerns; (b) requested greater specificity regarding the Applicant's requests for development flexibility; (c) requested more detailed plans and renderings of the private space adjacent to the Metropolitan Branch Trail ("MBT"); and (d) requested that the Applicant provide additional details on the proposed change from an enclosed and conditioned MBT connection lobby ("Trail Connection Lobby") to an unenclosed and unconditioned Trail Connection Lobby. (Exhibit ["Ex."] 10.) On October 13, 2018, OP filed a supplemental report withdrawing its comments regarding the Trail Connection Lobby since the change was requested and approved in Order 06-14D. (Ex. 11.)

9. In its memorandum to OP, dated September 6, 2018, the District Department of Transportation ("DDOT") confirmed that the transportation impacts and mitigations identified as part of Order 06-14D are expected to remain valid since they were evaluated for an office use, which is expected to generate more trips that residential. The memorandum also states that the revised TDM plan for the South Tower is appropriate. Accordingly, DDOT has no objection to the requested modification. (Ex. 11, pp. 6-7.)

10. On September 24, 2018, the Applicant submitted its response to the Commission's and OP's comments, which included: (a) updated parking calculations and an updated zoning chart that clarified the parking for each iteration of the South Tower; (b) revised development flexibility; (c) an updated signage plan; (d) an explanation of the impact of financial service uses; and (e) additional plans and renderings for the design of the private space adjacent to the MBT. (Ex. 12-12C.)

11. On October 1, 2018 and October 9, 2018, the Applicant submitted its response to DDOT's request for additional information, which included additional dimensions and cross sections of the MBT, as well as additional information regarding any offsets between vertical elements (i.e., fencing, trees, etc.) and the MBT. (Ex. 13-13A,14-14A.)

12. On October 15, 2018, the Applicant submitted revised development flexibility language that was a result of the Applicant's discussions with the Office of the Attorney General ("OAG") and OP. (Ex. 15.)

13. On October 17, 2018, OP filed its final report recommending approval of the requested modification of consequence including: (a) the design, signage plan, and development program for the South Tower; (b) the landscaping and lighting adjacent to the MBT; (c) the Applicant's transportation demand management ("TDM") plan; and (d) the Applicant's revised development flexibility language. (Ex. 16.)

14. On October 18, 2018, the Applicant submitted its response to OP's final report clarifying that the revised flexibility language relates to the South Tower only. (Ex. 18.)

## ANC and Community Outreach

15. In addition to the Applicant, the parties to this case are Advisory Neighborhood Commission ("ANC") 5E, the ANC in which the PUD Site is located, and the adjacent ANCs 5D and 6C.

16. On October 17, 2018, the Applicant submitted a letter regarding its outreach to ANCs 5E, 5D, and 6C, and the Eckington Civic Association. (Ex. 17.)

17. The Applicant stated that it had presented the modification application to ANC 5E at its regularly scheduled meeting on October 16, 2018. During its presentation, the Applicant explained that the South Tower will be converted from an office to residential use, which was included in the flexibility granted under Order No. 06-14D. Also, the Applicant described the residential development program and provided renderings that showed the proposed South Tower design in contrast to what was previously approved for the South Tower as an office use. ANC 5E asked a few questions about the change in the design of the South Tower but did not raise any objections to the modification application. ANC 5E did not call for a vote on the application.

18. The Applicant stated that ANC 5D did not respond to the Applicant's request to present the application.

19. The Applicant stated that ANC 6C advised the Applicant that a presentation on the application was unnecessary.

20. The Applicant stated that it had presented the modification application at a meeting of the Eckington Civic Association on September 10, 2018. The members in attendance did not raise any objections to the proposed change in use for the South Tower nor did they call for a vote on this matter.

## Development Flexibility

21. The Applicant requested development flexibility for the South Tower alone as follows (Ex. 5, 12, 15):

    a. To provide a range in the number of units in the South Tower of 241 plus or minus 10%;

    b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, escalators, and toilet rooms elevators, provided that the variations do not change the exterior configuration of the building;

    c. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations;

d. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Plans;

e. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;

f. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the application plans;

g. To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of the inclusionary units will substantially conform to the layout shown on the application plans; and

h. To locate retail entrances in accordance with the needs of the retail tenants; vary the façades as necessary for the retail tenants within the general design parameters proposed for the PUD; and to vary the types of uses designated as "retail" use on the approved Plans to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)).

## CONCLUSIONS OF LAW

1. Pursuant to 11-Z DCMR § 703.1, the Commission, in the interest of efficiency, is authorized to make "modifications of consequence" to final orders and plans without a public hearing. A modification of consequence means "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance." (11-Z DCMR § 703.3.) Examples of modifications of consequence "include, but are not limited to, a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission." (11-Z DCMR § 703.4.)

2. The Commission concludes that this modification of consequence application is consistent with the Commission's approval in Order 06-14D, which states that the South Tower can be occupied with a residential use if approved by the Commission as a modification of consequence if the Applicant provides: (a) a residential design of the building's façade and (b) an explanation of how the South Tower satisfies all requirements for residential buildings, including Inclusionary Zoning.

3. The Commission concludes that the application, including the architectural plans and drawings and supplemental documents provide a residential design of the building's façade and demonstrate how the South Tower satisfies all requirements for residential buildings, including Inclusionary Zoning, consistent with the Commission's intent in Order 06-14D.

4. The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.) to give "great weight" to the issues and concerns contained in the written report of the affected ANC. In this case, ANC 5E, ANC 5D, and ANC 6C are parties to the case. The Applicant presented the application to ANC 5E, but the ANC did not take any action on this matter; ANC 5D did not respond to the Applicant's request to present the application; and ANC 6C advised the Applicant that a presentation was unnecessary. Therefore, there are no issues and concerns expressed by the affected ANCs to be given great weight by the Commission.

5. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP's recommendations. The Commission has carefully considered OP's recommendation in support of the application and agrees that approval of the requested modification of consequence should be granted.

6. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

## DECISION

In consideration of the above Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a modification of consequence to the consolidated PUD for the PUD Site located at Square 3584, Lots 26, 814, 815, 820, 821, and 822, approved in Z.C. Case No. 06-14, as amended by Z.C. Order No. 06-14D, subject to the conditions listed below. The conditions of Z.C. Order No. 06-14D shall continue to apply to the North Tower, located at Square 3584, Lots 26, 814, 815, and 821, and to the South Tower, located at Square 3584, Lots 26, 814, 815, and 822, except as specifically revised below:

## A. PROJECT DEVELOPMENT

1. Decision A.1 in Z.C. Order No. 06-14D is hereby amended to read as follows:

   "A.1. The PUD, except for the South Tower, shall be developed in accordance with the plans titled "Washington Gateway – Modification to Approved Consolidated PUD," prepared by SK+I and Gensler, and dated March 6, 2017, marked as Exhibits 46A1-46A8 ("Plans"), as modified by the guidelines, conditions, and standards herein."

2. The South Tower shall be developed in accordance with the plans titled "Washington Gateway – Modification to Phase II of Approved Consolidated PUD," prepared by SK+I Architecture, and dated August 13, 2018, marked as Exhibits 5G1-5G5; as modified by the renderings filed on August 30, 2018, marked as Exhibit 9A; the updated zoning chart and updated signage plan filed on September 24, 2018, (marked as Exhibits 12A and 12B; and the revised architectural plan sheet L104 filed on October 9, 2018, marked as Exhibit 14A (collectively, the "South Tower Plans").

**B. <u>PUBLIC BENEFITS</u>**

1. Decision B.2 in Z.C. Order No. 06-14D is hereby amended to read as follows:

"B.2. **<u>Prior to the issuance of a Certificate of Occupancy for the South Tower, and for the life of the South Tower Project</u>**, the Applicant shall demonstrate to the Zoning Administrator the following:

a. **<u>For the life of the South Tower Project</u>**, the Applicant shall:

i. Provide a total of approximately 222,705 square feet of gross floor area ("GFA") generating approximately 241 residential units, and approximately 2,984 square feet of gross floor area devoted to ground-floor retail; and

ii. Devote no less than eight percent of the residential GFA, equaling not less than 17,816 square feet, as inclusionary units ("IZ Units") pursuant to 11-C DCMR, Chapter 10, and reserved for households earning equal to or less than 60% of the median family income ("MFI").

b. The IZ Units shall be distributed in accordance with Sheet A-218 of the South Tower Plans, marked as Exhibit 5G5, and shall be provided in accordance with the chart below:

| Residential Unit Type | Residential Floor Area[7]/ Percentage of Total | Units | Reserved for household earning equal to or less than | Affordable Control Period | Affordable Unit Type |
|---|---|---|---|---|---|
| **Total** | 222,705 sf (100%) | 241 | N/A | N/A | N/A |
| **Market Rate** | 204,889 sf (92%) | 222 | Market Rate | N/A | Rental |
| **IZ** | 17,816 sf (8%) | 19 | 60% MFI | Life of the project | Rental |

[7] The residential floor area includes the square footage of the cellar level of the South Tower.

2. Decision B.3 in Z.C. Order 06-14D is hereby amended to read as follows:

“B.3. The covenant required by D.C. Official Code § 6-1041.05(2) (2012 Repl.) shall include a provision or provisions requiring compliance with this condition.”

3. Decision B.6.d in Z.C. Order No. 06-14D is hereby amended to read as follows:

“B.6.d. **Prior to the issuance of a Certificate of Occupancy for the South Tower**, the Applicant shall demonstrate to the Zoning Administrator that it has installed pole lights along the MBT for the length of the South Tower. The pole lights will be connected to the District Department of Transportation’s (“DDOT”) planned electrical power service and maintained by DDOT.”

4. Decision B.12 in Z.C. Order No. 06-14D, referring to the South Tower as an office use, is hereby deleted.

5. Decision B.13 in Z.C. Order No. 06-14D is hereby amended to read as follows:

“B.13. **Prior to the issuance of a Certificate of Occupancy for the South Tower**, the Applicant shall furnish a copy of the associated LEED certification application submitted to the USGBC, which shall indicate that the South Tower has been designed to include at least the minimum number of points necessary to achieve LEED-Silver under the USGBC LEED v.4.”

6. Decision B.14 in Z.C. Order No. 06-14D is hereby amended to read as follows:

“B.14. **Within one year from the date of issuance of the first Certificate of Occupancy for occupiable space in a story above grade plane for the North and South Tower, respectively**, the Applicant shall provide evidence to the Zoning Administrator that it has achieved LEED Silver certification under LEED v.4 for the North and South Towers, respectively. The Zoning Administrator may, for good cause and upon written request, extend the time period to submit the evidence of certification.”

## C. TRANSPORTATION MITIGATION MEASURES

1. Decision C.1.b in Z.C. Order No. 06-14D is hereby amended to read as follows:

“C.1.b. **South Tower**

i. Install a transit screen in the lobby of the South Tower;

ii. Provide the minimum ZR16 bicycle requirements (66 long-term spaces and 12 short-term spaces for the residential and one long-term and two short-term spaces for the retail);

iii. For a period of three years following the issuance of a certificate of occupancy for the South Tower, the Applicant shall offer each residential unit the option of either a one-time annual carshare membership or a one-time annual Capital Bikeshare membership, up to a maximum amount of $85.00 per unit;

iv. Purchase five rolling shopping carts for use by residents of the South Tower; and

v. Unbundle the parking costs from the lease or purchase of residential units."

**D. <u>DEVELOPMENT FLEXIBILITY</u>**

1. Decision D.1. in Z.C. Order 06-14D is hereby amended to read as follows:

"D.1. For the North Tower, the Applicant shall have flexibility from the loading requirements of the Zoning Regulations and shall also have flexibility in the following areas:

a. To provide a range in the number of units in the North Tower of 372 plus or minus 10%;

b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;

c. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations;

d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinement to exterior details, locations and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railing, canopies and trim; and any other changes necessary to comply with all applicable District of Columbia laws and

regulations or that are otherwise necessary to obtain a final building permit;

e. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved Plans; and

f. To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of the inclusionary units will substantially conform to the layout shown on Sheet A-310 of the Plans. (Ex. 46A6.)"

2. For the South Tower, the Applicant shall have flexibility from the loading requirements granted in Z.C. Order 06-14D, and shall also have flexibility in the following areas:

a. To provide a range in the number of units in the South Tower of 241 plus or minus 10%;

b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;

c. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations;

d. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the approved South Tower Plans;

e. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the approved South Tower plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;

f. To vary the font, message, logo, and color of the proposed signage depicted on the signage plan updated signage plan (Sheet A-217), filed on September 24, 2018, marked as Exhibit 12B, provided that the maximum overall dimensions and signage materials do not change from those shown on this signage plan;

g. To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of the inclusionary units will substantially conform to the layout shown on Sheet A-218, filed on August 14, 2018, marked as Exhibit 5G5 of the South Tower Plans; and

h. To locate retail entrances in accordance with the needs of the retail tenants; vary the façades as necessary for the retail tenants within the general design parameters proposed for the PUD; and to vary the types of uses designated as "retail" use on the approved Plans to include the following use categories described in 11-B DCMR § 200.2: (i) Retail; (ii) Services, General; (iii) Services, Financial; and (iv) Eating and Drinking Establishments.

## E. MISCELLANEOUS

1. Decision E.1.b in Z.C. Order No. 06-14D is hereby amended to read as follows:

"E.1.b. The approval of the PUD Modification for the South Tower shall be valid until May 4, 2020. Within such time, an application must be filed for a building permit, with construction to commence no later than May 4, 2021; and"

2. The Applicant may seek extensions of these time periods for the South Tower in accordance with 11-Z DCMR § 705. If no application for a permit is filed, construction has not started within the period specified, or no extension is granted, the approval for the unconstructed portion of the PUD shall expire, and the zoning shall revert to the pre-existing regulations and map.

3. No building permit shall be issued for the PUD modification approved under this Order until the Applicant has recorded in the land records of the District of Columbia a modification to the recorded covenant required by Z.C. Order No. 06-14. The modified covenant shall be between the Applicant and the District of Columbia, satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs, and shall bind the Applicant and all successors in title to construct and use the PUD Site in accordance with Z.C. Order No. 06-14, as amended by Z.C. Order Nos. 06-14B, 06-14D, and this Order or any subsequent amendment thereof by the Commission. The Applicant shall file a certified copy of the modified covenant with the records of the Office of Zoning.

4. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

5. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 *et seq*., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On October 22, 2018, upon the motion of Commissioner Turnbull, as seconded by Chairman Hood, the Zoning Commission **APPROVED** the Application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on January 25, 2019.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**
A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**
**NOTICE OF FILING**
**Z.C. Case No. 19-01**
**(Wesley Hawaii, LLC – Consolidated PUD and Related Map Amendment @ Parcel 0124/0077)**
**January 10, 2019**

**THIS CASE IS OF INTEREST TO ANCs 5A and 4D**

On January 4, 2019, the Office of Zoning received an application from Wesley Hawaii, LLC (the "Applicant") for approval of a consolidated planned unit development ("PUD") and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Parcel 0124/0077 in northeast Washington, D.C. (Ward 5), on property located at 1 Hawaii Avenue, N.E. The property is currently zoned RA-1. The Applicant is proposing a PUD-related map amendment to rezone the property, for the purposes of this project, to the RA-2 zone.

The site is currently improved with a circa 1940 building, and the Applicant proposes to raze the existing building and construct an all affordable (between 30% and 80% of median family income ["MFI"]) residential apartment building with 78 dwelling units ranging in type from studios to three-bedroom units. The building will not exceed 60 feet in height and will have 12 car parking spaces and 48 long-term bicycle parking spaces.

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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**
**NOTICE OF FILING**
**Z.C. Case No. 19-02**
**(Milestone East Capitol 2, LLC, *et al*. – Map Amendment @ Square 5411, Lot 802 - 3610 Minnesota Avenue, S.E.; Square 5412, Lot 801 – 3501-3547 East Capitol Street, S.E.; Square 5413, Lot 802 – 127 35th Street, S.E.; and Square 5413N, Lot 801 – 3425 East Capitol Street, S.E.)**
**January 15, 2019**

**THIS CASE IS OF INTEREST TO ANC 7F**

On January 7, 2019, the Office of Zoning received an application from Milestone East Capitol 2, LLC, Milestone East Capitol 3, LLC, Milestone East Capitol 4, LLC, and Milestone East Capitol 5, LLC (together, the "Applicant") for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of Lot 802 in Square 5411, Lot 801 in Square 5412, Lot 802 in Square 5413, and Lot 801 in Square 5413N in southeast Washington, D.C. (Ward 7), on property located at 3610 Minnesota Avenue, S.E., 3501-3547 East Capitol Street, S.E., 127 35th Street, S.E., and 3425 East Capitol Street, S.E. The property is currently zoned RA-1. The Applicant is proposing a map amendment to rezone the property to the RA-2 zone.

The RA-1 zone is intended to permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. The RA-1 zone allows a maximum height of 40 feet (and three stories); maximum lot occupancy of 40%; and maximum density of 0.90 floor area ratio ("FAR").

The RA-2 zone is intended to permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. The RA-2 zone provides for areas developed with predominantly moderate-density residential uses. The RA-2 zone allows a maximum height of 50 feet; maximum lot occupancy of 60%; and maximum density of 1.8 FAR.

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.

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