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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 23-318, Foreclosure Moratorium Emergency Amendment Act of 2020 to prohibit condominium foreclosures during the public emergency
- D.C. Council enacts Act 23-323, COVID-19 Response Supplemental Temporary Amendment Act of 2020
- Office of the Attorney General announces funding availability for the FY 2021 Cure the Streets Violence Reduction Program
- Office of the Chief Financial Officer announces increase in certain Tax Year 2020 tax credits and income thresholds
- Department of Energy and Environment updates the District's air quality regulations
- Department of Health Care Finance allows the District Medicaid Program to reimburse pharmacies for administration of immunizations and vaccines
- D.C. Public Service Commission clarifies rules for energy meter replacement and relocation

The Mayor of the District of Columbia terminates the second public emergency declared on May 31, 2020 (Mayor's Order 2020-071)

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-318

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 27, 2020

To amend, on an emergency basis, An Act To establish a code of law for the District of Columbia and the Condominium Act of 1976 to enact a time limited foreclosure moratorium while a public health emergency is in effect, or for 60 days thereafter; to amend the Condominium Act of 1976 to prohibit a foreclosure of a condominium due to a condominium lien while a public health emergency is in effect or for 60 days thereafter, unless the condominium is not occupied by the owner.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Foreclosure Moratorium Emergency Amendment Act of 2020".

Sec. 2. Foreclosure prohibition.

(a) Section 539 of An Act To establish a code of law for the District of Columbia, approved on March 3, 1901 (31 Stat. 1274; D.C. Official Code § 42-815), is amended by adding a new subsection (c-1) to read as follows:

"(c-1) Notwithstanding the provision of any other law, in the case of a residential mortgage, a foreclosure under a power of sale provision contained in any deed of trust, mortgage, or other security instrument shall not be initiated or conducted while a public health emergency is in effect pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), or for 60 days thereafter.".

(b) Section 95 of An Act To establish a code of law for the District of Columbia, approved on March 3, 1901 (31 Stat. 1204; D.C. Official Code § 42-816), is amended as follows:

(1) The existing text is designated subsection (a).

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

"(b) Notwithstanding any other provision of this section, in the case of a residential mortgage, a foreclosure action shall not be initiated, and no foreclosure shall be conducted, while a public health emergency is in effect pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), or for 60 days thereafter.".

ENROLLED ORIGINAL

(c) Section 313(c) of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1903.13(c)) is amended by adding a new paragraph (7) to read as follows:

"(7)(A) Notwithstanding any other provision of this section, a foreclosure of a residential condominium unit to enforce a condominium lien shall not be initiated or conducted while a public health emergency is in effect pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), or for 60 days thereafter; provided, that only an owner-occupied residence shall be covered by the requirements of this paragraph.

"(B) For the purposes of this paragraph, an "owner-occupied residence" means a residence where a record owner or a person with an interest in the property as heir or a beneficiary of the record owner, if the record owner is deceased, has resided in the residence for at least 275 total days during the previous 12 months.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
May 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-319

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 27, 2020

To approve, on an emergency basis, Modification No. M007 and proposed Modification No. M009 to Contract No. DCRL-2018-C-0024 with The Mary Elizabeth House, Inc., A Ministry, to provide independent living program services for pregnant and parenting youth during option year one, and to authorize payment for the services received and to be received under these modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. DCRL-2018-C-0024 with The Mary Elizabeth House, Inc., A Ministry, Approval and Payment Authorization Emergency Act of 2020".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification No. M007 and proposed Modification No. M009 to Contract No. DCRL-2018-C-0024 with The Mary Elizabeth House, Inc., A Ministry, to provide independent living program services for pregnant and parenting youth and authorizes payment in the total not-to-exceed amount of $1,497,721.03 for services received and to be received under these modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
May 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-320

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 27, 2020

To approve, on an emergency basis, Modification Nos. 2, 3, 4, 5 and 8 to Contract No. DCAM-17-CS-0088 with Blue Skye/Coakley Williams Edgewood Recreation Center JV, LLC, and authorize payment for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification Nos. 2, 3, 4, 5 and 8 to Contract No. DCAM-17-CS-0088 with Blue Skye/Coakley Williams Edgewood Recreation Center JV, LLC Approval and Payment Authorization Emergency Act of 2020".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 2, 3, 4, 5 and 8 to Contract No. DCAM-17-CS-0088 with Blue Skye/Coakley Williams Edgewood Recreation Center JV, LLC, for construction services for Edgewood Recreation Center, and authorizes payment in the not-to-exceed amount of $19,775,883.94 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal 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 6, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
May 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-321

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 27, 2020

To approve, on an emergency basis, Modification Nos. 005 and 006 to Contract No. DCAM-15-CS-0097I with Kramer Consulting Services, PC, and authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification Nos. 005 and 006 to Contract No. DCAM-15-CS-0097I with Kramer Consulting Services, PC Approval and Payment Authorization Emergency Act of 2020".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modifications Nos.005 and 006 to Contract No. DCAM-15-CS-0097I with Kramer Consulting Services, PC and authorizes payment in the not-to-exceed amount of $2.5 million for the services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal 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 6, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
May 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-322

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 27, 2020

To approve, on an emergency basis, Modification Nos. 005 and 006 to Contract No. DCAM-15-CS-0097L with JDC Construction Company, LLC, and authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification Nos. 005 and 006 to Contract No. DCAM-15-CS-0097L with JDC Construction Company, LLC Approval and Payment Authorization Emergency Act of 2020".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51) and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modifications Nos. 005 and 006 to Contract No. DCAM-15-CS-0097L with JDC Construction Company, LLC and authorizes payment in the not-to-exceed amount of $2.5 million for the services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal 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 6, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
May 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-323

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 21, 2020

To provide, on a temporary basis, authority to the Executive and to address critical needs of District residents and businesses during the current public health emergency, including wage replacement, business relief, and additional authorities and exemptions regarding health, public safety, consumer protection, and government operation, and to authorize and provide for the issuance, sale, and delivery of certain District of Columbia notes and bonds.

TABLE OF CONTENTS

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "COVID-19 Response Supplemental Temporary Amendment Act of 2020".

ENROLLED ORIGINAL

PART A

TITLE I. LABOR AND WORKFORCE PROTECTIONS

Sec. 101. Wage replacement.

(a) Notwithstanding any provision of District law, but subject to applicable federal laws and regulations, during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), an affected employee shall be eligible for unemployment insurance in accordance with subsection (b) of this section.

(b)(1) Upon application, an affected employee shall receive unemployment insurance compensation ("UI"), which the Director of the Department of Employment Services shall administer under the Unemployment Compensation Program established pursuant to the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101 *et seq.*).

(2) An affected employee shall be eligible for UI regardless of whether the:

(A) Employer has provided a date certain for the employee's return to work; or

(B) Employee has a reasonable expectation of continued employment with the current employer.

(3) For an affected employee, the term "most recent work" shall mean the employer for whom the individual last performed at least one day of employment as that term is defined by section 1(2)(B) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101(2)).

(c) Benefits paid pursuant to this section shall not be charged to the experience rating accounts of employers.

(d) For the purposes of this section, the term "affected employee" means an employee who, except as provided in subsection (g) of this section, is otherwise eligible for UI pursuant to section 9 of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 950; D.C. Official Code § 51-109), and who is determined by the Mayor to have become unemployed or partially unemployed as a result of the circumstances giving rise to the public health emergency. The term "affected employee" includes an employee who has been quarantined or isolated by the Department of Health or any other applicable District or federal agency, an employee who has self-quarantined or self-isolated in a manner consistent with the recommendations or guidance of the Department of Health, any other applicable District or federal agency, or a medical professional, or an employee of an employer that ceased or reduced operations due to an order or guidance from the Mayor or the Department of Health or a

reduction in business revenue resulting from the circumstances giving rise to the public health emergency, as determined by the Mayor, all as demonstrated by reasonable documentation required by the Mayor or the Mayor's designee.

(e) For the purposes of a public health emergency, "good cause" as set forth in section 10 of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 950; D.C. Official Code § 51-110), shall include:

(1) An employer's failure to timely comply with a written directive from the Mayor or the Department of Health in relation to public safety measures necessary to protect its employees or the public during the public health emergency; or

(2) An employer's requirements that an employee be physically present in the workplace despite the employee having:

(A) Been quarantined or isolated by the Department of Health or any other applicable District or federal agency; or

(B) Self-quarantined or self-isolated in a manner consistent with the recommendations or guidance of the Department of Health, any other applicable District or federal agency, or a medical professional.

(f) If the Mayor determines that the payment of UI under this section may not be made from the District Unemployment Fund or from the unemployment fund of another jurisdiction due to federal law or regulation, payment may be made by the Mayor from any other source of funds that is available.

(g) Notwithstanding any provision of District law, but subject to applicable federal laws and regulations, during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the requirements of section 9(4)(B) and 9(5) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 950; D.C. Official Code § 51-109(4)(B) and (5)), shall not apply.

Sec. 102. Employment protections.

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 *et seq.*), is amended as follows:

(a) Section 2(1) (D.C. Official Code § 32-501(1)) is amended by striking the phrase "medical leave" and inserting the phrase "medical leave; except, that during a period of time for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 3-149; D.C. Official Code § 7-2304.01), the one-year employment requirement and 1,000-hour work requirement shall not apply to an employee who has been ordered or recommended to

quarantine or isolate by the Department of Health or any other District agency, a federal agency, or a medical professional.

(b) A new section 3a (to be codified at D.C. Official Code § 32-502.01) is added to read as follows:

"Sec. 3a. Declaration-of-emergency leave.

"(a) An employee who is unable to work as a result of the circumstances giving rise to the public health emergency during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), shall be entitled to declaration-of-emergency ("DOE") leave during such period.

"(b) For DOE leave, a recommendation from the Mayor, Department of Health or any other District agency, a federal agency, or a medical professional that the employee self-quarantine or self-isolate shall serve as certification of the need for such leave, and, in the case of a government-mandated quarantine or isolation, the declaration of public health emergency shall serve as certification of the need for such leave.".

(c) Section 17 (D.C. Official Code § 32-516) is amended by adding a new paragraph (3) to read as follows:

"(3) For an employee who is on leave pursuant to section 3a, to any employer regardless of the number of persons in the District that the employer employs.".

TITLE II. BUSINESS RELIEF.

Sec. 201. Delayed hotel property and general sales tax remittances.

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

(a) Section 47-811(b) is amended by striking the phrase "tax year beginning July 1, 1989, and ending June 30, 1990, the amount of the first and second installments shall reflect and be consistent with the tax rates applicable to that tax year, as provided in § 47-812(b) and (c)" and inserting the phrase "tax year 2020 first installment owing for a real property that is commercially improved and occupied and is a hotel or motel; provided, that the Chief Financial Officer, through the Office of Tax and Revenue, shall issue administrative guidance on the definition of a hotel or motel, the Chief Financial Officer may waive any penalties and abate interest if the owner pays such installment by June 30, 2020" in its place.

(b) Section 47-4221 is amended by adding a new subsection (d) to read as follows:

"(d)(1) Except as provided in paragraph (2) and notwithstanding any other provision of this title, the Chief Financial Officer may waive any penalty and abate interest that may be imposed for failure to timely pay any taxes due pursuant to Chapters 20 and 22 of this title for periods ending on February 29, 2020, or March 31, 2020; provided, that all taxes for such periods are paid in full on or before July 20, 2020.

"(2) This subsection shall not apply to hotels or motels permitted to defer real property tax under § 47-811(b).".

Sec. 202. Public health emergency small business grant program.

The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

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

"Sec. 2316. Public health emergency grant program.".

(b) A new section 2316 is added to read as follows:

"Sec. 2316. Public health emergency grant program.

"(a)(1) Upon the Mayor's declaration of a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Mayor may, notwithstanding the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), and in the Mayor's sole discretion, issue a grant or loan to an eligible small business; provided, that the eligible small business:

"(A) Submits a grant application in the form and with the information required by the Mayor; and

"(B) Demonstrates, to the satisfaction of the Mayor, financial distress caused by a reduction in business revenue due to the circumstances giving rise to or resulting from the public health emergency.

"(2) A grant issued pursuant to this section may be expended by the eligible small business for any of the following:

"(A)(i) Employee wages and benefits.

"(ii) For the purposes of this subparagraph, "benefits" means fringe benefits associated with employment, including health insurance;

"(B) Operating costs of the eligible small business including taxes and debt service; and

"(C) Repayment of loans obtained through the United States Small Business Administration.

"(b) The Mayor may issue one or more grants to a third-party grant-managing entity for the purpose of administering the grant program and making subgrants on behalf of the Mayor in accordance with the requirements of this section.

"(c) The Mayor, pursuant to section 105 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-505), may issue emergency rules to implement the provisions of this section.

"(d) The Mayor, and any third-party entity chosen pursuant to subsection (b), shall maintain a list of all grants awarded pursuant to this section, identifying for each award the grant recipient, the date of award, intended use of the award, and the award amount. The Mayor shall publish the list online no later than June 1, 2020, or 5 days following the end of the COVID-19 emergency, whichever is earlier.

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

"(1) "COVID-19 emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.

"(2) "Eligible small business" means a business enterprise eligible for certification under section 2332, a nonprofit entity, or an independent contractor or self-employed individual determined ineligible for Unemployment Insurance by the Director of the Department of Employment Services.

Sec. 203. Corporate filing extension.

Section 29-102.12 of the District of Columbia Official Code is amended by adding a new subsection (e) to read as follows:

"(e) There shall be no fee for delivering the first biennial report for 2020 required by section 29-102.11(c); provided, that the first biennial report for 2020 be delivered to the Mayor for filing by June 1, 2020.".

TITLE III. PUBLIC HEALTH, SAFETY, AND CONSUMER PROTECTION.

Sec. 301. Emergency executive authority.

The District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301 *et seq.*), is amended as follows:

(a) Section 5(b) (D.C. Official Code § 7-2304(b)) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase "District of Columbia government;" and inserting the phrase "District of Columbia government; provided further, that a summary of each emergency procurement entered into during a period for which a public health emergency is declared shall be provided to the Council no later than 7 days after the contract is awarded. The summary shall include:

(A) A description of the goods or services procured;

(B) The source selection method;

(C) The award amount; and

(D) The name of the awardee.".

(2) Paragraph (13) is amended by striking the phrase "; or" and inserting a semicolon in its place.

(3) Paragraph (14) is amended by striking the period at the end and inserting a semicolon in its place.

(4) New paragraphs (15) and (16) are added to read as follows:

"(15) Waive application of any law administered by the Department of Insurance, Securities, and Banking if doing so is reasonably calculated to protect the health, safety, or welfare of District residents; and

"(16) Notwithstanding any provision of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*) ("CMPA"), or the rules issued pursuant to the CMPA, the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Law 17-108; D.C. Official Code § 1-515.01 *et seq.*), or any other personnel law or rules, the Mayor may take the following personnel actions regarding executive branch subordinate agencies that the Mayor determines necessary and appropriate to address the emergency:

"(A) Redeploying employees within or between agencies;

"(B) Modifying employees' tours of duty;

"(C) Modifying employees' places of duty;

"(D) Mandating telework;

"(E) Extending shifts and assigning additional shifts;

"(F) Providing appropriate meals to employees required to work overtime or work without meal breaks;

"(G) Assigning additional duties to employees;

"(H) Extending existing terms of employees;

"(I) Hiring new employees into the Career, Education, and Management Supervisory Services without competition;

"(J) Eliminating any annuity offsets established by any law; or

"(K) Denying leave or rescinding approval of previously approved leave.".

(b) Section 5a(d) (D.C. Official Code § 7-2304.01(d)) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase "solely for the duration of the public health emergency; and" and inserting the phrase "solely for actions taken during the public health emergency;" in its place.

(2) Paragraph (4) is amended by striking the period at the end and inserting a semicolon in its place.

(3) New paragraphs (5), (6), and (7) are added to read as follows:

"(5) Waive application in the District of any law administered by the Department of Insurance, Securities, and Banking if doing so is reasonably calculated to protect the health, safety, and welfare of District residents;

"(6) Authorize the use of crisis standards of care or modified means of delivery of health care services in scarce-resource situations; and

"(7) Authorize the Department of Health to coordinate health-care delivery for first aid within the limits of individual licensure in shelters or facilities as provided in plans and protocols published by the Department of Health.".

(c) Section 8 (D.C. Official Code § 7-2307) is amended as follows:

(1) The existing text is designated as paragraph (1).

(2) New paragraphs (2) and (3) are added to read as follows:

"(2) The Mayor may revoke, suspend, or limit the license, permit, or certificate of occupancy of a person or entity that violates an emergency executive order.

"(3) For the purposes of this section a violation of a rule, order, or other issuance issued under the authority of an emergency executive order shall constitute a violation of the emergency executive order.".

Sec. 302. Emergency Department of Insurance, Securities, and Banking authority.

The Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-101 *et seq.),* is amended by adding a new section 5a to read as follows:

"Sec. 5a. Emergency authority of the Commissioner during a declared public health emergency.

"(a) For the duration of a public health emergency declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and to address the circumstances giving rise to that emergency, the Commissioner may issue emergency rulemaking, orders, or bulletins that:

"(1) Apply to any person or entity regulated by the Commissioner; and

"(2) Address:

"(A) Submission of claims or proof of loss;

"(B) Grace periods for payment of premiums and performance of other duties by insureds;

"(C) Temporary postponement of:

"(i) Cancellations;

"(ii) Nonrenewals; or

"(iii) Premium increases;

"(D) Modifications to insurance policies;

"(E) Insurer operations;
"(F) Filing requirements;
"(G) Procedures for obtaining nonelective health care services;
"(H) Time restrictions for filling or refilling prescription drugs;
"(I) Time frames applicable to an action by the Commissioner under this section;
"(J) Temporarily waiving application of laws, rulemaking, or requirements to ensure that depository services, non-depository services, and securities transactions can continue to be provided, including allowing for the opening of a temporary service location, which may be a mobile branch, temporary office space, or other facility; and
"(K) Any other activity related to insurance, securities, and banking and under the purview of the Commissioner reasonably calculated to protect the health, safety, and welfare of District residents during the public health emergency.

"(b) The Commissioner may require licensees to answer questions related to, and submit documentation of, the licensee's continuity of operations plan.

"(c) Emergency rulemaking, orders, and bulletins.

"(1)(A) To accomplish the purposes of this section, the Commissioner may issue an emergency rulemaking, order, or bulletin pursuant to this section specifying:
"(i) That the rulemaking, order, or bulletin is effective immediately;
"(ii) The line or lines of business, or the class or classes of licenses, to which the regulation, order, or bulletin applies;
"(iii) The geographic areas to which the regulation, order, or bulletin applies; and
"(iv) The period of time for which the regulation, order, or bulletin applies.

"(B) A regulation issued under paragraph (1)(A) of this section may not apply for longer than the duration of the effects of a declared public health emergency.".

Sec. 303. Public benefits extension and continued access.

Notwithstanding any provision of District law, the Mayor may extend the eligibility period for individuals receiving benefits, extend the timeframe for determinations for new applicants, and take such other actions as the Mayor determines appropriate to support continuity of, and access to, any public benefit program, including the DC Healthcare Alliance and Immigrant Children's program, Temporary Assistance for Needy Families, and Supplemental Nutritional Assistance Program, until 60 days after the end of a public health emergency declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act

of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), as allowable under federal law.

Sec. 304. Price gouging and stockpiling.

Title 28 of the District of Columbia Official Code is amended as follows:

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

"28-4102.01. Stockpiling.".

(b) Section 28-4102(a)) is amended to read as follows:

"(a) It shall be unlawful for any person to charge more than the normal average retail price for any merchandise or service sold during a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), or during an emergency resulting from a natural disaster declared pursuant to subsection (b) of this section.".

(c) A new section 28-4102.01 is added to read as follows:

"§ 28-4102.01. Stockpiling.

"It shall be unlawful for any person to purchase, in quantities greater than those specified by the Mayor, the Department of Health ("DOH"), the Homeland Security and Emergency Management Agency ("HSEMA"), or the federal government goods that the Mayor, DOH, HSEMA, or the federal government have declared:

"(1) Necessary for first responders or others following a natural disaster or a declaration of a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01) ("public health emergency");

"(2) Necessary to maintain supply chains of commerce during a natural disaster or a public health emergency; or

"(3) Subject to rationing.".

(d) Section 28-4103 is amended as follows:

(1) Strike the phrase "§ 28-4102(a)" wherever it appears and insert the phrase "§ 28-4102(a) or § 28-4102.01" in its place.

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

"(c) When the Office of the Attorney General brings a civil action for any violation of § 28-4102(a) or § 28-4102.01 under the authority granted in § 28-3909, the maximum penalty authorized by § 28-3909 shall be assessed for each such violation.".

Sec. 305. Disconnection of electric service.

The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 *et seq.*), is amended by adding a new section 106b to read as follows:

"Sec. 106b. Disconnection of service during a public health emergency prohibited.

"(a) For the purposes of this section, the term "public health emergency" means a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

"(b) An electric company shall not disconnect electric service for non-payment of a bill or fees during a public health emergency or for 15 calendar days thereafter.".

Sec. 306. Disconnection of gas service.

The Retail Natural Gas Supplier Licensing and Consumer Protection Act of 2004, effective March 16, 2005 (D.C. Law 15-227; D.C. Official Code § 34-1671.01 *et seq.*), is amended by adding a new section 7b to read as follows:

"Sec. 7b. Disconnection of service during a public health emergency prohibited.

"(a) For the purposes of this section, the term "public health emergency" means a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

"(b) A gas company shall not disconnect gas service for non-payment of a bill or fees during a public health emergency or for 15 calendar days thereafter.".

Sec. 307. Disconnection of water service.

Section 103 of the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 102; D.C. Code § 34-2407.01), is amended by adding a new subsection (c) to read as follows:

"(c)(1) For the purposes of this subsection, the term "public health emergency" means a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

"(2) During a public health emergency, or for 15 calendar days thereafter, notwithstanding any other provision of this act, the water supply to any property shall not be shut off for non-payment of a bill or fees.".

Sec. 308. Eviction prohibition.

(a) Section 16-1502 of the District of Columbia Official Code is amended by striking the phrase "exclusive of Sundays and legal holidays" and inserting the phrase "exclusive of Sundays,

legal holidays, and a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)" in its place.

(b) Section 501(k) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3505.01(k)), is amended as follows:

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

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

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

"(3) During a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).".

Sec. 309. Prescription drugs.

Section 208 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.08), is amended by adding a new subsection (g-2) to read as follows:

"(g-2) An individual licensed to practice pharmacy pursuant to this act may authorize and dispense a refill of patient prescription medications prior to the expiration of the waiting period between refills to allow District residents to maintain an adequate supply of necessary medication during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01). This subsection shall not apply to any patient prescription for which a refill otherwise would be prohibited under District law.".

Sec. 310. Extension of licenses and registrations; waiver of deadlines.

Notwithstanding any provision of law during, or within 45 days after the end of, a period time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Mayor, may:

(1) Prospectively or retroactively extend the validity of a license, registration, permit, or authorization, including driver licenses, vehicle registrations, professional licenses, registrations, and certifications;

(2) Waive the deadlines for filings, and waive fees, fines, and penalties associated with the failure to timely renew a license, registration, permit, or other authorization or to timely submit a filing; or

(3) Extend or waive the deadline by which action is required to be taken by the executive branch of the District government or by which an approval or disapproval is deemed to have occurred based on inaction by the executive branch of the District government.

Sec. 311. Homeless services.

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.*), is amended as follows:

(a) Section 8(c-1) (D.C. Official Code § 4-753.02(c-1)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "not to exceed 3 days" and inserting the phrase "not to exceed 3 days; except, that during a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Mayor may place the family in an interim eligibility placement for a period not to exceed 60 days" in its place.

(2) Paragraph (2) is amended by striking the phrase "and section 9(a)(20)" and inserting the phrase "and section 9(a)(20); except, that the Mayor may extend an interim eligibility placement to coincide with the period of a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)" in its place.

(3) Paragraph (3) is amended by striking the phrase "within 12 days of the start of the interim eligibility placement" and inserting the phrase "within 12 days of the start of the interim eligibility placement; except, that during a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Mayor shall have 10 business days following the end of the public health emergency to issue the eligibility determination required by this paragraph," in its place.

(4) Paragraph (4) is amended by striking the phrase "start of an interim eligibility placement," and inserting the phrase "start of an interim eligibility placement, or as otherwise required by paragraph (3) of this subsection" in its place.

(b) Section 9(a)(14) (D.C. Official Code § 4-754.11(a)(14)) is amended by striking the phrase "and other professionals" and inserting the phrase "and other professionals; except, that the Mayor may waive the requirements of this provision for in-person meetings and communications during a public health emergency declared pursuant to section 5a of the District

of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)" in its place.

(c) Section 10(1) (D.C. Official Code § 4-754.12(1)) is amended by striking the phrase "established pursuant to section 18" and inserting the phrase "established pursuant to section 18; except, that the Mayor may waive this provision during a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)" in its place.

(d) Section 19(c-2) (D.C. Official Code § 4-754.33(c-2)) is amended by striking the phrase "served on the client." and inserting the phrase "served on the client; except, that during a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Mayor may serve written notice via electronic transmission." in its place.

(e) Section 24(f) (D.C. Official Code § 4-754.38(f)) is amended as follows:

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

(A) Subparagraph (A) is amended by striking the phrase "to the unit; or" and inserting the phrase "to the unit;" in its place.

(B) Subparagraph (B) is amended by striking the phrase "at the location" and inserting the phrase "at the location; or" in its place.

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

"(C) During a period of time for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), to prevent or mitigate the spread of contagious disease, as determined by the Department or provider." in its place.

(2) Paragraph (2) is amended by striking the phrase "to paragraph (1)(B)" and inserting the phrase "to paragraph (1)(B) or (C)" in its place.

Sec. 312. Tenant rights.

Section 531(c) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3505.31(c)), is amended as follows:

(a) Paragraph (4) is amended by striking the phrase "late fee;" and inserting the phrase "late fee; or" in its place.

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

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

"(6) Impose a late fee on a tenant during any month for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public

Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).".

Sec. 313. Good time credits.

Section 3c(c) of the District of Columbia Good Time Credits Act of 1986, effective May 17, 2011 (D.C. Law 18-732; D.C. Official Code § 24-221.01c(c)), is amended by striking the phrase "this section combined" and inserting the phrase "this section combined; except, that during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Department of Corrections shall have discretion to award additional credits beyond the limits described in this subsection to effectuate the immediate release of persons sentenced for misdemeanors, including pursuant to section 3 and this section, consistent with public safety.".

Sec. 314. Not-for-Profit Hospital Corporation.

Section 5115(l) of the Not-For-Profit Hospital Corporation Establishment Amendment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 44-951.04(l)), is amended as follows:

(a) Paragraph (1) is amended by striking the phrase "Subsections (a), (b)," and inserting the phrase "Except as provided in paragraph (1A), subsections (a), (b)," in its place.

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

"(1A) During the period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), subsections (a), (b), (c), (d), (e), and (f) of this section shall expire if:

"(A) By September 15, 2019, the Board does not adopt a revised budget for Fiscal Year 2020 that has been certified by the Chief Financial Officer of the District of Columbia as being balanced with a District operating subsidy of $22.14 million or less; or

"(B) At any time after September 30, 2020, a District operating subsidy of more than $15 million per year is required.".

TITLE IV. EDUCATION

Sec. 401. Summer school attendance.

Section 206 of the Student Promotion Act of 2013, effective February 22, 2014 (D.C. Law 20-84; D.C. Official Code § 38-781.05), is amended by adding a new subsection (c) to read as follows:

"(c) The Chancellor shall have the authority to waive the requirements of subsection (a) of this section for any student who fails to meet the promotion criteria specified in the DCMR during a school year that includes a period of time for which the Mayor declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).".

Sec. 402. Education research practice partnership review panel.

Section 104(d)(2) of the District of Columbia Education Research Practice Partnership Establishment and Audit Act of 2018, effective March 28, 2019 (D.C. Law 22-268; D.C. Official Code § 38-785.03(d)(2)), is amended by striking the phrase "timely manner" and inserting the phrase "timely manner; except, that upon the declaration of a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the meeting of the review panel shall be postponed until 7 business days following the end of the period of time for which the public health emergency was declared" in its place.

TITLE V. PUBLIC BODY MEETINGS

Sec. 501. Advisory Neighborhood Commission meetings.

Section 14(b) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.11(b)), is amended as follows:

(a) Paragraph (1) is amended by striking the phrase "by the Commission." and inserting the phrase "by the Commission; provided, that no meetings shall be required to be held during a period for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and the number of meetings required to be held in a given year shall be reduced by one for every 30 days that a public health emergency is in effect during the year.".

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

"(1B) Notwithstanding any other provision of law, during a period for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), an Advisory Neighborhood Commissioner may call a meeting and remotely participate in that meeting and vote on matters before the Commission without being physically present through a teleconference or through digital means identified by the Commission for this purpose. Members physically or remotely present shall be counted for determination of a quorum.".

Sec. 502. Other boards and commissions.

Notwithstanding any provision of law, during a period time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01):

(1) Any requirement for a board, commission, or other public body to meet is waived, unless the Mayor determines that it is necessary or appropriate for the board, commission, or other public body to meet during the period of the public health emergency, in which case the Mayor may order the board, commission, or other public body to meet;

(2) Any vacancy that occurs on a board or commission shall not be considered a vacancy for the purposes of nominating a replacement; and

(3) The review period for nominations transmitted to the Council for approval or disapproval in accordance with section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)), shall be tolled.

Sec. 503. Freedom of Information Act.

The Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), is amended as follows:

(a) Section 202 (D.C. Official Code § 2-532) is amended as follows:

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

(A) Paragraph (1) is amended by striking the phrase "Sundays, and" and inserting the phrase "Sundays, days of a COVID-19 closure, and" in its place.

(B) Paragraph (2)(A) is amended by striking the phrase "Sundays, and" and inserting the phrase "Sundays, days of a COVID-19 closure, and" in its place.

(2) Subsection (d)(1) is amended by striking the phrase "Sundays, and" both times it appears and inserting the phrase "Sundays, days of a COVID-19 closure, and" in its place.

(b) Section 207(a) (D.C. Official Code § 2-537(a)) is amended by striking the phrase "Sundays, and" and inserting the phrase "Sundays, days of a COVID-19 closure, and" in its place.

(c) Section 209 (D.C. Official Code § 2-539) is amended by adding a new subsection (c) to read as follows:

"(c) "COVID-19 closure" means:

"(1) A period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01); or

"(2) A period of time during which a public body is closed due to the COVID-19 coronavirus disease, as determined by the personnel authority of the public body.".

Sec. 504. Open meetings.

The Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*), is amended as follows:

(a) Section 405(a) (D.C. Official Code § 2-575(a)) is amended as follows:

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

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

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

"(4) During a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the public body takes steps reasonably calculated to allow the public to view or hear the meeting while the meeting is taking place, or, if doing so is not technologically feasible, as soon thereafter as reasonably practicable.".

(b) Section 406 (D.C. Official Code § 2-576) is amended by adding a new paragraph (6) to read as follows:

"(6) The public posting requirements of paragraph (2)(A) of this section shall not apply during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).".

(c) Section 407(a)(1) (D.C. Official Code § 2-577(a)(1)) is amended by striking the phrase "attend the meeting;" and inserting the phrase "attend the meeting, or in the case of a meeting held during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), steps are taken that are reasonably calculated to allow the public to view or hear the meeting while the meeting is taking place, or, if doing so is not technologically feasible, as soon thereafter as reasonably practicable.".

(d) Section 408(b) (D.C. Official Code § 2-578(b)) is amended by adding a new paragraph (3) to read as follows:

"(3) The schedule provided in paragraphs (1) and (2) of this subsection shall be tolled during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).".

TITLE VI. COUNCIL AUTHORITY

Sec. 601. Budget submission requirements.

The Fiscal Year 2021 Budget Submission Requirements Resolution of 2019, effective November 22, 2019 (Res. 23-268; 66 DCR 15372), is amended as follows:

(a) Section 2 is amended by striking the phrase "not later than March 19, 2020," and inserting the phrase "not later than May 12, 2020, unless another date is set by subsequent resolution of the Council" in its place.

(b) Section 3(2)(A) is amended by striking the phase "the proposed Fiscal Year 2021 Local Budget Act of 2020," and inserting the phrase "the proposed Fiscal Year 2021 Local Budget Act of 2020, the proposed Fiscal Year 2021 Local Budget Emergency Act of 2020, the proposed Fiscal Year 2021 Local Budget Temporary Act of 2020," in its place.

Sec. 602. Virtual meetings.

Section 367 of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 23, Resolution of 2019, effective January 2, 2019 (Res. 23-1; 66 DCR 272), is amended by striking the phrase "remote voting or proxy shall" and inserting the phrase "proxy shall" in its place.

Sec. 603. Grant budget modifications.

(a) The Council approves the acceptance, obligation, and expenditure by the Mayor of the federal, private, and other grants related to the Declaration of Public Emergency (Mayor's Order 2020-045) and the Declaration of Public Health Emergency (Mayor's Order 2020-046), both declared on March 11, 2020, submitted to the Council for approval and accompanied by a report by the Office of the Chief Financial Officer on or before March 17, 2020 pursuant to section 446B(b)(1) of the District of Columbia Home Rule Act, approved October 16, 2006 (120 Stat. 2040; D.C. Official Code § 1-204.46b(b)(1)).

(b) For purposes of section 446B(b)(1)(B) of the District of Columbia Home Rule Act, approved October 16, 2006 (120 Stat. 2040; D.C. Official Code § 1-204.46b(b)(1)(B)), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant related to the Declaration of Public Emergency (Mayor's Order 2020-045) and the Declaration of Public Health Emergency (Mayor's Order 2020-046), both declared on March 11, 2020, all or a portion of which is accepted, obligated, and expended for the purpose of addressing a public emergency, if:

(1) No written notice of disapproval is filed with the Secretary to the Council within 2 business days of the receipt of the report from the Chief Financial Officer under section 446B(b)(1)(A) of the District of Columbia Home Rule Act, approved October 16, 2006 (120 Stat. 2040; D.C. Official Code § 1-204.46b(b)(1)(A)); or

(2) Such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 5 calendar days of the initial receipt of the report from the Chief Financial Officer under section 446B(b)(1)(A) of the District of Columbia Home Rule Act, approved October 16, 2006 (120 Stat. 2040; D.C. Official Code § 1-204.46b(b)(1)(A)).

PART B

TITLE I. LABOR, WORKFORCE DEVELOPMENT, AND EDUCATION

Sec. 101. Unemployment insurance clarification.

The District of Columbia Unemployment Compensation Act, effective August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101 *et seq.*), is amended as follows:

(a) Section 1(2) (D.C. Official Code § 51-101(2)) is amended by adding a new subparagraph (A-i) to read as follows:

"(A-i) During a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7- 2304.01), and in conformity with federal law, the Director may determine that the term "employment" as defined in paragraph (2)(A) of this section may include individuals who are self-employed, seeking part-time employment, do not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under District or Federal law or pandemic emergency unemployment compensation.".

(b) Section 3(c)(2) (D.C. Official Code § 51-103(c)(2)) is amended by adding a new subparagraph (G) to read as follows:

"(G) "Federal Pandemic Unemployment Compensation ("FPUC") benefits paid to an individual filing during a period of national emergency shall not be charged to the experience rating of the eligible claimant's base period employer's accounts. Employers electing to become liable for payments in lieu of contributions shall be charged 50% of reimbursements due as a result of FPUC benefits paid to an individual filing during a period of national emergency.".

(c) Section 8 (D.C. Official Code § 51-108) is amended as follows:

(1) The existing text is designated as subsection (a).

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

"(b) During a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7- 2304.01), and subject to the availability of additional moneys provided by local or federal law, the Director shall have the authority to pay such benefits as are authorized by law.".

(d) Section 9 (D.C. Official Code § 51-109) is amended as follows:

(1) The existing text is designated as subsection (a).

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

"(b) During a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7- 2304.01), the Director shall have broad discretion to waive any eligibility requirements set forth in this act, other than the physical ability and availability requirement, when the Director deems such waiver to be in the public interest.".

Sec. 102. District work-share program expansion.

The Keep D.C. Working Act of 2010, effective October 15, 2010 (D.C. Law 18-238; D.C. Official Code § 51-171 *et seq.*), is amended as follows:

(a) Section 2(5) (D.C. Official Code § 51-171(5)) is amended by striking the phrase "lesser of:" and inserting the phrase "usual hours of work of full-time and regular part-time workers in the affected unit. Overtime hours are not included as part of normal weekly hours of work. The normal weekly hours of an affected unit is the lesser of:" in its place.

(b) Section 5 (D.C. Official Code § 51-174) is amended as follows:

(1) Subsection (a)(4) is amended by striking the phrase "20% and not more than 40%" and inserting the phrase "10% and not more than 60%" in its place.

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

"(c) A shared work plan shall not be implemented:

"(1) To subsidize seasonal employers during the off-season or to subsidize employers who traditionally have used a part-time employee;

"(2) If the employer's unemployment insurance account has a negative unemployment experience account;

"(3) If the employer's unemployment insurance account is taxed at the maximum tax rate in effect for the calendar year;

"(4) For employers who have not qualified to have a tax rate assigned based on actual experience; therefore, employers subject to a new employer tax rate not eligible to participate in a shared work program; or

"(5) For employees who are receiving or who will receive supplemental unemployment benefits during any period a shared work plan is in effect.".

(3) Subsection (d) is amended by striking the number "30th" and inserting the number "7th" in its place.

(c) Section 8(b) (D.C. Official Code § 51-177(b)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "was approved before the week in question and is in effect" and inserting the phrase "is in effect" in its place.

(2) Paragraph (3) is amended by striking the phrase "20% but not more than 40%" and inserting the phrase "10% but not more than 60%" in its place.

(3) Paragraph (4) is repealed.

(d) Section 9(b) (D.C. Official Code § 51-178(b)) is repealed.

Sec. 103. Declaration of emergency sick leave.

The Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-531.01 *et seq.*), is amended as follows:

(a) Section 3(c)(1) (D.C. Official Code § 32-531.02(c)(1)) is amended by striking the phrase "Paid leave under" and inserting the phrase "Except as provided in section 3a, paid leave under" in its place.

(b) A new section 3a is added to read as follows:

"Sec. 3a. Declared emergency leave requirement.

"(a)(1) During the COVID-19 emergency, an employer with between 50 and 499 employees that is not a health care provider shall provide paid leave to an employee pursuant to this section for an absence from work due to any of the reasons for which paid leave may be used pursuant to sections 3102 and 5102 of the Families First Coronavirus Response Act, approved March 18, 2020 (Pub. L. No. 116-127; 134 Stat. 178).

"(2) An employer shall provide declared emergency paid leave to an employee in an amount sufficient to ensure that the employee who must be absent from work for covered reasons be able to remain away from work for 2 full weeks of work up to 80 hours or, for a part-time employee, the usual number of hours the employee works in a 2-week period.

"(3)(A) Subject to subparagraph (B) of this paragraph, paid leave provided pursuant to this section shall be compensated at the employee's regular rate of pay or, in the case of an employee who does not have a regular rate of pay, the employee's rate of pay shall be determined by dividing the employee's total gross earnings, including all tips, commission, piecework, or other earnings earned on an irregular basis for the most recent 2-week period that the employee worked, by the number of hours the employee worked during that 2-week period.

"(B) In no case shall an employee's rate of pay fall below the minimum wage established by section 4(a) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003(a)).

"(4) The employer shall provide paid leave under this section to any employee who commenced work for the employer at least 15 days before the request for leave.

"(5) An employer may require that an employee exhaust any available leave under federal or District law or an employer's own policies prior to use of additional leave under this section.

"(b) Nothing in this section shall be construed to require an employer to provide an employee with paid leave pursuant to this section for more than 2 full weeks of work up to 80 hours. If an employee uses all of the declared emergency paid leave available and subsequently informs the employer of the employee's continued need to be absent from work, the employer shall inform the employee of any paid or unpaid leave to which the employee may be entitled pursuant to federal law, other District law, or the employer's own policies.

"(c) An employer alleged to have violated this section shall be provided with an opportunity to cure such alleged violation by the Mayor. The opportunity to cure shall last for no more than 5 business days from the date the employer is notified in writing of the potential violation of the law. The notice may be from the Mayor's duly authorized representative in a form and manner as prescribed by the representative.

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

"(1) "COVID-19 emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.".

"(2) "Health care provider" means a doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. The term "health care provider" includes a permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.".

(c) Section 4 (D.C. Official Code § 32-531.03) is amended as follows:

(1) The existing text is designated as subsection (a).

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

"(b) An employee who seeks to use paid leave pursuant to section 3a shall not:

"(1) Except for emergency leave pursuant to paragraph (2) of this subsection, be required by the employer to provide more than 48 hours' notice of the need to use such leave;

"(2) Be required by the employee's employer to provide more than reasonable notice of the employee's need to use such leave in the event of an emergency;

"(3) Be subject to threats or retaliation, including verbal or written warnings; or

"(4) Be required by the employer to search for or identify another employee to perform the work hours or work of the employee using paid leave.".

(d) Section 5 (D.C. Official Code § 32-531.04) is amended by adding a new subsection (a-1) to read as follows:

"(a-1)(1) An employer shall not require an employee who uses paid leave pursuant to section 3a to provide certification of the need to use such paid leave unless the employee uses 3 or more consecutive working days of paid leave.

"(2) When certification is required by an employer for the use of paid leave pursuant to section 3a, the employee shall not be required to provide it until one week after the employee's return to work.

"(3) An employer that does not contribute payments toward a health insurance plan on behalf of the employee shall not require certification from the employee who uses paid leave pursuant to section 3a.".

Sec. 104. Emergency leave enforcement.

Section 1152 of the Universal Paid Leave Implementation Fund Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 32-551.01), is amended by adding a new subsection (b-1) to read as follows:

"(b-1)(1) Notwithstanding subsections (b) and (f) of this section, during the COVID-19 emergency, money in the Fund may be used for activities related to enforcement of the declared emergency leave requirement contained in section 3a of the Accrued Sick and Safe Leave Act of 2008, passed on 2nd reading on April 21, 2020 (Enrolled version of Bill 23-734).

"(2) For the purposes of this subsection, "COVID-19 emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.".

Sec. 105. UDC fundraising match.

Section 4082(a) of the University of the District of Columbia Fundraising Match Act of 2019, effective September 11, 2019 (D.C. Law 23-16; 66 DCR 8621), is amended by striking the phrase "for every $2 that UDC raises from private donations by April 1" and inserting the phrase "to match dollar-for-dollar the amount UDC raises from private donations by May 1" in its place.

Sec. 106. Graduation requirements.

Chapter 22 of Title 5-A of the District of Columbia Municipal Regulations (5-A DCMR § 2201 *et seq.*) is amended as follows:

(a) Section 2203.3(f) (5-A DCMR § 2203.3(f)) is amended by striking the phrase "shall be satisfactorily completed" and inserting the phrase "shall be satisfactorily completed; except,

that this requirement shall be waived for a senior who would otherwise be eligible to graduate from high school in the District of Columbia in the 2019-20 school year" in its place.

(b) Section 2299.1 (5-A DCMR § 2299.1) is amended by striking the phrase "one hundred and twenty (120) hours of classroom instruction over the course of an academic year" and inserting the phrase "one hundred and twenty (120) hours of classroom instruction over the course of an academic year; except, that following the Superintendent's approval to grant an exception to the one hundred eighty (180) day instructional day requirement pursuant to 5A DCMR § 2100.3 for school year 2019-20, a Carnegie Unit may consist of fewer than one hundred and twenty (120) hours of classroom instruction over the course of the 2019-2020 academic year for any course in which a student in grades 9-12 is enrolled" in its place.

TITLE II. BUSINESS DEVELOPMENT AND CONSUMER PROTECTION

Sec. 201. Enhanced penalties for unlawful trade practices.

Section 28-3903(a)(17) of the District of Columbia Official Code is amended by striking the phrase "by the Department." and inserting the phrase "by the Department; except, that notwithstanding any other provision of District law or regulation, during a period of time for which the Mayor has declared a public health emergency pursuant to § 7-2304.01, a violation of this chapter or of any rule issued under the authority of this chapter shall be a Class 1 infraction within the meaning of 16 DCMR § 3200.1(a).".

Sec. 202. Mortgage relief.

(a) In accordance with section 5(b)(15) of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301(b)(15)), and notwithstanding any provision of the Mortgage Lender and Broker Act of 1996, effective September 9, 1996 (D.C. Law 11-155; D.C. Official Code § 26-1101 *et seq.*), or any other provision of District law, during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14- 194; D.C. Official Code § 7-2304.01), and for 60 days thereafter, a mortgage lender that makes or holds a residential mortgage loan or commercial mortgage loan under the jurisdiction of the Commissioner of the Department of Insurance, Securities, and Banking shall develop a deferment program for borrowers that, at a minimum:

(1) Grants at least a 90-day deferment of the monthly payment of principal and interest on a mortgage for borrowers;

(2) Waives any late fee, processing fee, or any other fee accrued during the pendency of the public health emergency; and

(3) Does not report to a credit bureau any delinquency or other derogatory information that occurs as a result of the deferral.

(b) The mortgage lender shall establish application criteria and procedures for borrowers to apply for the deferment program. An application shall be made available online and by telephone.

(c) The mortgage lender shall approve each application in which a borrower:

(1) Demonstrates to the mortgage lender evidence of a financial hardship resulting directly or indirectly from the public health emergency, including an existing delinquency or future ability to make payments; and

(2) Agrees in writing to pay the deferred payments within:

(A) A reasonable time agreed to in writing by the applicant and the mortgage lender; or

(B) If no reasonable time can be agreed to pursuant to subparagraph (A) of this paragraph, 5 years from the end of the deferment period, or the end of the original term of the mortgage loan, whichever is earlier.

(d)(1) A mortgage lender who receives an application for deferment pursuant to this section shall retain the application, whether approved or denied, for at least 3 years after final payment is made on the mortgage or the mortgage is sold, whichever occurs first.

(2) Upon request, a mortgage lender shall make an application for deferment available to the Commissioner.

(3)(A)(i) A mortgage lender who approves an application for deferment pursuant to this section shall, on or before May 8, 2020, provide to the Commissioner notice of all approved applications on a form prescribed by the Commissioner and such notice shall include the percentage of mortgage deferment approved for and accepted by each borrower.

(ii) After the initial submission prescribed in this paragraph, a mortgage lender who approved an application for deferment pursuant to this section shall provide the Commissioner with a list of all new approvals in 15-day intervals for the duration of the public health emergency and for 60 days thereafter.

(iii) The Commissioner may request information on the number and nature of approvals between 15-day intervals.

(B) The Commissioner shall maintain a publicly available list of approved commercial loan deferral applications. The requirement of this subparagraph may be satisfied by posting to the Department of Insurance, Securities, and Banking website.

(e) A mortgage lender shall be prohibited from requiring a lump sum payment from any borrower making payments under a deferred payment program pursuant to subsection (c)(2)(A) of this section, subject to investor guidelines.

(f) A person or business whose application for deferment is denied may file a written complaint with the Commissioner. The Commissioner is authorized to investigate the complaint in accordance with section 13 of the Mortgage Lender and Broker Act of 1996, effective September 9, 1996 (D.C. Law 11-155; D.C. Official Code § 26-1112).

(g) A borrower receiving a mortgage deferral pursuant to subsection (b) of this section on a property that has a tenant shall, within 5 days of the approval, provide notice of the deferral to all tenants, and:

(1) Shall provide a reduction in the rent charged for the property to any qualified tenant during the period of time in which there is mortgage deferral in place. The amount of the reduction shall be proportional to the deferred mortgage amount paid by the borrower to the mortgage lender as a percentage of total expenses reported in the borrower's 2019 Income and Expense report provided to the Office of Tax and Revenue; and

(2) May require that the qualified tenant repay the difference in the amount of the rent as stated in the lease and the reduced rent, without interest or fees, within 18 months, or upon cessation of the tenancy, whichever occurs first; and

(3) The borrower shall not report to a credit bureau any delinquency or other derogatory information that occurs as a result of a qualified tenant's compliance with the terms of this subsection.

(h) To the extent necessary to conform with the provisions of this section, the exemptions in section 3 of the Mortgage Lender and Broker Act of 1996, effective September 9, 1996 (D.C. Law 11-155; D.C. Official Code § 26-1102), are waived for the duration of the public health emergency.

(i) To the extent necessary to conform with the provisions of this section, the provisions in section 313(c)(1) of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1903.13(c)(1)), are waived for the duration of the public health emergency.

(j) This section shall not apply to a property for which, as of March 11, 2020, a mortgage lender initiated a foreclosure action or exercised its right to accelerate the balance and maturity date of the loan, on or before March 11, 2020.

(k) A mortgage lender that violates the provisions of this section shall be subject to the penalties prescribed in section 19 of the Mortgage Lender and Broker Act of 1996, effective September 9, 1996 (D.C. Law 11-155; D.C. Official Code § 26-1118).

(l) For the purposes of this section, the term:

(1) "Commercial mortgage loan" means a loan for the acquisition, construction, or development of real property, or a loan secured by collateral in such real property, that is owned or used by a person, business, or entity for the purpose of generating profit, and includes

real property used for single-family housing, multifamily housing, retail, office space, and commercial space.

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

(3) "Mortgage lender" means any person that makes a mortgage loan to any person or that engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to any other person. The term "mortgage lender" does not include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.

(4) "Qualified tenant" means a tenant of a property owned or controlled by a person or entity receiving a mortgage deferral under subsection (a) of this section that has notified the landlord of an inability to pay all or a portion of the rent due as a result of the public health emergency.

Sec. 203. Tenant protections.

(a) The Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*), is amended by adding a new section 510b to read as follows:

"Sec. 510b. Tolling of tenant deadlines during a public health emergency.

"The running of all time periods for tenants and tenant organizations to exercise rights under this act shall be tolled from the beginning of the period of a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), until the end of the public health emergency, and for 30 days thereafter.".

(b) 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:

(1) Section 208(a)(1) (D.C. Official Code § 42-3502.08(a)(1)) is amended as follows:

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

(B) Subparagraph (G) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(C) A new subparagraph (H) is added to read as follows:

"(H) None of the circumstances set forth in section 904(c) applies.".

(2) Section 553 (D.C. Official Code § 42-3505.53) is amended as follows:

(A) The existing language is designated subsection (a).

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

"(b) Any notice of intent to vacate that a tenant provided prior to the period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), shall be tolled for the period of any such public health emergency such that the tenant shall have the same number of days to vacate remaining at the end of the public health emergency as the tenant had remaining upon the effective date of the public health emergency.".

(3) Section 554 (D.C. Official Code § 42-3505.54) is amended by adding a new subsection (c) to read as follows:

"(c) Any notice of intent to vacate that a tenant provided prior to the period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code §7-2304.01), shall be tolled for the period of any such public health emergency such that the tenant shall have the same number of days to vacate remaining at the end of the public health emergency as the tenant had remaining upon the effective date of the public health emergency.".

(4) Section 904 D.C. Official Code § 42-3509.04) is amended by adding a new subsection (c) to read as follows:

"(c) Any rent increase, whether under this act, the Rental Accommodations Act of 1975, the Rental Housing Act of 1977, the Rental Housing Act of 1980, or any administrative decisions issued under these acts, shall be null and void if:

"(1) The effective date on the notice of rent increase occurs during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and for 30 days thereafter;

"(2) The notice of rent increase was provided to the tenant during a period for which a public health emergency has been declared; or

"(3) The notice was provided to the tenant prior to, but takes effect following, a public health emergency.".

(5) A new section 910 is added to read as follows:

"Sec. 910. Tolling of tenant deadlines during a public health emergency.

"The running of all time periods for tenants and tenant organizations to exercise rights under this act or under chapters 38 through 43 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR §§ 3800 through 4399) shall be tolled during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and for 30 days thereafter.".

(c) Notwithstanding any other provision of law, a rent increase for a residential property not prohibited by the provisions of section 904(c) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3509.04(c)), shall be prohibited during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and for 30 days thereafter.

(d) Notwithstanding any other provision of law, a rent increase for a commercial property shall be prohibited during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and for 30 days thereafter.

Sec. 204. Utilities.

(a)(1) A cable operator, as that term is defined by section 103(6) of the Cable Television Communications Act of 1981, effective October 9, 2002 (D.C. Law 14-193; D.C. Official Code § 34-1251.03(6)), shall not disconnect, suspend, or degrade basic cable service or other basic cable operator services for non-payment of a bill, any fees for service or equipment, or any other charges, or for noncompliance with a deferred payment agreement during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), or for 15 calendar days thereafter.

"(2) For purposes of this subsection, the term "other basic cable operator services" includes only basic broadband internet service and VOIP service.".

(b) The Telecommunications Competition Act of 1996, effective September 9, 1996 (D.C. Law 11-154; D.C. Official Code § 34-2002.01 *et. seq.*), is amended by adding a new section 3a to read as follows:

"Section 3a. Disconnection of telecommunications service during a public health emergency prohibited.

"(a) For the purposes of this section, the term "public health emergency" means a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

"(b) A telecommunications service provider shall not disconnect, suspend, or degrade basic telecommunications service for non-payment of a bill, any fees for service or equipment, and other charges, or noncompliance with a deferred payment agreement during a public health emergency or for 15 calendar days thereafter.".

(c) Notwithstanding any District law, the Attorney General for the District of Columbia may use the enforcement authority set forth at D.C. Official Code § 28-3909 against any merchant, including a utility provider, that violates any provisions of this act, the COVID-19 Response Emergency Amendment Act of 2020, effective March 17, 2020 (D.C. Act 23-247; 67 DCR 3093), or the COVID-19 Response Supplemental Emergency Amendment Act of 2020, effective April 10, 2020 (D.C. Act 23-286; 67 DCR 4178).

(d) Section 113a(c) of the District Department of the Environment Establishment Act of 2005, effective September 11, 2019 (D.C. Law 23-16, D.C. Official Code § 8-151.13a(c)), is amended as follows:

(1) The existing text is designated paragraph (1).

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

"(2) Notwithstanding paragraph (1) of this subsection, during a period of time for which the Mayor has declared a public health emergency ("PHE") pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and for 105 calendar days thereafter, money in the Fund may be used to assist low-income residential customers located in the District of Columbia with the payment of an outstanding water bill balance; except, that not less than $1.26 million of funding allocated in the fiscal year in which the PHE occurs shall be reserved to assist nonprofit organizations located in the District with the payment of impervious area charges, pursuant to section 216b(a) of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 34-2202.16b(a)), and not less than $360,000 of funding allocated in the fiscal year in which the PHE occurs shall be reserved to assist residential customers with the payment of impervious area charges, pursuant to section 216b(b).".

Sec. 205. Certified Business Enterprise assistance.

(a) Notwithstanding the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et. seq.*) ("CBE Act"), or any other provision of District law or regulation, during the period of the COVID-19 emergency, any contract for a government-assisted project in excess of $250,000 that is unrelated to the District's response to the COVID-19 emergency but entered into during the COVID-19 emergency, absent a waiver pursuant to section 2351 of the CBE Act, shall provide that:

(1) At least 50% of the dollar volume of the contract be subcontracted to small business enterprises; or

(2) If there are insufficient qualified small business enterprises to meet the requirement of paragraph (1) of this subsection, the subcontracting requirement may be satisfied

by subcontracting 50% of the dollar volume ("CBE minimum expenditure") to any qualified certified business enterprises; provided, that best efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

(b)(1) For every dollar expended by a beneficiary with a resident-owned business, the beneficiary shall receive a credit for $1.10 against the CBE minimum expenditure.

(2) For every dollar expended by a beneficiary with a disadvantaged business enterprise, the beneficiary shall receive a credit for $1.25 against the CBE minimum expenditure.

(3) For every dollar expended by a beneficiary that uses a company designated as both a disadvantaged business enterprise under section 2333 of the CBE Act and as a resident-owned business under section 2302(15) of the CBE Act, the beneficiary shall receive a maximum credit for $1.30 against the CBE minimum expenditure.

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

(1) "Beneficiary" has the same meaning as set forth in section 2302(1B) of the CBE Act (D.C. Official Code § 2-218.02(1B)).

(2) "Best efforts" means that a beneficiary is obligated to make its best attempt to accomplish the agreed-to goal, even when there is uncertainty or difficulty.

(3) "COVID-19 emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.

(4) "Disadvantaged business enterprise" has the same meaning as set forth in section 2333 of the CBE Act (D.C. Official Code § 2-218.33).

(5) "Government-assisted project" has the same meaning as set forth in section 2302(9A) of the CBE Act (D.C. Official Code § 2-218.02(9A)).

(6) "Longtime resident business" has the same meaning as set forth in section 2302(13) of the CBE Act (D.C. Official Code § 2-218.02(13)).

(7) "Resident-owned business" has the same meaning as set forth in section 2302(15) of the CBE Act (D.C. Official Code § 2-218.02(15)).

(8) "Small Business Enterprises" has the same meaning as set forth in section 2332 of the CBE Act (D.C. Official Code § 2-218.32).

(d) Contracts entered into on an emergency basis or that are made in furtherance of, or that are related to, the District's response to the COVID-19 emergency shall not be subject to the requirements of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Code § 2-218.01 *et seq.*), or the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*).

ENROLLED ORIGINAL

Sec. 206. Funeral services consumer protection.

(a) The District of Columbia Funeral Services Regulatory Act of 1984, effective May 22, 1984 (D.C. Law 5-84; D.C. Official Code § 3-401 *et seq.*), is amended by adding a new section 4a to read as follows:

"Sec. 4a. For a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), there shall be established a Funeral Bill of Rights designed to inform consumers of required pricing disclosures and other available consumer rights. The Department of Consumer and Regulatory Affairs, in consultation with the Board of Funeral Directors and the Attorney General for the District of Columbia ("Attorney General"), shall write the Funeral Bill of Rights, which shall be published in the District of Columbia Register no later than May 8, 2020. If the foregoing does not occur on or before May 1, 2020, the Attorney General may write the Funeral Bill of Rights and shall have it published in the District of Columbia Register no later than May 15, 2020.".

(b) Section 28-3904 of the District of Columbia Official Code is amended as follows:

(1) Subsection (jj) is amended by striking the phrase "; or" and inserting a semicolon in its place.

(2) Subsection (kk) is amended by striking the period at the end and inserting the phrase "; or" in its place.

(3) New subsections (ll) and (mm) are added to read as follows:

"(ll) violate any provision of 17 DCMR § 3013; or"

"(mm) violate any provision of 17 DCMR § 3117.".

(c) Title 17 of the District of Columbia Municipal Regulations (17 DCMR § 100 *et seq.*) is amended as follows:

(1) Section 3013.2(l) (17 DCMR § 3013.2(l)) is amended as follows:

(A) The lead-in language of subparagraph (8) is amended by striking the phrase "customer, or failing to passing" and inserting the phrase "customer, failing to provide to the customer any receipts for amounts advanced, paid, or owed to third parties on behalf of the customer, or failing to pass" in its place.

(B) Subparagraph (24) is amended by striking the phrase "; or" and inserting a semicolon in its place.

(C) Subparagraph (25) is amended by striking the period at the end and inserting a semicolon in its place.

(D) New subparagraphs (26), (27), (28), and (29) are added to read as follows:

"(26) Failing to clearly and conspicuously post a General Price List, Casket Price List, or an Outer Burial Container Price List that meets the requirements of the Funeral Industry

Practices Rules of the Federal Trade Commission (16 C.F.R. § 453 *et seq.*) on any website maintained by the applicant or licensee;

"(27) Failing to provide to any customer a General Price List, Casket Price List, or an Outer Burial Container Price List that meets the requirements of the Funeral Industry Practices Rules of the Federal Trade Commission (16 C.F.R. § 453 *et seq*);

"(28) Failing to clearly and conspicuously post the Funeral Bill of Rights, as specified in section 4a of the District of Columbia Funeral Services Regulatory Act of 1984, passed on 2nd reading on April 21, 2020 (Enrolled version of Bill 23-734), on any website maintained by the applicant or licensee; or

"(29) Failing to provide to any customer the Funeral Bill of Rights, as specified in section 4a of the District of Columbia Funeral Services Regulatory Act of 1984, passed on 2nd reading on April 21, 2020 (Enrolled version of Bill 23-734), during an initial meeting to discuss or make arrangements for the purchase of funeral goods or services.".

(2) Section 3110 (17 DCMR § 3110) is amended by adding a new subsection 3110.9 to read as follows:

"3110.9 A funeral services establishment shall keep and retain records documenting any required disclosures to consumers, including disclosure of its General Price List, Casket Price List, an Outer Burial Container Price List, and the Funeral Bill of Rights signed by the consumer, as specified in section 4a of the District of Columbia Funeral Services Regulatory Act of 1984, passed on 2nd reading on April 21, 2020 (Enrolled version of Bill 23-734), after the completion or termination of a funeral contract.".

Sec. 207. Debt collection.

Section 28-3814 of the D.C. Official Code is amended as follows:

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

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

"(1A) "collection lawsuit" means any legal proceeding, including civil actions, statements of small claims, and supplementary process actions, commenced in any court for the purpose of collecting any debt or other past due balance owed or alleged to be owed.

"(1B) "debt" means money or its equivalent which is, or is alleged to be, more than 30 days past due and owing, unless a different period is agreed to by the debtor, under a single account as a result of a purchase, lease, or loan of goods, services, or real or personal property for personal, family, or household purposes or as a result of a loan of money that was obtained for personal, family, or household purposes whether or not the obligation has been reduced to judgment.".

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

"(4) public health emergency" means a period of time for which the Mayor has declared a public health emergency pursuant to § 7-2304.01, or a state of emergency pursuant to § 28-4102.".

(b) New subsections (l), (m), and (n) are added to read as follows:

"(l)(1) Notwithstanding subsection (a) of this section, subsections (l) and (m) of this section shall apply to any debt, including loans directly secured on motor vehicles or direct motor vehicle installment loans covered by Chapter 36 of Title 28.

"(2) During a public health emergency and for 60 days after its conclusion, no creditor or debt collector shall, with respect to any debt:

"(A) Initiate, file, or threaten to file any new collection lawsuit;

"(B) Initiate, threaten to initiate, or act upon any statutory remedy for the garnishment, seizure, attachment, or withholding of wages, earnings, property, or funds for the payment of a debt to a creditor;

"(C) Initiate, threaten to initiate, or act upon any statutory remedy for the repossession of any vehicle; except, that creditors or debt collectors may accept collateral that is voluntarily surrendered; or

"(D) Visit or threaten to visit the household of a debtor at any time for the purpose of collecting a debt;

"(E) Visit or threaten to visit the place of employment of a debtor at any time; or

"(F) Confront or communicate in person with a debtor regarding the collection of a debt in any public place at any time.

"(3) This subsection shall not apply to collecting or attempting to collect a debt that is, or is alleged to be, owed on a loan secured by a mortgage on real property.

"(m)(1) During a public health emergency and for 60 days after its conclusion, no debt collector shall initiate any communication with a debtor via any written or electronic communication, including email, text message, or telephone. A debt collector shall not be deemed to have initiated a communication with a debtor if the communication by the debt collector is in response to a request made by the debtor for the communication or is the mailing of monthly statements related to an existing payment plan or payment receipts related to an existing payment plan.

"(2) This subsection shall not apply to:

"(A) Communications initiated solely for the purpose of informing a debtor of a rescheduled court appearance date or discussing a mutually convenient date for a rescheduled court appearance;

"(B) Original creditors collecting or attempting to collect their own debt;

"(C) Collecting or attempting to collect a debt which is, or is alleged to be, owed on a loan secured by a mortgage on real property; or

"(D) Receiving and depositing payments the debtor chooses to make during a public health emergency.

"(n) Subsections (l) and (m) of this section shall not be construed to:

"(1) Exempt any person from complying with existing laws or rules of professional conduct with respect to debt collection practices;

"(2) Supersede or in any way limit the rights and protections available to consumers under applicable local, state, or federal foreclosure laws; or

"(3) Supersede any obligation under the District of Columbia Rules of Professional Conduct, to the extent of any inconsistency.".

Sec. 208. Carry out and delivery.

Chapter 1 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-112 is amended by adding a new subsection (h) to read as follows:

"(h)(1) A retailer with commercial street frontage at the Walter E. Washington Convention Center that sells food and is approved by the Washington Convention and Sports Authority to sell alcoholic beverages for on-premises consumption ("Convention Center food and alcohol business") that registers as a Convention Center food and alcohol business with the Board and receives written authorization from ABRA may sell beer, wine, or spirits in closed containers to individuals for carry out to their home, or deliver beer, wine, or spirits in closed containers to the homes of District residents, pursuant to § 25-113(a)(3)(C); provided, that such carry-out or delivery orders are accompanied by one or more prepared food items.

"(2) Board approval shall not be required for a registration under this subsection.".

(b) Section 25-113(a)(3)(C) is amended to read as follows:

"(C)(i) An on-premises retailer's licensee, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, that registers with the Board may sell beer, wine, or spirits in closed containers to individuals for carry out to their home, or deliver beer, wine, or spirits in closed containers to the homes of District residents; provided, that each such carry out or delivery order is accompanied by one or more prepared food items.

"(ii) Board approval shall not be required for a registration under this subparagraph; except, that the licensee shall receive written authorization from ABRA prior to beginning carry out or delivery of beer, wine, or spirits pursuant to this subparagraph.".

Sec. 209. Opportunity accounts expanded use.

ENROLLED ORIGINAL

The Opportunity Accounts Act of 2000, effective April 3, 2001 (D.C. Law 13-266; D.C. Official Code § 1-307.61 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-307.61) is amended by adding a new paragraph (2A) to read as follows:

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

(b) Section 8 (D.C. Official Code § 1-307.67) is amended as follows:

(1) Subsection (a) is amended by striking the figure "$2" and inserting the figure "$1" in its place.

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

(A) The lead-in language is amended by striking the figure "$2" and inserting the figure "$3" in its place.

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

(i) Strike the phrase "in at least the same amount" and insert the phrase "consistent with subsection (a) of this section" in its place.

(ii) Strike the phrase "; and" and insert a semicolon in its place.

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

(i) Strike the phrase "than $3,000" and insert the phrase "than $6,000" in its place;

(ii) Strike the period and insert the phrase "; and" in its place.

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

"(3) The Commissioner may waive the requirement of subsection (a) of this section and provide to an administering organization matching funds of up to $4 for every dollar the account holder deposits into the opportunity account when adequate federal or private matching funds are not available.".

(c) Section 9(a) (D.C. Official Code § 1-307.68(a)) is amended as follows:

(1) Paragraph (6) is repealed.

(2) Paragraph (8) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(3) A new paragraph (9) is added to read as follows:

"(9) To pay for any cost, expense, or item authorized by the Commissioner by rule issued pursuant to section 14, or by order during a declared public health emergency.".

(d) Section 10 (D.C. Official Code § 1-307.69) is amended as follows:

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

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

(B) Paragraph (3) is amended by striking the period at the end and inserting the phrase "; and" in its place.

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

"(4) Making payments necessary to enable the account holder to meet necessary living expenses in the event of a sudden, unexpected loss of income.".

(2) Subsection (c) is amended by striking the phrase "An account holder" and inserting the phrase "Except during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), an account holder" in its place.

(3) New subsections (c-1), (c-2), and (c-3) are added to read as follows:

"(c-1) If an account holder makes an emergency withdrawal for the purposes set forth at subsection (b)(2) or (3) of this section, the account holder shall withdraw only funds deposited by the account holder and shall not withdraw matching funds.

"(c-2) If an account holder makes an emergency withdrawal for the purposes set forth at subsection (b)(1) of this section, the account holder shall withdraw only funds deposited by the account holder and shall not withdraw matching funds, unless the withdrawal is for a medical emergency.

"(c-3) If an account holder makes an emergency withdrawal for the purposes set forth at subsection (b)(4) of this section, the account holder may withdraw funds deposited by the account holder and matching funds.".

(4) The lead-in language of subsection (e) is amended to read as follows:

"An account holder shall not be required to repay funds withdrawn from the opportunity account for an emergency withdrawal but shall be required to resume making deposits into the opportunity account no later than 90 days after the emergency withdrawal. If the account holder fails to make a deposit no later than 90 days after the emergency withdrawal:".

Sec. 210. Contractor advance payment.

Section 2349 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.49), is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "A policy" and inserting the phrase "Except as provided in subsection (a-1) of this section, a policy" in its place.

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

"(a-1) During a period of time for which the Mayor has declared a public health emergency ("PHE") pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), an agency

may make advance payments to a certified contractor for purchases related to the PHE when the payments are necessary to achieve the purposes of this subtitle and may provide an advance of more than 10% of the total value of the contract.".

Sec. 211. Vacant property designations.

Section 6(b) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, effective April 27, 2001 (D.C. Law 13-281; D.C. Official Code § 42-3131.06(b)), is amended as follows:

(a) Paragraph (8) is amended by striking the phrase "; or" and inserting a semicolon in its place.

(b) Paragraph (9) is amended by striking the period and inserting the phrase "; or" in its place.

(c) A new paragraph (10) is added to read as follows:

"(10) A commercial property that houses a business that has closed during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code§ 7-2304.01), as a result of the circumstances giving rise to or resulting from the public health emergency, and for 60 days thereafter.".

Sec. 212. Franchise tax exclusion.

Section 47-1803.02(a)(2) of the District of Columbia Official Code is amended by adding a new subparagraph (GG) to read as follows:

"(GG) Small business loans awarded and subsequently forgiven under section 1106 of the Coronavirus Aid, Relief, and Economic Security Act, approved March 27, 2020 (Pub. L. No. 116-136; 134 Stat. 281).".

TITLE III. JUDICIARY AND PUBLIC SAFETY.

Sec. 301. Police Complaints Board investigation extension.

Section 5(d-3) of the Office of Citizen Complaint Review Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1104(d-3)), is amended as follows:

(a) Paragraph (1) is amended by striking the phrase "January 1, 2017, through December 31, 2019" and inserting the phrase "August 1, 2019, through January 31, 2020" in its place.

(b) Paragraph (2) is amended by striking the date "April 30, 2021" and inserting the date "September 30, 2021" in its place.

Sec. 302. FEMS reassignments.

Section 212 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.12), is amended by adding a new subsection (c) to read as follows:

"(c) It shall not be an unlawful discriminatory practice for the Mayor to reassign personnel of the Fire and Emergency Medical Services Department from firefighting and emergency medical services operations during a period of time for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), based upon the inability of the personnel to wear personal protective equipment in a manner consistent with medical and health guidelines.".

Sec. 303. Civil rights enforcement.

The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended by adding a new section 316a to read as follows:

"Sec. 316a. Civil actions by the Attorney General.

"During a period of time for which the Mayor has declared a public health emergency ("PHE") pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), in a civil action initiated by the Attorney General for the District of Columbia ("Attorney General") for violations of this act, or a civil action arising in connection with the PHE, other than an action brought pursuant to section 307:

"(1) The Attorney General may obtain:

"(A) Injunctive relief, as described in section 307;

"(B) Civil penalties, up to the amounts described in section 313(a)(1)(E-1), for each action or practice in violation of this act, and, in the context of a discriminatory advertisement, for each day the advertisement was posted; and

"(C) Any other form of relief described in section 313(a)(1); and

"(2) The Attorney General may seek subpoenas for the production of documents and materials or for the attendance and testimony of witnesses under oath, or both, which shall contain the information described in section 110a(b) of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.88d(b)) ("Act"), and shall follow the procedures described in section 110a(c), (d), and (e) of the Act (D.C. Official Code § 1-301.88d(c), (d), and (e)); provided, that the subpoenas are not directed to a District government official or entity.".

Sec. 304. Extension of time for non-custodial arrestees to report.

Section 23-501(4) of the District of Columbia Official Code is amended by striking the period and inserting the phrase ", or within 90 days, if the non-custodial arrest was conducted during a period of time for which the Mayor has declared a public health emergency pursuant to § 7-2304.01." in its place.

Sec. 305. Good time credits and compassionate release.

An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 696; D.C. Official Code § 24-403 *et seq.*), is amended as follows:

(a) A new section 3a-i is added to read as follows:

"Sec. 3a-i. Good time credit for felony offenses committed before August 5, 2000.

"(a)(1) Notwithstanding any other provision of law, a defendant who is serving a term of imprisonment for an offense committed between June 22, 1994, and August 4, 2000, shall be retroactively awarded good time credit toward the service of the defendant's sentence of up to 54 days for each year of the defendant's sentence imposed by the court, subject to determination by the Bureau of Prisons that during those years the defendant has met the conditions provided in 18 U.S.C. § 3624(b).

"(2) An award of good time credit pursuant to paragraph (1) of this subsection shall apply to the minimum and maximum term of incarceration, including the mandatory minimum; provided, that in the event of a maximum term of life, only the minimum term shall receive good time.

"(b)(1) Notwithstanding any other provision of law, a defendant who is serving a term of imprisonment for an offense committed before June 22, 1994, shall be retroactively awarded good time credit toward the service of the defendant's sentence of up to 54 days for each year of the defendant's sentence imposed by the court, subject to determination by the Bureau of Prisons that during those years the defendant has met the conditions provided in 18 U.S.C. § 3624(b).

"(2) An award of good time credit pursuant to paragraph (1) of this subsection:

"(A) Shall apply to any mandatory minimum term of incarceration; and

"(B) Is not intended to modify how the defendant is awarded good time credit toward any portion of the sentence other than the mandatory minimum.".

(b) A new section 3d is added to read as follows:

"Sec. 3d. Motions for compassionate release for individuals convicted of felony offenses.

"(a) Notwithstanding any other provision of law, the court may modify a term of imprisonment imposed upon a defendant if it determines the defendant is not a danger to the safety of any other person or the community, pursuant to the factors to be considered in 18 U.S.C. §§ 3142(g) and 3553(a) and evidence of the defendant's rehabilitation while incarcerated, and:

"(1) The defendant has a terminal illness, which means a disease or condition with an end-of-life trajectory;

"(2) The defendant is 60 years of age or older and has served at least 25 years in prison; or

"(3) Other extraordinary and compelling reasons warrant such a modification, including:

"(A) A debilitating medical condition involving an incurable, progressive illness, or a debilitating injury from which the defendant will not recover;

"(B) Elderly age, defined as a defendant who is:

"(i) 60 years of age or older;

"(ii) Has served at least 20 years in prison or has served the greater of 10 years or 75% of their sentence; and

"(iii) Suffers from a chronic or serious medical condition related to the aging process or that causes an acute vulnerability to severe medical complications or death as a result of COVID-19;

"(C) Death or incapacitation of the family member caregiver of the defendant's children; or

"(D) Incapacitation of a spouse or a domestic partner when the defendant would be the only available caregiver for the spouse or domestic partner.

"(b) Motions brought pursuant to this section may be brought by the United States Attorney's Office for the District of Columbia, the Bureau of Prisons, the United States Parole Commission, or the defendant.

"(c) Although a hearing is not required, to provide for timely review of a motion made pursuant to this section and at the request of counsel for the defendant, the court may waive the appearance of a defendant currently held in the custody of the Bureau of Prisons.".

Sec. 306. Electronic wills.

Chapter 1 of Title 18 of the District of Columbia Official Code is amended as follows:

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

"18-813. Electronic wills.".

(b) Section 18-103(2) is amended by striking the phrase "in the presence of the testator" and inserting the phrase "in the presence or, during a period of time for which the Mayor has declared a public health emergency pursuant to § 7-2304.01, the electronic presence, as defined in § 18-813(a)(2), of the testator" in its place.

(c) A new section 18-813 is added to read as follows:

"§ 18-813. Electronic wills.

"(a) Definitions.

"For the purposes of this section, the term:

"(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"(2) "Electronic presence" means when one or more witnesses are in a different physical location than the testator but can observe and communicate with the testator and one another to the same extent as if the witnesses and testator were physically present with one another.

"(3) "Electronic will" means a will or codicil executed by electronic means.

"(4) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic medium and is retrievable in perceivable form.

"(5) "Sign" means, with present intent to authenticate or adopt a record, to:

"(A) Execute or adopt a tangible symbol; or

"(B) Affix to or associate with the record an electronic signature.

"(b)(1) A validly executed electronic will shall be a record that is:

"(A) Readable as text at the time of signing pursuant to subparagraph (B) of this paragraph; and

"(B) Signed:

"(i) By the testator, or by another person in the testator's physical presence and by the testator's express direction; and

"(ii) In the physical or electronic presence of the testator by at least 2 credible witnesses, each of whom is physically located in the United States at the time of signing.

"(2) In order for the electronic will to be admitted to the Probate Court, the testator, a witness to the will, or an attorney admitted to practice in the District of Columbia who supervised the execution of the electronic will shall certify a paper copy of the electronic will by affirming under penalty of perjury that:

"(A) The paper copy of the electronic will is a complete, true, and accurate copy of the electronic will; and

"(B) The conditions in subparagraph (A) of this paragraph were satisfied at the time the electronic will was signed.

"(3) Except as provided in subsection (c) of this section, a certified paper copy of an electronic will shall be deemed to be the electronic will of the testator for all purposes under this title.

"(c)(1) An electronic will may revoke all or part of a previous will or electronic will.

"(2) An electronic will, or a part thereof, is revoked by:

"(A) A subsequent will or electronic will that revokes the electronic will, or a part thereof, expressly or by inconsistency; or

"(B) A direct physical act cancelling the electronic will, or a part thereof, with the intention of revoking it, by the testator or a person in the testator's physical presence and by the testator's express direction and consent.

"(3) After it is revoked, an electronic will, or a part thereof, may not be revived other than by its re-execution, or by a codicil executed as provided in the case of wills or electronic wills, and then only to the extent to which an intention to revive is shown in the codicil.

"(d) An electronic will not in compliance with subsection (b)(1) of this section is valid if executed in compliance with the law of the jurisdiction where the testator is:

"(1) Physically located when the electronic will is signed; or

"(2) Domiciled or resides when the electronic will is signed or when the testator dies.

"(e) Except as otherwise provided in this section:

"(1) An electronic will is a will for all purposes under the laws of the District of Columbia; and

"(2) The laws of the District of Columbia applicable to wills and principles of equity apply to an electronic will.

"(f) This section shall apply to electronic wills made during a period of time for which the Mayor has declared a public health emergency pursuant to § 7-2304.01.".

TITLE IV. HEALTH AND HUMAN SERVICES.

Sec. 401. Public health emergency.

The District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301 *et seq.*), is amended as follows:

(a) Section 5a(d) (D.C. Official Code § 7-2304.01(d)) is amended as follows:

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

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

"(3A)(A)(i) Exempt from liability in a civil action a healthcare provider, first responder, or volunteer who renders care or treatment to a potential, suspected, or diagnosed individual with COVID-19 for damages resulting from such care or treatment of COVID-19, or from any act or failure to act in providing or arranging medical treatment for COVID-19 during a declared public health emergency;

"(ii) Exempt from liability in a civil action a donor of time, professional services, equipment, or supplies for the benefit of persons or entities providing care

or treatment for COVID-19 to a suspected or diagnosed individual with COVID-19, or care for the family members of such individuals for damages resulting from such donation during a declared public health emergency; or

"(iii) Exempt from liability in a civil action a contractor or subcontractor on a District government contract that has contracted to provide health care services or human care services (consistent with section 104(37) to the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.04(37)) related to a declared public health emergency related to the District government's COVID-19 response.

"(B) The limitations on liability provided for by subparagraph (A) of this paragraph apply to any healthcare provider, first responder, volunteer, donor, or District government contractor or subcontractor of a District government contractor ("provider"), including a party involved in the healthcare process at the request of a health-care facility or the District government, and acting within the scope of the provider's employment or organization's purpose, contractual or voluntary service, or donation, even if outside the provider's professional scope of practice, state of licensure, or with an expired license, who:

"(i) Prescribes or dispenses medicines for off-label use to attempt to combat the COVID-19 virus, in accordance with the Trickett Wendler, Frank Mongiello, Jordan McLinn, and Matthew Bellina Right to Try Act of 2017, approved May 30, 2018 (Pub. L. No. 115-176; 132 Stat. 1372).

"(ii) Provides direct or ancillary health-care services or health care products, including direct patient care, testing, equipment or supplies, consultations, triage services, resource teams, nutrition services, or physical, mental, and behavioral therapies; or

"(iii) Utilizes equipment or supplies outside of the product's normal use for medical practice and the provision of health-care services to combat the COVID-19 virus;

"(C) The limitations on liability provided for by subparagraph (A) of this paragraph shall not extend to:

"(i) Acts or omissions that constitute a crime, actual fraud, actual malice, recklessness, breach of contract, gross negligence, or willful misconduct; or

"(ii) Acts or omissions unrelated to direct patient care; provided, that a contractor or subcontractor shall not be liable for damages for any act or omission alleged to have caused an individual to contract COVID-19.

"(D) The limitations on liability provided for by subparagraph (A) of this paragraph extend to acts, omissions, and donations performed or made during a period of time for which the Mayor has declared a public health emergency pursuant to this section, and to damages that ensue at any time from acts, omissions, and donations made during the emergency.

"(E) The limitations on liability provided for by subparagraph (A) of this paragraph do not limit the applicability of other limitations on liability, including qualified and absolute immunity, that may otherwise apply to a person covered by this section; nor does this section limit the authority of the Mayor under this subsection.".

(b) Section 7 (D.C. Official Code § 7-2306) is amended by adding a new subsection (c-1) to read as follows:

"(c-1) Notwithstanding subsections (b) and (c) of this section, the Council authorizes the Mayor to extend the 15-day March 11, 2020, emergency executive order and public health emergency executive order ("emergency orders") issued in response to the coronavirus (COVID-19) for an additional 90-day period. After the additional 90-day extension authorized by this subsection, the Mayor may extend the emergency orders for additional 15-day periods pursuant to subsection (b) or (c) of this section.".

Sec. 402. Extension of care and custody for aged-out youth.

(a) Section 303(a-1) 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)), is amended as follows:

(1) Paragraph (12) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (13) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (14) is added to read as follows:

"(14) To retain custody of a youth committed to the Agency who becomes 21 years of age during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), for a period not exceeding 90 days after the end of the public health emergency; provided, that the youth consents to the Agency's continued custody .".

(b) Chapter 23 of Title 16 of the District of Columbia Official Code is amended as follows:

(1) Section 16-2303 is amended as follows:

(A) The existing text is designated as subsection (a).

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

"(b) The Division shall retain jurisdiction of a minor in the legal custody of a public agency pursuant to § 16-2320(a)(1)(3)(A) who becomes 21 years of age during a period of time for which the Mayor has declared a public health emergency pursuant to § 7-2304.01, for a

period not exceeding 90 days after the end of the public health emergency; provided, that the minor consents to the Division's retention of jurisdiction.".

(2) Section 16-2322(f)(1) is amended by striking the phrase "twenty-one years of age" and inserting the phrase "21 years of age, not including orders extended pursuant to § 16-2303(b)" in its place.

Sec. 403. Hospital support funding.

(a) The Mayor may, notwithstanding the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), and in the Mayor's sole discretion, issue a grant to an eligible hospital; provided, that the eligible hospital submits a grant application in the form and with the information required by the Mayor.

(b) The amount of a grant issued to a hospital shall be based on:

(1) An allocation formula based on the number of beds at the hospital; or

(2) Such other method or formula, as established by the Mayor, that addresses the impacts of COVID-19 on hospitals.

(c) A grant issued pursuant to this section may be expended by the hospital for:

(1) Supplies and equipment related to the COVID-19 emergency, including personal protective equipment, sanitization and cleaning products, medical supplies and equipment, and testing supplies and equipment;

(2) Personnel costs incurred to respond to the COVID-19 emergency, including the costs of contract staff; and

(3) Costs of constructing and operating temporary structures to test individuals for COVID-19 or to treat patients with COVID-19.

(d) The Mayor may issue one or more grants to a third-party grant-managing entity for the purpose of administering the grant program authorized by this section and making subgrants on behalf of the Mayor in accordance with the requirements of this section.

(e) The Mayor shall maintain a list of all grants awarded pursuant to this section, identifying for each award the grant recipient, the date of award, intended use of the award, and the award amount. The Mayor shall publish the list online no later than July 1, 2020, or 30 days after the end of the COVID-19 emergency, whichever is earlier.

(f) The Mayor, pursuant to section 105 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-505), may issue rules to implement the provisions of this section.

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

(1) "COVID-19" means the disease caused by the novel coronavirus SARS-CoV-2.

(2) "COVID-19 emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) and the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those emergencies.

(3) "Eligible hospital" means a non-profit or for-profit hospital located in the District.

TITLE V. GOVERNMENT DIRECTION AND SUPPORT.

Sec. 501. Tolling of matters transmitted to the Council.

(a) Section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), is amended as follows:

(1) Subsection (c) is amended by striking the phrase "180 days," and inserting the phrase "180 days, excluding days occurring during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)," in its place

(2) Subsection (e) is amended by striking the phrase "excluding days of Council recess" and inserting the phrase "excluding days of Council recess and days occurring during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)," in its place.

(3) Subsection (f) is amended by striking the phrase "Council shall have an additional 45 days, excluding days of Council recess," and inserting the phrase "Council shall have an additional 45 days, excluding days of Council recess and days occurring during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)," in its place.

(b) Notwithstanding any provision of law, during a period time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the review period for any matter transmitted to the Council for approval or disapproval, other than nominations transmitted 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), contract approvals, or reprogrammings transmitted in accordance with section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Official Code § 47-363), shall be tolled if not inconsistent with the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

Sec. 502. Council Code of Conduct.

The Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 23, Resolution of 2019, effective January 2, 2019 (Res. 23-1; 66 DCR 272), is amended as follows:

(a) Rule VI(c) of the Council of the District of Columbia, Code of Official Conduct, Council Period 23 is amended by adding a new paragraph (5) to read as follows:

"(5) Notwithstanding any other rule, during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), a Councilmember may disseminate information about, and connect constituents with, services and offers, including from for-profit entities, that the Councilmember determines is in the public interest in light of the public health emergency.".

(b) Rule X(f)(1)(C) of the Council of the District of Columbia, Code of Official Conduct, Council Period 23 is amended by striking the phrase "The proposed" and inserting the phrase "Unless the electronic newsletter exclusively contains information relating to a declared public health emergency, the proposed" in its place.

Sec. 503. Advisory Neighborhood Commissions.

The Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.01 *et seq.*), is amended as follows:

(a) Section 8(d) (D.C. Official Code § 1-309.06(d)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "prior to a general election" both times it appears and inserting the phrase "prior to a general election or during a period of time for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)," in its place.

(2) Paragraph (6) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "and legal holidays" and inserting the phrase "legal holidays, and days during a period of time for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)" in its place.

(B) Subparagraph (C) is amended by striking the phrase "petitions available," and inserting the phrase "petitions available, not including days during a period of time for which a public health emergency has been declared by the Mayor pursuant to section 5a

of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)," in its place.

(C) Subparagraph (E) is amended by striking the phrase "or special meeting" and inserting the phrase "or special meeting, not to include a remote meeting held during a period of time for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01)," in its place.

(b) Section 13 (D.C. Official Code § 1-309.10) is amended by adding a new subsection (q) to read as follows:

"(q) During a period of time for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01):

"(1) The 30-day written notice requirement set forth in subsection (b) of this section shall be a 51-day written notice requirement; and

"(2) The 45-calendar-day notice requirement set forth in subsection (c)(2)(A) of this section shall be a 66-calendar-day notice requirement."

(c) Section 16(j)(3) (D.C. Official Code § 1-309.13(j)(3)) is amended by adding a new subparagraph (C) to read as follows:

"(C) Sub-subparagraph (i) of subparagraph (A) of this paragraph shall not apply to the failure to file quarterly reports due during a period of time for which a public health emergency has been declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).".

Sec. 504. Disclosure extension; campaign finance training; and disbursement extension.

(a) Section 161(a)(1) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 884; D.C. Official Code § 1-731(a)(1)), is amended by striking the phrase "April 30th" and inserting the phrase "July 30th" in its place.

(b) The Government Ethics Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.01 *et seq.*), is amended as follows:

(1) Section 224 (D.C. Official Code § 1-1162.24) is amended by adding a new subsection (c-2) to read as follows:

"(c-2) Notwithstanding any other provision of this section, in calendar year 2020, the Board may change the dates by which:

"(1) Reports required by this section are to be filed; and

"(2) The names of public officials are to be published pursuant to subsection (c-1) of this section.".

(2) Section 225 (D.C. Official Code § 1-1162.25) is amended by adding a new subsection (b-1) to read as follows:

"(b-1) Notwithstanding any other provision of this section, in calendar year 2020, the Board may change the dates by which:

"(1) Reports required by subsection (a) of this section are to be filed; and

"(2) Reports filed pursuant to subsection (a) of this section shall be reviewed pursuant to subsection (b) of this section.".

(3) Section 230 (D.C. Official Code § 1-1162.30) is amended by adding a new subsection (a-1) to read as follows:

"(a-1) Notwithstanding any other provision of this section, in calendar year 2020, the Board may change the dates by which reports required by subsection (a) of this section shall be filed.".

(c) The Campaign Finance Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.01 *et seq.*), is amended as follows:

(1) Section 304(7A)(A) (D.C. Official Code § 1-1163.04(7A)(A)) is amended by striking the phrase "in person, although online materials may be used to supplement the training" and inserting the phrase "in person or online" in its place.

(2) Section 332d (D.C. Official Code § 1-1163.32d) is amended by striking the phrase "5 days after" wherever it appears and inserting the phrase "5 business days after" in its place.

(3) Section 332e(e) (D.C. Official Code § 1-1163.32e(e)) is amended by striking the phrase "Within 5 days after" and inserting the phrase "Within 5 business days after" in its place.

Sec. 505. Election preparations.

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 2 (D.C. Official Code § 1-1001.02) is amended by adding a new paragraph (31) to read as follows:

"(31) For the June 2, 2020, Primary Election and the June 16, 2020, Ward 2 Special Election, the term "polling place" shall include Vote Centers operated by the Board throughout the District.".

(b) Section 5(a) (D.C. Official Code § 1-1001.05(a)) is amended by adding a new paragraph (9A) to read as follows:

"(9A) For the June 2, 2020, Primary Election, mail every registered qualified elector an absentee ballot application and a postage-paid return envelope;".

(c) Section 7 (D.C. Official Code § 1-1001.07) is amended as follows:

(1) Subsection (d)(2) is amended as follows:

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

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

(C) A new subparagraph (E) is added to read as follows:

"(E) For the June 2, 2020, Primary Election and the June 16, 2020, Ward 2 Special Election, regularly promote the Board's revised plans for those elections on the voter registration agencies' social media platforms, including by providing information about how to register to vote and vote by mail.".

(2) Subsection (h) is amended by adding a new paragraph (4) to read as follows:

"(4) The provisions of this subsection shall not apply to the June 2, 2020, Primary Election and the June 16, 2020, Ward 2 Special Election.".

Sec. 506. Absentee ballot request signature waiver.

Section 720.7(h) of Title 3 of the District of Columbia Municipal Regulations (3 DCMR § 720.7(h)) is amended by striking the phrase "Voter's signature" and inserting the phrase "Except for a request for an absentee ballot for the June 2, 2020, Primary Election or the June 16, 2020, Ward 2 Special Election, voter's signature" in its place.

Sec. 507. Board of Elections stipends.

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)), is amended by striking the phrase "Chairperson per year" and inserting the phrase "Chairperson per year; except, that for the remainder of 2020 following the effective date of the COVID-19 Response Supplemental Emergency Amendment Act of 2020, effective April 10, 2020 (D.C. Act 23-286; 67 DCR 4178), District of Columbia Board of Elections members shall be entitled to compensation at the hourly rate of $40 while actually in the service of the board, not to exceed $25,000 for each member per year and $53,000 for the Chairperson per year" in its place.

Sec. 508. Administrative hearings deadline tolling.

Notwithstanding any provision of District law, but subject to applicable federal laws and regulations, during a period time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective

October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7- 2304.01), the 90-day time period to request a hearing shall be tolled:

(1) To review an adverse action by the Mayor concerning any new application for public assistance or any application or request for a change in the amount, kind or conditions of public assistance, or a decision by the Mayor to terminate, reduce, or change the amount, kind, or conditions of public assistance benefits or to take other action adverse to the recipient pursuant to section 1009 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4–210.09); or

(2) To appeal an adverse decision listed in section 26(b) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4–754.41(b)).

TITLE VI. BORROWING AUTHORITY

SUBTITLE A. GENERAL OBLIGATION NOTES

Sec. 601. Short title.

This subtitle may be cited as the "Fiscal Year 2020 General Obligation Notes Temporary Act of 2020".

Sec. 602. Definitions.

For the purposes of this subtitle, the term:

(1) "Additional Notes" means District general obligation notes described in section 609 that may be issued pursuant to section 471 of the Home Rule Act (D.C. Official Code § 1-204.71), and that will mature on or before September 30, 2021, on a parity with the notes.

(2) "Authorized delegate" means the City Administrator, the Chief Financial Officer, or the Treasurer to whom the Mayor has delegated any of the Mayor's functions under this subtitle pursuant to section 422(6) of the Home Rule Act (D.C. Official Code § 1-204.22(6)).

(3) "Available funds" means District funds required to be deposited with the Escrow Agent, receipts, and other District funds that are not otherwise legally committed.

(4) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel or co-bond counsel from time to time by the Chief Financial Officer.

(5) "Chief Financial Officer" means the Chief Financial Officer established pursuant to section 424(a)(1) of the Home Rule Act (D.C. Official Code § 1-204.24a(a)).

(6) "City Administrator" means the City Administrator established pursuant to section 422(7) of the Home Rule Act (D.C. Official Code § 1-204.22(7)).

(7) "Council" means the Council of the District of Columbia.

(8) "District" means the District of Columbia.

(9) "Escrow Agent" means any bank, trust company, or national banking association with requisite trust powers designated to serve in this capacity by the Chief Financial Officer.

(10) "Escrow Agreement" means the escrow agreement between the District and the Escrow Agent authorized in section 607.

(11) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Notes" means one or more series of District general obligation notes authorized to be issued pursuant to this subtitle.

(14) "Receipts" means all funds received by the District from any source, including, but not limited to, taxes, fees, charges, miscellaneous receipts, and any moneys advanced, loaned, or otherwise provided to the District by the United States Treasury, less funds that are pledged to debt or other obligations according to section 609 or that are restricted by law to uses other than payment of principal of, and interest on, the notes.

(15) "Secretary" means the Secretary of the District of Columbia.

(16) "Treasurer" means the District of Columbia Treasurer established pursuant to section 424(a)(3)(E) of the Home Rule Act (D.C. Official Code § 1-204.24a(c)(5)).

Sec. 603. Findings.

The Council finds that:

(1) Under section 471 of the Home Rule Act (D.C. Official Code § 1-204.71), the Council may authorize, by act, the issuance of general obligation notes for a fiscal year to meet appropriations for that fiscal year.

(2) Under section 482 of the Home Rule Act (D.C. Official Code § 1-204.82), the full faith and credit of the District is pledged for the payment of the principal of, and interest on, any general obligation note.

(3) Under section 483 of the Home Rule Act (D.C. Official Code § 1-204.83), the Council is required to provide in the annual budget sufficient funds to pay the principal of, and interest on, all general obligation notes becoming due and payable during that fiscal year, and the Mayor is required to ensure that the principal of, and interest on, all general obligation notes is paid when due, including by paying the principal and interest from funds not otherwise legally committed.

(4) The issuance of general obligation notes in a sum not to exceed $300,000,000 is in the public interest.

Sec. 604. Note authorization.

(a) The District is authorized to incur indebtedness, for operating or capital expenses, by issuing the notes pursuant to sections 471 and 482 of the Home Rule Act (D.C. Official Code §§ 1-204.71 and 1-204.82), in one or more series, in a sum not to exceed $300,000,000, to meet appropriations for the fiscal year ending September 30, 2020.

(b) The Chief Financial Officer is authorized to pay from the proceeds of the notes the costs and expenses of issuing and delivering the notes, including, but not limited to, underwriting, legal, accounting, financial advisory, note insurance or other credit enhancement, marketing and selling the notes, interest or credit fees, and printing costs and expenses.

Sec. 605. Note details.

(a) The notes shall be known as "District of Columbia Fiscal Year 2020 General Obligation Notes" and shall be due and payable, as to both principal and interest, on or before September 30, 2021.

(b) The Chief Financial Officer is authorized to take any action necessary or appropriate in accordance with this subtitle in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the notes, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the notes, including any redemptions applicable thereto and a determination that the notes may be issued in book-entry form;

(2) Provisions for the transfer and exchange of the notes;

(3) The principal amount of the notes to be issued;

(4) The rate or rates of interest or the method of determining the rate or rates of interest on the notes; provided, that the interest rate or rates borne by the notes of any series shall not exceed in the aggregate 10% per year calculated on the basis of a 365-day year (actual days elapsed); provided, further, that if the notes are not paid at maturity, the notes may provide for an interest rate or rates after maturity not to exceed in the aggregate 15% per year calculated on the basis of a 365-day year (actual days elapsed);

(5) The date or dates of issuance, sale, and delivery of the notes;

(6) The place or places of payment of principal of, and interest on, the notes;

(7) The designation of a registrar, if appropriate, for any series of the notes, and the execution and delivery of any necessary agreements relating to the designation;

(8) The designation of paying agent(s) or escrow agent(s) for any series of the notes, and the execution and delivery of any necessary agreements relating to such designations; and

(9) Provisions concerning the replacement of mutilated, lost, stolen, or destroyed notes.

(c) The notes shall be executed in the name of the District and on its behalf by the signature, manual or facsimile, of the Mayor or an authorized delegate. The official seal of the District or a facsimile of it shall be impressed, printed, or otherwise reproduced on the notes. If a registrar is designated, the registrar shall authenticate each note by manual signature and maintain the books of registration for the payment of the principal of and interest on the notes and perform other ministerial responsibilities as specifically provided in its designation as registrar.

(d) The notes may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 606. Sale of the notes.

(a) The notes of any series shall be sold at negotiated sale pursuant to a purchase contract or at competitive sale pursuant to a bid form. The purchase contract or bid form shall contain the terms that the Chief Financial Officer considers necessary or appropriate to carry out the purposes of this subtitle. The Chief Financial Officer's execution and delivery of the purchase contract or bid form shall constitute conclusive evidence of the Chief Financial Officer's approval, on behalf of the District, of the final form and content of the notes. The Chief Financial Officer shall deliver the notes, on behalf of the District, to the purchasers upon receiving the purchase price provided in the purchase contract or bid form.

(b) The Chief Financial Officer may execute, in connection with each sale of the notes, an offering document on behalf of the District, and may authorize the document's distribution in relation to the notes being sold.

(c) The Chief Financial Officer shall take actions and execute and deliver agreements, documents, and instruments (including any amendment of or supplement to any such agreement, document, or instrument) in connection with any series of notes as required by or incidental to:

(1) The issuance of the notes;

(2) The establishment or preservation of the exclusion from gross income for federal income tax purposes of interest on the notes, if issued tax-exempt, and the exemption from District income taxation of interest on the notes (except estate, inheritance, and gift taxes);

(3) The performance of any covenant contained in this subtitle, in any purchase contract for the notes, or in any escrow or other agreement for the security thereof;

(4) The provision for securing the repayment of the notes by a letter or line of credit or other form of credit enhancement, and the repayment of advances under any such credit enhancement, including the evidencing of such a repayment obligation with a negotiable instrument with such terms as the Chief Financial Officer shall determine; or

(5) The execution, delivery, and performance of the Escrow Agreement, a purchase contract, or a bid form for the notes, a paying agent agreement, or an agreement

relating to credit enhancement, if any, including any amendments of any of these agreements, documents, or instruments.

(d) The notes shall not be issued until the Chief Financial Officer receives an approving opinion of Bond Counsel as to the validity of the notes and the exemption from the District income taxation of the interest on the notes (except estate, inheritance and gift taxes) and, if issued tax-exempt, the establishment or preservation of the exclusion from gross income for federal income tax purposes of the interest on the notes. .

(e) The Chief Financial Officer shall execute a note issuance certificate evidencing the determinations and other actions taken by the Chief Financial Officer for each issue or series of the notes issued and shall designate in the note issuance certificate the date of the notes, the series designation, the aggregate principal amount to be issued, the authorized denominations of the notes, the sale price, and the interest rate or rates on the notes. The certificate shall be delivered at the time of delivery of the notes and shall be conclusive evidence of the actions taken as stated in the certificate. A copy of the certificates shall be filed with the Secretary to the Council not more than 3 days after the delivery of the notes covered by the certificate.

Sec. 607. Payment and security.

(a) The full faith and credit of the District is pledged for the payment of the principal of, and interest on, the notes as they become due and payable through required sinking fund payments, redemptions, or otherwise.

(b) The Council shall, in the full exercise of the authority granted in section 483 of the Home Rule Act (D.C. Official Code § 1-204.83) and under any other law, provide in each annual budget for a fiscal year of the District sufficient funds to pay the principal of, and interest on, the notes becoming due and payable for any reason during that fiscal year.

(c) The Mayor shall, in the full exercise of the authority granted to the Mayor under the Home Rule Act and under any other law, take such actions as may be necessary or appropriate to ensure that the principal of, and interest on, the notes are paid when due for any reason, including the payment of principal and interest from any funds or accounts of the District not otherwise legally committed.

(d) The notes shall evidence continuing obligations of the District until paid in accordance with their terms.

(e) The funds for the payment of the notes as described in this subtitle shall be irrevocably deposited with the Escrow Agent pursuant to the Escrow Agreement. The funds shall be used for the payment of the principal of, and interest on, the notes when due, and shall not be used for other purposes so long as the notes are outstanding and unpaid.

(f) The Chief Financial Officer may, without regard to any act or resolution of the Council now existing or adopted after the effective date of this subtitle, designate an Escrow

Agent under the Escrow Agreement. The Chief Financial Officer may execute and deliver the Escrow Agreement, on behalf of the District and in the Chief Financial Officer's official capacity, containing the terms that the Chief Financial Officer considers necessary or appropriate to carry out the purposes of this subtitle. A special account entitled "Special Escrow for Payment of District of Columbia Fiscal Year 2020 General Obligation Notes" is created and shall be maintained by the Escrow Agent for the benefit of the owners of the notes as stated in the Escrow Agreement. Funds on deposit, including investment income, under the Escrow Agreement shall not be used for any purposes except for payment of the notes or, to the extent permitted by the Home Rule Act, to service any contract or other arrangement permitted under subsections (k) or (l) of this section, and may be invested only as provided in the Escrow Agreement.

(g) Upon the sale and delivery of the notes, the Chief Financial Officer shall deposit with the Escrow Agent to be held and maintained as provided in the Escrow Agreement all accrued interest and premium, if any, received upon the sale of the notes.

(h) The Chief Financial Officer shall set aside and deposit with the Escrow Agent funds in accordance with the Escrow Agreement at the time and in the amount as provided in the Escrow Agreement.

(i) There are provided and approved for expenditure sums as may be necessary for making payments of the principal of, and interest on, the notes, and the provisions of the Fiscal Year 2020 Local Budget Act and Fiscal Year 2021 Local Budget Act, if enacted prior to the effective date of this subtitle, relating to borrowings are amended and supplemented accordingly by this section, as contemplated in section 483 of the Home Rule Act (D.C. Official Code § 1-204.83).

(j) The notes shall be payable, as to both principal and interest, in lawful money of the United States of America in immediately available or same day funds at a bank or trust company acting as paying agent, and at not more than 2 co-paying agents that may be located outside the District. All of the paying agents shall be qualified to act as paying agents under the laws of the United States of America, of the District, or of the state in which they are located, and shall be designated by the Chief Financial Officer without regard to any other act or resolution of the Council now existing or adopted after the effective date of this subtitle.

(k) In addition to the security available for the holders of the notes, the Chief Financial Officer is hereby authorized to enter into agreements, including any agreement calling for payments in excess of $1,000,000 during Fiscal Year 2020, with a bank or other financial institution to provide a letter of credit, line of credit, or other form of credit enhancement to secure repayment of the notes when due. The obligation of the District to reimburse the bank or financial institution for any advances made under any such credit enhancement shall be a general

obligation of the District until repaid and shall accrue interest at the rate of interest established by the Chief Financial Officer not in excess of 20% per year until paid.

(l) 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.*), and subchapter III-A of Chapter 3 of Title 47 of the D.C. Official Code, shall not apply to any contract that the Chief Financial Officer may from time to time determine to be necessary or appropriate to place, in whole or in part, including:

(1) An investment or obligation of the District as represented by the notes;

(2) An investment or obligation or program of investment; or

(3) A contract or contracts based on the interest rate, currency, cash flow, or other basis as the Chief Financial Officer may desire, including, without limitation, interest rate swap agreements; currency swap agreements; insurance agreements; forward payment conversion agreements; futures; contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates, or stock or other indices; contracts to exchange cash flows or a series of payments; and contracts to hedge payment, currency, rate, spread, or similar exposure, including, without limitation, interest rate floors, or caps, options, puts, and calls. The contracts or other arrangements also may be entered into by the District in connection with, or incidental to, entering into or maintaining any agreement that secures the notes. The contracts or other arrangements shall contain whatever payment, security, terms, and conditions as the Chief Financial Officer may consider appropriate and shall be entered into with whatever party or parties the Chief Financial Officer may select, after giving due consideration, where applicable, to the creditworthiness of the counterparty or counterparties including any rating by a nationally recognized rating agency or any other criteria as may be appropriate. In connection with, or incidental to, the issuance or holding of the notes, or entering into any contract or other arrangement referred to in this section, the District may enter into credit enhancement or liquidity agreements, with payment, interest rate, termination date, currency, security, default, remedy, and any other terms and conditions as the Chief Financial Officer determines. Proceeds of the notes and any money set aside for payment of the notes or of any contract or other arrangement entered into pursuant to this section may be used to service any contract or other arrangement entered into pursuant to this section.

Sec. 608. Defeasance.

(a) The notes shall no longer be considered outstanding and unpaid for the purpose of this subtitle and the Escrow Agreement, and the requirements of this subtitle and the Escrow Agreement shall be deemed discharged with respect to the notes, if the Chief Financial Officer:

(1) Deposits with an Escrow Agent, herein referred to as the "defeasance escrow agent," in a separate defeasance escrow account, established and maintained by the Escrow

Agent solely at the expense of the District and held in trust for the note owners, sufficient moneys or direct obligations of the United States, the principal of and interest on which, when due and payable, will provide sufficient moneys to pay when due the principal of, and interest payable at maturity on, all the notes; and

(2) Delivers to the defeasance escrow agent an irrevocable letter of instruction to apply the moneys or proceeds of the investments to the payment of the notes at their maturity.

(b) The defeasance escrow agent shall not invest the defeasance escrow account in any investment callable at the option of its issuer if the call could result in less-than-sufficient moneys being available for the purposes required by this section.

(c) The moneys and direct obligations referred to in subsection (a)(1) of this section may include moneys or direct obligations of the United States of America held under the Escrow Agreement and transferred, at the written direction of the Chief Financial Officer, to the defeasance escrow account.

(d) The defeasance escrow account specified in subsection (a) of this section may be established and maintained without regard to any limitations placed on these accounts by any act or resolution of the Council now existing or adopted after this subtitle becomes effective, except for this subtitle.

Sec. 609. Additional debt and other obligations.

(a) The District reserves the right at any time to: borrow money or enter into other obligations to the full extent permitted by law; secure the borrowings or obligations by the pledge of its full faith and credit; secure the borrowings or obligations by any other security and pledges of funds as may be authorized by law; and issue bonds, notes, including Additional Notes, or other instruments to evidence the borrowings or obligations.

(b)(1) The District may issue Additional Notes pursuant to section 471 of the Home Rule Act (D.C. Official Code § 1-204.71) that shall mature on or before September 30, 2021, and the District shall covenant to set aside and deposit under the Escrow Agreement, receipts and other available funds for payment of the principal of, and the interest on, the Additional Notes issued pursuant to section 471 of the Home Rule Act (D.C. Official Code § 1-204.71) on a parity basis with the notes.

(2) The receipts and available funds referred to in subsection (a) of this section shall be separate from the special taxes or charges levied pursuant to section 481(a) of the Home Rule Act (D.C. Official Code § 1-204.81(a)), and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(3) Any covenants relating to any Additional Notes shall have equal standing and be on a parity with the covenants made for payment of the principal of, and the interest on, the notes.

(4) If Additional Notes are issued pursuant to section 471 of the Home Rule Act (D.C. Official Code § 1-204.71), the provisions of section 607 shall apply to both the notes and the Additional Notes and increase the amounts required to be set aside and deposited with the Escrow Agent.

(5) As a condition precedent to the issuance of any Additional Notes, the Chief Financial Officer shall deliver a signed certificate certifying that the District is in full compliance with all covenants and obligations under this subtitle and the Escrow Agreement.

Sec. 610. Tax matters.

At the full discretion of the Chief Financial Officer, the notes authorized by this subtitle may be issued as federally taxable or tax-exempt. If issued as tax-exempt, the Chief Financial Officer shall take all actions necessary to be taken so that the interest on the notes will not be includable in gross income for federal income tax purposes.

Sec. 611. Contract.

This subtitle shall constitute a contract between the District and the owners of the notes authorized by this subtitle. To the extent that any acts or resolutions of the Council may be in conflict with this subtitle, this subtitle shall be controlling.

Sec. 612. District officials.

(a) The elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the notes or be subject to any personal liability by reason of the issuance of the notes.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the notes shall be valid and sufficient for all purposes, notwithstanding the fact that the official ceases to be that official before delivery of the notes.

Sec. 613. Authorized delegation of authority.

To the extent permitted by the District and federal laws, the Mayor may delegate to the City Administrator, the Chief Financial Officer, or the Treasurer the performance of any act authorized to be performed by the Mayor under this subtitle.

Sec. 614. Maintenance of documents.

Copies of the notes and related documents shall be filed in the Office of the Secretary.

SUBTITLE B. TRANs NOTES

Sec. 621. Short title.

This subtitle may be cited as the "Fiscal Year 2020 Tax Revenue Anticipation Notes Temporary Act of 2020".

Sec. 622. Definitions.

For the purposes of this subtitle, the term:

(1) "Additional Notes" means District general obligation revenue anticipation notes described in section 629 that may be issued pursuant to section 472 of the Home Rule Act (D.C. Official Code § 1-204.72) and that will mature on or before September 30, 2020, on a parity with the notes.

(2) "Authorized delegate" means the City Administrator, the Chief Financial Officer, or the Treasurer to whom the Mayor has delegated any of the Mayor's functions under this subtitle pursuant to section 422(6) of the Home Rule Act (D.C. Official Code § 1-204.22(6)).

(3) "Available funds" means District funds required to be deposited with the Escrow Agent, receipts, and other District funds that are not otherwise legally committed.

(4) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel or co-bond counsel from time to time by the Chief Financial Officer.

(5) "Chief Financial Officer" means the Chief Financial Officer established pursuant to section 424(a)(1) of the Home Rule Act (D.C. Official Code § 1-204.24a(a).

(6) "City Administrator" means the City Administrator established pursuant to section 422(7) of the Home Rule Act (D.C. Official Code § 1-204.22(7)).

(7) "Council" means the Council of the District of Columbia.

(8) "District" means the District of Columbia.

(9) "Escrow Agent" means any bank, trust company, or national banking association with requisite trust powers designated to serve in this capacity by the Chief Financial Officer.

(10) "Escrow Agreement" means the escrow agreement between the District and the Escrow Agent authorized in section 627.

(11) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*)

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Notes" means one or more series of District general obligation revenue anticipation notes authorized to be issued pursuant to this subtitle.

(14) "Receipts" means all funds received by the District from any source, including, but not limited to, taxes, fees, charges, miscellaneous receipts, and any moneys

advanced, loaned, or otherwise provided to the District by the United States Treasury, less funds that are pledged to debt or other obligations according to section 629 or that are restricted by law to uses other than payment of principal of, and interest on, the notes.

(15) "Secretary" means the Secretary of the District of Columbia.

(16) "Treasurer" means the District of Columbia Treasurer established pursuant to section 424(a)(3)(E) of the Home Rule Act (D.C. Official Code § 1-204.24a(c)(5)).

Sec. 623. Findings.

The Council finds that:

(1) Under section 472 of the Home Rule Act (D.C. Official Code § 1-204.72), the Council may authorize, by act, the issuance of general obligation revenue anticipation notes for a fiscal year in anticipation of the collection or receipt of revenues for that fiscal year. Section 472 of the Home Rule Act (D.C. Official Code § 1-204.72) provides further that the total amount of general obligation revenue anticipation notes issued and outstanding at any time during a fiscal year shall not exceed 20% of the total anticipated revenue of the District for that fiscal year, as certified by the Mayor pursuant to section 472 of the Home Rule Act (D.C. Official Code § 1-204.72), as of a date not more than 15 days before each original issuance of the notes.

(2) Under section 482 of the Home Rule Act (D.C. Official Code § 1-204.82), the full faith and credit of the District is pledged for the payment of the principal of, and interest on, any general obligation revenue anticipation note.

(3) Under section 483 of the Home Rule Act (D.C. Official Code § 1-204.83), the Council is required to provide in the annual budget sufficient funds to pay the principal of, and interest on, all general obligation revenue anticipation notes becoming due and payable during that fiscal year, and the Mayor is required to ensure that the principal of, and interest on, all general obligation revenue anticipation notes is paid when due, including by paying the principal and interest from funds not otherwise legally committed.

(4) The Chief Financial Officer has advised the Council that, based upon the Chief Financial Officer's projections of anticipated receipts and disbursements during the fiscal year ending September 30, 2020, it may be necessary for the District to borrow to a sum not to exceed $200,000,000, an amount that does not exceed 20% of the total anticipated revenue of the District for such fiscal year, and to accomplish the borrowing by issuing general obligation revenue anticipation notes in one or more series.

(5) The issuance of general obligation revenue anticipation notes in a sum not to exceed $200,000,000 is in the public interest.

Sec. 624. Note authorization.

(a) The District is authorized to incur indebtedness by issuing the notes pursuant to sections 472 and 482 of the Home Rule Act (D.C. Official Code §§ 1-204.72 and 1-204.82), in one or more series, in a sum not to exceed $200,000,000, to finance its general governmental expenses, including operating or capital expenses, in anticipation of the collection or receipt of revenues for the fiscal year ending September 30, 2020.

(b) The Chief Financial Officer is authorized to pay from the proceeds of the notes the costs and expenses of issuing and delivering the notes, including, but not limited to, underwriting, legal, accounting, financial advisory, note insurance or other credit enhancement, marketing and selling the notes, interest or credit fees, and printing costs and expenses.

Sec. 625. Note details.

(a) The notes shall be known as "District of Columbia Fiscal Year 2020 General Obligation Tax Revenue Anticipation Notes" and shall be due and payable, as to both principal and interest, on or before September 30, 2020.

(b) The Chief Financial Officer is authorized to take any action necessary or appropriate in accordance with this subtitle in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the notes, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the notes, including any redemptions applicable thereto and a determination that the notes may be issued in book-entry form;

(2) Provisions for the transfer and exchange of the notes;

(3) The principal amount of the notes to be issued;

(4) The rate or rates of interest or the method of determining the rate or rates of interest on the notes; provided, that the interest rate or rates borne by the notes of any series shall not exceed in the aggregate 10% per year calculated on the basis of a 365-day year (actual days elapsed); provided further, that if the notes are not paid at maturity, the notes may provide for an interest rate or rates after maturity not to exceed in the aggregate 15% per year calculated on the basis of a 365-day year (actual days elapsed);

(5) The date or dates of issuance, sale, and delivery of the notes;

(6) The place or places of payment of principal of, and interest on, the notes;

(7) The designation of a registrar, if appropriate, for any series of the notes, and the execution and delivery of any necessary agreements relating to the designation;

(8) The designation of paying agent(s) or escrow agent(s) for any series of the notes, and the execution and delivery of any necessary agreements relating to such designations; and

(9) Provisions concerning the replacement of mutilated, lost, stolen, or destroyed notes.

(c) The notes shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor or an authorized delegate. The official seal of the District or a facsimile of it shall be impressed, printed, or otherwise reproduced on the notes. If a registrar is designated, the registrar shall authenticate each note by manual signature and maintain the books of registration for the payment of the principal of and interest on the notes and perform other ministerial responsibilities as specifically provided in its designation as registrar.

(d) The notes may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 626. Sale of the notes.

(a) The notes of any series shall be sold at negotiated sale pursuant to a purchase contract or at competitive sale pursuant to a bid form. The notes shall be sold at a price not less than par plus accrued interest from the date of the notes to the date of delivery thereof. The purchase contract or bid form shall contain the terms that the Chief Financial Officer considers necessary or appropriate to carry out the purposes of this subtitle. The Chief Financial Officer's execution and delivery of the purchase contract or bid form shall constitute conclusive evidence of the Chief Financial Officer's approval, on behalf of the District, of the final form and content of the notes. The Chief Financial Officer shall deliver the notes, on behalf of the District, to the purchasers upon receiving the purchase price provided in the purchase contract or bid form.

(b) The Chief Financial Officer may execute, in connection with each sale of the notes, an offering document on behalf of the District, and may authorize the document's distribution in relation to the notes being sold.

(c) The Chief Financial Officer shall take actions and execute and deliver agreements, documents, and instruments (including any amendment of or supplement to any such agreement, document, or instrument) in connection with any series of notes as required by or incidental to:

(1) The issuance of the notes;

(2) The establishment or preservation of the exclusion from gross income for federal income tax purposes of interest on the notes, if issued tax-exempt, and the exemption from District income taxation of interest on the notes (except estate, inheritance, and gift taxes);

(3) The performance of any covenant contained in this subtitle, in any purchase contract for the notes, or in any escrow or other agreement for the security thereof;

(4) The provision for securing the repayment of the notes by a letter or line of credit or other form of credit enhancement, and the repayment of advances under any such credit enhancement, including the evidencing of such a repayment obligation with a negotiable instrument with such terms as the Chief Financial Officer shall determine; or

(5) The execution, delivery, and performance of the Escrow Agreement, a purchase contract, or a bid form for the notes, a paying agent agreement, or an agreement

relating to credit enhancement, if any, including any amendments of any of these agreements, documents, or instruments.

(d) The notes shall not be issued until the Chief Financial Officer receives an approving opinion of Bond Counsel as to the validity of the notes and the exemption from the District income taxation of the interest on the notes (except estate, inheritance and gift taxes) and, if issued tax-exempt, the establishment or preservation of the exclusion from gross income for federal income tax purposes of the interest on the notes.

(e) The Chief Financial Officer shall execute a note issuance certificate evidencing the determinations and other actions taken by the Chief Financial Officer for each issue or series of the notes issued and shall designate in the note issuance certificate the date of the notes, the series designation, the aggregate principal amount to be issued, the authorized denominations of the notes, the sale price, and the interest rate or rates on the notes. The Mayor shall certify in a separate certificate, not more than 15 days before each original issuance of a series, the total anticipated revenue of the District for the fiscal year ending September 30, 2020, and that the total amount of all general obligation revenue anticipation notes issued and outstanding at any time during the fiscal year will not exceed 20% of the total anticipated revenue of the District for the fiscal year. These certificates shall be delivered at the time of delivery of the notes and shall be conclusive evidence of the actions taken as stated in the certificates. A copy of each of the certificates shall be filed with the Secretary to the Council not more than 3 days after the delivery of the notes covered by the certificates.

Sec. 627. Payment and security.

(a) The full faith and credit of the District is pledged for the payment of the principal of, and interest on, the notes when due.

(b) The funds for the payment of the notes as described in this subtitle shall be irrevocably deposited with the Escrow Agent pursuant to the Escrow Agreement. The funds shall be used for the payment of the principal of, and interest on, the notes when due, and shall not be used for other purposes so long as the notes are outstanding and unpaid.

(c) The notes shall be payable from available funds of the District, including, but not limited to, any moneys advanced, loaned, or otherwise provided to the District by the United States Treasury, and shall evidence continuing obligations of the District until paid in accordance with their terms.

(d) The Chief Financial Officer may, without regard to any act or resolution of the Council now existing or adopted after the effective date of this subtitle, designate an Escrow Agent under the Escrow Agreement. The Chief Financial Officer may execute and deliver the Escrow Agreement, on behalf of the District and in the Chief Financial Officer's official capacity, containing the terms that the Chief Financial Officer considers necessary or appropriate

to carry out the purposes of this subtitle. A special account entitled "Special Escrow for Payment of District of Columbia Fiscal Year 2020 General Obligation Tax Revenue Anticipation Notes" is created and shall be maintained by the Escrow Agent for the benefit of the owners of the notes as stated in the Escrow Agreement. Funds on deposit, including investment income, under the Escrow Agreement shall not be used for any purposes except for payment of the notes or, to the extent permitted by the Home Rule Act, to service any contract or other arrangement permitted under subsections (k) or (l) of this section, and may be invested only as provided in the Escrow Agreement.

(e) Upon the sale and delivery of the notes, the Chief Financial Officer shall deposit with the Escrow Agent to be held and maintained as provided in the Escrow Agreement all accrued interest and premium, if any, received upon the sale of the notes.

(f)(1) The Chief Financial Officer shall set aside and deposit with the Escrow Agent funds in accordance with the Escrow Agreement at the time and in the amount as provided in the Escrow Agreement.

(2) If Additional Notes are issued pursuant to section 629(b), and if on the date set forth in the Escrow Agreement, the aggregate amount of principal and interest payable at maturity on the outstanding notes, including any Additional Notes, less all amounts on deposit, including investment income, under the Escrow Agreement exceeds 90% of the actual receipts of District taxes (other than special taxes or charges levied pursuant to section 481(a) of the Home Rule Act (D.C. Official Code § 1-204.81(a)), and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act (D.C. Official Code § 1-204.90)), for the period August 15, 2020, until September 30, 2020, beginning on the date set forth in the Escrow Agreement, the Chief Financial Officer shall promptly, upon receipt by the District, set aside and deposit with the Escrow Agent the receipts received by the District after the date set forth in the Escrow Agreement, until the aggregate amount of principal and interest payable at maturity on the outstanding notes, including any Additional Notes as described above, is less than 90% of actual receipts of District taxes (other than special taxes or charges levied pursuant to section 481(a) of the Home Rule Act (D.C. Official Code § 1-204.81(a)), and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act (D.C. Official Code § 1-204.90)).

(3) The District covenants that it shall levy, maintain, or enact taxes due and payable during August 1, 2020, through September 30, 2020, to provide for payment in full of the principal of, and interest on, the notes when due. The taxes referred to in this paragraph shall be separate from special taxes or charges levied pursuant to section 481(a) of the Home Rule Act (D.C. Official Code § 1-204.81(a)), or taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(g) Before the 16th day of each month, beginning in August 2020, the Chief Financial Officer shall review the current monthly cash flow projections of the District, and if the Chief Financial Officer determines that the aggregate amount of principal and interest payable at maturity on the notes then outstanding, less any amounts and investment income on deposit under the Escrow Agreement, equals or exceeds 85% of the receipts estimated by the Chief Financial Officer to be received after such date by the District but before the maturity of the notes, then the Chief Financial Officer shall promptly, upon receipt by the District, set aside and deposit with the Escrow Agent the receipts received by the District on and after that date until the aggregate amount, including investment income, on deposit with the Escrow Agent equals or exceeds 100% of the aggregate amount of principal of and interest on the notes payable at their maturity.

(h) The Chief Financial Officer shall, in the full exercise of the authority granted the Chief Financial Officer under the Home Rule Act and under any other law, take actions as may be necessary or appropriate to ensure that the principal of and interest on the notes are paid when due, including, but not limited to, seeking an advance or loan of moneys from the United States Treasury if available under then current law. This action shall include, without limitation, the deposit of available funds with the Escrow Agent as may be required under section 483 of the Home Rule Act (D.C. Official Code § 1-204.83), this subtitle, and the Escrow Agreement. Without limiting any obligations under this subtitle or the Escrow Agreement, the Chief Financial Officer reserves the right to deposit available funds with the Escrow Agent at his or her discretion.

(i) There are provided and approved for expenditure sums as may be necessary for making payments of the principal of, and interest on, the notes, and the provisions of the Fiscal Year 2020 Local Budget Act relating to borrowings are amended and supplemented accordingly by this section, as contemplated in section 483 of the Home Rule Act (D.C. Official Code § 1-204.83)).

(j) The notes shall be payable, as to both principal and interest, in lawful money of the United States of America in immediately available or same day funds at a bank or trust company acting as paying agent, and at not more than 2 co-paying agents that may be located outside the District. All of the paying agents shall be qualified to act as paying agents under the laws of the United States of America, of the District, or of the state in which they are located, and shall be designated by the Chief Financial Officer without regard to any other act or resolution of the Council now existing or adopted after the effective date of this subtitle.

(k) In addition to the security available for the holders of the notes, the Chief Financial Officer is hereby authorized to enter into agreements, including any agreement calling for payments in excess of $1,000,000 during Fiscal Year 2020, with a bank or other financial institution to provide a letter of credit, line of credit, or other form of credit enhancement to

secure repayment of the notes when due. The obligation of the District to reimburse the bank or financial institution for any advances made under any such credit enhancement shall be a general obligation of the District until repaid and shall accrue interest at the rate of interest established by the Chief Financial Officer not in excess of 15% per year until paid.

(l) 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.*), and subchapter III-A of Chapter 3 of Title 47 of the D.C. Official Code, shall not apply to any contract that the Chief Financial Officer may from time to time determine to be necessary or appropriate to place, in whole or in part, including:

(1) An investment or obligation of the District as represented by the notes;

(2) An investment or obligation or program of investment; or

(3) A contract or contracts based on the interest rate, currency, cash flow, or other basis as the Chief Financial Officer may desire, including, without limitation, interest rate swap agreements; currency swap agreements; insurance agreements; forward payment conversion agreements; futures; contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates, or stock or other indices; contracts to exchange cash flows or a series of payments; and contracts to hedge payment, currency, rate, spread, or similar exposure, including, without limitation, interest rate floors, or caps, options, puts, and calls. The contracts or other arrangements also may be entered into by the District in connection with, or incidental to, entering into or maintaining any agreement that secures the notes. The contracts or other arrangements shall contain whatever payment, security, terms, and conditions as the Chief Financial Officer may consider appropriate and shall be entered into with whatever party or parties the Chief Financial Officer may select, after giving due consideration, where applicable, to the creditworthiness of the counterparty or counterparties including any rating by a nationally recognized rating agency or any other criteria as may be appropriate. In connection with, or incidental to, the issuance or holding of the notes, or entering into any contract or other arrangement referred to in this section, the District may enter into credit enhancement or liquidity agreements, with payment, interest rate, termination date, currency, security, default, remedy, and any other terms and conditions as the Chief Financial Officer determines. Proceeds of the notes and any money set aside for payment of the notes or of any contract or other arrangement entered into pursuant to this section may be used to service any contract or other arrangement entered into pursuant to this section.

Sec. 628. Defeasance.

(a) The notes shall no longer be considered outstanding and unpaid for the purpose of this subtitle and the Escrow Agreement, and the requirements of this subtitle and the Escrow Agreement shall be deemed discharged with respect to the notes, if the Chief Financial Officer:

(1) Deposits with an Escrow Agent, herein referred to as the "defeasance escrow agent," in a separate defeasance escrow account, established and maintained by the Escrow

Agent solely at the expense of the District and held in trust for the note owners, sufficient moneys or direct obligations of the United States, the principal of and interest on which, when due and payable, will provide sufficient moneys to pay when due the principal of, and interest payable at maturity on, all the notes; and

(2) Delivers to the defeasance escrow agent an irrevocable letter of instruction to apply the moneys or proceeds of the investments to the payment of the notes at their maturity.

(b) The defeasance escrow agent shall not invest the defeasance escrow account in any investment callable at the option of its issuer if the call could result in less than sufficient moneys being available for the purposes required by this section.

(c) The moneys and direct obligations referred to in subsection (a)(1) of this section may include moneys or direct obligations of the United States of America held under the Escrow Agreement and transferred, at the written direction of the Chief Financial Officer, to the defeasance escrow account.

(d) The defeasance escrow account specified in subsection (a) of this section may be established and maintained without regard to any limitations placed on these accounts by any act or resolution of the Council now existing or adopted after this subtitle becomes effective, except for this subtitle.

Sec. 629. Additional debt and other obligations.

(a) The District reserves the right at any time to: borrow money or enter into other obligations to the full extent permitted by law; secure the borrowings or obligations by the pledge of its full faith and credit; secure the borrowings or obligations by any other security and pledges of funds as may be authorized by law; and issue bonds, notes, including Additional Notes, or other instruments to evidence the borrowings or obligations.

(b)(1) The District may issue Additional Notes pursuant to section 472 of the Home Rule Act (D.C. Official Code § 1-204.72) that shall mature on or before September 30, 2020, and the District shall covenant to set aside and deposit under the Escrow Agreement, receipts and other available funds for payment of the principal of, and the interest on, the Additional Notes issued pursuant to section 472 of the Home Rule Act (D.C. Official Code § 1-204.72) on a parity basis with the notes.

(2) The receipts and available funds referred to in subsection (a) of this section shall be separate from the special taxes or charges levied pursuant to section 481(a) of the Home Rule Act (D.C. Official Code § 1-204.81(a)), and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(3) Any covenants relating to any Additional Notes shall have equal standing and be on a parity with the covenants made for payment of the principal of, and the interest on, the notes.

(4) If Additional Notes are issued pursuant to section 472 of the Home Rule Act (D.C. Official Code § 1-204.72), the provisions of section 627 shall apply to both the notes and the Additional Notes and increase the amounts required to be set aside and deposited with the Escrow Agent.

(5) As a condition precedent to the issuance of any Additional Notes, the Chief Financial Officer shall deliver a signed certificate certifying that the District is in full compliance with all covenants and obligations under this subtitle and the Escrow Agreement, that no set-aside and deposit of receipts pursuant to section 627(g) applied as of the date of issuance is required, and that no set-aside and deposit will be required under section 627(g) applied immediately after the issuance.

Sec. 630. Tax matters.

At the full discretion of the Chief Financial Officer, the notes authorized by this subtitle may be issued as federally taxable or tax-exempt. If issued as tax-exempt, the Chief Financial Officer shall take all actions necessary to be taken so that the interest on the notes will not be includable in gross income for federal income tax purposes.

Sec. 631. Contract.

This subtitle shall constitute a contract between the District and the owners of the notes authorized by this subtitle. To the extent that any acts or resolutions of the Council may be in conflict with this subtitle, this subtitle shall be controlling.

Sec. 632. District officials.

(a) The elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the notes or be subject to any personal liability by reason of the issuance of the notes.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the notes shall be valid and sufficient for all purposes, notwithstanding the fact that the official ceases to be that official before delivery of the notes.

Sec. 633. Authorized delegation of authority.

To the extent permitted by the District and federal laws, the Mayor may delegate to the City Administrator, the Chief Financial Officer, or the Treasurer the performance of any act authorized to be performed by the Mayor under this subtitle.

Sec. 634. Maintenance of documents.

Copies of the notes and related documents shall be filed in the Office of the Secretary.

ENROLLED ORIGINAL

TITLE VII. REVENUE BONDS

SUBTITLE A. STUDIO THEATER, INC.

Sec. 701. Short title.

This subtitle may be cited as the "The Studio Theatre, Inc. Revenue Bonds Temporary Act of 2020".

Sec. 702. Definitions.

For the purposes of this subtitle the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this subtitle pursuant to section 422(6) of the Home Rule Act (D.C. Official Code § 422(6)).

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this subtitle.

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be The Studio Theatre, Inc., a non-profit corporation organized under the laws of the District of Columbia, which is exempt from federal income taxes under section 501(a) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(a)), as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and which is liable for the repayment of the Bonds.

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing, refinancing or reimbursement of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), and compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Project" means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs of:

(A) Renovating and expanding by approximately 2,780 gross square feet the Borrower's mixed-use theater complex located at 1501 14th Street, N.W., in Washington, D.C. (Square 241, Lot 0128), currently comprising approximately 53,532 gross square feet of above grade improvements ("Theater Facility");

(B) Renovating certain residential facilities in Washington, D.C., owned by the Borrower and used as artist housing, located at 1630 Corcoran Street, N.W. (Square 0179, Lot 0094), 1736 Corcoran Street, N.W. (Square 0155, Lot 0208), 1437 Clifton Street, N.W. (Square 2664, Lot 0058); and Condominium Units 317, 409, 419 and 820 at 1718 P Street, N.W. (Square 0157, Lots 2061, 2073, 2083 and 2164) (collectively, "Ancillary Facilities" and together with the Theater Facility, "Facilities");

(C) Purchasing certain equipment and furnishings, together with other property, real and personal, functionally related and subordinate to the Facilities;

(D) Funding certain expenditures associated with the financing of the Facilities, to the extent permissible, including, credit enhancement costs, liquidity costs, debt service reserve fund or working capital; and

(E) Paying costs of issuance and other related costs, to the extent permissible.

Sec. 703. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act (D.C. Official Code § 1-204.90) provides that the Council may by act authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of, the costs of undertakings in certain areas designated in section 490 (D.C. Official Code § 1-204.90) and may affect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series pursuant to a plan of finance, in an aggregate principal amount not to exceed $12,500,000, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Facilities are located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of capital projects in the form of facilities used for the Borrower's operations and, in part, as a venue to produce contemporary theater and serve the community through artistic innovation, engagement, education and professional development (and property used in connection with or supplementing the foregoing), within the meaning of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90), and will assist the Project.

Sec. 704. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this subtitle to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed $12,500,000; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the

issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction, and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 705. Bond details.

(a) The Mayor and each Authorized Delegate is authorized to take any action reasonably necessary or appropriate in accordance with this subtitle in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this subtitle;

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the

District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act (D.C. Official Code § 1-204.90(a)(4)).

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 706. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 707. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary

investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 708. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 709. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this subtitle.

Sec. 710. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve the faith and credit or the taxing power of, the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 707.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this subtitle, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this subtitle.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees or agents to either perform any covenant, undertaking, or obligation under this subtitle, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 711. District officials.

(a) Except as otherwise provided in section 710(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall

be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 712. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 713. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 714. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by enacting this subtitle or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 715. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the effective date of this act, the authorization provided in this subtitle with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 716. Severability.

If any particular provision of this subtitle or the application thereof to any person or circumstance is held invalid, the remainder of this subtitle and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this subtitle is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

SUBTITLE B. DC SCHOLARS PUBLIC CHARTER SCHOOL, INC.

Sec. 721. Short title.

This subtitle may be cited as the "DC Scholars Public Charter School, Inc. Revenue Bonds Temporary Act of 2020".

Sec. 722. Definitions.

For the purpose of this subtitle, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this subtitle pursuant to section 422(6) of the Home Rule Act (D.C. Official Code § 1-204.22(6)).

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this subtitle.

(4) "Borrower" means the owner, operator, manager and user of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be DC Scholars Public Charter School, Inc., a corporation organized under the laws of the District of Columbia, and exempt from federal income taxes under section 501(a) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C § 501(a)), as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)).

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents other than Closing Documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan contemplated thereby, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Project" means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs of:

(A) Financing the acquisition of a leasehold interest in an existing school facility located at 5601 East Capitol Street, S.E., Washington, D.C. 20019 (the "Facility"), which Facility will be operated by the Borrower;

(B) Refinancing the outstanding amount of existing taxable loans and related expenses, the proceeds of which were used to finance improvements to the Facility;

(C) Funding a debt service reserve fund with respect to the Bonds, if deemed necessary in connection with the sale of the Bonds;

(D) Paying capitalized interest with respect to the Bonds, if deemed necessary in connection with the sale of the Bonds; and

(E) Paying allowable Issuance Costs.

Sec. 723. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act (D.C. Official Code § 1-204.90) provides that the Council may by act authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse, and to assist in the financing, refinancing, or reimbursing of undertakings in certain areas designated in section 490 (D.C. Official Code § 1-204.90), and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in the aggregate principal amount not to exceed $16,000,000, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of elementary, secondary, and college and university facilities within the meaning of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90), and will assist the Project.

Sec. 724. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this subtitle to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in the aggregate principal amount not to exceed $16,000,000; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 725. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this subtitle in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this subtitle;

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The

Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act (D.C. Official Code § 1-204.90(a)(4)).

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 726. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 727. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made

available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 728. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 729. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this subtitle.

Sec. 730. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a

debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 727.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this subtitle, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this subtitle.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this subtitle, the Bonds, the Financing Documents, or the Closing Documents, nor as a result of the incorrectness of any representation in, or omission from, the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 731. District officials.

(a) Except as otherwise provided in section 730(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 732. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 733. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 734. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in, or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by enacting this subtitle or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 735. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the effective date of this act, the authorization provided in this subtitle with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 736. Severability.

If any particular provision of this subtitle, or the application thereof to any person or circumstance is held invalid, the remainder of this subtitle and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction

contemplated under this subtitle is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing the Bonds, and the validity of the Bonds shall not be adversely affected.

SUBTITLE C. WASHINGTON HOUSING CONSERVANCY.

Sec. 741. Short title.

This subtitle may be cited as the "Washington Housing Conservancy/WHC Park Pleasant LLC Revenue Bonds Temporary Act of 2020".

Sec. 742. Definitions.

For the purposes of this subtitle, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act (D.C. Official Code § 1-204.22(6)).

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be, individually or collectively, Washington Housing Conservancy, a non-profit corporation organized under the laws of the District of Columbia, and/or WHC Park Pleasant LLC, a District of Columbia limited liability company, the sole member of which is the Washington Housing Conservancy, both of which are exempt from federal income taxes under section 501(a) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(a)), as organizations described in section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and which are, individually or collectively, as the case may be, liable for the repayment of the Bonds.

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing, refinancing or reimbursement of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), and compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Project" means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs of:

(A) Acquiring and renovating real property, including a parcel of land comprising approximately 2.042 acres improved with approximately 69,910 square feet of residential rental property comprising 126 rental housing units and associated parking facilities located in Washington, D.C., commonly known as Park Pleasant Apartments with street addresses at 3339 Mt. Pleasant Street, N.W., 3360 Mt. Pleasant Street, N.W., 3354 Mt. Pleasant Street, N.W., 3348 Mt. Pleasant Street, N.W., 3342 Mt. Pleasant Street, N.W., 3336 Mt. Pleasant Street, N.W., 3351 Mt. Pleasant Street, N.W., 3331 Mt. Pleasant Street, N.W., 3327 Mt. Pleasant Street, N.W., 3323 Mt. Pleasant Street, N.W., and 1712 Newton Street, N.W. (collectively, "Facility");

(B) Purchasing certain equipment and furnishings, together with other property, real and personal, functionally related and subordinate to the Facility;

(C) Funding certain expenditures associated with the financing of the Facility, to the extent permissible, including, credit enhancement costs, liquidity costs, debt service reserve fund or working capital; and

(D) Paying costs of issuance and other related costs, to the extent permissible.

Sec. 743. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act (D.C. Official Code § 1-204.90) provides that the Council may by act authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of, the costs of undertakings in certain areas designated in section 490 (D.C. Official Code § 1-204.90) and may affect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series pursuant to a plan of finance, in an aggregate principal amount not to exceed $28,000,000, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Facility is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of housing, within the meaning of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90), and will assist the Project.

Sec. 744. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this subtitle to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed $28,000,000; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the

issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction, and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 745. Bond details.

(a) The Mayor and each Authorized Delegate is authorized to take any action reasonably necessary or appropriate in accordance with this subtitle in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this subtitle;

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the

District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act (D.C. Official Code § 1-204.90(a)(4)).

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 746. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 747. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary

investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 748. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 749. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this subtitle.

Sec. 750. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve the faith and credit or the taxing power of, the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 747.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this subtitle, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this subtitle.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees or agents to either perform any covenant, undertaking, or obligation under this subtitle, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 751. District officials.

(a) Except as otherwise provided in section 750(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 752. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 753. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 754. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by enacting this subtitle or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 755. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the effective date of this act, the authorization provided in this subtitle with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 756. Severability.

If any particular provision of this subtitle or the application thereof to any person or circumstance is held invalid, the remainder of this subtitle and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this subtitle is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

SUBTITLE D. NATIONAL PUBLIC RADIO, INC.

Sec. 761. Short title.

This subtitle may be cited as the "National Public Radio, Inc., Refunding Revenue Bonds Temporary Act of 2020".

Sec. 762. Definitions.

For the purpose of this subtitle, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act (D.C. Official Code § 1-204.22(6)).

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be National Public Radio, Inc., a non-profit corporation organized and existing under the laws of the District of Columbia, and exempt from federal income taxes under section 501(a) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(a)), as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)).

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan contemplated thereby, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Project" means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs (including payments of principal of, and interest on, the bonds being refunded) to:

(A) Refund all or a portion of the outstanding District of Columbia Refunding Revenue Bonds (National Public Radio, Inc., Issue) Series 2013, the proceeds of which were used to advance refund a portion of the District of Columbia Revenue Bonds (National Public Radio, Inc. Issue) Series 2010 (the "Series 2010 Bonds") and to pay Issuance Costs, which Series 2010 Bonds were used to finance, refinance or reimburse all or a portion of the costs incurred by the Borrower to acquire, develop, renovate, furnish and equip a new office, production and distribution center located at 1111 North Capitol Street, N.E., Washington, D.C. 20002-7502 (Square 673, Lot 36), and to pay Issuance Costs; and

(B) Refund all or a portion of the outstanding District of Columbia Refunding Revenue Bonds (National Public Radio, Inc., Issue) Series 2016, the proceeds of which were also used to advance refund a portion of the Series 2010 Bonds and to pay Issuance Costs.

Sec. 763. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act (D.C. Official Code § 1-204.90) provides that the Council may by act authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of the costs of undertakings in certain areas designated in section 490 (D.C. Official Code § 1-204.90) and may affect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in the aggregate principal amount not to exceed $210,000,000 and to make the Loan for the purpose of financing, refinancing or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of education and contributes to the health, education, safety, or welfare of residents of the District within the meaning of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90), and will assist the Project.

Sec. 764. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this subtitle to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in the aggregate principal amount not to exceed $210,000,000; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 765. Bond details.

(a) The Mayor and each Authorized Delegate is authorized to take any action reasonably necessary or appropriate in accordance with this subtitle in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this subtitle;

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act (D.C. Official Code § 1-204.90(a)(4)).

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 766. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is

expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 767. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 768. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of said executed Financing Documents and said executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale,

and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 769. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this subtitle.

Sec. 770. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 767.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this subtitle, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this subtitle.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this subtitle, the Bonds, the Financing Documents, or the Closing Documents, nor as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 771. District officials.

(a) Except as otherwise provided in section 770(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 772. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 773. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 774. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by enacting this subtitle or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on

the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 775. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the effective date of this act, the authorization provided in this subtitle with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 776. Severability.

If any particular provision of this subtitle or the application thereof to any person or circumstance is held invalid, the remainder of this subtitle and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this subtitle is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

SUBTITLE E. PUBLIC WELFARE FOUNDATION, INC.

Sec. 781. Short title.

This subtitle may be cited as the "Public Welfare Foundation, Inc., Revenue Bonds Temporary Act of 2020".

Sec. 782. Definitions.

For the purpose of this subtitle, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act (D.C. Official Code § 1-204.22(6)).

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner of the assets financed or refinanced with proceeds from the Bonds, which shall be Public Welfare Foundation, Inc., a non-profit corporation organized and existing under the laws of the State of Delaware, duly authorized to transact business as a foreign corporation in the District of Columbia, and exempt from federal

income taxes as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26. U.S.C. § 501(c)(3)).

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements, other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

(8) "Financing Documents" means, the documents, other than Closing Documents, that relate to the financing, refinancing or reimbursement of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending to the Borrower of the proceeds from the sale, in one or more series, of the Bonds.

(12) "Project" means the financing, refinancing or reimbursing of the Borrower, on a tax exempt or taxable basis, for all or a portion of the Borrower's costs incurred in connection with the renovation of certain facilities of the Borrower located at 1200 U Street, N.W., Washington, D.C. (the "Building") in one or more phases and comprised of the following:

(A) Replacement of nearly all exterior windows of the Building and the repair of certain sheet metal and masonry;

(B) Soft costs, including architectural, engineering, and permitting fees, in connection therewith;

(C) Purchase of certain equipment and furnishings, together with other property, real and personal, functionally related and subordinate thereto;

(D) Refinancing, in whole or in part, of existing indebtedness; and

(E) Certain expenditures associated therewith to the extent financeable, including, without limitation, Issuance Costs, credit costs, and working capital.

Sec. 783. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act (D.C. Official Code § 1-204.90) provides that the Council may by act authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of the costs of undertakings in certain areas designated in section 490 (D.C. Official Code § 1-204.90) and may affect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue and refunding bonds, in one or more series, in an aggregate principal amount not to exceed $13,000,000 and to make the Loan for the purpose of financing, refinancing or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of a capital project as facilities used to house and equip operations related to the study, development, application, or production of social services within the meaning of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90).

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act (D.C. Official Code § 1-204.90), and will assist the Project.

Sec. 784. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this subtitle to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed $13,000,000; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 785. Bond details.

(a) The Mayor and each Authorized Delegate is authorized to take any action reasonably necessary or appropriate in accordance with this subtitle in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this subtitle;

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act (D.C. Official Code § 1-204.90(a)(4)).

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 786. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is

expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 787. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 788. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of said executed Financing Documents and said executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale,

and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 789. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this subtitle.

Sec. 790. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act (D.C. Official Code § 1-206.02(a)(2)).

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 787.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this subtitle, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this subtitle.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this subtitle, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 791. District officials.

(a) Except as otherwise provided in section 790(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 792. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 793. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 794. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this subtitle, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by enacting this subtitle or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on

the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 795. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the effective date of this act, the authorization provided in this subtitle with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 796. Severability.

If any particular provision of this subtitle or the application thereof to any person or circumstance is held invalid, the remainder of this subtitle and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this subtitle is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

PART C
APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE

Sec. 101. Applicability.

This act shall apply as of March 11, 2020.

Sec. 102. 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. 103. 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 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.

ENROLLED ORIGINAL

(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
May 21, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-324

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 27, 2020

To amend, on an emergency basis, due to congressional review, the Firearms Control Regulations Act of 1975 to prohibit the issuance of a registration certificate for ghost guns, and to prohibit the sale or transfer of ghost guns; to amend An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes to prohibit the possession of ghost guns; to amend the Firearms Safety Omnibus Clarification Emergency Amendment Act of 2020 to provide that it shall apply as of April 23, 2020; and to amend the Firearms Safety Omnibus Clarification Temporary Amendment Act of 2020 to clarify that it is subject to a 60-day congressional review period.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Ghost Guns Prohibition Congressional Review Emergency Amendment Act of 2020".

Sec. 2. The Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 7-2501.01) is amended as follows:

(1) Paragraph (9B) is designated as paragraph (9C).

(2) A new paragraph (9B) is added to read as follows:

"(9B) "Ghost gun" means a firearm that, after the removal of all parts other than a receiver, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or any major component of which, when subjected to inspection by the types of detection devices commonly used at secure public buildings and transit stations, does not generate an image that accurately depicts the shape of the component. The term "ghost gun" includes an unfinished frame or receiver.".

(3) A new paragraph (12B) is added to read as follows:

"(12B) "Receiver" means the part of a firearm that provides the action or housing for the hammer, bolt, or breechblock and firing mechanism.".

(4) A new paragraph (15A) is added to read as follows:

"(15A) "Security Exemplar" means an object, to be fabricated at the direction of the Mayor, that is:

"(A) Constructed of 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

"(B) Suitable for testing and calibrating metal detectors.".

(5) A new paragraph (17B) is added to read as follows:

"(17B)(A) "Unfinished frame or receiver" means a frame or receiver of a firearm, rifle, or shotgun that is not yet a component part of a firearm, but which may without the expenditure of substantial time and effort be readily made into an operable frame or receiver through milling, drilling, or other means.

"(B) The term "unfinished frame or receiver" includes any manufactured object, any incompletely manufactured component part of a firearm, or any combination thereof that is not a functional frame or receiver but is designed, manufactured, assembled, marketed, or intended to be used for that purpose, and can be readily made into a functional frame or receiver.

"(C) For the purposes of this paragraph, the term:

"(i) "Manufacture" means to fabricate, make, form, produce or construct, by manual labor or by machinery.

"(ii) "Assemble" means to fit together component parts.".

(b) Section 202(a) (D.C. Official Code § 7-2502.02(a)) is amended as follows:

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

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

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

"(8) Ghost gun.".

(c) Section 501 (D.C. Official Code § 7-2505.01) is amended by striking the phrase "destructive device" and inserting the phrase "destructive device, ghost gun, unfinished frame or receiver," in its place.

Sec. 3. An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 22-4501) is amended by adding a new paragraph (2B) to read as follows:

"(2B) "Ghost gun" shall have the same meaning as provided in section 101(9B) of the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01(9B)).".

(b) Section 14(a) (D.C. Official Code § 22-4514(a)) is amended by striking the phrase "bump stock, knuckles" both times it appears and inserting the phrase "bump stock, ghost gun, knuckles" in its place.

ENROLLED ORIGINAL

Sec. 4. The Firearms Safety Omnibus Clarification Emergency Amendment Act of 2020, effective May 1, 2020 (D.C. Act 23-297; 67 DCR ___), is amended by adding a new section 6a to read as follows:

"Sec. 6a. Applicability.

"This act shall apply as of April 23, 2020.".

Sec. 5. Section 8(a) of the Firearms Safety Omnibus Clarification Temporary Amendment Act of 2020, enacted on May 4, 2020 (D.C. Act 23-315; 67 DCR ___), is amended to read as follows:

"(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 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.".

Sec. 6. Fiscal impact statement.

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

Sec. 7. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
May 27, 2020

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-273

COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2020

To recognize and celebrate Judge Wendell P. Gardner, Jr. as he retires after more than twenty-eight years as an Associate Judge on the District of Columbia Superior Court.

WHEREAS, Judge Wendell P. Gardner, Jr. was born and raised in Washington, D.C., where he graduated from McKinley High School in 1964;

WHEREAS, Judge Wendell P. Gardner, Jr. received a Bachelor of Arts degree in Business Administration from Howard University in 1969 and a Master of Business Administration in from Washington University in St. Louis;

WHEREAS, Judge Wendell P. Gardner, Jr. worked as a business consultant for the Interracial Council for Business Opportunity;

WHEREAS, in 1976, Judge Wendell P. Gardner, Jr. received his law degree from The Catholic University of America Columbus School of Law, where he served as a student attorney representing low-income clients through the law school's legal clinic;

WHEREAS, Judge Wendell P. Gardner, Jr. began his legal career as an attorney and registered lobbyist for Sears, Roebuck & Co. in Washington, D.C.;

WHEREAS, in 1981, Judge Wendell P. Gardner, Jr. joined Emmet G. Sullivan as a partner in the general practice law firm of Houston, Sullivan & Gardner;

WHEREAS, in 1991, Judge Wendell P. Gardner, Jr. was appointed to the bench of the Superior Court of the District of Columbia by United States President George H.W. Bush;

WHEREAS, during his tenure on the Superior Court, Judge Wendell P. Gardner, Jr. has served in every division of the Court including Criminal, Family, Tax, Probate, and in the Domestic Violence Unit;

ENROLLED ORIGINAL

WHEREAS, in August 1994, Judge Wendell P. Gardner, Jr. became the Presiding Judge of the Probate and Tax Divisions and during the same year testified before the District of Columbia Council on Probate Reform Legislation;

WHEREAS, Judge Wendell P. Gardner, Jr. has served for more than 20 years on the Committee on the Selection and Tenure of Magistrate Judges, the Liaison Committee to the Judicial Disabilities and Tenure Commission, and the Criminal Justice Act Panel Implementation Committee;

WHEREAS, the committees Judge Wendell P. Gardner, Jr. has chaired in the past include the Criminal Justice Act Disciplinary Committee, the Committee on Probate and Fiduciary Rules, and the Advisory Committee on Tax Rules;

WHEREAS, Judge Wendell P. Gardner, Jr. is a Charter Member of the Judicial Council of the Washington Bar Association;

WHEREAS, Judge Wendell P. Gardner, Jr. has received several awards and honors, with the most recent being selected to the Washington Bar Association Hall of Fame in June 2007; and

WHEREAS, on Thursday, March 19, 2020, Judge Wendell P. Gardner, Jr. will celebrate his retirement and 28 years of service to the Superior Court of the District of Columbia with a reception in the 4th Floor Atrium of the District of Columbia Superior Court.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Judge Wendell P. Gardner, Jr. Retirement Ceremonial Recognition Resolution of 2020".

Sec. 2. The Council recognizes Judge Wendell P. Gardner, Jr. as he retires after nearly 3 decades worth of service to the Superior Court of the District of Columbia and for the impact that he has had on both our judicial system and the District of Columbia.

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

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

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

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

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

GBM 23-85: **FY 2020 Grant Budget Modifications of May 21, 2020**

RECEIVED: 2-day review begins June 1, 2020

GBM 23-86: **FY 2020 Grant Budget Modifications of May 26, 2020**

RECEIVED: 2-day review begins June 1, 2020

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GBM 23-87: **FY 2020 Grant Budget Modifications of May 28, 2020**

RECEIVED: 2-day review begins June 1, 2020

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

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

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

Reprog. 23-102: Request to reprogram $1,440,000.00 of capital funds from DC Public Schools (DCPS) Centralized Swing Space project to DCPS Major Repairs/Maintenance capital project for the purchase of (6) trailers at School Without Walls at Francis Stevens was filed in the Office of the Secretary on May 29, 2020. This reprogramming is needed for the purchase of six trailer classrooms at School Without Walls at Francis Stevens School to meet the current enrollment projections.

RECEIVED: 14-day review begins June 1, 2020

Reprog. 23-103: Request to reprogram $700,000 of Fiscal Year 2020 capital funds from within the Department of Parks and Recreation was filed in the Office of the Secretary on May 29, 2020. This reprogramming is needed for additional unanticipated costs to complete the renovation of Lafayette Recreation Center and for site upgrades at King Greenleaf Recreation Center.

RECEIVED: 14-day review begins June 1, 2020

Reprog. 23-104: Request to reprogram $74,036,805.58 of Fiscal Year 2020 budget authority across master projects in the Local Highway Trust Fund within the District Department of Transportation was filed in the Office of the Secretary on May 29, 2020. This reprogramming is needed to align DDOT's federal aid projects' budget authority with the Federal Obligation plan.

RECEIVED: 14-day review begins June 1, 2020

Reprog. 23-105: Request to reprogram $314,072.08 of capital funds from DC Public Schools (DCPS) Coolidge HS Modernization/Renovation project to Department of Recreation (DPR) Takoma Dog Park project to complete construction of the new park was filed in the Office of the Secretary on May 29, 2020. This reprogramming is needed for additional construction costs for the Takoma Dog Park.

RECEIVED: 14-day review begins June 1, 2020

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	June 5, 2020
Protest Petition Deadline:	August 10, 2020
Roll Call Hearing Date:	August 24, 2020
Protest Hearing Date:	November 4, 2020

License No.:	ABRA-116564
Licensee:	Rumi, LLC
Trade Name:	Rumi
License Class:	Retailer's Class "C" Tavern
Address:	1217 Connecticut Avenue, N.W.
Contact:	Makan Shirafkan, Esq.: (703) 828-4529

WARD 2 ANC 2B SMD 2B05

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 August 24, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **November 4, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new class C Tavern that will occupy the 1st and 2nd floors of the premises. Seating Capacity of 140, with a Total Occupancy Load of 308. The license will include an Entertainment Endorsement with Dancing and Cover Charge.

HOURS OF OPERATION INSIDE OF THE PREMISES

Sunday through Saturday 8am – 5am

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	June 5, 2020
Protest Petition Deadline:	August 10, 2020
Roll Call Hearing Date:	August 24, 2020
License No.:	ABRA-113601
Licensee:	Sandlot (The), LLC
Trade Name:	Sandlot Southwest
License Class:	Retailer's Class "C" Tavern
Address:	71 Potomac Avenue, S.E.
Contact:	Ian Callendar: (202) 455-5325

WARD 6 ANC 6D SMD 6D07

Notice is hereby given that this licensee has requested to transfer their license to a new location with a Substantial Change under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 24, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGES

Applicant requests to Transfer License from 1800 – 1802 Half Street, S.W. to a new location at 71 Potomac Avenue, S.E. The applicant is also requesting to expand the existing Entertainment Endorsement to include both the inside of the premises and the outdoor Summer Garden. Maximum Number of Seats is 150, Total Occupancy Load of 500, with a Summer Garden with 350 Seats.

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

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

CURRENT HOURS OF LIVE ENTERTAINMENT FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8am – 1am, Friday and Saturday 8am – 2 am

PROPOSED HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES

Sunday through Thursday 8am – 1am, Friday and Saturday 8am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	June 5, 2020
Protest Petition Deadline:	August 10, 2020
Roll Call Hearing Date:	August 24, 2020
Protest Hearing Date:	November 4, 2020

License No.:	ABRA-116562
Licensee:	Suri DC, LLC
Trade Name:	Suri
License Class:	Retailer's Class "C" Nightclub
Address:	1217 Connecticut Avenue, N.W.
Contact:	Makan Shirafkan, Esq.: (703) 828-4529

WARD 2 ANC 2B SMD 2B05

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 August 24, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **November 4, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new class C Nightclub that will occupy the 3rd and 4th floors of the premises. Seating Capacity of 48, Total Occupancy Load of 398, and a Summer Garden with 249 seats.

HOURS OF OPERATION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Saturday 8am – 5am

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
6/5/2020

Notice is hereby given that:
License Number: ABRA-110889 **License Class/Type: C Tavern**
Applicant: DC Culinary Academy, LLC
Trade Name: The Outsider
ANC: 6A06

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

1357 - 1359 H ST NE, WASHINGTON, DC 20002

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
8/10/2020

A HEARING WILL BE HELD
8/24/2020

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	11 am - 2 am	-
Monday:	8 am - 2 am	11 am - 2 am	-
Tuesday:	8 am - 2 am	11 am - 2 am	-
Wednesday:	8 am - 2 am	11 am - 2 am	-
Thursday:	8 am - 2 am	11 am - 2 am	-
Friday:	8 am - 3 am	11 am - 2:30 am	-
Saturday:	8 am - 3 am	11 am - 2:30 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

DEPARTMENT OF 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 MedStar Radiology Network (Certificate of Need Registration No. 20-3-1) to acquire MedStar Georgetown Radiology at Foxhall Square.

The hearing will be held on Thursday, June 18, 2020, beginning at 10:00 a.m. using Webex Conferencing. **Please send an email to dana.mitchener@dc.gov to register for the information hearing**.

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 Wednesday, June 17, 2020. 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 Thursday, June 25, 2020. 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.

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JUNE 10, 2020
Virtual Hearing via WebEx

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: 10:00 A.M.

WARD FOUR

20226
ANC 4C

Appeal of Michael Yates, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on November 6, 2019 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue building permit B1804458, to permit the alteration and addition to an existing two-story principal dwelling unit for conversion into an 8-unit apartment house in the RA-1 Zone at premises 1214 Madison Street N.W. (Square 2934, Lot 35). (ANC 4C-01)

WARD FOUR

20221
ANC 3D

Appeal of Chain Bridge Road/University Terrace Preservation Committee, pursuant to 11 DCMR Subtitle Y § 302, from the determination made on November 13, 2018 by the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, that the creation of seven A&T lots created by the Office of Tax and Revenue, the proposed subdivision to create seven lots of record on the existing A&T lots for the purposes of obtaining building permits to construct seven detached principal dwelling units, did not violate the Zoning Regulations for the R-21 Zone at in the 2700 block of Chain Bridge Road N.W. (Square 1425, Lots 841-847). (ANC 3D-05)

PLEASE NOTE:

This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date.

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, including

the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

Individuals and organizations interested in any application may testify at the public hearing via WebEx or by phone and are strongly encouraged to sign up to testify 24 hours prior to the start of the hearing on OZ's website at https://dcoz.dc.gov/ or by calling Robert Reid at 202-727-5471. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board may impose time limits on the testimony of all individuals and organizations..

Individuals and organization may also submit written comments to the Board by uploading submissions via IZIS or by email to bzasubmissions@dc.gov. Submissions are strongly encouraged to be sent at least 24 hours prior to the start of the hearing.

Do you need assistance to participate?

Americans with Disabilities Act (ADA)

If you require an auxiliary aide or service in order to participate in the public hearing under Title II of the ADA, please contact Zelalem Hill at (202) 727-0312 or Zelalem.Hill@dc.gov. In order to ensure any requested accommodations can be secured by the scheduled hearing, please contact Ms. Hill as soon as possible in advance of that date.

Language Access

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

FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, MEMBER
VACANT, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

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

TIME AND PLACE: **Thursday, July 23, 2020, @ 4:00 p.m.**
WebEx or Telephone – Instructions will be provided on the OZ website by Noon of the Hearing Date[1]

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 09-03F (Skyland Holdings, LLC – Modification of Significance to an Approved Planned Unit Development @ Square 5633, Lot 22)

THIS CASE IS OF INTEREST TO ANC 7B AND 8B

Skyland Holdings, LLC (the "Applicant") filed an application (the "Application") on December 9, 2019, pursuant to Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the "Zoning Regulations," to which all references are made unless otherwise specified) requesting that the Zoning Commission for the District of Columbia (the "Commission") approve a Modification of Significance to the Planned Unit Development ("PUD") approved by the Commission in Z.C. Order No. 09-03 (the "Original Order"), as modified by Z.C. Order Nos. 09-03A and 09-03D, and as extended by Z.C. Order Nos. 09-03B, 09-03C, and 09-03E (the "Approved PUD") for Lot 22 in Square 5633 (the "Property").

The Property consists of approximately 18.7 acres of land area in Ward 7, with the residential neighborhoods of Hillcrest and Fairlawn located to the east and north of the Property, and the Good Hope Marketplace located to the south across Alabama Avenue. The Comprehensive Plan designates the Property in the Multi-Neighborhood Center on the Generalized Policy Map and in the Moderate Density Commercial category on the Future Land Use Map.

The Approved PUD authorized a mixed-use town center spread over five blocks with 450-500 residential units, 20 townhomes, and approximately 342,000 square feet of retail and service uses. Block 2 of the Approved PUD is already under construction.

The Application proposes to modify the Approved PUD by:

- Reducing the number of blocks in from five to four;
- Modifying the uses to include a grocery store and medical office use;
- Modify the Consolidated PUD approval for Block 4 to revert it to a First-Stage PUD approval to allow for a future residential building; and
- Modifying condition No. 17 to extend deadlines for filing building permit applications and starting construction.

With these modifications, the Approved PUD would include:

- 540,480 square feet of residential use for a total of 515 units;

[1] Anyone who wishes to participate in this case but cannot do so via WebEx or telephone may submit written comments to the record. (See p. 3, *How to participate as a witness – written statements.*)

- 153,349 square feet of retail including a Lidl grocery store and Starbucks coffee shop;
- 131,344 square feet of medical office use;
- A floor area ratio of 1.63;
- A lot occupancy of 46.8%; and
- A total of 1,276 parking spaces.

The Office of Planning filed a February 28, 2020, report that concluded that the Application's proposed modifications to the Approved PUD would not make the Approved PUD inconsistent with the Comprehensive Plan and recommended the Commission set down the Application for a public hearing.

At its April 27, 2020 public meeting, the Commission voted to set down the Application for a public hearing.

The Applicant provided its prehearing statement on May 20, 2020.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, Subtitle Z, Chapter 4, which includes the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

How to participate as a witness – oral presentation

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to sign up to testify at least 24 hours prior to the start of the hearing** on OZ's website at https://dcoz.dc.gov/ or by calling Donna Hanousek at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The Commission must base its decision on the record before them. Therefore, it is **highly recommended that all written comments and/or testimony be submitted to the record at least 24 hours prior to the start of the hearing**. The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

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

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

How to participate as a witness – written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by e-mail to zcsubmissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Donna Hanousek at (202) 727-0789 for further assistance.

How to participate as a party.

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

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

Except for an affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from OZ's website at: https://app.dcoz.dc.gov/Help/Forms.html.** This form may also be obtained from OZ at the address stated below.

"Great weight" to written report of ANC

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, an ANC that wishes to participate in the hearing must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

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

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

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

TIME AND PLACE: **Monday July 20, 2020, @ 4:00 p.m.**
WebEx or Telephone – Instructions will be provided on the OZ website by Noon of the Hearing Date[1]

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 12-01C (The Catholic University of America – Amendment to an Approved Campus Plan and Further Processing of a Campus Plan for The Catholic University of America @ Square 3821, Lot 44)

THIS CASE IS OF INTEREST TO ANC 5A, 5B, AND 5E

The Catholic University of America (the "Applicant") filed an application (the "Application") on May 11, 2020, pursuant to Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the "Zoning Regulations," to which all references are made unless otherwise specified) requesting that the Zoning Commission for the District of Columbia (the "Commission") approve an amendment to, and further processing of, the 2012-2027 Catholic University Campus Plan (the "Campus Plan") approved by Z.C. Order No. 12-01, as amended by Z.C. Order Nos. 12-01A and 12-01B to permit the construction of a new residence hall (the "New Hall") along John McCormack Road in the northeastern corner of the Main Campus that is larger than had been approved in the Campus Plan and which would relocate a chapel from the location proposed in the Campus Plan. The New Hall is located in the RA-1 zone district.

The Campus Plan envisioned phasing out Centennial Village, a series of low-rise dormitories in the interior of the campus and adding new housing at the perimeter of the campus. The Campus Plan also envisioned a series of view corridors across the campus linking important structural or thematic anchor points. The New Hall would be located directly east of the existing Opus Hall residence hall across a large courtyard. The New Hall would house approximately 366 residents and be approximately 65 feet in height and 103,829 square feet in size. With the New Hall, the overall density of the campus would remain well within what is permitted under the Campus Plan and the 1.8 FAR permitted in the RA-1 zone district.

This virtual public hearing will be conducted in accordance with the contested case provisions Subtitle Z, Chapter 4, which includes the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

How to participate as a witness – oral presentation
Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to**

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sign up to testify at least 24 hours prior to the start of the hearing on OZ's website at https://dcoz.dc.gov/ or by calling Donna Hanousek at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

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

TIME AND PLACE: **Tuesday, July 21, 2020, @ 4:00 p.m.**
WebEx or Telephone – Instructions will be provided on the OZ website by Noon of the Hearing Date[1]

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. Case No. 20-10 (Office of Planning - Text Amendment to Subtitle U, Use Permissions, to Reduce Restrictions on Fast Food Establishments and Prepared Food Shops)

THIS CASE IS OF INTEREST TO ALL ANCs

On May 1, 2020, the Office of Planning ("OP") filed with the Office of Zoning a report that served as a petition to the Zoning Commission (the "Commission") proposing the following amendments to Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the "Zoning Regulations," to which all references herein refer unless otherwise specified) to ease restrictions on fast food establishments and prepared food shops in the MU Use Group D and E categories in the MU-3, MU-4, MU-17, M-24, MU-25, MU-26, and MU-27 zones:

Subtitle U, Use Permissions
Chapter 5, Use Permissions Mixed Use (MU) Zones
- § 510.1 – removing current limitation of 18 seats for matter of right prepared food shops (MU-Use Group D)
- § 511.1 – adding special exception relief for a fast food establishment (MU-Use Group D)
- § 511.2 – limiting the ban on special exception relief for a fast food establishment to single-tenant detached buildings (MU-Use Group D)
- § 512.1 – removing current limitation of 18 seats for matter of right prepared food shops (MU-Use Group E) and renumbering alphabetically
- § 513.1 – clarifying the conditions for special exception relief for fast food or food delivery establishments (MU-Use Group E) and correcting cross-references
- § 516.1 – correcting a cross-reference and renumbering alphabetically
- § 518.1 – correcting a cross-reference and renumbering alphabetically

At its May 11, 2020, public meeting, the Commission voted to grant's OP's request to set down the proposed text amendment for a public hearing and authorized flexibility for OP to work with the Office of the Attorney General to refine the proposed text and add any conforming language as necessary.

The complete record in the case, including the OP report and transcript of the public meeting, can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at https://app.dcoz.dc.gov/Content/Search/Search.aspx.

[1] Anyone who wishes to participate in this case but cannot do so via WebEx or telephone, may submit written comments to the record. (See p. 13, *How to participate as a witness – written statements*.)

PROPOSED TEXT AMENDMENT

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

I. Proposed Amendments to Subtitle U, USE PERMISSIONS

Paragraph (g) of § 510.1 of § 510, MATTER-OF-RIGHT USES (MU-GROUP D), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended to read as follows:

510.1 The following uses shall be permitted in MU-Use Group D as a matter-of-right subject to any applicable conditions:

(a) Any use permitted as a matter of right in any R, RF, or RA zone …

…

(f) Daytime care …

(g) Eating and drinking establishments uses, **~~except for~~** **subject to the following conditions**:

(1) A drive-through or drive-in operation and a food delivery service shall not be permitted; **and**

~~(2) A prepared food shop shall be limited to eighteen (18) seats for patrons, except in Square 5912, which shall have no limitation on seats; and~~

~~(3)~~ (2) A fast food establishment shall not be permitted **as a matter-of-right** in the MU-3 zone except for a fast food establishment with no drive-through shall be permitted in Square 5912, Square 3499 (Lot 3), and Square 3664 as a matter of right;

(h) Emergency shelter …

…

Subsection 511.1 of § 511, SPECIAL EXCEPTION USES (MU-GROUP D), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended by deleting paragraphs (c), (h), and (i), by adding a new paragraph (e); and by renumbering accordingly, to read as follows:

511.1 The following uses in this section shall be permitted in as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section.

(a) College or university uses …

(b) Community-based institutional facilities …

~~**(c) [DELETED]**~~

~~**(d)**~~ **(c)** Emergency shelter for five (5) to fifteen (15) persons …

~~**(e)**~~ **(d)** Entertainment, assembly, and performing arts uses …

(e) Fast food establishment, subject to the following conditions:

(1) The establishment shall be located within a multi-tenant building or shopping center; it shall not be located in a single-tenant detached building;

(2) No more than thirty percent (30%) of the total gross floor area of the multi-tenant building or shopping center shall be occupied by fast food establishments;

~~**(4)**~~ **(3) Any refuse dumpster used by the fast food use shall be housed in a three- (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face nor be within ten feet (10 ft.) of a R, RF, or RA zone;**

~~**(5**~~ **(4) The use shall not include a drive-through;**

~~**(6)**~~ **(5) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;**

~~**(7)**~~ **(6) The use shall provide sufficient off-street parking, but not less than that required by Subtitle C, Chapter 7, to accommodate the needs of patrons and employees;**

~~**(8)**~~ **(7) The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions; and**

~~**(9)**~~ **(8) The Board of Zoning Adjustment may impose conditions pertaining to design, screening, lighting, soundproofing, off-**

street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property;

(f) Gasoline service stations …

(g) Parking, for uses within this chapter …

~~**(h) Prepared food shop eating and drinking establishment uses with more than eighteen (18) seats for patrons;**~~

~~**(i) Retail uses otherwise permitted with conditions that do not comply with the conditions**~~

~~**(j)**~~ **(h)** Retail, large format, subject to …

~~**(k)**~~ **(i)** Service uses permitted as a matter of right …

~~**(l)**~~ **(j)** ~~**Utilities**~~ **Utility (basic)** uses, subject to the requirements …

~~**(m)**~~ **(k)** Veterinary office or hospital …

Subsection 511.2 of § 511, SPECIAL EXCEPTION USES (MU-GROUP D), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended to read as follows:

511.2 Any use permitted as a matter of right in MU-Use Group D that does not comply with the required conditions for MU-Use Group D may apply for permission as a special exception, except uses involving the installation of automobile accessories or fast food establishments **located in single-tenant detached buildings**.

Subsection 512.1 of § 512, MATTER-OF-RIGHT USES (MU-GROUP E), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended by deleting current paragraph (c), by deleting subparagraph (d)(3), and by renumbering alphabetically, to read as follows:

512.1 The following uses in this section shall be permitted in MU-Use Group E as a matter of right subject to any applicable conditions:

(a) Uses permitted as a matter of right in any R, RF, and RZ zones …

~~**(l)**~~ **(b) An animal boarding use located in a basement or cellar space subject to the following:**

(1) The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RF, or RA zone. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within an R, RF, or RA zone. Shared facilities not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use;

(2) There shall be no residential use on the same floor as the use or on the floor immediately above the animal boarding use;

(3) Windows and doors of the space devoted to the animal boarding use shall be kept closed and all doors facing a residential use shall not solid core;

(4) No animals shall be permitted in an external yard on the premises;

(5) Animal waste shall be placed in a closed waste disposal containers and shall be collected by a licensed waste disposal company at least weekly;

(6) Odors shall be controlled by means of an air filtration or an equivalently effective odor control system; and

(7) Floor finish materials and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor shall be impervious and washable;

~~**(m)**~~ **(c) Automobile, truck, boat, or marine sales;**

~~**(b)**~~ **(d)** College or university uses …

~~**(c) [DELETED]**~~

~~**(d)**~~ **(e)** Eating and drinking establishment uses, subject to the following conditions:

(1) A fast food establishment or food delivery service shall not be permitted within the MU-4, MU-17, …

(2) A fast food establishment or food delivery service in all other MU-Use Group E zones, subject to …

~~**(3) A prepared food shop in a MU-4, MU-17, MU-24, MU-25, MU-26, and MU-27 zone shall be limited to eighteen (18) seats for patrons;**~~

~~**(e)**~~ **(f)** Education uses, private;

~~**(f)**~~ **(g)** Entertainment, assembly, and performing arts uses …

~~**(g)**~~ **(h)** Firearms retail sales establishments …

~~**(h)**~~ **(i)** Gasoline service station as an accessory use …

~~**(i)**~~ **(j)** Optical transmission node;

~~**(j)**~~ **(k)** Retail uses, except for ~~a~~ large format retail ~~**uses, subject to**~~ **uses; provided that** the off-premises beer and wine sales accessory use may continue …

~~**(k)**~~ **(l)** Service (general) uses …

~~**(l) An animal boarding use …**~~

~~**(m) Automobile, truck, boat, or marine sales; and**~~

~~**(n)**~~ **(m)** Other accessory uses customarily incidental and subordinate ….

Subsection 513.1 of § 513, SPECIAL EXCEPTION USES (MU-GROUP E), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended by revising current paragraph (d) and by renumbering alphabetically, to read as follows:

513.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

~~**(m)**~~ **(a) Animal boarding uses not meeting the conditions of Subtitle U § 512.1(b), subject to the following:**

(1) The animal boarding use shall take place entirely within an enclosed building;

(2) Buildings shall be designed and constructed to mitigate noise to limit negative impacts on adjacent properties, including residential units located in the same building as the use. Additional noise mitigation shall be required for existing buildings not originally built for the boarding of animals,

including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;

(3) The windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core;

(4) No animals shall be permitted in an external yard on the premises;

(5) Animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;

(6) Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system;

(7) Floor finish material, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;

(8) External yards or other exterior facilities for the keeping of animals shall not be permitted; and

(9) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of buildings or other structures, entrances and exits; buffers, banners, and fencing, soundproofing, odor control, waste storage and removal (including frequency), the species and/or number of animals; or other requirements, as the Board deems necessary to protect adjacent or nearby property;

~~(a)~~ **(b)** Animal care and animal sales uses …

~~(b)~~ **(c)** Emergency shelter for five (5) to twenty-five (25) persons …

~~(c)~~ **(d)** Fast food establishments or food delivery service eating and drinking establishments in the MU-4, MU-17, MU-25**,** or MU-27 zones, subject to the following conditions:

(1) **If the use is a single tenant in a detached building;**

(A) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a R, RF, or RA zone, unless separated therefrom by a street or alley; **and**

~~(2)~~ **(B)** If any lot line of the lot abuts an alley …

~~(3)~~ **(2)** Any refuse dumpster **used by the establishment shall** be housed in a three- (3) sided enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face **or be within ten feet (10 ft.) of** a ~~residential~~ **R, RF, or RA** zone;

~~(4)~~ **(3)** The use shall not include a drive-through;

~~(5)~~ **(4)** The use shall be designed and operated so as not to become objectionable …

~~(6)~~ **(5)** The use shall provide sufficient off-site parking …

~~(7)~~ **(6)** The use shall be located and designed so as to create no dangerous …

~~(8)~~ **(7)** The Board of Zoning Adjustment may impose conditions …

~~(d)~~ **(e)** Gasoline service station …

~~(e)~~ **(f)** Massage establishment

~~(f)~~ **(g)** Motorcycle sales and repair

~~(g)~~ **(h)** Parking, for uses within this chapter …

~~(h)~~ **(i)** Retail uses ~~otherwise permitted with conditions~~ that do not comply with the conditions **of Subtitle U § 512.1(k)**;

~~(i)~~ **(j)** Retail, large format, subject to the conditions of Subtitle U § 511.1~~(j)~~**(h)**;

~~(j)~~ **(k)** Service uses …

~~(k)~~ **(l)** ~~Utilities~~ **Utility (basic)** uses …

~~(l)~~ **(m)** Veterinary office or hospital …

~~(m) Animal boarding uses …~~

(n) Any use permitted as a matter of right in MU-Use Group E …

Subsection 516.1 of § 516, SPECIAL EXCEPTION USES (MU-GROUP F), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended to read as follows:

516.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

~~(c)~~ **(a) An Electronic Equipment Facility (EEF) that does not qualify as a matter-of-right use under Subtitle U § 515.1(k) subject to the requirements of this paragraph:**

(1) An EEF shall not occupy more than fifty percent (50%) of the constructed gross floor area of the building, unless approved as part of a planned unit development pursuant to Subtitle X, Chapter 3;

(2) An applicant shall demonstrate, in addition to the requirements Subtitle X, Chapter 9, that the proposed use will not, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement;

(3) In evaluating whether an EEF will have any of the adverse impacts described in Subtitle U § 516.1(a)(2), the Board of Zoning Adjustment shall consider, in addition to other relevant factors, the:

(A) Absence of retail uses or a design capable of accommodating retail uses in the future;

(B) Presence of security or other elements in the design that could impair street life and pedestrian flow;

(C) Inability of the EEF to be adapted in the future for permitted uses; and

(4) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, landscaping, parking, and other such requirements as it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life;

~~(g)~~ **(b) Where not permitted as a matter of right, a gasoline service station to be established or enlarged or a repair garage not including body and fender work, subject to the following conditions:**

(1) The station shall not be located within twenty-five feet (25 ft.) of a residential zone;

(2) The operation of the use shall not create dangerous or other objectionable traffic conditions; and

(3) Required parking spaces may be arranged so that not all spaces are accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle onto public space;

~~(d)~~ **(c) Enlargement of an existing laundry or dry cleaning establishment that contains more than five thousand square feet (5,000 sq. ft.) of gross floor area, subject to the provisions of this paragraph:**

(1) Any noise or odor shall not adversely affect the neighborhood;

(2) Dangerous or otherwise objectionable traffic conditions shall not be created; and

(3) The Board of Zoning Adjustment may impose additional requirements as to the location of the building and other structures, the location of equipment, and other requirements as the Board deems necessary to protect adjacent or nearby property;

~~(f)~~ **(d) Where not permitted as a matter of right, any establishment that has as a principal use the administration of massages, subject to the following conditions:**

(1) No portion of the establishment shall be located within two hundred feet (200 ft.) of an R, RF, or RA zone;

(2) The establishment shall be compatible with other uses in the area;

(3) The use shall not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and

(4) The establishment shall not have an adverse impact on religious, educational, or governmental facilities located in the area;

~~(c)~~ **(e) Public utility pumping station, subject to any requirements pertaining to setbacks or screening, or other requirements the Board of Zoning Adjustment deems necessary for the protection of adjacent or nearby property;**

~~(a)~~ **(f)** Retail, large format, subject to the conditions of Subtitle U § 511.1~~(j)~~**(h)**; **and**

~~(b)~~ **(g) Sexually-oriented business establishment in the MU-9, MU-21, or MU-30 zone, subject to the following conditions:**

(1) No portion of the establishment shall be located within six hundred feet (600 ft.) of an R, RF, RA, MU-1, MU-2, MU-15, MU-16, or MU-23 zone;

(2) No portion of the establishment shall be located within six hundred feet (600 ft.) of a church, school, library, playground, or the area under the jurisdiction of the Commission of Fine Arts pursuant to the Shipstead-Luce Act, approved May 16, 1930 (46 Stat. 366, as amended; D.C. Official Code § 6-611.01 (formerly codified at D.C. Official Code § 5-410 (1994 Repl.)));

(3) No portion of the establishment shall be located within three hundred feet (300 ft.) of any other sexually-oriented business establishment;

(4) There shall be no display of goods or services visible from the exterior of the premises;

(5) The establishment shall be compatible with other uses in the area;

(6) The use shall not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and

(7) The establishment shall not have an adverse impact on religious, educational, or governmental facilities located in the area.

~~**(c) Public utility pumping station …**~~

~~**(d) Enlargement of an existing laundry or dry cleaning** …~~

~~(e) An Electronic Equipment Facility (EEF) …~~

~~(f) Where not permitted as a matter of right, any establishment that has as a principal use the administration of massages …~~

~~(g) Where not permitted as a matter of right, a gasoline service station …~~

Paragraph (l) of § 518.1 of § 518, SPECIAL EXCEPTION USES (MU-GROUP G), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended to correct a reference, to read as follows:

518.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

(a) Automobile or motorcycle sales or repair …

…

(l) Retail, large format, subject to the conditions of Subtitle U § 511.1~~(j)~~**(h)**;

…

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

This virtual public hearing will be conducted in accordance with the rulemaking case provisions Subtitle Z, Chapter 5 of the Zoning Regulations (Title 11, Zoning Regulations of 2016, of the District of Columbia Municipal Regulations), which includes the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

How to participate as a witness – oral presentation

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to sign up to testify at least 24 hours prior to the start of the hearing** on OZ's website at https://dcoz.dc.gov/ or by calling Donna Hanousek at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The Commission must base its decision on the record before them. Therefore, it is **highly recommended that all written comments and/or testimony be submitted to the record at least 24 hours prior to the start of the hearing**. The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

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

How to participate as a witness – written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by e-mail to zcsubmissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Donna Hanousek at (202) 727-0789 for further assistance.

"Great weight" to written report of ANC

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

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

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

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

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

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

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화

하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

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

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.

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።

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Chapters 1 and 2 of the Air Quality Regulations

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984 (the "Act"), effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.01 *et seq*. (2013 Repl. & 2019 Supp.)); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4) (2013 Repl.)); and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption of the following amendments to Chapters 1 (Air Quality - General Rules) and 2 (Air Quality - General and Non-Attainment Area Permits), to Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

A Notice of Proposed Rulemaking was published in the *D.C. Register* for a thirty (30) day public notice and comment on February 3, 2017 at 64 DCR 001138. At the request of one commenter, the comment period was extended until March 24, 2017 by publication of notice on the DOEE website. The Department received five (5) sets of comments on this rulemaking, from the U.S. Environmental Protection Agency (EPA), Sierra Club, American Coatings Association (ACA), Consumer Specialty Products Association (CSPA), and Roof Coatings Manufacturers Association (RCMA).

EPA commented that there was a typographical error in the heading for the definition of "Standard Industrial Classification Code" under 20 DCMR § 199. The Department has corrected this error in this Final Rulemaking.

The Sierra Club submitted three (3) comments on this rulemaking. The first comment was that the proposed rulemaking undermined public participation in the agency decision-making process because it did not provide a rationale for the proposed changes. The Department notes that it extended the public comment period for this rulemaking in order to enhance public participation and that it otherwise met the requirements for rulemaking under the D.C. Administrative Procedure Act, therefore the Department did not make any changes in response to this comment. The second comment was that the Proposed Rule violated EPA's Start-Up Shut-Down and Malfunction State Implementation Plan Call (SSM SIP Call) (80 Fed. Reg. 33840 (June 12, 2015)), because the variance provision granted the agency unbounded discretion to allow sources to violate federal Clean Air Act requirements and the requirements on control devices and practices allowed them to remove devices in violation of their air quality permits. The Department has made two clarifying amendments in response to this comment: (1) the Department has clarified that the variance provision under Section 103 may not be used to excuse performance of any federally enforceable emission limitation or requirement; and (2) the Department has clarified that any source removing a control device pursuant to § 102 shall first obtain an amendment to its Chapter 2 permit, if applicable, but that they may shut down the control device without a permit amendment, provided that they have received approval from the Department. The third comment was that the Department failed to address requirements under

the SSM SIP Call to amend 20 DCMR § 606. The Department has declined to make any changes in response to this comment, as this rulemaking action was not intended to address all of the requirements of the SSM SIP Call.

ACA and RCAM each submitted one (1) comment on the rulemaking, and CSPA submitted three (3) comments. All three (3) commenters raised concerns with the proposed rulemaking's use of South Coast Air Quality Management District (SCAQMD) Method 313 as a test method under the definition of "volatile organic compound" in 20 DCMR § 199. The Department agreed with the commenters' concerns that this test method was not yet final and consequently has removed that reference in this Final Rulemaking. Additionally, ACA and CSPA raised concerns with the use of ASTM D6886 as a test method under the definition of "volatile organic compound". The Department did not accept this comment as it has determined that ASTM D6886 is still useful in some situations and because it has authority to approve an alternative test method where appropriate. CSPA additionally commented that the Department should consider adding California Air Resources Board (CARB) Method 310. The Department did not accept this comment because it did not accept public comments on the use of Method 310, however, notes that it may still approve this as an alternative test method pursuant to 20 DCMR § 502.3. Finally, CSPA commented favorably on the amendment to the definition of "volatile organic compound" to update the cross-reference to federal regulations.

For a detailed summary of the comments and responses, please see the Department's website at: https://doee.dc.gov/service/public-notices-hearings.

These rules were adopted as final on February 18, 2020 and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 1, AIR QUALITY – GENERAL RULES, of Title 20 DCMR, ENVIRONMENT, is amended to read as follows:

Section 100, PURPOSE, SCOPE, AND CONSTRUCTION, is amended to read as follows:

100 PURPOSE, SCOPE, AND CONSTRUCTION

100.1 The purpose of the air quality regulations is to prevent or minimize emissions into the atmosphere and thereby protect and enhance the quality of the District's air resources so as to protect the public health and welfare, promote the productive capacity of the people of the District of Columbia, and protect and restore the natural environment of the District of Columbia.

100.2 The air quality regulations shall apply to all operations in the District as authorized by the District of Columbia Air Pollution Control Act of 1984 (D.C. Law 5-165), as amended, as well as federal operations to the full extent permitted by the Clean Air Act (42 USC §§ 7401 *et seq.*), as amended, and regulations promulgated thereunder.

100.3 All regulations and parts of regulations in effect in the District that are inconsistent with the provisions of the air quality regulations are superseded with respect to matters covered by the air quality regulations, unless specifically stated otherwise.

100.4 The English system of measurement shall be the official system of measurement under the air quality regulations, unless specified otherwise.

100.5 Reference in the air quality regulations to a specific introductory section or subsection (such as § 204 or § 204.1) is intended to include a reference to all subdivisions of the specific section or subsection (such as §§ 204.1, 204.2, 204.1(a), and 204.1(a)(1)).

100.6 If any provision of the air quality regulations or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the air quality regulations shall not be affected.

Section 101, INSPECTION, is repealed and replaced with the following:

101 CONFIDENTIALITY OF REPORTS

101.1 Any records, reports, information, or particulars thereof, other than emissions data, that relates to production, sales figures, or processes of any owner or operator, shall not be disclosed publicly upon a showing satisfactory to the Department that to publicly disclose will result in a significant and adverse effect upon the competitive position of the owner or operator, as provided in section 204 of the D.C. Freedom of Information Act (D.C. Official Code § 2-534) and Section 114 of the Clean Air Act (42 USC § 7414) except as may be necessary to protect the public health, safety, or well-being, following an opportunity for a hearing pursuant to § 107 of this title.

101.2 Subsection 101.1 of this title shall not be construed to prevent the use of the records, reports, or information by the Department in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere; provided, that the analyses or summaries do not reveal any information otherwise confidential under the provisions of this section.

101.3 Subsection 101.1 of this title shall not be construed to prevent such record, report, or information from being disclosed to other officers, employees, or authorized representatives of the District of Columbia or the United States concerned with carrying out this Act or the Clean Air Act, or when relevant in any proceeding under this Act or the Clean Air Act.

Section 102, ORDERS FOR COMPLIANCE, is repealed and replaced with the following:

102 CONTROL DEVICES OR PRACTICES

102.1 The devices or practices provided for the control of air pollutants discharged from stationary sources, or for otherwise complying with the air quality laws and regulations, shall remain operative or effective whenever the stationary source being controlled is operative or capable of producing emissions, except as otherwise provided in this section, and shall not be removed prior to the owner or operator requesting, and receiving, either written approval from the Department or an amendment to the source's operating permit issued pursuant to Chapter 2 of this title, as provided in §§ 102.4 and 102.6 of this title.

102.2 Whenever it is necessary to shut down air pollution control equipment due to malfunction or for periodic maintenance, the owner or operator of the equipment shall report the planned shutdown to the Department within one (1) business day of a shutdown due to malfunction, or at least forty-eight (48) hours prior to a shutdown for maintenance.

102.3 The notice required by § 102.2 of this title shall include, but is not limited to, the following:

(a) Identification of the specific facility whose pollution control equipment is to be taken out of service, as well as its location and permit number;

(b) The expected length of time that the air pollution control equipment will be out of service;

(c) The nature and quantity of emissions of air pollutants likely to occur during the shutdown period;

(d) Measures that will be taken to minimize the length of the shutdown period; and

(e) The reasons that it would be impossible or impractical to shut down the source operation during the maintenance or repair period.

102.4 The Department may, by written notice to the owner or operator, permit the continued operation of the source for the time period proposed, or for the lesser time as the Department finds reasonable, provided that:

(a) The owner or operator of the equipment provides the notice required in §§ 102.2 and 102.3 of this title;

(b) The Department determines that measures have been taken to minimize the length of the shutdown period;

(c) The Department determines that it would be impossible or impractical to shut down the source operation during the maintenance or repair period; and

(d) The Department determines that operation of the source will not result in the violation of any federally enforceable emissions limitation or requirement.

102.5 If the Department does not permit continued operation of the source pursuant to § 102.4 of this title, it may order the owner or operator to discontinue operation of the stationary source until the maintenance is completed, or the malfunctioning equipment is repaired.

102.6 The Department may, by written notice to the owner or operator, allow the removal of a control device or practice pursuant to § 102.1 provided that:

(a) The owner or operator submits a written request for removal of the control device or practice at least ninety (90) days prior to the proposed date of removal;

(b) The Department determines that it would be impossible or highly impractical to maintain the control device or practice;

(c) The Department determines that operation of the stationary source without the control device or practice will not result in the violation of any federally enforceable emissions limitation or regulatory requirement; and

(d) If the control device or practice is required by a permit issued pursuant to Chapters 2 or 3 of the air quality regulations, the owner or operator shall submit an application for an amendment to the permit at the same time or prior to the written request specified under paragraph (a) and may proceed with the requested change as follows:

(1) The owner or operator may cease operating a control device or performing a control practice upon receipt of written approval pursuant to this subsection; and

(2) The owner or operator may only remove a control device upon receipt of a permit amendment authorizing operation of the stationary source without the control device.

102.7 Any article, machine, equipment, device, or other contrivance that conceals an emission from any source shall not be installed or used.

Section 103, VARIANCE, is amended to read as follows:

103 VARIANCES

103.1 Each person required to perform an act by the air quality regulations may be excused by the Department from the performance of the act, either in whole or in part, upon a finding by the Department that the full performance of the act would result in exceptional or undue hardship by reason of excessive structural or mechanical difficulty, or the impracticability of bringing the activity into full compliance with the requirements of the air quality regulations.

103.2 A variance may be granted only to the extent that it is necessary to ameliorate an exceptional or undue hardship, and only when compensating factors are present that give adequate protection to the public health or welfare and assure that the intent and purpose of the air quality regulations are not impaired.

103.3 No variance may be granted to excuse performance required by any federally enforceable emissions limitation or requirement.

103.4 A person requesting a variance shall submit a written request for the variance, together with the supporting data and analyses that may be required by the Department.

103.5 The request for a variance shall be filed with the Department and shall include the following:

(a) The requirement(s) of the air quality regulations from which the person seeks the variance;

(b) A description of the exceptional or undue hardship that would result from compliance with the requirement; and

(c) A description of the act that the person wishes to perform in lieu of the regulatory requirement.

103.6 Except as explicitly provided in the air quality regulations, a variance is granted for the operation of diesel locomotives on common carrier railroads in the District in accordance with the Clean Air Act.

103.7 A variance may be granted for experimental and research activities; provided, that the requirements of §§ 103.1 through 103.5 are otherwise met.

103.8 All requests for variances shall be published in the *District of Columbia Register,* at least thirty (30) days before the Department rules on the request, in accordance with the following requirements:

(a) The published notice shall briefly set forth the information contained in the applicant's written request; and

(b) Any person may submit comments on the request within thirty (30) days of the published notice.

103.9 An applicant must submit the fee specified in § 211 of this title, sufficient to cover the reasonable costs of reviewing and acting upon the application and the reasonable costs of implementing and enforcing the terms and conditions of the variance approval.

103.10 The Department shall maintain a written record of all variances granted and denied. The record shall include all bases for the grant or denial, and shall be available for public inspection.

103.11 Each variance may be granted for up to five (5) years, but not to exceed the time necessary to avoid the undue hardship, and may be renewed in accordance with the following:

(a) A renewal may be granted only if the Department finds that the intent and purpose of the air quality regulations are not impaired;

(b) A renewal may be granted only upon application, which shall be made at least ninety (90) days prior to the expiration of the variance; and

(c) All of the requirements of this section shall apply in cases of renewal.

103.12 Nothing in this section shall be construed to permit any operation in violation of the air quality regulations during the pendency of a request for a variance.

103.13 Nothing in this section, and no variance or renewal granted pursuant to this section, shall be construed to prevent or limit the application of the emergency provisions and procedures of § 401 of this title to any person or his or her property.

Section 104, HEARINGS, is repealed and replaced with the following:

104 ENTRY AND INSPECTION

104.1 Upon the presentation of appropriate credentials to the owner, agent in charge, or tenant, the Department shall have the right, subject to § 104.3 of this section, to enter a premise or inspect an activity reasonably believed to be subject to the air quality regulations to determine compliance with the requirements of the air quality regulations. The right of entry shall be for the following purposes:

(a) Inspection, including the right to inspect and copy records related to compliance with the air quality regulations;

(b) Observation;

(c) Measurement;

(d) Sampling;

(e) Testing; and

(f) Evidence collection.

104.2 The Department may:

(a) Investigate and take testimony under oath regarding any report of noncompliance with a federal or District law or regulation applicable to air pollution control; and

(b) In addition to the requirements of Chapter 5 of Title 20 DCMR, require a person or entity subject to the air quality regulations, or who the Department reasonably believes may have information necessary to carry out the purposes of the air quality regulations, on a one-time, periodic, or continuous basis to:

(1) Establish, maintain, and submit records and reports;

(2) Install, use, and maintain monitoring equipment, and use audit procedures or methods;

(3) Take samples in accordance with such procedures or methods, at such locations, at such intervals, during such periods, and in such manner as the Department shall prescribe;

(4) Keep records on control equipment parameters, production variables, or other indirect data as appropriate;

(5) Submit compliance certifications; and

(6) Provide other information as the Department may require.

104.3 If the Department is denied access to enter or inspect the premises in accordance with this section, the Department may apply to the Superior Court of the District of Columbia or the Office of Administrative Hearings pursuant to § 12(b)(12) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.09(b)(12)) for a search warrant.

Section 105, PENALTY, is amended to read as follows:

105 PENALTIES, COST RECOVERY, AND INJUNCTIVE RELIEF

105.1 In the event of any violation of, or failure to comply with, the air quality laws or regulations, every day of the violation or failure shall constitute a separate offense, and the penalties described in this section shall be applicable to each separate offense.

105.2 A person who violates the air quality laws or regulations is civilly liable and shall be subject to fines not more than thirty-seven thousand five hundred dollars ($37,500) per violation per day.

105.3 A person who knowingly or willfully violates the air quality laws or regulations is guilty of a criminal misdemeanor and, upon conviction, shall be subject to a fine not to exceed twenty-five thousand dollars ($25,000), imprisonment not to exceed one (1) year, or both.

105.4 A person who knowingly makes a false statement in an application, record, report, plan, or other document submitted or maintained under this act shall be guilty of a misdemeanor and subject to a fine not to exceed ten thousand dollars ($10,000), imprisonment not to exceed six (6) months, or both.

105.5 In the alternative to civil fines, the Department may impose an administrative fine, penalty, or cost pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Official Code §§ 2-1801 *et seq*.) and its implementing regulations.

105.6 In addition to or in lieu of the civil, criminal, and administrative penalties in this section, the Attorney General for the District of Columbia may commence appropriate civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction for damages, cost recovery, and injunctive or other appropriate relief to enforce compliance with the air quality laws and regulations.

Section 106, CONFIDENTIALITY OF REPORTS, is repealed and replaced with the following:

106 ENFORCEMENT

106.1 The Department may enforce a violation of the air quality laws or regulations by issuing one or more of the following:

(a) Administrative order, notice of violation, or cease and desist order;

(b) Notice of infraction;

(c) Civil or criminal judicial enforcement action;

(d) Notice of modification, suspension, revocation, or denial of a permit in accordance with 20 DCMR §§ 202 and 303; or

(e) Any other order or compliance document necessary to protect human health or the environment, or to implement or enforce the air quality laws and regulations.

106.2 Each notice shall identify the violation and, if applicable:

(a) In the case of a notice of infraction, include an assessment of a fine for each violation being cited; and

(b) In the case of a notice of infraction or notice of permit modification, suspension, revocation, or denial, state the procedure for requesting a hearing to appeal the notice.

106.3 If the Department determines that a hazardous condition exists that may endanger the public health or safety of the citizens or environment within the District of Columbia due to noncompliance with federal or District air quality laws or regulations, the Department may issue a cease and desist order, which requires a violator to cease operations and implement corrective actions immediately to contain the hazardous condition. The order shall:

(a) Describe the nature of the violation;

(b) Take effect at the time and on the date signed;

(c) Identify the corrective actions to be taken or actions that must be immediately suspended; and

(d) State the procedure for requesting a hearing to appeal the order.

106.4 If the Department determines that there has been a violation of federal or District air quality laws or regulations, the Department may issue an administrative order, which requires a violator to take action to come into compliance. The order shall:

(a) Describe the nature of the violation;

(b) Take effect at the time and on the date signed;

(c) Identify the corrective actions to be taken or actions that must be immediately suspended; and

(d) State the procedure for requesting a hearing to appeal the order.

Section 107, CONTROL DEVICES OR PRACTICES, is repealed and replaced with the following:

107 APPEALS

107.1 Any person adversely affected by an action of the Department taken or proposed to be taken pursuant to the Act or air quality regulations may request a hearing within fifteen (15) calendar days of service, or twenty (20) calendar days if service is made by United States mail. If specific instructions are not on the notice or order, the person shall file a written request for a hearing, including the grounds for the objection, in accordance with the Office of Administrative Hearings: Rules of Practice and Procedure in Chapter 28 of Title 1 DCMR.

107.2 An appeal request does not stay the effective date of an administrative order or cease and desist order issued pursuant to § 106 of this title. If a hearing is not requested within the fifteen (15) day time period, or twenty (20) calendar days if service is made by United States mail, the order becomes final and remains in effect until the Department determines that the corrective actions have alleviated the violations and the dangerous conditions, if applicable.

107.3 The Department may take any adverse action proposed or contemplated without a hearing if the aggrieved person fails to timely request a hearing, or the party fails to appear at a scheduled hearing for which no continuance has been granted.

Section 199, DEFINITIONS AND ABBREVIATIONS, is amended as follows:

199 DEFINITIONS AND ABBREVIATIONS

199.1 When used in the air quality regulations, Chapters 1 through 20 of Title 20 DCMR, the following terms shall have the meaning ascribed:

By adding a definition for "Act" to read as follows:

Act – except as used in Chapter 3 of Title 20, the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165) as amended, (D.C. Official Code §§ 8-101.01 *et seq*.).

By deleting the definition of "affected facility."

By amending the definition of "air pollution" to read as follows:

Air pollution – the presence in the outdoor atmosphere of one or more air pollutants in sufficient quantities and of characteristics and duration as are likely to be injurious to public welfare, to the health of humans, to plant or animal life, or to property, or which interferes with the reasonable enjoyment of life and property.

By adding a definition of "air quality regulations" to read as follows:

Air quality regulations – unless otherwise specified, regulations issued pursuant to the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165) as amended, (D.C. Official Code §§ 8-101.01 *et seq*.).

By amending the definition of "annual process rate" to read as follows:

Annual process rate – the actual or estimated annual fuel, process, or solid waste operating rate.

By amending the definition of "begin actual construction" to read as follows:

Begin actual construction – the initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. These activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

By amending the definition of "blending plant" to read as follows:

Blending plant – any refinery or other facility at which oxygenated gasoline is produced through the addition of oxygenates, and at which the quality or quantity of the gasoline is not altered in any other manner.

By amending the definition of "building, structure, facility, or installation" to read as follows:

Building, structure, facility, or installation – all of the pollutant emitting activities that belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (*i.e.*, which have the same first two (2) digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

By amending the definition of "certifying individual" to read as follows:

Certifying individual – the individual responsible for the completion and certification of the emission statement and who will take legal responsibility for the emission statement's accuracy.

By amending the definition of "Clean Air Act" to read as follows:

Clean Air Act – the federal Clean Air Act, enacted December 31, 1970 (Public Law 91-604), as amended (42 USC §§ 7401 *et seq.*).

By amending the definition of "commence" to read as follows:

Commence – as applied to construction of a major stationary source or major modification - that the owner or operator has obtained all necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of physical on-site construction of a source to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

By amending the definition of "complete" to read as follows:

Complete – in reference to an application for a permit, that the application contains all of the information necessary for processing the application, as determined by the Department.

By amending the definition of "component" to read as follows:

Component – any piece of equipment that has the potential to leak volatile organic compounds and that is tested in the manner described in § 702 of the air quality regulations. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes. Excluded from these sources are valves which are not externally regulated.

By amending the definition of "condensate" to read as follows:

Condensate – hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure and remains liquid at standard conditions.

By amending the definition of "control device" to read as follows:

Control device – any device that has as its primary function the control of emissions from fuel burning, refuse burning, or from a process, and thus reduces the creation of, or the emission of, air pollutants into the atmosphere, or both.

By amending the definition of "control efficiency" to read as follows:

Control efficiency – the actual total control efficiency achieved by the control device(s).

By amending the definition of "control equipment identification code" to read as follows:

Control equipment identification code – the tracking code established by the U.S. Environmental Protection Agency that defines the equipment used to reduce, by destruction or removal, the amount of air pollutant(s) in an air stream prior to discharge to the ambient air.

By amending the definition of "crude oil" to read as follows:

Crude oil – a naturally occurring mixture that consists of hydrocarbons and sulfur, nitrogen, and oxygen derivatives of hydrocarbons and that is liquid at standard conditions.

By amending the definition of "cutback asphalt" to read as follows:

Cutback asphalt – any asphalt cement that has been liquified by blending with a volatile organic compound(s).

By amending the definition of "Department" to read as follows:

Department – the Department of Energy and Environment (DOEE).

By amending the definition of "Director" to read as follows:

Director – the Director of the Department of Energy and Environment or the Director's duly authorized representative.

By amending the definition of "dispersion technique" to read as follows:

Dispersion technique – includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions, or so much of the stack height of any source that exceeds the greater of sixty-five (65) meters (213 feet) or $H_g = H + 1.5L$, where H_g + maximum stack height determined from consideration of all nearby structures, measured from the ground-

level elevation at the base of the stack, H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack, L = lesser dimension (height or projected width) of nearby structure(s), or so much of the stack height of any source that exceeds the height determined by a demonstration performed to the satisfaction of the Department. In determining whether a demonstration is performed satisfactorily, the Department shall take into consideration, among other factors, the methods, documents, and practices used in performing the demonstration.

By amending the definition of "Distributor" to read as follows:

Distributor – any person or party who supplies gasoline for delivery to a retail outlet.

By amending the definition of "emission factor" to read as follows:

Emission factor – an estimate of the rate at which a pollutant is released to the atmosphere as the result of some activity divided by the rate of that activity.

By amending the definition of "emission statement" to read as follows:

Emission statement – annual report of actual emissions of oxides of nitrogen and volatile organic compounds required of each owner or operator of stationary sources pursuant to the requirements of § 182(a)(3)(B) of the federal Clean Air Act.

By amending the definition of "emissions unit" to read as follows:

Emissions unit – any part of a stationary source that emits or would have the potential to emit any pollutant subject to regulation under the federal Clean Air Act or under the air quality regulations.

By amending the definition of "estimated emissions method code" to read as follows:

Estimated emissions method code – a one-position tracking code established by the U.S. Environmental Protection Agency that identifies the estimation technique used in the calculation of estimated emissions.

By amending the definition of "excessive concentrations" to read as follows:

Excessive concentrations – for the purpose of determining good engineering practice stack height in a demonstration, a maximum concentration due to downwash, wakes, or eddies produced by structures or terrain features that the Department determines would result in adverse health effect(s) beyond those that would be experienced in the absence of the downwash, wake, or

eddies. In determining the adverse health effect(s) resulting from downwash, wakes, or eddies, the Department shall take into consideration, among other factors, the following:

(a) The nature and concentration of the pollutant(s);

(b) The applicable National Ambient Air Quality Standard(s);

(c) Any other appropriate air quality standard(s); and

(d) The possible duration of exposure to the pollutant(s).

By amending the definition of "existing source" to read as follows:

Existing source – equipment, machines, devices, articles, contrivances, or installations that are under construction or in operation on February 1, 1985, except that any existing equipment, machine, device, article, contrivance, or installation that is altered, replaced, or rebuilt after February 1, 1985, shall be defined as a new source.

By amending the definition of "external floating roof" to read as follows:

External floating roof – a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck that rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

By amending the definition of "federally enforceable" to read as follows:

Federally enforceable – all limitations and conditions that are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR parts 60, 61, and 63 requirements within any applicable state implementation plan, any permit requirements established pursuant to 40 CFR § 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the state implementation plan and expressly requires adherence to any permit issued under such program, or any permit requirements not designated as "state only" in a federal operating permit, a permit issued pursuant to Chapter 3 of this title, or a permit issued pursuant to 40 CFR parts 70 and 71.

By amending the definition of "fossil fuel-fired steam-generating unit" to read as follows:

Fossil fuel-fired steam-generating unit – a furnace or boiler, or combination of furnaces or boilers connected to a common stack, used in the process of

burning fossil fuel for the primary purpose of producing steam by heat transfer.

By amending the definition of "fugitive emissions" to read as follows:

Fugitive emissions – those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

By amending the definition of "gas service" to read as follows:

Gas service – equipment that processes, transfers, or contains a volatile organic compound or mixture of volatile compounds in the gaseous phase.

By amending the definition of "incinerator" to read as follows:

Incinerator – any furnace used in the process of burning solid waste or sludge for the primary purpose of reducing the volume of the waste or sludge by removing combustible matter.

By amending the definition of "independent small business marketer of gasoline" to read as follows:

Independent small business marketer of gasoline – any person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under § 324 of the federal Clean Air Act or regulations promulgated thereunder, unless such person:

(a) Is a refiner;

(b) Controls, is controlled by, or is under common control with a refiner;

(c) Is otherwise directly affiliated with a refiner or with a person who controls, is controlled by, or is under common control with a refiner; or

(d) Receives less than fifty percent (50%) of his or her annual income from the refining or marketing of gasoline. For purposes of the definition of independent small business marketer of gasoline, the term "refiner" shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed sixty five thousand (65,000) barrels per day, and the terms "controls," "controlled by," or "common control" mean ownership of more than fifty percent (50%) of the refiner's common stock.

By deleting the definition of "lead-based paint activity."

By amending the definition of "leaking component" to read as follows:

Leaking component – a component that has a volatile organic compound concentration exceeding ten thousand (10,000) parts per million when tested in the manner described in Appendix B, EPA Guideline Series, EPA-450/2-78-036, OAQPS No. 1.2-111, June 1978.

By amending the definition of "loading facility" to read as follows:

Loading facility – any aggregation or combination of gasoline loading equipment that is both possessed by one (1) person, and located so that all the gasoline loading outlets for the aggregation or combination of loading equipment can be encompassed within any circle of three hundred feet (300 ft.) in diameter.

By amending the definition of "lowest achievable emission rate (LAER)" to read as follows:

Lowest achievable emission rate (LAER) – for any source, the more stringent rate of emissions based on the following:

(a) The most stringent emissions limitation that is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(b) The most stringent emissions limitation that is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within or stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

By amending the definition of "major stationary source" to read as follows:

Major stationary source – any stationary source of air pollutants that emits, or has the potential to emit, one hundred tons per year (100 Tpy) or more of any pollutant regulated under the Clean Air Act, except that lower emissions thresholds shall apply as follows:

(a) Seventy (70) Tpy or more of PM_{10} or, where applicable, seventy (70) Tpy of a specific PM_{10} precursor, in any nonattainment area for PM_{10};

(b) Fifty (50) Tpy or more of carbon monoxide in any serious nonattainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the EPA Administrator);

(c) Twenty-five (25) Tpy or more of nitrogen oxides or volatile organic compounds in any nonattainment area for ozone, except where paragraph (d) below is applicable;

(d) Ten (10) Tpy or more of nitrogen oxides or volatile organic compounds in any extreme nonattainment area for ozone;

(e) Any physical change that would occur at a stationary source not qualifying under paragraphs (a) - (d) above, is a major stationary source if the change would constitute a major stationary source by itself;

(f) A major stationary source that is major for volatile organic compounds or oxides of nitrogen shall be considered major for ozone; and

(g) The fugitive emissions of a stationary source shall not be included in determining major stationary source status, unless the source belongs to one (1) of the following categories of stationary sources:

(1) Coal cleaning plants (with thermal dryers);

(2) Kraft pulp mills;

(3) Portland cement plants;

(4) Primary zinc smelters;

(5) Iron and steel mills;

(6) Primary aluminum ore reduction plants;

(7) Primary copper smelters;

(8) Municipal incinerators capable of charging more than two hundred fifty tons (250 T) of refuse per day;

(9) Hydrofluoric, sulfuric, or nitric acid plants;

(10) Petroleum refineries;

(11) Lime plants;

(12) Phosphate rock processing plants;

(13) Coke oven batteries;

(14) Sulfur recovery plants;

(15) Carbon black plants (furnace process);

(16) Primary lead smelters;

(17) Fuel conversion plants;

(18) Sintering plants;

(19) Secondary metal production plants;

(20) Chemical process plants;

(21) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units (250,000,000 Btus) per hour heat input;

(22) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand (300,000) barrels;

(23) Taconite ore processing plants;

(24) Glass fiber processing plants;

(25) Charcoal production plants;

(26) Fossil fuel-fired steam electric plants of more than two hundred fifty million British thermal units (250,000,000 Btus) per hour heat input; and

(27) Any other stationary source category which, as of August 7, 1980, is being regulated under §§ 111 or 112 of the Clean Air Act.

By amending the definition of "modification" to read as follows:

Modification – other than as used in § 205 of the air quality regulations, any physical change in, or change in the method of operation of, a stationary source that increases or decreases the amount of any air pollutant emitted by the source, or that results in the emission of any air pollutant not previously emitted, except that the term shall not include the following:

(a) Routine maintenance, repair, or replacement;

(b) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established pursuant to § 204 of this title;

(c) Use of an alternative fuel or raw material if, prior to March 15, 1985, the affected facility was designed to accommodate the alternative use; and

(d) Decommissioning or removal.

By amending the definition of "multiple chamber incinerator" to read as follows:

Multiple chamber incinerator –

(a) Any incinerator consisting of three (3) or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned. The combustion chamber shall include as a minimum, one chamber principally for ignition, one chamber principally for mixing, and one chamber for combustion; and

(b) Any incinerator consisting of less than three (3) refractory-lined combustion chambers in series that is connected to an afterburner approved by the Director and employing adequate design parameters necessary for maximum combustion of the material to be burned.

By amending the definition of "nearby" to read as follows:

Nearby – as used in the definition of "dispersion technique," that distance up to five (5) times the lesser of the height or the projected width of a structure but not greater than eight tenths (0.8) kilometer (five tenths (0.5) mile). The height of the structure is measured from the ground-level elevation at the base of the stack. "Nearby" as applied to terrain features, means up to

the distance that a terrain feature has an adverse influence on stack effluent or eight tenths (0.8) kilometer (five tenths (0.5) mile), whichever is less; except, that if it is shown to the satisfaction of the Department that the eight tenths (0.8) kilometer (five tenths (0.5) mile) restriction is unreasonable, a new cutoff distance may be used. In the determination of the unreasonableness of the eight tenths (0.8) kilometer (five tenths (0.5) mile) cutoff for demonstrations, the Department shall take into consideration, among other factors, the extent and shape of the terrain feature(s) and the frequency of occurrence of meteorological conditions leading to excessive concentrations caused by downwash, wakes, or eddies.

By amending the definition of "necessary preconstruction approvals or permits" to read as follows:

Necessary preconstruction approvals or permits – those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations that are part of the State Implementation Plan for the District of Columbia.

By amending the definition of "new source" to read as follows:

New source – equipment, machines, devices, articles, contrivances, or installations built or installed on or after the effective date of the District of Columbia Air Pollution Control Act of 1984, or existing at that time that are later altered, repaired, or rebuilt. Any equipment, machines, devices, articles, contrivances, or installations moved to a new address, or operated by a new owner, or new lessee, after the effective date of the District of Columbia Air Pollution Control Act of 1984, shall be considered a new source.

By amending the definition of "non-oxygenated gasoline" to read as follows:

Non-oxygenated gasoline – any gasoline having an oxygen content of less than two percent (2%) by volume or four tenths of a percent (0.4%) by weight.

By amending the definition of "odor" to read as follows:

Odor – that property of an air pollutant that affects the sense of smell.

By amending the definition of "organic solvents" to read as follows:

Organic solvents – volatile organic compounds that are liquids at standard conditions, and that are used as dissolvers, viscosity reducers, or cleaning agents.

By amending the definition of "oxides of nitrogen" to read as follows:

Oxides of nitrogen – in air pollution usage, this comprises nitric oxide and nitrogen dioxide, expressed as the molecular weight of nitrogen dioxide.

By amending the definition of "oxygenate" to read as follows:

Oxygenate – any oxygen-containing compound approved for use in gasoline by the U.S. Environmental Protection Agency, including oxygen-containing compounds that comply with the U.S. Environmental Protection Agency's "substantially similar" definition under § 211(f)(1) of the federal Clean Air Act, or that have received a waiver from the U.S. Environmental Protection Agency under § 211(f)(4) of the federal Clean Air Act.

By amending the definition of "oxygenated gasoline" to read as follows:

Oxygenated gasoline – gasoline that contains one or more oxygenates.

By amending the definition of "oxygenated gasoline control area" to read as follows:

Oxygenated gasoline control area – the District of Columbia portion of the Washington, D.C. - Maryland - Virginia Metropolitan Statistical Area.

By amending the definition of "oxygenated gasoline control period" to read as follows:

Oxygenated gasoline control period – the four (4) month period that begins on November 1st of each year and continues through the last day of February of the following year.

By adding a definition of "ozone season" to read as follows:

Ozone season – the period from May 1 through September 30 of a year.

By amending the definition of "particulate matter" to read as follows:

Particulate matter – any finely divided material, with the exception of uncombined water that, under standard conditions, exists as a liquid or solid; except that when a test procedure for particulate matter, specified elsewhere in the air quality regulations, is applicable, particulate matter shall be defined by the specified test procedure.

By amending the definition of "peak ozone season" to read as follows:

Peak ozone season – the consecutive three (3) month period from June 1st through August 31st.

By amending the definition of "percentage annual throughput" to read as follows:

Percentage annual throughput – the weighted percent of yearly activity for the following consecutive three (3) month periods:

(a) December through February;

(b) March through May;

(c) June through August; and

(d) September through November.

By amending the definition of "person" to read as follows:

Person – includes individuals, firms, partnerships, companies, corporations, trusts, associations, organizations, and any other private or governmental entities, including federal and District government entities.

By amending the definition of "plant" to read as follows:

Plant – the total facilities available for production or service.

By amending the definition of "point" to read as follows:

Point – a physical emission point or process within a plant that results in pollutant emissions.

By amending the definition of "process" to read as follows:

Process – any action, operation, or treatment of materials, including handling and storage of the materials that may cause the discharge of an air pollutant or pollutants, into the atmosphere, excluding fuel burning and refuse burning.

By amending the definition of "process rate" to read as follows:

Process rate – quantity per unit time of any fuel burned, raw material or process intermediate consumed, or product generated through the use of any equipment, source operation, or process.

By amending the definition of "refiner" to read as follows:

Refiner – any person who owns, leases, operates, controls, or supervises a refinery.

By amending the definition of "refinery" to read as follows:

Refinery – any facility, including a blending plant that produces gasoline.

By amending the definition of "refinery unit" to read as follows:

Refinery unit – a set of components that are a part of a basic process operation such as distillation, hydrotreating, cracking, or reforming of hydrocarbons.

By amending the definition of "Reid Vapor Pressure" to read as follows:

Reid Vapor Pressure – the vapor pressure of a liquid at a temperature of 100 °F (37.8 °C), expressed in pounds force per square inch absolute or kilopascals, as determined by the *Reid Method* as described in the ASTM International Standard D 323, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."

By amending the definition of "retailer" to read as follows:

Retailer – any person who owns, leases, operates, controls, or supervises a retail outlet.

By amending the definition of "retail outlet" to read as follows:

Retail outlet – any establishment at which motor fuel is sold or offered for sale to the general public for use in motor vehicles.

By amending the definition of "secondary emissions" to read as follows:

Secondary emissions – emissions that occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the stationary source or modification that causes the secondary emissions. Secondary emissions include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emission that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

By amending the definition of "segment" to read as follows:

Segment – components of an emissions point or process at the level that emissions are calculated.

By amending the definition of "solid waste" to read as follows:

Solid waste – a refuse, more than fifty percent (50%) of which is waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustibles, and noncombustible materials such as glass and rock.

By amending the definition of "source" to read as follows:

Source – any property, real or personal, that emits or may emit any air pollutant. For purposes of sources affecting non-attainment areas and permits for the sources under § 204 of the air quality regulations, the term includes both plants and each individual piece of process equipment.

By amending the definition of "standard conditions" to read as follows:

Standard conditions – a dry gas temperature of seventy degrees Fahrenheit (70° F.) and a gas pressure of fourteen and seven tenths (14.7) pounds per square inch absolute (psia).

By amending the definition of "standard industrial classification code" to read as follows:

Standard industrial classification code – a series of codes devised by the U.S. Office of Management and Budget to classify establishments according to the type of economic activity in which they are engaged.

By amending the definition of "start-up" to read as follows:

Start-up – the setting in operation of a stationary or other source for any purpose; except that for fuel-burning equipment that generates steam, start-up shall mean a period from initial fire to the time steam can be delivered in usable form to steam-using equipment.

By amending the definition of "State Implementation Plan or SIP" to read as follows:

State Implementation Plan or SIP – a plan approved or promulgated under Sections 110 or 172 of the Clean Air Act, 42 USC §§ 7410 or 7502.

By amending the definition of "stationary source" to read as follows:

Stationary source – a building, structure, facility, installation, or group of buildings, structures, facilities, or installations that emits or may emit any air pollutant subject to regulation under the federal Clean Air Act or the air quality regulations.

By amending the definition of "submit or serve" to read as follows:

Submit – to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(a) In person;

(b) By United States Postal Service first-class mail with the official postmark or, if submittal is by the Director, by any other mail service of the United States Postal Service; or

(c) By other means with an equivalent time and date mark used in the course of business to indicate the date of dispatch or transmission and a record of prompt delivery. Compliance with any "submission", "service", or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

By amending the definition of "substrate" to read as follows:

Substrate – the base material that is coated or printed.

By amending the definition of "terminal" to read as follows:

Terminal – a gasoline storage and distribution facility with an average daily throughput greater than forty thousand (40,000) gallons of gasoline.

By amending the definition of "typical ozone season day" to read as follows:

Typical ozone season day – a day typical of that period of the year during the peak ozone season.

By amending the definition of "volatile organic compound (VOC)" to read as follows:

Volatile organic compound (VOC) – a volatile organic compound as that term is defined by the United States Environmental Protection Agency at 40 CFR § 51.100(s), as supplemented or amended, which is incorporated by reference herein. In addition to test methods specified elsewhere in this title, the most recent version of ASTM Method D6886 shall be considered an appropriate method for determining compliance with VOC emission limits, within the scope of the method.

By amending the definition of "wholesale purchaser-consumer" to read as follows:

Wholesale purchaser-consumer – any ultimate consumer of gasoline who purchases or obtains gasoline from a supplier for use in motor vehicles and

receives delivery of that product into a storage tank, substantially under the control of that person, of at least five hundred fifty (550) gallon capacity.

199.2 When used in the air quality regulations, the following abbreviations shall have the meaning ascribed:

ASTM	ASTM International
BTU	British thermal unit
°C	Degree Celsius
cal.	Calorie(s)
cfm	Cubic feet per minute
CO	Carbon Monoxide
CFR	Code of Federal Regulations
COH_3	Coefficient of haze
CPI	Consumer Price Index
EPA	United States Environmental Protection Agency
°F	Degree Fahrenheit
ft	Foot (Feet)
g.	Gram(s)
GEP	Good Engineering Practice
Hg	Mercury
Hi-Vol	High Volume Samplers
H_2O	Water
hr	Hour(s)
H_2S	Hydrogen Sulfide
In.	Inch
In. H_2O	Inches of water
LAER	Lowest Achievable Emission Rate
Lb	Pound
max.	Maximum
mm	Millimeter
mm Btu	Million Btu
mm HG	Millimeters of mercury
mol	Mole
MWe	Megawatt electrical
NESHAP	National Emission Standard(s) for Hazardous Air Pollutants
NO_x	Nitrogen Oxides, or Oxides of Nitrogen
NO_2	Nitrogen Dioxide
No.	Number
NSPS	New Source Performance Standard

O_2	Oxygen
PM	Particulate Matter
PM_{10}	Particulate Matter with an aerodynamic diameter less than 10 microns
$PM_{2.5}$	Particulate Matter with an aerodynamic diameter less than 2.5 microns
ppm	Parts Per Million
ppmv	Parts Per Million by Volume
psia	Pounds per Square Inch Absolute Pressure
RACT	Reasonably Available Control Technology
SIC	Standard Industrial Classification
SIP	State Implementation Plan
SO_2	Sulfur Dioxide
ton	Short ton unless otherwise specified
ug/m^3	Microgram(s) per cubic meter
U.L.	Underwriters Laboratories (www.ul.com)
VOC	Volatile Organic Compound
[mu] m	Micrometer-10 Meter

Chapter 2, AIR QUALITY – GENERAL AND NON-ATTAINMENT AREA PERMITS, is amended as follows:

Section 202, MODIFICATION, REVOCATION AND TERMINATION OF PERMITS, is amended to read as follows:

202 AMENDMENT, SUSPENSION, REVOCATION, AND DENIAL OF PERMITS

202.1 After providing notice and opportunity for appeal pursuant to § 107 of the air quality regulations, the Department may amend, suspend, revoke, or deny the issuance or renewal of a permit issued pursuant to this chapter.

202.2 The Department may take action pursuant to § 202.1 of the air quality regulations if action is warranted by amendments to the District or federal air quality laws and regulations or if the applicant or permit holder:

(a) Has violated or failed to comply with any of the terms and conditions of the permit, District or federal air quality laws and regulations, or an Order of the Department;

(b) Has made a false statement or misrepresentation material to the issuance, modification, or renewal of a permit;

(c) Has submitted a false or fraudulent record, invoice, or report; or

(d) Has had a permit denied, revoked, or suspended in the District or by another state or jurisdiction.

202.3 Except in cases of willfulness or cases in which the public health or welfare requires otherwise, no permit shall be amended, suspended, or revoked unless, prior to the institution of proceedings, facts or conduct that may warrant action have been called to the attention of the permittee in writing, and the permittee has been given an opportunity to demonstrate or achieve compliance with all lawful requirements.

202.4 The Department may terminate or amend a permit upon the written request of the permittee.

202.5 A permit amendment shall be subject to notice and opportunity for public comment and hearing as required by § 210 of the air quality regulations, if the proposed amendment:

(a) Involves a significant change in existing monitoring permit terms or conditions, or constitutes a relaxation of reporting or record keeping permit terms or conditions:

(b) Requires change to a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(c) Seeks to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject;

(d) For permits to construct, seeks to change the type of emissions control device or equipment to be constructed, and the new equipment has a higher potential to emit, emissions rate, heat input, or electrical output; or

(e) Otherwise warrants public notice and comment, as determined by the Department.

202.6 A permit to construct or modify a source shall be valid only if used within one (1) year from the date of issuance in one (1) of the following ways:

(a) The permittee has begun, or caused to begin, a continuous program of physical on-site construction of a source to be completed within a reasonable time; or

(b) The permittee has entered into binding agreements or contractual obligations that cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

202.7 An action to amend, suspend, revoke, or deny the issuance or renewal of a permit under this section shall be in writing and shall include the following:

(a) The name and address of the applicant, or holder of, the permit;

(b) A statement of the proposed action and the proposed effective date and duration of a proposed suspension or denial of a permit;

(c) A statement of the reasons for the proposed action;

(d) A statement of when reapplication, if applicable, is acceptable;

(e) The procedure for requesting an appeal of the Department's proposed action before it becomes final; and

(f) Any additional information that the Department deems necessary or appropriate to support the proposed action.

202.8 If the applicant or holder of permit requests an appeal pursuant to this section, a written response to the Department's legal and factual basis for the proposed action is required, including any explanations, comments, and arguments relevant to the proposed action.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Air Quality Permit Fees and Synthetic Minor Permitting Program

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in Sections 103(b)(1)(B)(ii)(III) and 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.03 (b)(1)(B)(ii)(III) and 8-151.07(4) (2013 Repl. & 2019 Supp.)); Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 *et seq*. (2013 Repl. & 2019 Supp.)); Mayor's Order 1998-44, dated April 10, 1998; and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption of the following amendments to Chapters 1 (Air Quality – General Rules), 2 (Air Quality – General and Non-Attainment Area Permits) and 3 (Air Quality – Operating Permits and Acid Rain Programs) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

A Notice of Proposed Rulemaking was published in the D.C. Register for a thirty (30) day public notice and comment on February 3, 2017 at 64 DCR 001168) At the request of one commenter, the comment period was extended until March 24, 2017 by publication of notice on the DOEE website. The Department received comments from the DC Water and Sewer Authority ("WASA"), the U.S. Environmental Protection Agency ("EPA"), and the Sierra Club on the proposed rulemaking. The Department has made four (4) changes in this Final Rulemaking in response to comments received.

DC Water submitted two (2) comments that were supportive of the rulemaking, and therefore required no further response. EPA submitted two (2) comments on the rulemaking. The first comment identified a typographical error in § 200.8, which the Department has corrected. EPA also commented that the Department should clarify the distinction between a "general permit" as provided under 20 DCMR § 303.6(a)(2)(D), and a "general permit" as provided under 20 DCMR § 200, which the Department has done in this Final Rulemaking by amending § 303.6.

The Sierra Club submitted six (6) comments on this rulemaking. The first comment was that the proposed rulemaking undermined public participation in the agency decision-making process because it did not provide a rationale for the proposed changes. The Department notes that it extended the public comment period for this rulemaking in order to enhance public participation and that it fully met the requirements for rulemaking under the D.C. Administrative Procedure Act, therefore the Department did not make any changes in response to this comment. The second comment was that the proposed synthetic minor permit program is incomplete and arbitrary because it does not set forth specific requirements for the synthetic minor permits and does not specify that the limits in the permits must be federally and practicably enforceable. The Department did not make any changes in response to the first portion of this comment, as it disagrees with the commenter's assertion that the permitting process is insufficiently clear, however did make amendments to clarify that the emission limits in synthetic minor permits must be both federally and practicably enforceable, including adding a definition for

"enforceable as a practical matter." The third comment was that the proposed synthetic minor permit program threatens the public health with unregulated hazardous air pollutants. The Department did not agree with Sierra Club's assessment in this comment because there are other regulatory requirements that would apply to synthetic minor sources of hazardous air pollutants, therefore, the Department did not make any changes in response to this comment. The fourth comment was that the notice and comment procedures for draft permits are inadequate. The Department did not make any changes in response to this comment because this rulemaking action did not propose any substantive changes to the notice and comment provisions, and it maintains that they are sufficient to meet federal requirements. The fifth comment was that the provisions for source category permits improperly exclude public participation. The Department did not make any changes in response to this comment because this rulemaking action did not propose any substantive changes to the source category permit requirements, it believes that that public participation is adequately accounted for in these procedures, and because source category permits are an efficient and effective regulatory mechanism that is employed by many other jurisdictions. Sierra Club's final comment was that the judicial review procedures under 20 DCMR § 303 are unclear. The Department agreed with this comment and has clarified the procedure for review of Title V permit decisions in this Final Rulemaking.

For a detailed summary of the comments and responses, please see the Department's website at: https://doee.dc.gov/service/public-notices-hearings.

These rules were adopted as final on February 18, 2020 and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 1, AIR QUALITY – GENERAL RULES, of Title 20 DCMR, ENVIRONMENT, is amended to read as follows:

Section 199, DEFINITIONS AND ABBREVIATIONS, is amended as follows:

199 DEFINITIONS AND ABBREVIATIONS

199.1 When used in Chapters 1 through 20 of Title 20 DCMR, where not otherwise distinctly expressed or manifestly incompatible with the intent of this subtitle, the following term shall have the meaning ascribed:

By adding a definition of "enforceable as a practical matter" to read as follows:

Enforceable as a practical matter – for an emission limitation or for other standards (design standards, equipment standards, work practices, operational standards, pollution prevention techniques) in a permit for a source means that the permit's provisions specify:

(a) A limitation or standard and the emissions units or activities at the source subject to the limitation or standard;

(b) The time period for the limitation (e.g., hourly, daily, monthly, and/or annual limits such as rolling annual limits); and

(c) The method to determine compliance, including appropriate monitoring, record keeping, reporting, and testing.

Chapter 2, AIR QUALITY - GENERAL AND NON-ATTAINMENT AREA PERMITS, of Title 20 DCMR, ENVIRONMENT, is amended as follows:

Section 200, GENERAL PERMIT REQUIREMENTS, is amended to read follows:

200 GENERAL PERMIT REQUIREMENTS

200.1 A permit from the Department shall be obtained before any person shall cause, suffer, or allow the construction of a new stationary source, the modification of an existing stationary source, or the installation or modification of any air pollution control device on a stationary source.

200.2 An operating permit shall be obtained from the Department before any person shall cause, suffer, or allow the operation of the following:

(a) Any major stationary source for which a construction or modification permit is required under § 200.1; or

(b) Any source for which a construction or modification permit is required under § 200.1, and which construction or modification permit was subject to conditions which affect, or would affect, the operation of the source.

200.3 The Department may allow the temporary operation of a source for a period no longer than one (1) month, in accordance with the requirements of this chapter, which may be extended month to month, to enable the initial evaluation of the operation of a source or device granted a permit under § 200.1, or to enable the continued operation of a source for which an application for an operating permit under § 200.2 has been filed, but due to delays attributable to the Department the permit has not been issued.

200.4 Construction and operating permits shall be valid for the period specified in the permit, but not to exceed five (5) years.

200.5 Each person owning or operating a stationary source or device for which a permit is required shall timely file with the Department the appropriate application, including applications for renewal of any construction or operating permit, if construction activities or operations are to continue beyond the expiration date of an existing permit.

200.6 The Department may establish a condition in a permit issued pursuant to this chapter that limits, in a manner that is enforceable as a practical matter, emissions from a source so as to avoid applicability of the permitting requirements of § 300.1. Such a limit must not be designated as enforceable only by the District.

200.7 The Department may establish a condition in a permit issued pursuant to this chapter that limits, in a manner that is enforceable as a practical matter, emissions from a source so as to avoid applicability of a District or federal air quality regulation, other than the requirements of § 300.1, except when prohibited by another District or federal regulation. Such a limit must not be designated as enforceable only by the District.

200. 8 The Department may establish a source category permit covering a group of similar sources or emission units according to (a) through (i) of this subsection:

(a) Any source category permit shall comply with all requirements applicable to the source pursuant to the air quality regulations of this title;

(b) During establishment of any source category permit, the Department shall establish criteria by which sources may qualify for the source category permit;

(c) The Department shall maintain records of the public comments and issues raised during the public participation process;

(d) A source category permit shall not be a substitute for a permit required under Chapter 3 of this title;

(e) A response to each source category permit application may not be provided, rather the source category permit may specify a reasonable period of time after which an application is deemed approved and the applicant may construct and operate under the source category permit;

(f) The applicant for a source category permit may be issued an individual permit, letter, or other document indicating that the application has been approved or denied;

(g) If the Department provides an individual response, as provided in paragraph (f), the permittee shall retain the response and make it available on request to authorized officials of the Department;

(h) Any established source category permit is subject to the expiration and renewal conditions found in § 200.4 and § 200.5 and may be revised by following the same process as is used for original establishment of the permit; and

(i) The draft source category permit shall be subject to the public notice and comment requirements of § 210, however individual applications for the permit are not subject to public notice and comment.

200.9 Applications for permits shall be filed with the Department on the form or forms that the Department shall prescribe and shall be accompanied by the data, information, and analyses necessary or desirable to enable the Department to determine whether the requested permit should be issued or denied.

200.10 The Department may require, at any time, the submission of data, information, and analyses that the Department deems necessary or desirable, to allow the Department to determine whether a requested permit should be issued or denied, or an outstanding permit should be modified or revoked.

200.11 Applications for construction and operating permits may incorporate by reference data, information, and analyses otherwise available or provided to the Department, provided that the reference is clear and specific.

200.12 Each permit application shall be accompanied by a fee established by the Department in Section 211, which shall be sufficient to cover the reasonable costs of reviewing and acting upon the permit application and implementing and enforcing the terms and conditions of the permit.

200.13 An application for a permit shall be signed in the following manner:

(a) If the applicant is a partnership, a general partner shall sign the application;

(b) If the applicant is a corporation, association, or cooperative, an officer shall sign the application;

(c) If the applicant is a sole proprietorship, the proprietor shall sign the application; and

(d) If the applicant is a government or governmental agency, department, or board, a senior executive of that government agency, department, or board who has authority to sign shall sign the application.

200.14 No permit shall be required for any fuel burning equipment which has a capacity of five million British thermal units (5,000,000 Btu) or less per hour of heat input and which uses for fuel only gaseous fuels or distillate oils. This section shall not apply to sources subject to § 204.

200.15 A person shall comply with the conditions of any permit issued pursuant to this chapter.

Section 210, NOTICE AND COMMENT PRIOR TO PERMIT ISSUANCE, is amended to read follows:

210 NOTICE AND COMMENT PRIOR TO PERMIT ISSUANCE

210.1 Before issuing a permit under this chapter, the Department shall prepare a draft permit and provide adequate notice to ensure that the affected community and the general public have reasonable access to the application and draft permit information.

210.2 With the exception of any information that the Department deems confidential, the Department shall make available for public inspection:

(a) The application for a permit and any additional information that the Department requests;

(b) The Department's analysis of the application, including, where required or deemed appropriate, an ambient air quality analysis, a regulatory review, and a control technology review; and

(c) The draft permit or justification for denial.

210.3 The Department shall publish a notice regarding the draft permit or denial in the *D.C. Register* and shall make the information in § 210.2 available for public inspection at the Department's office and by one or more of the methods described in § 210.4.

210.4 The Department shall use at least one (1) of the following procedures to ensure appropriate means of notification:

(a) Mail or e-mail a copy of the notice to persons on a mailing list that the Department develops consisting of those persons who have requested to be placed on such a mailing list;

(b) Post the notice on the Department's website;

(c) Publish the notice in a newspaper of general circulation in the area affected by the source;

(d) Provide copies of the notice for posting at one (1) or more locations in the area affected by the source, such as post offices, libraries, community centers, or other gathering places in the community; or

(e) Employ other means of notification as appropriate.

210.5 The notice shall include the following information at a minimum:

(a) Identifying information of the source, including the name and address of the facility, and the name and telephone number of the facility manager or other contact person;

(b) For preconstruction permits (including source category permits), the regulated New Source Review (NSR) pollutants to be emitted, the affected emissions units, and the emission limitations for each affected emissions unit;

(c) For preconstruction permits, the emissions change involved in the permit action;

(d) For permits to be issued with conditions pursuant to § 200.6 or § 200.7, a description of the proposed limitation and the resulting potential to emit of the source;

(e) The name, address, and telephone number of a contact person in the Department from whom additional information may be obtained;

(f) Locations and times of availability of the information specified in § 210.2; and

(g) A statement that any person may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days from the date of the public notice.

210.6 By mail or e-mail, a copy of the notice shall be sent to the applicant, the U.S. Environmental Protection Agency Region III, and to all Affected States (as defined in § 399) for the following permits:

(a) All NSR permits issued pursuant to § 204; and

(b) All source category permits, when initially issued.

A new Section 211, FEES, is added to read as follows:

211 FEES

211.1 Except as noted under § 211.4, owners or operators of sources required to obtain or renew a permit under this chapter for the construction, modification, or operation of a stationary source, or the installation, modification or operation of any air pollution control device on a stationary source, shall pay all fees applicable according to the following table:

Combustion Equipment	
$500	Cogeneration Unit, less than 1 Megawatt
$2,000	Cogeneration Unit, equal to or larger than 1 Megawatt
$500	Emergency Engines (Less than 1,340 hp)
$1,000	Emergency Engines (Equal to or greater than 1,340 hp)
$300	Fuel Burning Equipment – Small (Heat input less than 10 million Btu per hour)
$500	Fuel Burning Equipment – Medium (Heat input equal to or greater than 10 million Btu per hour, but less than 40 million Btu per hour)
$1,000	Fuel Burning Equipment – Large (Heat input equal to or greater than 40 million Btu per hour)
$1,000	Non-Emergency Engines (Less than 1,340 hp)
$2,000	Non-Emergency Engines (Equal to or greater than 1,340 hp)
Other Equipment or Activities	
$1,000	Asphalt Plant
$500	Concrete Plant - Portable
$500	Crushers and Screens
$250	Degreaser – Cold Solvent Tank
$500	Dry Cleaning Facility (using perchlorethylene, petroleum solvents, or n-propyl bromide)
$1,000	Gasoline Dispensing Station
$500	Intaglio, Flexographic, and Rotogravure Printing
$500	Lithograph or Letterpress Printing Operation
$500	Miscellaneous Parts Paint Spray Booth
$500	Mobile Equipment Refinishing
$5,000	New Source Review (NSR) Permit (applicable to initial construction permits only)
Facility Wide Permit	
$5,000	Plantwide Applicability Limit (PAL) Permit

211.2 If the stationary source or air pollution control device on a stationary source is not covered under § 211.1, the permit fee shall be one thousand dollars ($1,000).

211.3 The fee for a variance shall be one thousand five hundred dollars ($1,500).

211.4 Owners or operators who obtain a permit with a condition under § 200.6 shall pay permit fees pursuant to § 305.5.

211.5 Fees for permits issued pursuant to § 200.8 shall be prorated based on the number of years, or parts of years, that the permit is valid (rounded up to the next one-year increment).

211.6 Sources may apply for a permit with an effective period less than the default permit term, and pay a prorated fee (rounded up to the next one-year increment).

Chapter 3, AIR QUALITY - OPERATING PERMITS AND ACID RAIN PROGRAMS, is amended as follows:

Section 300, APPLICABILITY, is amended to read follows:

300 APPLICABILITY

300.1 Except as exempted from the requirement to obtain a permit under § 300.3 and elsewhere herein, the following sources shall be subject to the permitting requirements under this chapter:

(a) Any major source;

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under § 111 of the Act;

(c) Any source, including an area source, subject to a standard or other requirement under § 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under § 112(r) of the Act;

(d) Any affected source; and

(e) Any source in a source category designated by the Administrator pursuant to 40 CFR § 70.3.

300.2 In the event that this chapter conflicts or is inconsistent with other requirements of the air quality regulations of this title, this chapter shall supersede for sources subject to its provisions.

300.3 The following source category exemptions shall apply:

(a) All sources listed in § 300.1 that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to § 129(e) of the Act, are exempt from the obligation to obtain a Part 70 permit unless required to do so under applicable requirements, or future rulemaking by the Administrator, but any such exempt source may apply for a permit under this chapter;

(b) If the Administrator decides to terminate the exemption of certain nonmajor sources when adopting standards or other requirements under § 111 or 112 of the Act after July 21, 1992, the nonmajor sources shall become subject to the permitting requirements in accordance with the standard or other requirement adopted by the Administrator;

(c) All sources that obtain a permit with a condition pursuant to § 200.6 that allows the source to avoid the applicability of § 300.1, and pay the associated fees pursuant to § 305.5, commonly referred to as a "synthetic minor" permit, are exempted from the requirements to obtain a Part 70 permit; and

(d) Sources in the following source categories shall be exempted from the obligation to obtain a Part 70 permit:

(1) All sources in source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(2) All sources in source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, 40 CFR § 61.145, Standard for Demolition and Renovation.

300.4 The emission units covered in a Part 70 permit shall be determined as follows:

(a) For major sources, the permit shall include all applicable requirements for all relevant emissions units in the major source; and

(b) For any nonmajor source subject to this rule under § 300.1 and not exempt under § 300.3, the permit shall include only the applicable requirements which apply to emissions units that cause the source to be subject to the requirement to obtain a permit under this chapter.

300.5 Fugitive emissions from a covered source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

Section 301, PERMIT APPLICATIONS, is amended to read follows:

301 PERMIT APPLICATIONS

301.1 For each Part 70 source, a timely and complete permit application shall be submitted by the owner or operator, and reviewed by the Department, in accordance with the following:

(a) A timely application shall be submitted under the following conditions:

(1) Sources that are subject to the operating permit program established by this chapter as of the date the program is approved by the Administrator, the "effective date," shall file applications on the following schedule:

(A) Sources that emitted one hundred fifty (150) tons per year or less of regulated pollutants in the aggregate during the previous calendar year shall file complete applications within eight (8) months of the effective date; provided, that upon request and for good cause shown, the Department may allow a source additional time up to twelve (12) months from the effective date; and

(B) All other sources shall file complete applications within twelve (12) months of the effective date;

(2) A source that becomes subject to the operating permit program established by this chapter at any time following the effective date shall file a complete application within twelve (12) months of the date on which the source first becomes subject to the program;

(3) A source that is required to meet the requirements under § 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of the Act, shall file a complete application to obtain an operating permit or permit amendment or modification within twelve (12) months after commencing operation;

(4) Where an existing operating permit would prohibit the construction or change in operation, the source shall obtain a permit revision before commencing operation;

(5) Sources subject to this chapter shall file an application for renewal of an operating permit at least six (6) months before the date of permit expiration, unless a longer period (not to exceed eighteen (18) months) is specified in the permit; and

(6) Sources required to submit applications for initial phase II acid rain permits shall submit the applications to the Department by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides;

(b) The following procedures shall be followed when Part 70 permit applications are received:

(1) Within five (5) days of receipt of an application, the Department shall notify the applicant of the date on which the application was

received and the date on which the application will automatically be deemed complete unless the Department determines otherwise;

(2) The Department shall review each application for completeness and shall inform the applicant within sixty (60) days if the application is incomplete;

(3) To be complete for purposes of this section, an application shall include a completed application form and, to the extent not called for by the form, the information required in §§ 301.4 and 301.5;

(4) An application shall be considered complete if it contains the information required by the application form and §§ 301.4 and 301.5;

(5) If the Department does not notify the source within sixty (60) days of receipt that its application is incomplete, the application shall be deemed complete, however nothing in this subsection shall prevent the Department from requesting additional information in writing that is necessary to process the application;

(6) The Department shall maintain a checklist to be used for the completeness determination, and a copy of the checklist shall be provided to applicants along with application forms issued by the Department;

(7) If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, the Department may request the additional information in writing and shall establish a reasonable deadline for a response;

(8) In submitting an application for renewal of an operating permit issued under this chapter, a source may identify terms and conditions in its previous permit that should remain unchanged and incorporate by reference those portions of its existing permit and the permit application and any permit amendment or modification applications that describe products, processes, operations, and emissions to which those terms and conditions apply;

(9) In submitting an application for renewal of an operating permit issued under this chapter, the source shall identify specifically and list the portions of its previous permit or applications that are incorporated by reference; and

(10) A renewal application shall contain the following:

(A) Information specified in §§ 301.4 and 301.5 for those products, processes, operations, and emissions of the following that:

(i) Are not addressed in the existing permit;

(ii) Are subject to applicable requirements that are not addressed in the existing permit; or

(iii) Are terms and conditions sought by the source that are different than those in the existing permit;

(B) A compliance plan and certification as required in § 301.5(h); and

(C) A compliance certification, as required by § 301.5(i);

(c) If a source submits information to the Department under a claim of confidentiality pursuant to § 114(c) of the Act, the source shall also submit a copy of the information, along with the claim of confidentiality, directly to the Administrator, if the Department requests that the source do so; and

(d) The contents of a Part 70 permit issued under this chapter shall not be entitled to confidential treatment.

301.2 An applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of the failure or incorrect submittal, promptly submit the supplementary facts or corrected information.

301.3 An applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date the applicant filed a complete application but prior to release of a draft permit.

301.4 All sources that are subject to the operating permit program established by this chapter shall submit applications on the standard application form that the Department provides for that purpose, which shall include information needed to determine the applicability of any applicable requirement and to evaluate the fee amount required under the schedule set forth in § 305.

301.5 The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted, and the application form and any attachments shall require that the following be provided:

(a) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact;

(b) A description of the source's processes and products (by two-digit Standard Industrial Classification Code), including any associated with each alternate scenario identified by the source;

(c) The following emissions-related information:

(1) All emissions of pollutants for which the source is major and all emissions of regulated air pollutants as follows:

(A) A description of all emissions of regulated air pollutants emitted from any emissions unit; and

(B) Additional information related to the emissions of regulated air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule set forth in § 305;

(2) Identification and description of all points of emissions described in § 301.5(c)(1) in sufficient detail to establish the basis for fees and applicability of the Act's requirements;

(3) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, if any;

(4) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules;

(5) Identification and description of air pollution control equipment and compliance monitoring devices or activities;

(6) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source;

(7) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to § 123 of the Act); and

(8) Calculations on which the information in subparagraphs (c)(1) through (c)(7) of this subsection is based;

(d) The following air pollution control requirements:

(1) Citation and description of all applicable requirements; and

(2) Description of or reference to any applicable test method for determining compliance with each applicable requirement;

(e) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of the requirements;

(f) An explanation of any proposed exemptions from otherwise applicable requirements;

(g) Additional information as determined to be necessary by the Department to define alternative operating scenarios identified by the source pursuant to § 302.1(j) or to define permit terms and conditions implementing §§ 302.1(k) or 302.8 of this chapter;

(h) A compliance plan for all covered sources that contains all of the following:

(1) A description of the compliance status of the source with respect to all applicable requirements;

(2) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis; and

(C) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with the requirements;

(3) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis;

(C) A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy the provision under paragraph (B) of this subpart, unless a more detailed schedule is expressly required by the applicable requirement; and

(D) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance, which shall:

(i) Include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance; and

(ii) Resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject, and shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

(4) A schedule for submission of certified progress reports no less frequently than every six (6) months for sources required to have a schedule of compliance under § 301.5(h)(3)(D); and

(5) The compliance plan content requirements specified in this subparagraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations;

(i) Requirements for compliance certification, including the following:

(1) A certification of compliance with all applicable requirements by a responsible official consistent with § 114(a)(3) of the Act and § 301.6;

(2) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(3) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement; and

(4) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act;

(j) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act; and

(k) The permit application fee required pursuant to § 305.1.

301.6 Any application form, report, or compliance certification submitted pursuant to this chapter shall contain certification by a responsible official of truth, accuracy, and completeness, which shall meet the following requirements:

(a) This certification and any other certification required under this chapter shall be signed by a responsible official; and

(b) This certification and any other certification required under this chapter shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

301.7 Pursuant to § 300.4, a major source shall obtain a permit addressing all applicable requirements for all relevant emissions units in the major source, which may be complied with through one of the following methods:

(a) The source obtains a single permit for all relevant emission units; or

(b) The source requests and obtains coverage for one or more emission units eligible for coverage under a general permit or permits issued by the Department and obtains a separate permit for all remaining emission units not eligible for the coverage.

Section 303, PERMIT ISSUANCE, RENEWAL, REOPENINGS, AND REVISIONS, is amended to read follows:

303 PERMIT ISSUANCE, RENEWAL, REOPENINGS, AND REVISIONS

303.1 The following criteria shall be used in the processing of a permit application:

(a) A permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:

(1) The Department has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under § 302.4;

(2) Except for modifications qualifying for minor permit modification procedures under §§ 303.5(b) and 303.5(c), the Department has complied with the requirements for public participation under § 303.10;

(3) The Department has complied with the requirements for notifying and responding to affected States under § 304.2;

(4) The Department finds that the conditions of the permit provide for compliance with all applicable requirements and the requirements of Part 70; and

(5) The Administrator has received a copy of the proposed permit and any notices required under §§ 304.1 and 304.2, and has not objected to issuance of the permit under § 304.3 within the time period specified therein;

(b) Upon receipt of an application submitted pursuant to § 301, the Department shall provide notice to the applicant of whether the application is complete;

(c) Unless the Department requests additional information or otherwise notifies the applicant that the application is incomplete within sixty (60) days of receipt, the application shall be deemed complete;

(d) Following review of an application submitted in accordance with § 301, the Department shall issue a draft permit, permit modification, or permit renewal for public comment, in accordance with the public participation procedures in § 303.10; and

(1) The draft permit, permit modification, or permit renewal shall be accompanied by a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions); and

(2) The Department shall send the statement required by § 303.1(d)(1) to the Administrator, to affected States, and to the applicant, and shall place a copy in the public file;

(e) The Department shall transmit to the Administrator a proposed permit, permit modification, or permit renewal;

(f) The proposed permit, permit modification, or permit renewal shall be issued no later than fifty (50) days preceding the respective deadlines for permit issuance, permit modifications, and permit renewals established in this chapter, and shall contain all applicable requirements that have been promulgated and made applicable to the source as of the date of issuance of the draft permit; and

(g) If new requirements are promulgated or otherwise become newly applicable to the source following the issuance of the draft permit but before issuance of the final permit, the Department may either:

(1) Extend or reopen the public comment period (for an additional time not to exceed thirty (30) days) to solicit comment on additional permit provisions to implement the new requirements; or

(2) If the Department determines that extension or reopening of the public comment period would unduly delay issuance of the permit:

(A) The Department shall include within the proposed or final permit a provision stating that the permit will be reopened to incorporate the new requirements and expressly excluding the new requirements from the protection of the permit shield;

(B) If the Department elects to issue the proposed or final permit without incorporating the new requirements, the Department shall, within thirty (30) days of the new requirements becoming applicable to the source, institute proceedings pursuant to § 303.6 to reopen the permit to incorporate the new requirements; and

(C) The permit reopening proceedings may be instituted, but need not be completed, before issuance of the final permit;

(h) The following action shall be taken after the Department's transmittal of the proposed permit, permit modification, or permit renewal for the Administrator's review:

(1) Upon receipt of notice from the Administrator that the Administrator will not object to a proposed permit, permit modification, or permit renewal that has been transmitted for the Administrator's review pursuant to § 304, the Department shall issue the permit, permit modification, or permit renewal no later than the fifth (5th) day following receipt of the notice from the Administrator; or

(2) Upon the passage of forty-five (45) days after transmission of a proposed permit, permit modification, or permit renewal for the Administrator's review, and if the Administrator has not notified the Department that the Administrator objects to the proposed permit action, the Department shall issue the permit, permit modification, or permit renewal no later than the fiftieth (50th) day following transmission for the Administrator's review;

(i) Except as provided in §§ 303.1(j)(1) or (2), the Department shall take final action on each application for a permit within eighteen (18) months after receiving a complete application;

(j) For each permit application, the Department shall transmit a proposed permit, permit modification, or permit renewal to the Administrator no later than fifty (50) days before the appropriate deadline for permit issuance established in this section:

(1) The Department shall take final action on at least one-third (1/3) of all initial permit applications (as defined in § 301.1(a)(1)) annually during the first three (3) years following the effective date of the operating permit program; and

(2) The Department shall take action on any permit, permit modification, or permit renewal issued in compliance with regulations promulgated under Title IV or V of the Act for the permitting of affected sources under the Acid Rain Program within the time specified in those regulations; and

(k) To the extent feasible, applications shall be acted upon in the order received, except that priority shall be given to taking final action on applications for construction or modification under Title I, Parts C and D of the Act.

303.2 Except as provided in § 303.2(a), no source subject to this chapter may operate after the time that it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under this chapter:

(a) If the source subject to the requirement to obtain a permit under this chapter submits a timely and complete application for permit issuance or renewal, that source's failure to have a permit shall not be a violation of the requirement to have such a permit until the Department takes final action on the application;

(b) The protection of § 303.2(a) shall cease to apply if, subsequent to the completeness determination made pursuant to §§ 303.1(b) and (c), the applicant fails to submit by the deadline specified in writing by the Department any additional information needed to process the application; and

(c) The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under Title I of the Act.

303.3 Procedures affecting permit renewal and expiration shall be subject to the following requirements:

(a) Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and Administrator's review, that apply to initial permit issuance under § 303.1;

(b) An application for permit renewal may address only those portions of the permit that require revision, supplementation, or deletion, incorporating the remaining permit terms by reference from the previous permit;

(c) In issuing a draft renewal permit or proposed renewal permit, the Department may specify only those portions that will be revised, supplemented, or deleted, incorporating the remaining permit terms by reference;

(d) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal permit application has been submitted at least six (6) months before the date of expiration or the Department has taken final action approving the source's permit application for renewal by the expiration date; and

(e) If a timely and complete application for a permit renewal is submitted, but the Department fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit

shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.

303.4 Administrative permit amendments shall be governed as follows:

(a) An "administrative permit amendment" is a permit revision that:

(1) Corrects typographical errors;

(2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(3) Requires more frequent monitoring or reporting by the permittee;

(4) Allows for a change in ownership or operational control of a source where the Department determines no other change in the permit is necessary; provided, that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department;

(5) Incorporates into the Part 70 permit the requirements from preconstruction review permits authorized under Chapter 2 of this title, provided such permits go through enhanced notice and comment requirements equivalent to those required for a significant modification under this chapter and meet all other requirements of this chapter that would be applicable to this change if it were subject to review as a significant modification; or

(6) Incorporates any other type of change that the Administrator has determined as part of the Department's approved permit rule to be similar to those in paragraphs (d)(1)(i) through (iv) of § 70.7 of Part 70;

(b) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act;

(c) An administrative permit amendment shall be made by the Department in accordance with the following:

(1) The Department shall take final action on a request for an administrative permit amendment within sixty (60) days from the date of receipt of a request, and may incorporate the proposed

changes without providing notice to the public or affected States; provided, that the Department designates any permit revisions as having been made pursuant to this paragraph;

(2) The Department shall transmit a copy of the revised permit to the Administrator; and

(3) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request; and

(d) The Department may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in § 302.6 for administrative permit amendments made pursuant to § 303.4(a)(6).

303.5 A permit modification shall be any revision to an operating permit that cannot be accomplished under the program's provisions for administrative permit amendments under § 303.4, and shall be governed as follows:

(a) The Department shall provide adequate, streamlined, and reasonable procedures for expeditiously processing permit modifications by adopting and complying with the procedures established in this subsection;

(b) Minor permit modification procedures shall be as follows:

(1) Criteria:

(A) Minor permit modification procedures may be used only for those permit modifications that:

(i) Do not violate any applicable requirement;

(ii) Do not involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit;

(iii) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(iv) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and which the source has assumed to avoid an applicable

requirement to which the source would otherwise be subject, which includes the following:

(a) A federally-enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Act; and

(b) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the Act; and

(v) Are not modifications under any provision of Title I of the Act; and

(B) Notwithstanding §§ 303.5(b)(1)(A) and (c)(1) of this subsection, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable requirement;

(2) To use the minor permit modification procedures, a source shall submit a permit application requesting such use that shall meet the basic permit application requirements of this chapter and shall include the following:

(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) A suggested draft permit;

(C) Certification by a responsible official, consistent with § 301.6, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(D) Completed forms for the Department to use to notify the Administrator and affected States as required under § 304;

(3) Within five (5) business days of receipt of a complete minor permit modification application, the Department shall meet the Department's obligation under §§ 70.8(a)(1) and (b)(1) of Part 70 to notify the Administrator and affected States of the requested

permit modification and shall promptly send any notice required under § 304.2(b) to the Administrator;

(4) The Department shall not issue a final minor permit modification until after the Administrator's forty-five (45) day review period or until the Administrator has notified the Department that the Administrator will not object to issuance of the permit modification, whichever occurs first, although the Department can approve the permit modification prior to that time;

(5) Within ninety (90) days of the Department's receipt of a permit application under the minor permit modification procedures or fifteen (15) days after the end of the Administrator's forty-five (45) day review period under § 304.3, whichever is later, the Department shall do one of the following:

(A) Issue the minor permit modification as proposed;

(B) Deny the minor permit modification application;

(C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(D) Revise the draft permit modification that was suggested by the applicant pursuant to § 303.5(b)(2)(B) and transmit to the Administrator the new proposed minor permit modification as required by § 304.1;

(6) Immediately after filing a permit application meeting the requirements of these minor permit modification procedures, the source is authorized to make the change or changes proposed in the application;

(7) After the source makes the change allowed by § 303.5(b)(6), and until the Department takes any of the actions specified in §§ 303.5(b)(5)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions;

(8) During the period in § 303.5(b)(7), the source need not comply with the existing terms and conditions of the permit it seeks to modify; however, if the source fails to comply with its proposed permit terms and conditions during the time period under § 303. 5(b)(7), the existing permit terms and conditions it seeks to modify may be enforced against it; and

(9) The permit shield under § 302.6 will not extend to minor permit modifications;

(c) Pursuant to this paragraph, the Department may modify the procedure outlined in § 303.5(b) to process groups of a source's applications for certain modifications eligible for minor permit modification processing:

(1) Group processing of modifications may be used only for those permit modifications that:

(A) Meet the criteria for minor permit modification procedures under § 303.5(b)(1)(A); and

(B) Are collectively below the following threshold levels: ten percent (10%) of the emissions allowed by the permit for the emissions unit for which the change is requested, twenty percent (20%) of the applicable definition of major source in § 399.1, or five (5) tons per year, whichever is least;

(2) An application requesting the use of group processing procedures shall meet the requirements of §§ 301.4 and 301.5, and shall include the following:

(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) The source's suggested draft permit;

(C) Certification by a responsible official, consistent with § 301.6, that the proposed modification meets the criteria for use of group processing procedures and a request that the procedures be used;

(D) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under § 303.5(c)(1)(B);

(E) Certification, consistent with § 301.6, that the source has notified the Administrator of the proposed modification (notification need only contain a brief description of the requested modification); and

(F) Completed forms for the Department to use to notify the Administrator and affected States as required under § 304.

(3) On a quarterly basis or within five (5) business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under § 303.5(c)(1)(B), whichever is earlier, the Department shall, in accordance with §§ 304.1(a) and 304.2(a), notify the Administrator and affected States of the requested permit modifications.

(4) The Department shall send any notice required under § 304.2(b) to the Administrator;

(5) The provisions of § 303.5(b)(4) and (5) shall apply to modifications eligible for group processing, except that the Department shall take one of the actions specified in §§ 303.5(b)(5)(A) through (D) within one hundred eighty (180) calendar days of receipt of the permit application or fifteen (15) calendar days after the end of the Administrator's forty-five (45) calendar day review period under § 304.3, whichever is later; and

(6) The provisions of §§ 303.5(b)(6) through (b)(9) shall apply to modifications eligible for group processing;

(d) Significant permit modification procedures shall be as follows:

(1) Significant permit modification procedures shall be used for applications requesting permit modifications that:

(A) Involve a significant change in existing monitoring permit terms or conditions, or constitute a relaxation of reporting or record keeping permit terms or conditions;

(B) Require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(C) Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject, including the following:

(i) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and

(ii) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the Act;

(D) Are modifications under any provision of Title I of the Act, except those that qualify for processing as administrative permit amendments under § 303.4(a); and

(E) Do not qualify as administrative permit amendments under § 303.4(a) or minor permit modifications under § 303.5(b);

(2) Nothing in § 303.5(d) shall be construed to preclude the permittee from making changes consistent with Part 70 that would render existing permit compliance terms and conditions irrelevant;

(3) Significant permit modifications shall meet all requirements of this chapter that are applicable to permit issuance and permit renewal, including those for applications, public participation, review by affected States, and review by the Administrator;

(4) The application for a significant permit modification shall describe the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs; and

(5) The Department shall complete review of an application for a significant permit modification within nine (9) months after receipt of a complete application; and

(e) A permit modification for purposes of to the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

303.6 Each issued permit shall be subject to be reopened for cause under the following circumstances:

(a) A permit shall be reopened for cause if the following occurs:

(1) The Department or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms of the permit;

(2) Additional applicable requirements under the Act become applicable to the source; provided, that reopening on this ground is not required if the following occurs:

(A) The source is not a major source;

(B) The permit has a remaining term of less than three (3) years;

(C) The effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to § 303.3(e); or

(D) The additional applicable requirements are implemented in a general permit pursuant to § 302.4 that is applicable to the source and the source receives approval for coverage under that general permit;

(3) Additional requirements (including excess emissions requirements) become applicable to a source under the Acid Rain Program; provided, that upon approval by the Administrator excess emissions offset plans shall be deemed to be incorporated into the permit; or

(4) The Department or the Administrator determines that the permit must be revised to assure compliance by the source with applicable requirements;

(b) If the Department finds reason to believe that a permit should be reopened and modified for cause, the Department shall provide at least thirty (30) calendar days prior written notice to that effect to the source, except that the notice period can be shorter if the Department finds that an emergency exists;

(c) The notice required under paragraph (b) of this subpart shall include the following:

(1) A statement of the terms and conditions that the Department proposes to change, delete, or add to the permit;

(2) If the Department does not have sufficient information to determine the terms and conditions that must be changed, deleted, or added to the permit, the notice shall request the source to provide that information within a period of time specified in the

notice, which shall be not less than thirty (30) days except in the case of an emergency; and

(3) If the proposed reopening is to be done pursuant to § 303.6(a) the Department shall give the source an opportunity to provide evidence that the permit should not be reopened;

(d) When modifying a permit, the Department shall follow the procedures established under § 303.1 and § 303.10 and shall alter only those portions of the permit for which cause to reopen exists;

(e) When modifying a permit, the source shall in all cases be afforded an opportunity to comment on the revised permit terms;

(f) While a reopening proceeding is pending, the source shall be entitled to the continued protection of any permit shield provided in the permit pending issuance of a modified permit unless:

(1) The Department specifically suspends the shield on the basis of a finding that the suspension is necessary to implement applicable requirements; and

(2) If a finding under paragraph (1) of this subpart applies only to certain applicable requirements or permit terms, the suspension shall extend only to those requirements or terms; and

(g) Any reopening under § 303.6(a)(2) shall be completed within eighteen (18) months after promulgation of the applicable requirements.

303.7 Each issued permit may be reopened (modifications) and revoked for cause by the Administrator under the following circumstances:

(a) If the Department receives a notice from the Administrator that the Administrator has found that cause exists to revoke, or reopen a permit, the Department shall, within ten (10) days after receipt of the notification, provide notice to the source;

(b) The notice to the source, specified in § 303.7(a), shall include a copy of the notice from the Administrator and invite the source to comment in writing on the proposed action;

(c) Within ninety (90) days following receipt of the notification from the Administrator, the Department shall issue and forward to the Administrator a proposed determination in response to the Administrator's notification;

(d) The Department may request additional time for the transmission of the determination specified in § 303.7(c), pursuant to Part 70, if such time is required to obtain a new or revised permit application or other information from the source; and

(e) Within ninety (90) days of receipt of an objection from the Administrator on his or her proposed determination, the Department shall either resolve the objection or modify or revoke the permit in accordance with the Administrator's objection.

303.8 The following procedures shall apply to revocations and terminations:

(a) The Department may terminate a permit at the request of the permittee or revoke it for cause, if the following occurs:

(1) The permitted stationary source is in violation of any term or condition of the permit and the permittee has not undertaken appropriate action (such as a schedule of compliance) to resolve the violation;

(2) The permittee has failed to disclose material facts relevant to issuance of the permit or has knowingly submitted false or misleading information to the Department;

(3) The Department finds that the permitted stationary source or activity substantially endangers public health, safety, or the environment, and that the danger cannot be removed by a modification of the terms of the permit;

(4) The permittee has failed to pay permit fees required under § 305; or

(5) The permittee has failed to pay a civil or criminal penalty imposed for violations of the permit;

(b) Upon finding that cause exists for revocation of a permit, the Department shall notify the permittee of that finding in writing, stating the reasons for the proposed revocation;

(c) Within thirty (30) days following receipt of the notice for permit revocation, the permittee may submit written comments concerning the proposed revocation and may request a hearing pursuant to § 104;

(d) If the Department makes a final determination to revoke the permit, the Department shall provide a written notice to the permittee specifying the reasons for the decision and the effective date of the revocation;

(e) A permit revocation issued under this section may be issued conditionally with a future effective date and may specify that the revocation will not take effect if the permittee satisfies the specified conditions before the effective date;

(f) A permittee may at any time apply for termination of all or a portion of its permit relating solely to operations, activities, and emissions that have been permanently discontinued at the permitted stationary source:

(1) An application for termination shall identify with specificity the permit or permit terms that relate to the discontinued operations, activities, and emissions;

(2) The Department shall act on an application for termination on this ground within ninety (90) days of receipt and shall grant the application for termination upon finding that the permit terms for which termination is sought relate solely to operations, activities, and emissions that have been permanently discontinued; and

(3) In terminating all or portions of a permit pursuant to this subsection, the Department may make appropriate orders for the submission of a final report or other information from the source to verify the complete discontinuation of the relevant operations, activities, and emissions;

(g) A source may apply for termination of its permit on the ground that its operations, activities, and emissions are fully covered by a general permit for which it has applied for and received coverage pursuant to § 302.4;

(h) The Department shall act on an application for termination on the grounds specified in § 303.8(g) within ninety (90) days of receipt and shall grant the application upon a finding that the source's operations, activities, and emissions are fully covered by a general permit;

(i) A source that has received a final revocation or termination of its permit may apply for a new permit under the procedures established in § 301.

303.9 If applicable requirements require the Department to make a case-by-case determination of an emission standard, technology requirement, work practice standard, or other requirement for a source and to include terms and conditions implementing that determination in the source's permit, the source shall include in its permit application under § 301 a proposed determination, together with the data and other information upon which the determination is to be based, and proposed terms and conditions to implement the determination, which will be reviewed in accordance with the following procedures:

(a) Upon receipt of a request from the source, the Department may meet with the source before the permit application is submitted to discuss the determination and the information required to make it; and

(b) In the event that the Department determines that the source's proposed determination and implementing terms and conditions should be revised in the draft permit, the proposed permit, or the final permit, the Department shall inform the source of the changes to be made and allow the source to comment on those changes before issuing the draft permit, proposed permit, or final permit.

303.10 Except for permit modifications qualifying for minor permit modification procedures under § 303.5(b), all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall be conducted in accordance with the following procedures for public participation:

(a) After receiving a complete application for a permit, significant permit modification, or permit renewal, the Department shall, no later than sixty-one (61) calendar days before the deadline for issuing a proposed permit, significant modification, or renewal for the Administrator's review, issue a draft permit and solicit comment from the applicant, from the affected States and from the public as follows:

(1) The Department shall provide notice to the public by doing the following:

(A) Making available a public file containing a copy of all materials (including permit applications, compliance plans, permit monitoring and compliance certification reports, except for information entitled to confidential treatment under § 301.1(c)) that the applicant has submitted, a copy of the preliminary determination and draft permit or permit renewal, and a copy or summary of other materials, if any, considered in making the preliminary determination;

(B) Publishing a notice in the District of Columbia Register and using any other means necessary to assure adequate notice to the affected public of the application, the preliminary determination, the location of the public file, the procedures for submitting written comments, the procedures for requesting a hearing if the Department has not scheduled a hearing, and the date, time, and location of the public hearing; and

(C) Publishing any notice of a public hearing at least thirty (30) days in advance of the hearing;

(2) Copies of the notice required under § 303.10(a)(1)(B) shall be sent to the applicant, to the representatives of affected States designated by those States to receive the notices, and to persons on a mailing list developed by the Department, including those who request in writing to be on the list;

(b) The public notice shall establish a period of not less than thirty (30) days following publication of the notice for the submission of written comments and shall identify the affected stationary source the name and address of the applicant or permittee, the name and address of the Department's representative with responsibility for the permitting action, the activity or activities involved in the permit action, the emissions change involved in any permit modification, and the location of the public file;

(c) The applicant shall be afforded an opportunity to submit, within ten (10) business days following the close of the public comment period or the public hearing, whichever is later, a response to any comments made;

(d) The Department shall consider all comments submitted by the applicant, the public, and affected States in reaching its final determination and issuing the proposed permit, modification, or renewal for the Administrator's review;

(e) The Department shall maintain a list of all commenters and a summary of the issues raised in sufficient detail such that the Administrator may fulfill his or her obligation under § 505(b)(2) of the Act and shall make that information available in the public file and supply it to the Administrator upon request; and

(f) At the time the Department issues a proposed permit, permit modification, or permit renewal for the Administrator's review, the Department shall issue a written response to all comments submitted by affected States and all significant comments submitted by the applicant and the public. Copies of this written response shall be provided to the Administrator, affected States, and the applicant, and a copy shall be placed in the public file.

303.11 Any final action granting or denying an application for a permit, permit amendment or modification, or permit renewal shall be subject to review in the Office of Administrative Hearings upon an application filed by the applicant, any person who participated in the public comment process, or any other person who could obtain review under District law.

303.12 Except as provided under § 304.4, the opportunity for review provided for in § 303.11 shall be the exclusive means for obtaining review of any permit action.

303.13 Procedures for review shall be as follows:

(a) No application for review may be filed more than ninety (90) days following the final action on which the review is sought, unless:

(1) The grounds for review arose at a later time, in which case the application for review shall be filed within ninety (90) days of the date on which the grounds for review first arose and review shall be limited to the later-arising grounds; or

(2) The final action being challenged is the Department's failure to take final action, in which case an application for review may be filed any time before the Department denies the permit or issues the final permit; and

(b) Any application for review shall be limited to the following:

(1) Issues raised in written comments filed with the Department or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(2) Issues that are germane and material to the relevant permit action.

Section 305, PERMIT FEES, is repealed and replaced with the following:

305 FEES

305.1 Owners or operators of Part 70 sources shall pay a permit application fee (original and renewal applications) based on the total tons of potential emissions of each regulated pollutant (for presumptive fee calculation purposes) according to the schedule in the following table:

$5,000	Total potential emissions less than 100 tons per year
$7,500	Total potential emissions equal to or greater than 100 tons per year, but less than 250 tons per year
$15,000	Total potential emissions equal to or greater than 250 tons per year, but less than 1,000 tons per year
$30,000	Total potential emissions equal to or greater than 1,000 tons per year

305.2 Owners or operators of Part 70 sources shall pay annual fees (as adjusted pursuant to the criteria set forth in § 305.6) based on the total tons of actual emissions of each regulated pollutant (for presumptive fee calculation purposes) emitted from Part 70 sources following the schedule in the following table:

$1,000	Total actual emissions less than 10 tons per year
$5,000	Total actual emissions equal to or greater than 10 tons per year, but less than 25 tons per year
$10,000	Total actual emissions equal to or greater than 25 tons per year, but less than 100 tons per year
$30,000	Total actual emissions equal to or greater than 100 tons per year

305.3 Owners or operators of Part 70 sources with total actual annual emissions greater than 100 tons per year will pay an annual fee of three hundred dollars ($300) (as adjusted pursuant to the criteria set forth in § 305.6), in addition to the fees specified under § 305.2, for each ton of annual emissions in excess of one hundred (100) tons per year.

305.4 Owners or operators of Part 70 sources subject to annual fees pursuant to § 305.2 shall pay annual fees within twelve (12) months of the date on which the source first becomes subject to the program.

305.5 Owners or operators of sources that accept federally enforceable emission limits pursuant to § 200.6 and § 300.3(c) shall pay a permit application fee (original and renewal applications) of five thousand dollars ($5,000).

305.6 The fees described in §§ 305.2 and 305.3 shall be increased each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year exceeds the Consumer Price Index for the calendar year 2015:

(a) The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve (12) month period ending on August 31st of each calendar year; and

(b) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 2015 shall be used. The Consumer Price Index for all-urban consumers for the month of August 2015 is 238.316.

305.7 Owners or operators that fail to pay a fee owed pursuant to §§ 305.1, 305.2, or 305.3 within sixty (60) days of the date that the Department issues an invoice or by September 1, whichever is earlier, unless another deadline is specified in a

permit issued pursuant to this chapter, shall pay a penalty of fifty percent (50%) of the fee amount, plus interest pursuant to § 502(b)(3)(C)(ii) of the Act.

305.8 All fees, penalties, and interest collected pursuant to this chapter shall be deposited by the Department in a special D.C. Treasury fund, subject to appropriation, to carryout Part 70 program activities solely.

Section 399, DEFINITIONS AND ABBREVIATIONS, is amended as follows:

Subsection 399.1 is amended by replacing the definition of "Regulated pollutant (for presumptive fee calculation)" to read as follows:

Regulated pollutant (for presumptive fee calculation), which is used only for purposes of § 305 - any "regulated air pollutant" except the following:

(a) Any pollutant that is a regulated air pollutant solely because it is a class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act;

(b) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under § 112(r) of the Clean Air Act;

(c) Carbon monoxide; or

(d) Greenhouse gases, as defined in 40 CFR § 86.1818–12(a).

By adding a definition for "relevant emissions units" as follows:

Relevant emissions units - those emissions units that are subject to applicable requirements.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act (the Act) for a medical assistance program, and for other purposes approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2016 Repl. & 2019 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of the adoption of amendments to Chapter 27 (Medicaid Reimbursement for Fee for Service Pharmacy Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), by amending Section 2799 (Definitions) and adding a new Section 2715 (Pharmacists' Administration Services).

This rule will allow the District Medicaid Program to reimburse pharmacies for administration of immunizations, vaccines, and emergency anaphylaxis agents that are required to treat an anaphylactic reaction caused by an immunization or vaccine. District laws and regulations permit pharmacists to administer immunizations, vaccines, and emergency anaphylaxis agents under § 6512 of Title 17 DCMR. This rule requires pharmacists' administration services to meet seven conditions: (1) licensure and practice within the scope of practice authorized under 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 *et seq*. (2016 Repl. & 2019 Supp.)) and Chapter 65 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided; (2) certification by the D.C. Board of Pharmacy to administer immunizations and vaccines in accordance with § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided; (3) the administration of immunizations, vaccines, and emergency anaphylaxis agents that are covered under the District's Medicaid State Plan for Medical Assistance ("State Plan"); (4) administration of immunizations and vaccines must be supported by and consistent with a written protocol, valid prescription, or physician standing order as required under § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided; (5) administration of emergency anaphylaxis agents must be supported by and consistent with a written protocol, consistent with the requirements of § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided, and must be required to treat an emergency anaphylactic reaction that is caused by the administration of an immunization or vaccine; (6) the pharmacy in which the pharmacist is located shall be a Medicaid-enrolled provider in compliance with provider screening and enrollment requirements set forth under Chapter 94 of Title 29 DCMR; (7) the pharmacist must notify the beneficiary's primary care physician if a flu vaccine or a vaccine that is not covered under the Vaccine for Children (VFC) Program is administered to a child under nineteen (19). This rule also sets forth that pharmacies may be reimbursed administration fees, and outlines separate rates for injectable products and intranasal products. In addition, the rule allows the District to update the administration fees, subject to the requirements governing the Medicaid Fee Schedule as set forth under § 988 of Title 29 DCMR.

This rulemaking amends Chapter 27 of Title 29 DCMR by incorporating the Medicaid reimbursable services that pharmacists may deliver in the District. Finally, these rules would also further amend Chapter 27 (Medicaid Reimbursement for Fee for Service Pharmacy Services) by adding new definitions to § 2799 for the following terms: administer, administration fee, anaphylaxis, emergency anaphylaxis agent, immunization, vaccination, and written protocol.

These rules correspond to an amendment to the District's State Plan for Medical Assistance (State Plan), which was approved by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS) on February 25, 2020. These rules became effective for services rendered on or after February 15, 2020.The District Medicaid Program estimates that the rule will have little to no impact on District or federal expenditures.

A Notice of Emergency and Proposed Rulemaking was published on February 14, 2020 in the *D.C. Register* at 67 DCR 1633. The following comment was received from the National Association of Chain Drug Stores (NACDS). The comment supports expanded access to vaccines through pharmacies by allowing them to bill for vaccine administration, which this regulation does. Accordingly, we have not changed the rule in response to the supportive comment below.

NACD applauds DHCF for identifying opportunities to expand access to affordable and quality care by allowing licensed pharmacists to bill for vaccine administration. NACD comments that the prevalence of vaccine-preventable diseases in adults remains a significant public health issue in the U.S. NACD provides data that shows low immunization uptake and immunization rates in the U.S. and the District. NACD further states that given the status of population health and the physician shortage, there is great need for Washington, DC residents to have additional healthcare destinations to receive high quality, affordable, and convenient care. NACD further explains that community pharmacists are highly qualified and well-positioned in local communities to manage and provide quality preventive care, and are oftentimes the most readily accessible healthcare provider, which should help improve health outcomes, address gaps in health care coverage, and save downstream healthcare costs.

The Director adopted these rules as final on May 28, 2020 and they shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 27, MEDICAID REIMBURSEMENT FOR FEE FOR SERVICE PHARMACY SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

A new Section 2715 is added to read as follows:

2715 PHARMACISTS' ADMINISTRATION SERVICES

2715.1 Medicaid reimbursement for pharmacists' administration services, provided consistent with the requirements set forth in 42 CFR § 440.60(a) and the provisions set forth in this section, shall be limited to:

(a) Administering Medicaid-covered immunizations, vaccines, and emergency anaphylaxis agents to adults; or

(b) Administering Medicaid-covered immunizations, vaccines and emergency anaphylaxis agents that are not covered under the Vaccines For Children ("VFC") Program.

2715.2 The Department of Health Care Finance ("DHCF") shall reimburse a pharmacy when a pharmacist administers to a Medicaid beneficiary any of the following covered drugs:

(a) Immunizations;

(b) Vaccines; and

(c) Emergency anaphylaxis agents required to treat an emergency anaphylactic reaction that is caused by an immunization or vaccine.

2715.3 In order to be eligible for Medicaid reimbursement, pharmacists who provide the services described in § 2715.2 must meet the following requirements:

(a) Be licensed and practicing within the scope of practice authorized under 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 *et seq*. (2016 Repl. & 2019 Supp.)) and Chapter 65 of Title 17 of the District of Columbia Municipal Regulations ("DCMR") or the applicable professional practices act within the jurisdiction where services are provided;

(b) Be certified by the D.C. Board of Pharmacy to administer immunizations and vaccines in accordance with § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided;

(c) Administer immunizations and vaccines that are covered under the District's Medicaid State Plan for Medical Assistance ("State Plan");

(d) Administer emergency anaphylaxis agents that are:

(1) Specified in a written protocol, as required under § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided, and covered under the State Plan; and

(2) Required to treat an emergency anaphylactic reaction that is caused by an immunization or vaccine;

(e) Administer immunizations and vaccines pursuant to a written protocol, valid prescription, or physician standing order as required under § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided;

(f) Administer emergency anaphylactic agents if emergency anaphylactic reaction treatment is deemed appropriate by a delegating physician as set forth in a written protocol, consistent with the requirements set forth under § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided;

(g) Ensure all written protocols are current and reviewed annually with the delegating physicians, consistent with the requirements set forth under § 6512 of Title 17 DCMR or the applicable professional practices act within the jurisdiction where services are provided;

(h) Practice at a pharmacy that is an enrolled DC Medicaid provider in compliance with provider screening and enrollment requirements set forth under Chapter 94 of Title 29 DCMR; and

(i) Notify the beneficiary's primary care physician if a flu vaccine or a vaccine that is not covered under the VFC Program is administered to a child under nineteen (19).

2715.4 Except for flu vaccines, Medicaid reimbursement shall not be available if an immunization or vaccine that is covered under the VFC Program is administered to a child.

2715.5 Pharmacists shall comply with the requirements of § 6512 of Title 17 DCMR, as described in § 2715.3, which are under the purview of the Department of Health in accordance with Chapter 19 of Title 22-B DCMR.

2715.6 DHCF shall reimburse administration services described in § 2715.2 to a pharmacy in which the pharmacist, described in § 2715.3, administers the services.

2715.7 DHCF shall reimburse pharmacist-administered immunizations, vaccines, and emergency anaphylaxis agents in accordance with this section as follows:

(a) DHCF shall provide separate administration fees for injectable products and for nasal products;

(b) Pharmacies receiving reimbursement for administration of immunizations, vaccines, and emergency anaphylaxis agents shall not receive the professional dispensing fee, described in §§ 2710 – 2711 of this chapter;

(c) The fees may be updated annually, and changes to the fee shall be published on the Medicaid website at www.dc-medicaid.com, subject to the requirements governing the Medicaid Fee Schedule as set forth under § 988 of Title 29 DCMR; and

(d) DHCF shall reimburse the pharmacy separately for the cost of the immunization, vaccine, and/or anaphylaxis agent, in accordance with the requirements set forth under the State Plan, Attachment 4.19-B ("Payment for Services"), Part 1, pages 2 through 3c of the State Plan and the requirements of this chapter.

Section 2799, DEFINITIONS, is amended to read as follows:

2799 DEFINITIONS

2799.1 For the purposes of this chapter, the following terms shall have the meanings ascribed:

340B Covered Entity Pharmacy - An in-house pharmacy of an entity that meets the requirements set forth in § 340B(a)(4) of the Public Health Services Act.

340B Contract Pharmacy - A pharmacy dispensing drugs on behalf of a covered entity described at § 340B(a)(4) of the Public Health Services Act.

Actual Acquisition Costs - DHCF's determination of the pharmacy providers' actual prices paid to acquire drug products marketed or sold by specific manufacturers.

Administer - The direct application of a prescription drug to the body of the beneficiary by injection, inhalation, ingestions, or any other means to the body of a patient.

Administration fee - A fee reimbursed to a pharmacy that employs or contracts a pharmacist that directly applies an immunization, vaccine, or emergency anaphylaxis agent by injection or inhalation to the body of a Medicaid beneficiary.

Anaphylaxis - A rapidly progressing, life-threatening allergic reaction.

Brand - Any registered trade name commonly used to identify a drug.

Brand name drugs - A single source or innovator multiple source drug.

Compound medication - Any prescription drug, excluding cough preparations, in which two (2) or more ingredients are extemporaneously mixed by a registered pharmacist.

Container - A light resistant receptacle designed to hold a specific dosage form which is or maybe in direct contact with the item and does not interact physically or chemically with the item or adversely affect the strength, quality or purity of the item.

Department of Health Care Finance (DHCF) - The executive department responsible for administering the Medicaid program within the District of Columbia effective October 1, 2008.

Emergency anaphylaxis agent - A medication used to treat anaphylaxis caused by the administration of an immunization or vaccine.

Federal Supply Schedule - A multiple award, multi-year federal contract for medical equipment, supplies, pharmaceutical, or service programs that is available for use by federal government agencies that complies with all federal contract laws and regulations. Pricing is negotiated based on how vendors do business with their commercial customers.

Federal Upper Limit - The upper limits of payment established by the Centers for Medicare and Medicaid Services, consistent with the requirements set forth under 42 CFR §§ 447.512 – 447.516.

Generic drug - A drug that is produced and distributed without patent protection.

Immunization - The act of inducing antibody formation, thus leading to immunity.

Investigational drug - A drug that is under study but does not have permission from Food and Drug Administration to be legally marketed and sold in the U.S.

Legend drug - A drug that can only be dispensed to the public with a prescription.

Medicaid Drug Rebate Program - This program was created pursuant to the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508; 104 Stat. 1388 (OBRA '90). The Drug Rebate program requires a drug manufacturer to enter into and have in effect a national rebate agreement with the Secretary of the Department of Health and Human Services (HHS) for states to receive Federal funding for outpatient drugs dispensed to Medicaid patients.

Maintenance narcotic medication - A narcotic medication that has been dispensed in quantities sufficient for thirty (30) days or more for pain management therapy.

Multiple source drug - A drug marketed or sold by two (2) or more manufacturers or labelers.

Pharmacy benefit manager - A company under contract with DHCF to manage pharmacy networks, provide drug utilization reviews, outcome management and disease management.

Vaccination - Administration of any antigen in order to induce immunity; is not synonymous with immunization since vaccination does not imply success.

Written protocol - A specific written plan for a course of medical treatment containing a written set of specific directions created by the physician for one or more patients, consistent with requirements set forth under Chapter 65 of Title 17 DCMR.

X-DEA number - A unique identification number (x-number) assigned by the Drug Enforcement Administration under the Drug Addiction Treatment Act of 2000 (Pub. L. 106-310; 114 Stat. 1101) in order to prescribe or dispense buprenorphine/naloxone drug preparations.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

RM3-2018-01, IN THE MATTER OF THE INVESTIGATION INTO THE PUBLIC SERVICE COMMISSION'S RULES GOVERNING ENERGY METER LOCATIONS,

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code §§ 2-505 (2016 Repl.) and 34-802 (2019 Repl.), hereby gives notice of its final rulemaking adopting Sections 301 and 399.1 of Chapter 3 (Consumer Rights and Responsibilities) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), commonly referred to as the Consumer Rights and Responsibilities. Among other requirements, this chapter sets forth standards for energy meter locations.

2. On March 9, 2018, the Commission published a Notice of Proposed Rulemaking (NOPR) revising Sections 301 and 399.1 of the Consumer Rights and Responsibilities to clarify its rules for energy meters replacement and relocation.[1] On December 27, 2019, the Commission published a Second NOPR, adding additional provisions to its first NOPR in response to Washington Gas Light Company's January 2, 2019, filing in *Formal Case No. 1142*, Commitment No. 70.[2] On March 6, 2020, the Commission published a Third NOPR, in which Sections 301.2, applicable to natural gas meters and equipment, and 399.1, were revised in response to comments filed on this matter by the Washington Gas Light Company.[3] On April 4, 2020, the Potomac Electric Power Company (Pepco) filed comments, suggesting minor grammatical edits to Sections 301.1 (d) and 301.1 (e). This Notice of Final Rulemaking incorporates Pepco's suggestions.

3. The Commission approved the Final Rules by Order No. 20351 at the Commission's May 20, 2020, open meeting, with the rules becoming effective upon publication of this notice in the *D.C. Register*.

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1 65 DCR 2477-2482 (March 9, 2018).

2 65 DCR 6587-16592 (December 27, 2019); *Formal Case No. 1142*, *In the Matter of the Merger of AltaGas Ltd. and WGL Holdings, Inc*., Washington Gas Light Company, Commitment No. 70 Compliance Filing, filed January 2, 2019.

3 67 DCR 2608-2613 (March 6, 2020).

Chapter 3, CONSUMER RIGHTS AND RESPONSIBILITIES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Section 301, ENERGY METER LOCATIONS, is amended to read as follows:

301 LOCATION OF ENERGY SERVICE METERS AND RELATED EQUIPMENT

301.1 **Electric Meters and Equipment**

(a) Electric Meters shall be located outdoors whenever possible unless the relocation of the Meter will result in an unsafe condition.

(b) When an indoor electric Meter installation is replaced due to modifications in electric service equipment by the Electric Utility, the electric Meter shall be relocated outdoors at no expense to the Customer. If the electric Meter relocation is for the convenience of the Customer, it shall be at the Customer's expense and calculated in accordance with the Electric Utility's approved Tariff for this service. The cost of connecting the Meter to the Customer's electric service panel shall remain with the Customer.

(c) Customers must grant access to the electric Meter for maintenance or service Disconnection within the provisions of Subsection 310.1. If a Customer refuses to grant access, the utility may relocate the electric Meter to an accessible location and the Customer shall bear the relocation cost.

(d) The Electric Utility shall provide Customers with a fifteen (15) day notice prior to replacing or relocating electric Meters located on the Customer's premise or property. No such notice is required in emergencies.

(e) The notice required by Subsection 301.1(d) shall inform the Customer that the Electric Utility proposes to relocate or replace the electric Meter, the planned new location, and how to contact the Electric Utility to provide supplemental information, such as the building's historic status or any private property line limitations. The notice shall include contact information for the Commission and OPC.

(f) The Electric Utility shall develop and implement detailed protocols for determining the location of electric Meters, consistent with these rules, and shall inform Customers of these protocols.

301.2 **Gas Meters and Natural Gas Equipment**

(a) Gas Meters, Natural Gas Service Regulators, and Natural Gas Equipment shall be located outdoors whenever possible unless the relocation will result in an unsafe condition or as otherwise authorized by Subsection 301.2.

(b) When new Natural Gas Service Lines are installed, or existing ones are replaced, gas Meters shall be placed outdoors at no expense to the Customer. If the gas Meter relocation is for the convenience of the Customer, it shall be at the Customer's expense and calculated in accordance with the Natural Gas Utility's approved Tariff for this service.

(c) Customers must grant access to the gas Meter for maintenance or service Disconnection within the provisions of Subsection 310.1. If a Customer refuses to grant access, the utility may relocate the gas Meter to an accessible location and the Customer shall bear the relocation cost.

(d) The Natural Gas Utility shall provide Customers with a fifteen (15) day notice prior to replacing or relocating Natural Gas Equipment located on the Customer's premise or property. No such notice is required in emergencies.

(e) The notice required by Subsection 301.2(d) shall inform the Customer of the Natural Gas Equipment that the Natural Gas Utility proposes to replace or relocate, the planned new location, and how to contact the Natural Gas Utility to provide supplemental information, such as the building's historic status or any private property line limitations. The notice shall include contact information for the Commission and OPC.

(f) The Natural Gas Utility shall determine the location of indoor or outdoor Natural Gas Equipment, subject to the provisions of this Section, all applicable pipeline safety industry practices, federal and District of Columbia laws and regulations, including the Design Guideline for Utility Meters issued by the District of Columbia Historic Preservation Review Board, and any applicable District laws and regulations.

(g) Where exterior gas Meters, Natural Gas Service Regulators, Shut-Off Valves or other Natural Gas Equipment cannot be installed in front of the Customer's premises, the Natural Gas Utility, after consultation with the Customer, shall employ best efforts to avoid installing Natural Gas Equipment on the principal street façades (of building/dwelling) and to place the Natural Gas Equipment to the rear and secondary façades (side of building/dwelling) of the Customer's premises. If it is necessary and safe to place a gas Meter on a rear or secondary façade (side of building/dwelling) wall, the Natural Gas Utility shall select a location that provides reasonable access to the gas Meter. The Natural Gas Utility shall employ best efforts to preserve the integrity and appearance of the building and its façades.

(h) When installing gas Meters, Natural Gas Service Regulators, Shut-Off Valves or other Natural Gas Equipment outdoors, the Natural Gas Utility shall:

(1) Locate all Shut-Off Valves outdoors in a readily accessible location;

(2) Consider the potential damage to the Natural Gas Equipment;

(3) Select a location that accommodates access to gas Meter reading, inspection, repairs, testing, and safe changing and operation of the natural gas Shut-Off Valves, and service Disconnections;

(4) Consider an outdoor location consistent with the adjoining buildings and Natural Gas Equipment locations;

(5) Consider, to the extent feasible and safe, locating the Natural Gas Equipment behind existing landscaping to make it least visible from the street;

(6) Consult with Customers prior to conducting outdoor gas Meter relocation or replacement on the potential impact of the building's aesthetics;

(7) When safe to do so, install outdoor gas Meters and Natural Gas Service Regulators above ground in a protected location adjacent to the building served, and as close as possible to the point where the Natural Gas Service Line connects to the Natural Gas Main Line;

(8) Determine the location of Natural Gas Service Regulators outdoors, when safe to do so. Otherwise, Natural Gas Service Regulators shall be located indoors as near as practicable to the point where the Natural Gas Service Line enters the building and shall be vented to the outside;

(9) Avoid placing Natural Gas Equipment in front of windows or other building openings that may directly obstruct emergency fire exits and building entryways; and

(10) Place Natural Gas Equipment under exterior stairways only when deemed safe by the Natural Gas Utility and when no other safe location is available.

(i) At the Customer's request and only when deemed safe to do so, the Natural Gas Utility may locate the gas Meter and associated gas piping up to five (5) feet in length from the Natural Gas Utility's preferred installation location at no cost to the Customer. If a Customer requests an installation location that is safe to complete but is further than five (5) feet in length from the Natural Gas Utility's preferred installation location, then the Customer shall be responsible for the costs associated with the additional

piping beyond five (5) feet from the Natural Gas Utility's preferred location to the location selected by the Customer. The cost shall be calculated in accordance with the Commission-approved Tariff for this service.

(j) The placement of gas Meters indoors shall be considered only when one or more of these circumstances are present:

(1) The Natural Gas Service Line pressure is less than ten (10) pounds per square inch gauge;

(2) The gas Meter could not be installed safely on the private property surrounding the building and would have to be placed in an area that would violate traffic laws or interfere with the public right-of-way;

(3) A Natural Gas Utility determines that a gas Meter and associated Natural Gas equipment is subject to a high risk of damage based on the Natural Gas Utility's prior experience; and

(4) Protection from ambient temperatures is necessary to avoid gas Meter freeze-ups, flooding or icing, or other extreme weather conditions that could impact the safe and accurate operation of the gas Meter.

(k) If gas Meters are placed indoors, the Natural Gas Utility shall ensure:

(1) Indoor gas Meters shall be supported in such a manner as to be as free as possible from damage that will render them unsafe or inaccurate;

(2) Gas Meters are located in a ventilated place not less than three (3) feet away from a source of ignition or source of heat which may damage the gas Meter; and

(3) The Customer is informed in writing of any safety measures that the Customer needs to adhere to, including but not limited to, ventilation requirements and proximity of ignition source or heat to the gas Meter and Natural Gas Equipment.

(l) All gas Meters, Natural Gas Service Regulators, Shut-Off Valves, and Natural Gas Equipment installed indoors at multi-family buildings, commercial buildings, or multiple connected residential dwellings shall be inspected by the Natural Gas Utility at intervals not exceeding twenty-seven (27) months, but at least once every two (2) calendar years, beginning July 1, 2020.

(m) The Natural Gas Utility shall develop and implement detailed protocols for determining the location of Natural Gas Equipment, consistent with these rules, and shall inform Customers of these protocols.

Section 399, DEFINITIONS, is amended to add the following definitions:

Natural Gas Service Regulator: the device on a service line that controls the pressure of natural gas delivered from a higher pressure to the pressure provided to the Customer. A service regulator may serve one Customer or multiple Customers through a gas Meter header or manifold.

Natural Gas Main Line: a distribution line that serves as a common source of supply for more than one service line.

Natural Gas Service Line: a distribution line that transports gas from a common source of supply to an individual Customer, to two adjacent or adjoining residential or small commercial Customers, or to multiple residential or small commercial Customers served through a gas Meter header or manifold. A service line ends at the outlet of the Customer gas Meter or at the connection to a Customer's piping, whichever is further downstream, or at the connection to Customer piping if there is no gas Meter.

Shut-Off Valve: a small local valve used to control the flow of natural gas and is installed upstream of the gas Meter.

Natural Gas Equipment: the term includes gas Meters, Natural Gas Service Regulators, Shut-Off Valves, and any other gas equipment associated with the delivery of gas to the Customer.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Behavioral Health (Department), pursuant to the authority set forth in §§ 5113, 5115, 5117, and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 34 (Mental Health Rehabilitation Services Provider Certification Standards) in Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR), and amendments to Chapters 25 (Health Home Certification Standards); Chapter 39 (Psychosocial Rehabilitation Clubhouse Certification Standard); and Chapter 73 (Department of Behavioral Health Peer Specialist Certification), of Title 22-A DCMR, and Chapter 35 (Department of Mental Health (DMH) Infractions) of Title 16 DCMR (Consumers, Commercial Practices, and Civil Infractions).

The current Chapter 34 Mental Health Rehabilitation Service regulation was first published in 2001. Since then, the Department has periodically amended one or more individual provisions. For the past three years, the Department and its mental health provider network engaged in discussions to identify areas where the entire regulation could be updated to improve quality of care, accountability, and efficiency. Many of these changes were incorporated into a proposed rulemaking, which was published in the *D.C. Register* on August 9, 2019 at 66 DCR 010278. The Department did not receive any comments in response to the proposed rulemaking.

On November 6, 2019, the Centers for Medicare and Medicaid Services (CMS) approved the District of Columbia's Section 1115 Behavioral Health Transformation Demonstration Program (demonstration program). The goals of this demonstration program are to increase access to a broader continuum of behavioral health services for District Medicaid beneficiaries, advance the District's goals in the Opioid Strategic Plan Live.Long.DC., and support a more person-centered system of physical and behavioral health care. Further information on the demonstration program is available at https://dhcf.dc.gov/1115-waiver-initiative. To implement two of the demonstration program services, Trauma Systems Therapy (TST) and Trauma Recovery and Empowerment Model (TREM), the Department adopted emergency and proposed rulemaking on January 14, 2020, which was published in the *D.C. Register* on February 7, 2020 at 67 DCR 001269. The Department did not receive any comments in response to the rulemaking. This emergency and proposed rulemaking remains in effect until May 13, 2020. However, upon its adoption, the second emergency and proposed rulemaking shall supersede the February 7, 2020 emergency and proposed rulemaking.

The Department now seeks to establish provider certification standards that support and implement the District's strategic plans by incorporating the provisions of the August 2019 proposed rulemaking and the January 2020 emergency and proposed rulemaking; while also: (a) clarifying ambiguous or conflicting language, including in subsections related to qualified practitioners, prior authorization requirements, and same-day billing limitations; (b) updating provisions to reflect the most current terminology and standards of care in use by the Department; (c) creating consistency, where appropriate, between the Mental Health Rehabilitation Services certification standards and

the Substance Use Disorder certification standards in Title 22-A DCMR, Chapter 63; (d) updating core services agency (CSA) requirements related to screening and assessment for Supported Employment services, to create consistency with changes made in January 14, 2020 emergency and proposed rulemaking for Chapter 37 Mental Health Supported Employment Services And Provider Certification Standards; and (e) making technical corrections to the same-day billing restrictions for Trauma Systems Therapy (TST) and the same-day billing restrictions and service definition of Trauma Recovery and Empowerment Model (TREM).

The following chart describes the key changes within each Chapter 34 subsection:

Section Number	Description of Change	Reasoning
3400	Add detail about the role of the Department of Behavioral (DBH) in overseeing mental health services in the District. Clarify that the purpose of the chapter is to establish consumer eligibility and service standards, in addition to provider certification standards.	Clarify the purpose the chapter.
3401 and 3403	Replace references to "Corrective Measures Plan" with "Statement of Deficiency."	Reflect updated DBH terminology.
3401	Add detail about when Statements of Deficiency or Notices of Infractions are issued.	Clarify processes for oversight and enforcement of certification standards.
3401.23	Add section on the review process for pending applications when a moratorium goes into effect.	Enforce compliance with regulatory standards and encourage applicants that are capable of providing high quality care.
3401.24 through 3401.26	Add requirements for MHRS providers to notify DBH when implementing certain operational changes or of any criminal allegations involving staff. Added requirement for providers to submit inspection reports by oversight bodies to DBH.	Align requirements across mental health and substance use regulations.
3402	Add section on exemption from certification standards.	Align requirements across mental health and substance use regulations.
3403	Add specific grounds for denial of certification and decertification.	Clarify DBH's criteria for certification denial and decertification.

3404	Add section on Notices of Infraction (NOI), to incorporate and streamline existing NOI provisions found in 16 DCMR 35.	For clarity, combine NOI provisions with the same chapter as MHRS certification standards.
3405	Add section with requirements for notification of DBH, consumer continuity of care, and records retention when a provider discontinues some or all services.	Ensure consumers' continuity of care when their provider ceases services.
3411	Combine Plan of Care Development Process and Plan of Care Development sections.	Streamline description of requirements for Plan of Care development.
3411.2, 3414.7, and 3418.2	Add requirement for CSAs to assess consumers for interest in and potential eligibility for Mental Health Supported Employment services, in accordance with the requirements set forth in 22-A DCMR Chapter 37.	Clarify CSA requirements to screen for Mental Health Supported Employment services eligibility as a part of Diagnostic Assessment and Plan of Care development.
3413.15	Clarify requirements of "Unscheduled Service Access Policy."	Distinguish requirements of this policy from "On-Call System Policy" and crisis service availability.
3413.16 and 3413.31	Change length of records retention requirement from six (6) to ten (10) years.	Align with Medicaid program retention requirements.
3413.16	Add requirement for electronic records to include a log function that dates, times, and authenticates each entry, access, and change to a record.	Ensure accuracy and integrity of records information.
3413.17	Add requirement for providers to participate in the District Health Information Exchange (HIE).	Improve quality of care and care coordination by ensuring providers have access to current patient data.
3413.19	Clarify requirements for the contents of encounter notes.	Clarity.
3413.22	Change minimum active programming requirement for Intensive Day Treatment providers from forty (40) hours a week to thirty-five (35) hours a week.	Align with national trends in delivery of Intensive Day Treatment.
3413.23	Change name of "Interpreter Policy" to "Language Access Policy" and make updates to the policy requirements.	Align with DBH's policy on "Language Access for Individuals with Limited or No-English Proficiency."

3413.28	Clarify the staffing qualifications for MHRS providers' Quality Improvement (QI) Coordinators and the QI program requirements.	Align QI requirements across MHRS provider types and across mental health and substance use regulations.
3413.29	Add requirement that provider service sites have a reception area, private areas for individual treatment services, and restrooms for consumers and their families.	Ensure appropriate and adequate facilities for MHRS consumers.
3413.34, 3413.35, and 3413.42	Update requirements related to the "Billing and Payment Policy" and claims and encounter data submissions.	Reflect transition of Medicaid claims processing from DBH to the Department of Health Care Finance (DHCF).
3414.3 and 3415.6	Clarify that the qualified practitioner (QP) who is an MHRS provider's Clinical Director must be independently licensed. Require Clinical Directors for sub-providers and specialty providers to dedicate sufficient time to role, if not full-time.	Ensure appropriate clinical oversight of provider operations.
3414.4, 3415.10, and 3415.11	Modify requirements for CSA, sub-provider, and specialty provider financial audits.	Align requirements across MHRS provider types, where appropriate.
3414.6	Clarify requirements of "On-Call System Policy" and when a consumer presents with an urgent need.	Ensure appropriate staffing of services.
3406.3, 3413, 3414, 3416, and 3418 through 3428	Clarify terminology related to QPs and in what circumstances QPs must be independently licensed. Clarify credentialed staff definition. Remove inconsistent mentions of supervision requirements. Unless the chapter establishes additional supervision requirements, it does not explicitly spell out which QPs are subject to supervision or which QPs may supervise credentialed staff. Instead, the chapter defers to the applicable scope of practice laws and regulations for each practitioner type.	Clarity. Eliminate inconsistent and conflicting mentions of supervision requirements and QP and credentialed staff definitions.

3419.7 and 3419.9	Modify same-day billing restrictions for Medication/Somatic Treatment.	Align with current Medicaid MHRS State Plan Amendment (SPA).
3420.2, 3420.4, and 3420.5	Clarify prior authorization and QP requirements for Counseling and modify same-day billing restrictions.	Align with current SPA.
3421	Clarify prior authorization and QP requirements and same-day billing restrictions for Community Support.	Align with current SPA and DBH billing practices.
3422	Clarify description of Crisis/Emergency Services to ensure availability of QPs that are independently licensed. Clarify same-day billing restrictions and QPs permitted to deliver service.	Clarity.
3423	Modify prior authorization requirements and same-day billing restrictions for Rehabilitation Day Services.	Align with current SPA and DBH billing practices.
3424	Clarify prior authorization and QP requirements for Intensive Day Treatment. Modify same-day billing restrictions.	Align with current SPA and DBH billing practices.
3425	Clarify age-related eligibility requirements for different Community Based Intervention (CBI) levels, eligibility criteria for CBI Level III, and staffing qualifications. Require CBI Level IV supervisors to have capacity to carry up to five (5) cases.	Align with evidence-based practice criteria and DBH's CBI policy.
3425.29	Remove requirement that CBI Level IV therapists be full-time.	Improve consumer access to care, by supporting provider ability to offer CBI Level IV.
3425.44	Clarify same-day billing restrictions for CBI.	Align with current DBH billing practices.
3426.1, 3426.9, and 3426.12	Clarify age-related eligibility requirements for Assertive Community Treatment (ACT), staffing qualifications of ACT supervisors, and prior authorization requirements.	Clarity.
3426.9	Replace "recovery specialist" and "peer specialist" ACT team members with	Reflect updated DBH standards for these staffing types.

	"certified recovery coach" and "certified peer specialist."	
3426.13	Require ACT consumers to receive any vocational/supported employment services through their ACT provider. Render ACT consumers ineligible for Supported Employment services that are subject to the Supported Employment service standards in 22-A DCMR Chapter 37.	Align with evidence-based practices.
3426.15	Prohibit ACT providers from billing Crisis/Emergency Services when provided to one of their current consumers.	Crisis/Emergency Services are expected to be billed under the ACT service code.
3427.1	Clarify qualifications of CPP-FV supervisor and clinicians.	Clarity and align with evidence-based practice criteria.
3428.1 and 3428.5	Increase the number of clinicians who can be part of a TF-CBT team from eight (8) to ten (10). Clarify staffing qualifications.	Improve consumer access to quality care.
3429.5	Modify TREM same-day billing restrictions.	Align with best practices.
3430.8	Modify TST same-day billing restrictions.	Align with best practices.
3431.4	Table summarizes prior authorization requirements, same-day billing and service location limitations, and billable units of service. Changes reflect those made throughout the chapter and the relevant service descriptions.	Clarity.

Emergency rulemaking is critical to public health as the rule establishes provider certification standards governing the provision of Mental Health Rehabilitation Services, the core mental health service program funded and regulated by the Department of Behavioral Health.

These emergency rules were adopted on May 13, 2020 and became effective on that date. The emergency rules shall remain in effect for no longer than one hundred and twenty (120) calendar days, expiring September 10, 2020, unless superseded by publication of subsequent rulemaking in the *D.C. Register*.

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

Chapter 34, MENTAL HEALTH REHABILITATION SERVICES PROVIDER CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is repealed and replaced by a new Chapter 34 to read as follows:

CHAPTER 34 MENTAL HEALTH REHABILITATION SERVICES AND PROVIDER CERTIFICATION STANDARDS

3400 GENERAL PROVISIONS

3400.1 The Department of Behavioral Health ("Department") is the state mental health authority with the responsibility to plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District, and arrange for authorized, publicly-funded behavioral health services and supports for the residents of the District. The Department entered into a Memorandum of Understanding with the Department of Health Care Finance ("DHCF") to implement a Medicaid Rehabilitation Option for the provision of mental health rehabilitative services ("MHRS").

3400.2 The purpose of these rules is to establish the MHRS program, including consumer eligibility, service standards, and provider certification requirements for providing MHRS.

3400.3 Each Department-certified MHRS provider shall meet and adhere to the terms and conditions of its Human Care Agreement ("HCA") with the Department and its Medicaid provider agreement with DHCF.

3401 MHRS PROVIDER CERTIFICATION PROCESS

3401.1 The Department utilizes the certification process to thoroughly evaluate the applicant's capacity to provide high quality MHRS in accordance with this regulation and the needs of the District's behavioral health system.

3401.2 No person or entity shall provide MHRS unless certified by the Department. Each applicant seeking certification as an MHRS provider shall submit a certification application to the Department. An MHRS provider seeking renewal of certification shall submit a certification application at least ninety (90) calendar days prior to the termination of its current certification. The existing certification of an MHRS provider that has submitted a timely application for renewal of certification shall continue until the Department renews or denies renewal of the certification.

3401.3 Certification shall be considered terminated if the MHRS provider:

(a) Fails to submit a complete certification application ninety (90) calendar days prior to the expiration date of the current certification;

(b) Voluntarily relinquishes certification; or

(c) Terminates operations.

3401.4 Upon receipt of a certification application, the Department shall review the certification application to determine if it is complete. If a certification application is incomplete, the Department shall return the incomplete certification application to the applicant. An incomplete certification application shall not be regarded as a certification application. Absent good cause, a provider's failure to submit a complete certification application within ninety (90) calendar days prior to expiration of the current certification shall be deemed a voluntary relinquishment of certification and trigger the Department's closure protocol.

3401.5 Following the Department's acceptance of the certification application, the Department shall determine whether the applicant's services and activities meet the certification standards described in this chapter. The Department shall schedule and conduct an on-site survey of the applicant's services to determine whether the applicant satisfies the certification standards. The Department shall have access to all records necessary to verify compliance with certification standards and may conduct interviews with staff, others in the community, and consumers.

3401.6 The Department may conduct an on-site survey at the time of certification application or certification renewal, or at any other time during the period of certification.

3401.7 Applicant or MHRS provider interference with the on-site survey, submission of false or misleading information, or lack of candor by the applicant or provider, shall be grounds for an immediate suspension of any prior certification or denial of a new certification application.

3401.8 A Statement of Deficiency ("SOD") is a written notice to an applicant or existing MHRS provider identifying non-compliance with certification standards. The intent of the SOD is to provide:

(a) Applicants with an opportunity to correct minor deficiencies during the certification application process; or

(b) Existing certified providers with an opportunity to correct minor deficiencies during the renewal of certification process or at any other time to avoid decertification and disruption of services to existing consumers.

3401.9 The Department will not normally issue an SOD to applicants who fail to demonstrate compliance with the standards. The Department will normally consider the applicant's failure to comply with the initial certification requirements as evidence that the applicant is ill-prepared to assume the responsibilities of providing MHRS to District residents and deny the application.

3401.10 When utilized, the SOD shall describe the areas of non-compliance, suggest actions needed to bring operations into compliance with the certification standards, and set forth a timeframe of no more than ten (10) business days for the applicant or existing MHRS provider's submission of a written Corrective Action Plan ("CAP").

3401.11 The issuance of an SOD is a separate process from the issuance of a Notice of Infraction ("NOI"). NOIs shall be issued promptly upon observation of violations of this chapter, especially when they are recurrent, endanger consumer or staff health or safety, or when there is a failure to comply with core requirements of this chapter.

3401.12 The Department is not required to utilize the SOD process. It may immediately deny certification or proceed with decertification.

3401.13 An applicant or certified MHRS provider's CAP shall describe the actions to be taken and specify a timeframe for correcting the areas of non-compliance. The CAP shall be submitted to the Department within ten (10) business days after receipt of the SOD from the Department, or sooner if specified in the SOD.

3401.14 The Department shall notify the applicant or the certified MHRS provider whether the provider's CAP is accepted within ten (10) business days after receipt.

3401.15 The Department may only issue certification after the Department verifies that the applicant or the certified MHRS provider has remediated all of the deficiencies identified in the CAP and meets all the certification standards.

3401.16 A determination to grant full certification to a provider shall be based on the Department's review and validation of the information provided in the application, as well as facility survey findings, any CAP, and the provider's compliance with this chapter.

3401.17 Full certification as an MHRS provider shall be for one (1) calendar year for new applicants and two (2) calendar years for existing providers seeking renewal. Certification shall start from the date of issuance of certification by the Department, subject to the MHRS provider's continuous compliance with these certification standards. Certification shall remain in effect until it expires, is renewed, or is revoked pursuant to § 3403. The certification shall specify:

(a) The effective date of the certification;

(b) Whether the MHRS provider is certified as a:

(1) Core Services Agency (CSA) serving adults and/or children and youth;

(2) Sub-provider, or

(3) Specialty provider; and

(c) The services the MHRS provider is certified to provide and in which facility.

3401.18 The Department may grant provisional certification to a new provider that:

(a) Has not previously held a certification issued by the Department;

(b) Is in the process of securing a facility within the District of Columbia at the time of application; and

(c) If applicable, has met initial requirements for the evidence-based practice ("EBP") certification process (*e.g.*, Multisystemic Therapy, Functional Family Therapy, Trauma-Focused Cognitive Behavioral Therapy, Child-Parent Psychotherapy).

3401.19 The purpose of provisional certification is to allow a provider new to the District an opportunity to identify a space for a facility within the District. Additionally, provisional certification allows a new provider the option of responding to a Request for Qualification while they continue to work on meeting the requirements of certification. Provisional certification shall not exceed a period of six (6) months and may be renewed only once for an additional period not to exceed ninety (90) calendar days. Upon receipt of a provisional certification, a provider may submit a response to the Department's Request for Qualification for an MHRS HCA.

3401.20 Certification is not transferable to any other organization.

3401.21 Prior to adding an MHRS service during the term of certification, the MHRS provider shall submit a certification application describing the service. Upon determination by the Department that the service is in compliance with certification standards, the Department may certify the MHRS provider to provide that service.

3401.22 Nothing in these rules shall be interpreted to mean that certification is a right or an entitlement. Certification as an MHRS provider depends upon the Director's assessment of the need for additional providers and availability of funds. An individual or entity that applies for certification during an open application period as published in the District of Columbia Register may appeal the denial of certification under this subsection by utilizing the procedures contained in §§ 3403.2 and 3403.3. The Department shall not accept any applications for which a notice of moratorium is published in the *District of Columbia Register*.

3401.23 In the event that a certification application is under review while a moratorium is put in place, the Department will continue to process the application for a time period of no more than thirty (30) calendar days. If, after thirty (30) calendar days, the application is deemed incomplete, the provider will be granted ten (10) business days to resolve all incomplete items. Any items not resolved or provided by the due date will result in the incomplete application being returned to the applicant and the Department will take no further action to issue certification. The applicant shall then wait until the moratorium is lifted in order to submit any subsequent certification applications.

3401.24 The MHRS provider shall notify the Department in writing thirty (30) calendar days prior to implementing any of the following operational changes, including all aspects of the operations materially affected by the changes:

(a) A proposed change in the name or ownership of an MHRS provider owned by an individual, partnership, or association, or in the legal or beneficial ownership of ten percent (10%) or more of the stock of a corporation that owns or operates the MHRS provider;

(b) A change in affiliation or referral arrangements;

(c) A proposed change in the provider's service location;

(d) The proposed addition or deletion of services, which is anything that would alter or disrupt services where the consumer would be impacted by the change, or any change that would affect compliance with this regulation;

(e) A change in the required staff qualifications for employment;

(f) A change in the staff filling positions required by this chapter, as well as any changes in Qualified Practitioners working for the agency;

(g) A proposed change in organizational structure; or

(h) A proposed change in the population served.

3401.25 MHRS providers shall forward to the Department within thirty (30) calendar days all inspection reports conducted by an oversight body and all corresponding corrective actions taken regarding cited deficiencies.

3401.26 MHRS providers shall immediately report to the Department any criminal allegations involving provider staff.

3402 EXEMPTIONS FROM CERTIFICATION STANDARDS

3402.1 Upon good cause shown, the Department may exempt an applicant or MHRS provider from a certification standard if the exemption does not jeopardize the health and safety of consumers, violates consumers' rights, or otherwise conflicts with the purpose and intent of these rules.

3402.2 If the Department approves an exemption, such exemption shall end on the expiration date of the provider certification or on an earlier date if specified by the Department; unless the provider requests renewal of the exemption prior to expiration of its certification or the earlier date set by the Department.

3402.3 The Department may revoke an exemption that it determines is no longer appropriate.

3402.4 All requests for an exemption from certification standards shall be submitted in writing to the Department.

3403 DENIAL OF CERTIFICATION OR DECERTIFICATION PROCESS

3403.1 The Director may deny initial certification if the applicant fails to comply with any certification standard or the application fails to demonstrate the applicant's capacity to deliver high quality MHRS on a sustained and regular basis.

3403.2 To avoid an over-concentration of providers in areas with existing providers and to encourage increased access to underserved areas of the District, the Director may deny certification if the applicant proposes to operate a facility in an area already served by one or more providers. The Department's priority shall be to grant certification to applicants with the demonstrated capacity to deliver high quality MHRS services that will address unmet needs of the behavioral health system.

3403.3 While applicants may make minor corrections and substitutions to its application during the certification process, evidence of one or more of the following shall constitute good cause to deny the application for certification when the circumstances demonstrate deliberate misrepresentations, organizational instability, or the lack of preparedness or capacity to meet and sustain compliance with this Chapter:

(a) An incomplete application;

(b) False information provided by applicant or contained in an application;

(c) One or more changes to an organizational chart during the application process;

(d) A facility that is inadequate in health, safety, size, or configuration to provide MHRS consistent with high quality care and privacy standards;

(e) The lack of demonstrated experience providing MHRS by the applicant's clinical leadership, practitioners, and/or staff;

(f) An applicant's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future;

(g) An applicant's failure to timely respond to the Department's requests for information; and

(h) History of poor performance.

3403.4 Within fifteen (15) business days of the date on the certification denial, an applicant may make a request for an administrative review of the decision from the Director. The Director shall conduct the administrative review to determine whether the certification denial complied with § 3403.1.

3403.5 Each request for an administrative review shall be in writing and contain a concise statement of the reason(s) why the applicant asserts that the certification denial was in error and any relevant supporting documentation.

3403.6 The Director shall complete the administrative review within fifteen (15) business days of receipt of the applicant's request.

3403.7 The Director shall issue a written decision and provide a copy to the provider. The Director's decision is final and not subject to further appeal.

3403.8 An applicant and its executive leadership shall not be allowed to reapply for certification for twelve (12) months following the date of the initial denial or, if applicable, the date of the denial pursuant to the Director's administrative review.

3403.9 The Department shall decertify existing providers who fail to comply with the certification requirements contained in this chapter. Evidence of one or more of the following shall constitute good cause to decertify:

(a) An incomplete recertification application;

(b) False information provided by provider or contained in a recertification application;

(c) High staff turnover during the certification period demonstrating organizational instability;

(d) One or more documented violations of the certification standards during the certification period that evidence a provider's lack of capacity to meet and sustain compliance with this Chapter;

(e) Claims audit error rate in excess of twenty-five percent (25%);

(f) Poor quality of care;

(g) A provider's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future; and

(h) Failure to cooperate with Department investigations or lack of timely response to information requests.

3403.10 Nothing in this chapter requires the Director to issue a SOD prior to decertifying an MHRS provider. If grounds for decertification have been met, the Director will issue a written notice of decertification setting forth the factual basis for the decertification, the effective date, and right to request an administrative review.

3403.11 Within fifteen (15) business days of the date on the notice of decertification, the provider may request an administrative review from the Director. The Director shall conduct the administrative review to determine whether the decertification complied with § 3403.7.

3403.12 Each request for an administrative review shall contain a concise statement of the reason(s) why the provider asserts that decertification should not have occurred and any relevant supporting documentation.

3403.13 Each administrative review shall be conducted by the Director and shall be completed within fifteen (15) business days of the receipt of the provider's request.

3403.14 The Director shall issue a written decision and provide a copy to the provider. If the Director approves decertification, the provider may within fifteen (15) business days of receipt of the Director's written decision request a hearing under the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501, *et seq.* The administrative hearing shall be limited to the issues raised in the administrative review request. The decertification shall be stayed pending resolution of the hearing.

3403.15 Upon decertification, the MHRS provider and its executive leadership shall not be allowed to reapply for certification for any new services, including the service subject to decertification, for a period of two (2) years following the later of the date of the decertification letter or the date of the decertification order (if applicable). If a provider reapplies for certification, the provider shall reapply in accordance with the established certification standards for the type of services provided and show evidence that the grounds for the revocation have been corrected.

3404 NOTICES OF INFRACTION

3404.1 The Department may issue a NOI for any violation of this chapter. The fine amount for any NOI issued under this chapter shall be as follows:

(a) For the first offense, five hundred dollars ($500);

(b) For the second offense, one thousand dollars ($1,000);

(c) For the third offense, two thousand dollars ($2,000); and

(d) For the fourth and subsequent offenses, four thousand dollars ($4,000).

3404.2 The administrative procedure for the appeal of an NOI issued under this chapter shall be governed by 16 DCMR §§ 3100 *et seq.*

3405 PROVIDER DISCONTINUATION OF SERVICES, PROVIDER CLOSURES, AND CONTINUITY OF CONSUMER CARE

3405.1 An MHRS provider shall provide written notification to the Department at least ninety (90) calendar days prior to its impending closure or discontinuation of a subset of services, or immediately upon knowledge of an impending closure or discontinuation of a subset of services less than ninety (90) calendar days in the future. This notification shall include plans for continuity of care and preservation of consumer records.

3405.2 The Department shall review the continuity of care plan and make recommendations to the MHRS provider as needed. The plan should include provision for the referral and transfer of consumers, as well as for the provision of relevant treatment information, medications, and information to the new provider. The provider shall incorporate all Department recommendations necessary to ensure a safe and orderly transfer of care.

3405.3 Closure of a provider or discontinuation of a subset of services does not absolve a provider from its legal responsibilities regarding the preservation and the storage of consumer records as described in §§ 3413.16 and 3413.31 of these regulations and all applicable Federal and District laws and regulations. A provider shall take all necessary and appropriate measures to ensure consumer records are preserved, maintained, and made available to consumers upon request after closure of a provider or discontinuation of the applicable service.

3405.4 An MHRS provider shall be responsible for the execution of its continuity of care plan in coordination with the Department.

3406 SERVICE COVERAGE

3406.1 MHRS are those rehabilitative services rendered through Department-certified MHRS providers to eligible consumers who meet medical necessity for such services.

3406.2 MHRS offer a continuum of care for people with complex needs through intensive, community-based services to reduce the functional impact of mental illness or

serious emotional disturbance and support transitions to less intensive levels of care.

3406.3 MHRS are recommended by qualified practitioners licensed to diagnose mental illness or serious emotional disturbance. MHRS are rendered by qualified practitioners and credentialed staff, pursuant to the requirements in § 3416 and the applicable service specific standards set forth in this chapter.

3406.4 Rehabilitative services covered as MHRS are:

(a) Diagnostic Assessment;

(b) Medication/Somatic Treatment;

(c) Counseling;

(d) Community Support;

(e) Crisis/Emergency Services;

(f) Rehabilitation Day Services;

(g) Intensive Day Treatment ("IDT");

(h) Community Based Intervention ("CBI");

(i) Assertive Community Treatment ("ACT");

(j) Psychosocial Rehabilitation Clubhouse ("Clubhouse");

(k) Child-Parent Psychotherapy for Family Violence ("CPP-FV");

(l) Trauma-Focused Cognitive Behavioral Therapy ("TF-CBT");

(m) Trauma Recovery and Empowerment Model ("TREM"); and

(n) Trauma Systems Therapy ("TST").

3406.5 MHRS providers are CSAs, sub-providers, and specialty providers that are certified in compliance with the standards set forth in this chapter.

3406.6 MHRS coverage limitations are set forth in §§ 3431 and 3432. Coverage for any MHRS is contingent on whether all of the following criteria are met:

(a) The service shall be medically necessary;

(b) The service shall be delivered through a certified MHRS provider;

(c) The service shall be rendered by qualified practitioners or credentialed staff pursuant to the applicable service specific standards set forth in this chapter;

(d) The service shall be delivered in accordance with an approved plan of care; and

(e) The service shall be delivered in accordance with the applicable service specific standards set forth in this chapter.

3407 ELIGIBLE CONSUMERS

3407.1 Consumers eligible for Medicaid-funded MHRS shall meet the following requirements:

(a) Be enrolled in Medicaid, or be eligible for enrollment and have an application pending;

(b) Be a *bona fide* resident of the District, as defined in D.C. Official Code § 7-1131.02(29);

(c) Be a child or youth with mental health problems, as defined in D.C. Official Code § 7-1131.02(1F), or an adult with mental illness as defined in D.C. Official Code § 7-1131.02(24); and

(d) Be recommended as requiring MHRS by a qualified practitioner licensed to diagnose mental illness or serious emotional disturbance.

3407.2 Subject to § 3407.4, consumers eligible for locally-funded MHRS are those individuals who are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program except the D.C. HealthCare Alliance, and who meet the following requirements:

(a) Be a *bona fide* resident of the District, as defined in D.C. Official Code § 7-1131.02(29);

(b) Be a child or youth with mental health problems, as defined in D.C. Official Code § 7-1131.02(1F), or an adult with mental illness as defined in D.C. Official Code § 7-1131.02(24);

(c) Be recommended as requiring MHRS by a qualified practitioner licensed to diagnose mental illness or serious emotional disturbance; and

(d) For individuals eighteen (18) years of age and older, live in households with a countable income of less than two hundred percent (200%) of the federal poverty level, and for individuals under eighteen (18) years of age, live in households with a countable income of less than three hundred percent (300%) of the federal poverty level.

3407.3 Eligible consumers of MHRS shall have a primary mental health diagnosis as described in the International Classification of Diseases ("ICD-10") and Diagnostic and Statistical Manual of Mental Health Disorders ("DSM-5"), or subsequent versions adopted by the Department pursuant to public notice in the District of Columbia Register.

3407.4 Consumers eligible for Medicare shall remain eligible for the following locally-funded MHRS only to the extent these services are not otherwise covered by Medicare:

(a) Community support; and

(b) Specialty services identified in § 3417.3.

3407.5 Providers shall not bill Medicaid and/or the Department for MHRS provided to any consumer that does not meet the eligibility requirements set forth above.

3407.6 For new enrollees and those enrollees whose Medicaid coverage has lapsed:

(a) There is an eligibility grace period of ninety (90) calendar days from the date of first service for new enrollees, or from the date of eligibility expiration for enrollees who have a lapse in coverage, until the date the Department of Human Services' Economic Security Administration ("ESA") makes an eligibility or renewal determination.

(b) In the event the consumer appeals a denial of eligibility or renewal by the ESA, the Director may extend the ninety (90) calendar day eligibility grace period until the appeal has been exhausted. The ninety (90) calendar day eligibility grace period may also be extended at the discretion of the Director for other good cause shown.

(c) Upon expiration of the eligibility grace period, MHRS services provided to the consumer are no longer reimbursable by the Department. Nothing in this section alters the District's timely-filing requirements for claim submissions.

3408 ENROLLMENT INTO AND AUTHORIZATION OF MHRS

3408.1 Enrollment is the process by which the Department ascertains a consumer's eligibility for MHRS, and, if eligible for services, adds a consumer to the MHRS system of care and assigns them to an MHRS provider.

3408.2 No later than seven (7) calendar days after enrollment, the MHRS provider shall conduct an intake appointment with the consumer. This is a face-to-face encounter that initiates the process for securing consent to treatment.

3408.3 If the MHRS provider is unable to contact the consumer, the provider shall document all steps taken in the clinical record.

3408.4 As part of the service authorization process, the Department may review the consumer's Plan of Care or other clinical material if additional clinical information is required in order to evaluate a consumer's needs and whether MHRS are medically necessary.

3409 CONSUMER PROTECTIONS

3409.1 Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded MHRS. The Department shall provide local-only beneficiaries the same Notice and Appeal rights.

3409.2 Each MHRS provider shall establish and adhere to a consumer rights policy authorized by its governing authority ("Consumer Rights Policy") that complies with the requirements of 22-A DCMR § 301.1.

3409.3 Each MHRS provider shall establish and adhere to a system for distributing the Consumer Rights Policy that complies with the requirements of 22-A DCMR § 301.3.

3409.4 Each MHRS provider shall establish and adhere to a well-publicized complaint and grievance system, which includes written policies and procedures for handling consumer, family, and practitioner complaints and grievances ("Complaint and Grievance Policy") that complies with 22-A DCMR § 306.

3409.5 Each MHRS provider shall establish and adhere to policies and procedures for obtaining written informed consent to treatment from consumers ("Consent to Treatment Policy"), which comply with applicable Federal and District laws and regulations, including 22-A DCMR Chapter 1.

3409.6 Each MHRS provider shall establish and adhere to policies and procedures governing the release of mental health information about consumers ("Release of Consumer Information Policy"), which comply with applicable Federal and District laws and regulations. For consumers with co-occurring mental health and substance use disorders (SUDs), the MHRS provider shall comply with the requirements of 42 CFR part 2 governing the confidentiality and release of SUD treatment records.

3409.7 Each MHRS provider shall establish and adhere to policies and procedures governing the use of advance instructions for mental health treatment, durable power of attorney for health care, and advance directives ("Advance Instructions

Policy") that comply with applicable Federal and District laws and regulations, including 22-A DCMR Chapter 1 and any applicable the Department policy.

3409.8 Each MHRS provider's Advance Instructions Policy shall incorporate the development of advance instructions for mental health treatment, durable power of attorney for health care, and advance directives into the assessment planning process.

3409.9 The Department shall review and approve each MHRS provider's Consumer Rights Statement, Complaint and Grievance Policy, Consent to Treatment Policy, Release of Consumer Information Policy, and Advance Instructions Policy, during the certification process.

3410 CONSUMER CHOICE

3410.1 All consumers receiving MHRS shall have free choice of MHRS providers.

3410.2 Each MHRS provider shall establish and adhere to policies and procedures governing the means by which consumers shall be informed of the full choices of MHRS providers and other mental health service providers available, including information about peer support and family support services and groups and how to access these services ("MH Consumer Choice Policy").

3410.3 The Department shall review and approve each MHRS provider's MH Consumer Choice Policy during the certification process.

3410.4 The MH Consumer Choice Policy shall comply with applicable Federal and District laws and regulations.

3410.5 Each MHRS provider shall:

(a) Make its MH Consumer Choice Policy available to consumers and their families; and

(b) Establish and adhere to a system for documenting that consumers and families receive the MH Consumer Choice Policy.

3410.6 Each CSA's MH Consumer Choice Policy shall ensure that each consumer:

(a) Requesting MHRS directly from the CSA is informed that the consumer may choose to have MHRS provided by any of the other the certified CSAs;

(b) Enrolled in the CSA is informed that the consumer may choose to have MHRS provided by any of the certified sub-providers; and

(c) Enrolled in the CSA is informed that the consumer may choose to have MHRS provided by any of the certified specialty provider.

3411 PLAN OF CARE DEVELOPMENT

3411.1 Each CSA shall coordinate the Plan of Care development for its enrolled consumers from the start of intake through discharge from the system of care, except that the Plan of Care development for consumers receiving:

(a) CBI, shall be coordinated by the consumer's CBI provider;

(b) ACT, shall be coordinated by the consumer's ACT provider; and

(c) Clubhouse services, shall be coordinated by the member's Clubhouse provider, if the member is not linked with a CSA, or a CBI or ACT provider. The Plan of Care development and implementation for such members shall be conducted in accordance with the requirements set forth in 22-A DCMR Chapter 39.

3411.2 The Plan of Care development process for consumers shall, at a minimum, include:

(a) The completion of a Diagnostic Assessment as described in § 3418;

(b) Development of a Plan of Care as described in § 3411;

(c) Consideration of the consumer's beliefs, values, and cultural norms in how, what, and by whom MHRS are to be provided;

(d) Consideration, screening, and assessment of the consumer for treatment using an appropriate evidence-based practice ("EBP") offered through a certified MHRS provider; and

(e) When coordinated by the CSA, assessment of the consumer for interest in and potential eligibility for Mental Health Supported Employment services, in accordance with the requirements set forth in 22-A DCMR Chapter 37.

3411.3 Court-appointed guardians for adults, children, and youth, and the parents/guardians or family members of children and youth shall be involved in the Plan of Care development process. The families and significant others of adult consumers may participate in the Plan of Care development process to the extent that the adult consumer consents to the involvement of family and significant others.

3411.4 The provider shall approve a Plan of Care within thirty (30) calendar days from when the provider obtains consent to treatment from the enrolled consumer.

Approval of a Plan of Care shall be demonstrated by the dated and authenticated signature of an independently licensed qualified practitioner.

3411.5 Each CSA, or when applicable pursuant to § 3411.1, each CBI or ACT provider, shall develop and maintain a complete and current Plan of Care for each enrolled consumer after completing intake and assessment. The Plan of Care shall at a minimum describe all of the MHRS the provider will deliver to the consumer, as well as any services to be provided by another CSA, sub-provider, or specialty provider. The CSA or, if applicable, the CBI or ACT provider, is responsible for coordinating the development of the Plan of Care with any CSA, sub-provider, or specialty provider involved in the provision of services.

3411.6 The Plan of Care shall be person-centered and include the following elements:

(a) Overall broad, long-term goal statement(s) that captures the consumer's and/or family's short- and long-term goals for the future, ideally written in first-person language. This shall include the consumer's self-identified recovery goals;

(b) List or statement of individual or family strengths that support goal(s) accomplishment. These include abilities, talents, accomplishments, and resources;

(c) List or statement of barriers that pose obstacles to the consumer's and/or family's ability to accomplish the stated goal(s). These include symptoms, functional impairments, lack of resources, consequences of behavioral health issues, and other challenges;

(d) Statement of objectives that identify the short-term consumer and/or family changes in behavior, function, or status that can help overcome the identified barriers and are building blocks toward the eventual accomplishment of the long-term goal(s). Objective statements describe outcomes that are measurable and include individualized target dates to be accomplished within the scope of the plan;

(e) Intervention statements that describe the treatment and recovery services to be utilized to reduce or eliminate the barriers identified in the plan and support objective and eventual goal(s) accomplishment. Interventions are specific to each objective and the consumer's and/or family's stage of change. Intervention statements identify who will deliver the service, what will be delivered, when it will be delivered, and the purpose of the intervention. Natural support interventions should also be included in the plan and include those non-billable supports delivered by resources outside of the formal behavioral health service-delivery system. When appropriate and applicable, EBP shall be incorporated into the intervention statement; and

(f) Provide for the delivery of services in the least restrictive environment that is appropriate for the consumer.

3412 PLAN OF CARE IMPLEMENTATION

3412.1 The consumer and assigned staff of the CSA, or when applicable pursuant to § 3411.1, staff of the CBI or ACT provider shall discuss the Plan of Care on an ongoing basis. The assigned staff shall record an encounter note describing the consumer's response to, participation in, and agreement to the Plan of Care in the consumer's clinical record.

3412.2 In situations where the consumer does not demonstrate the capacity to sign or does not sign the Plan of Care, the reasons the consumer does not sign shall be recorded in the consumer's clinical record, including each date when obtaining a signature was attempted.

3412.3 Staff shall document in the consumer's clinical record that a consumer's court-appointed guardian, family, and/or significant others participated in the development of the Plan of Care, as appropriate.

3412.4 Each MHRS provider shall develop policies and procedures for Plan of Care review ("Plan of Care Review Policy"). The Plan of Care Review Policy shall be part of the MHRS provider's Treatment Planning or Recovery Planning Policy as required by § 3413.12.

3412.5 The Plan of Care Review Policy shall require that the Plan of Care be reviewed and updated every one hundred eighty (180) calendar days and at any time there is a significant change in the consumer's condition or situation to reflect progress toward or the lack of progress toward the treatment or recovery goals. Each new Plan of Care should incorporate a review of what is working in treatment as well as challenges that have affected treatment. The Plan of Care may be reviewed more frequently, as necessary, based on the consumer's progress or circumstances.

3413 MHRS PROVIDER QUALIFICATIONS—GENERAL

3413.1 Each MHRS provider shall be established as a legally recognized entity in the District of Columbia and qualified to conduct business in the District. A certificate of good standing issued by the District of Columbia Department of Consumer and Regulatory Affairs shall be evidence of qualification to conduct business.

3413.2 Each MHRS provider shall maintain the clinical operations policies and procedures described in this section, and which shall be reviewed and approved by the Department, during the certification survey process.

3413.3 Each MHRS provider shall:

(a) Have a governing authority, which shall have overall responsibility for the functioning of the MHRS provider;

(b) Comply with all applicable Federal and District laws and regulations;

(c) Hire personnel with the qualifications necessary to provide MHRS and to meet the needs of its enrolled consumers;

(d) Ensure that independently licensed qualified practitioners are available to provide appropriate and adequate supervision of all clinical activities; and

(e) Employ qualified practitioners that meet all professional requirements as defined by the applicable licensing, certification, and registration laws and regulations of the District or the jurisdiction where services are delivered.

3413.4 Each MHRS provider shall establish and adhere to policies and procedures for selecting and hiring staff ("Staff Selection Policy"), which shall include:

(a) Evidence of each staff member's licensure, certification, or registration, as applicable and as required by the job being performed;

(b) For non-licensed staff, evidence of completion of an appropriate degree, appropriate training program, or appropriate credentials (e.g., an academic transcript or a copy of degree);

(c) Evidence of all required criminal background checks, and for all non-licensed staff members, application of the criminal background check requirements contained in District Official Code §§ 44-551 *et seq*., Unlicensed Personnel Criminal Background Check, as well as quarterly child abuse registry checks for both state of residence and state of employment;

(d) Evidence of quarterly checks that no individual is excluded from participation in a federally funded health care program as listed on the Department of Health and Human Services' "List of Excluded Individuals/Entities," the General Services Administration's "Excluded Parties List System," or any similar succeeding governmental list;

(e) Evidence of completion of all communicable disease testing required by the Department and District laws and regulations;

(f) A process by which all staff, as a condition of hiring, shall declare any present or past events that might raise liability or risk management concerns, such as malpractice actions, insurance cancellations, criminal convictions, Medicare/Medicaid sanctions, and ethical violations; and

(g) Evidence that the provider conducts each required screening at the frequency required by District law and regulations, including quarterly exclusion checks and unlicensed employee criminal background checks every four (4) years.

3413.5 Each MHRS provider shall establish and adhere to written job descriptions for all positions, including, at a minimum, the role, responsibilities, reporting relationships, and minimum qualifications for each position. The minimum qualifications for each position shall be appropriate for the scope of responsibility and clinical practice described for each position.

3413.6 Each MHRS provider shall establish and adhere to policies and procedures requiring a periodic evaluation of clinical and administrative staff performance ("Performance Review Policy") that require an assessment of clinical competence and competence in behavioral health issues, as applicable, as well as general organizational work requirements, and an assessment of key functions as described in the job description. The periodic evaluation shall also include an annual individual development plan for each staff member.

3413.7 Each MHRS provider shall establish and adhere to policies and procedures to ensure that clinical staff are licensed, certified (if applicable), or registered (if applicable) and, to the extent required by applicable laws, regulations, work under the supervision of another qualified practitioner ("Supervision and Peer Review Policy"). The Supervision and Peer Review Policy shall:

(a) Include procedures for clinical supervision, which require sufficient clinical supervision conducted by qualified practitioners permitted to supervise per applicable District laws and regulations;

(b) Require personnel files of non-licensed clinical staff and consumers' clinical records to contain evidence that the MHRS provider is observing the requirements of the Supervision and Peer Review Policy; and

(c) Include an active peer review process to monitor quality of care delivered by qualified practitioners and credentialed staff.

3413.8 Each MHRS provider shall establish and adhere to policies and procedures governing the credentialing or privileging of staff ("Credentialing Policy") consistent with the Department rules on privileging and competency-based credentialing systems. The Credentialing Policy shall:

(a) Allow staff who do not possess college degrees to be credentialed for direct service work, based on educational equivalent qualifications. These qualifications include experience that provides an individual with an understanding of mental illness, and which was acquired as an adult: (1) through personal experience with the mental health treatment system, or (2) through the provision of significant supports to adults with mental illness,

or children and youth with mental health problems or with serious emotional disturbance;

(b) Facilitate the employment of persons in recovery as peer counselors and members of community support teams; and

(c) Include an assessment of qualified practitioners' cultural and linguistic competence.

3413.9 Each MHRS provider shall have annual training that meets the federal Occupational Safety & Health Administration ("OSHA") regulations that govern behavioral health facilities and any other applicable infection control guidelines, including information on the use of universal precautions and on reducing exposure to hepatitis, tuberculosis, and HIV/AIDS.

3413.10 A provider shall have a current written plan for staff development and organizational onboarding, approved by the Department, which reflects the training and performance improvement needs of all employees working in that program. The plan shall address the steps the provider will take to ensure the recruitment and retention of highly qualified employees and the reinforcement of staff development through training, supervision, the performance management process, and activities such as shadowing, mentoring, skill testing, and coaching. The plan shall at a minimum include culturally competent training and onboarding activities in the following core areas:

(a) The provider's approach to addressing treatment or recovery services (as appropriate to certification), including philosophy, goals, and methods;

(b) The staff member's specific job description and role in relationship to other staff;

(c) Emergency preparedness plan and all safety-related policies and procedures;

(d) The proper documentation of services in individual consumer records, as applicable;

(e) Policies and procedures governing infection control, protection against exposure to communicable diseases, and the use of universal precautions;

(f) Laws, regulations and policies governing confidentiality of consumer information and release of information;

(g) Laws, regulations, and policies governing reporting abuse and neglect;

(h) Consumer rights; and

(i) Other trainings, as deemed necessary by the Department.

3413.11 Each MHRS provider shall establish and adhere to policies and procedures defining pre-admission, intake, screening, assessment, referral, transfer, and discharge procedures ("Admission, Transfer, and Discharge Policy") that comply with applicable Federal and District laws and regulations. The policies and procedures shall define the required documentation for screening or assessing consumers for admission to an EBP operated by the provider when the consumer's condition requires a modification in the Plan of Care.

3413.12 Each MHRS provider shall establish and adhere to policies and procedures governing the coordination of the treatment or recovery planning process ("Treatment Planning Policy or Recovery Planning Policy"), including procedures for designing, implementing, reviewing, and revising each consumer's Plan of Care that comply with the requirements of § 3411.

3413.13 Each MHRS provider shall establish and adhere to policies and procedures requiring that treatment be provided in accordance with the applicable service specific standards in this chapter ("Service Specific Policy"). The Service Specific Policy shall:

(a) Address supervision requirements and required caseload ratios that are appropriate to the population served and treatment modalities employed; and

(b) Include a written description of the services offered by the MHRS provider ("Service Description") describing the purpose of the service, the hours of operation, the intended population to be served, recovery modalities provided by the service, treatment or recovery objectives, and expected outcomes.

3413.14 Each MHRS provider shall establish and adhere to policies and procedures governing communication with the consumer's primary care providers ("Primary Care Provider Communication Policy"). The Primary Care Provider Communication Policy shall:

(a) Outline the MHRS provider's interface with primary health care providers, managed health care plans, and other providers of mental health services; and

(b) Describe the MHRS provider's activities which will enhance consumer access to primary health care and the coordination of mental health and primary health care services.

3413.15 Each MHRS provider shall establish and adhere to policies and procedures for handling routine, urgent, and emergency situations ("Unscheduled Service Access Policy"). The Unscheduled Service Access Policy shall:

(a) Include referral procedures to local emergency departments;

(b) Include staff assignment to cover walk-in hours for urgent care;

(c) Include arrangements for access to medication-somatic treatment practitioners and other clinical staff;

(d) Describe the availability of telephone access to an independently licensed qualified practitioner, for the consumer, or other person acting on behalf of the consumer making contact with the MHRS provider;

(e) Describe the availability of timely access to face-to-face crisis support services;

(f) Describe how the MHRS provider will interact and coordinate services with the Department-designated crisis and emergency service; and

(g) Include procedures for triaging consumers who require Crisis/Emergency services or psychiatric hospitalization.

3413.16 Each MHRS provider shall establish and adhere to policies and procedures for clinical record documentation, security, and confidentiality of consumer and family information; clinical records retention, maintenance, purging and destruction; disclosure of consumer and family information; and informed consent that comply with applicable Federal and District laws and regulations ("Clinical Records Policy"). The Clinical Records Policy shall:

(a) Require the MHRS provider to maintain all clinical records in a secured and locked storage area;

(b) Require that the MHRS provider utilize an electronic health records system to document all phases of the consumer's treatment and care. The MHRS provider shall comply with applicable Department policies on use and maintenance of an electronic health records system;

(c) Require the MHRS provider to maintain all clinical records for a period of ten (10) years;

(d) Require the MHRS provider to maintain and secure a current, clear, organized, and comprehensive clinical record for every individual assessed, treated, or served that includes information deemed necessary to provide

treatment, protect the MHRS provider, and comply with applicable Federal and District laws and regulations; and

(e) Require that the clinical record contain information to identify the consumer, support the diagnosis, justify the treatment, document the course and results of treatment, and facilitate continuity of care. The clinical record shall include, at a minimum:

(1) Consumer identification information, including enrollment information;

(2) Identification of a person to be contacted in the event of emergency;

(3) Basic screening and intake information;

(4) Documentation of internal or external referrals;

(5) Comprehensive diagnostic and psychosocial assessments;

(6) Pertinent medical information including the name, address, and telephone number of the consumer's primary care physician;

(7) Advance instructions and advance directives;

(8) The Plan of Care;

(9) For children and youth, documentation of family or legal guardian involvement in treatment planning and services or statement of reasons why it is not clinically indicated;

(10) Methods for addressing consumers' and families' special needs, especially those which relate to communication, cultural, linguistic, and social factors;

(11) Detailed description of services provided;

(12) Progress notes;

(13) Discharge planning information;

(14) Appropriate consents for service;

(15) Appropriate release of information forms; and

(16) Signed Consumer Rights Statement.

(f) Electronic records shall include a log function that dates, times, and authenticates each entry, access, and change to a record.

3413.17 Each MHRS provider shall participate in the District Health Information Exchange (HIE).

3413.18 Each MHRS provider shall comply with the Department's policy on supervision, including requirements for the documentation of supervision.

3413.19 Each MHRS provider shall enter encounter notes into the clinical record with sufficient written clinical documentation to support each therapy, service, activity, or session for which billing is made which, at a minimum, consists of:

(a) A dated, timed, and authenticated entry, entered by the person providing the service, which shall include the typed or legibly printed name of the author. The provider shall ensure all entries are authenticated by a process that verifies the author's identity (*e.g.*, a unique log-in used only by the author);

(b) The date and duration [actual time, a.m. or p.m. (beginning and ending)] during which the services were rendered;

(c) The legal name, title, credentials, and signature of the person providing the services;

(d) The setting in which the services were rendered;

(e) The consumer's diagnosis and clinical impression recorded in the terminology of the ICD-10 CM (or any subsequent version adopted by the Department pursuant to written notice published in the *District of Columbia Register*);

(f) Confirmation that the services delivered are contained in the consumer's Plan of Care;

(g) A description of each service by a qualified practitioner or credentialed staff with the consumer that is sufficient to document that the service was provided in accordance with this chapter;

(h) A description of the consumer's response to the service that is sufficient to show, particularly in the case of group interventions, the consumer's unique participation in the service; and

(i) An easily accessible log identifying a complete history for each entry, including when the record was created, signed, and the time and dates of any subsequent access and amendments.

3413.20 Each MHRS provider shall ensure that all clinical records of consumers are completed promptly, filed, and retained in accordance with the MHRS provider's Clinical Records Policy.

3413.21 All CSA, ACT, and CBI providers shall operate an on-call system for enrolled consumers that is available twenty-four (24) hours a day, seven (7) days a week. Providers shall make the following services available five (5) days per week from 9:00 am to 6:00 pm, in the evening by appointment, and at least once a month on a Saturday for four (4) hours: Diagnostic Assessment, Medication/Somatic treatment, Counseling, and Community Support.

3413.22 Providers who deliver the following specialty services shall make their services available as follows:

MHRS SPECIALTY SERVICE	HOURS OF OPERATION	OTHER AVAILABILITY REQUIREMENTS
Crisis/Emergency Services	Twenty-four (24) hours per day, seven (7) days per week	Psychiatric consultation shall be available twenty-four (24) hours per day, seven (7) days per week.
Rehabilitation Day Services	Thirty (30) hours per week, no less than six (6) hours per day	Consumers authorized and referred for service shall be admitted within seven (7) business days of the referral from the CSA.
Intensive Day Treatment	Seven (7) days per week, no less than five (5) hours per day	Programs shall offer a minimum of thirty-five (35) hours of active programming per week. Consumers authorized and referred for Intensive Day Treatment shall be admitted within forty-eight (48) hours of referral by a CSA.

MHRS SPECIALTY SERVICE	HOURS OF OPERATION	OTHER AVAILABILITY REQUIREMENTS
Community Based Intervention	Levels I, II, III and IV - Twenty-four (24) hours per day, seven (7) days per week	Consumers authorized and referred for all levels of CBI shall be admitted within forty-eight (48) hours of referral by a CSA. A CBI Team member shall respond to a call from a family member or a significant other, either by telephone or face-to-face contact, within sixty (60) minutes of receiving the call. All CBI providers shall develop a crisis intervention plan for each consumer receiving CBI. Level IV providers shall develop a crisis intervention plan for after-hours response, which shall include a Mobile Crisis Response Team.
Assertive Community Treatment	Twenty-four (24) hours per day, seven (7) days per week, with emergency response coverage to include psychiatric availability	Consumers authorized and referred for ACT shall be admitted within forty-eight (48) hours of referral by a CSA. At least sixty percent (60%) of ACT Services shall be provided in locations other than the office, according to consumer need, preference, and clinical appropriateness. An ACT team member shall respond to a call from family or a significant other, either by telephone or face-to-face contact within sixty (60) minutes of receiving the call.

3413.23 Each MHRS provider shall establish and adhere to policies and procedures requiring the MHRS provider to make language access services available at no cost as needed for Limited or Non-English proficient consumers, ("Language Access Policy"). The Language Access Policy shall:

(a) Document primary language information in a consumer's clinical record at the point of entry, if known, with notations on how to engage the person in communication if unknown;

(b) Arrange for the provision of language access services at no cost to Limited or Non-English proficient consumers;

(c) Ensure public notices regarding language access services are posted in regularly encountered waiting rooms, reception areas, and other areas of initial contact.

(d) Ensure that the public is aware of language interpretation services;

(e) Provide a quarterly report on the number of enrolled consumers who receive language access services to the DBH Language Access Coordinator. The information shall include the following information:

(1) The number of individuals who have Limited or Non-English proficiency, and the languages spoken;

(2) The frequency with which Limited or Non-English proficient consumers come into contact with the provider;

(3) The number and types of languages spoken by agency staff.

(f) Provide annual training to all public access staff on how to provide ongoing language services; and

(g) Ensure immediate notification of the DBH Language Access Coordinator when unable to meet language access needs.

3413.24 The Language Access Policy shall allow staff and contractors who do not possess valid certification from the Registry of Interpreters for the Deaf to be credentialed based on skills in mental health interpreting gained through supervised experience. For purposes of this rule, supervised experience shall include supervision by an interpreter certified by the National Registry of Interpreters for the Deaf and ongoing training in sign language interpreting, preferably related to mental health, and may include on-the-job learning prior to employment by the MHRS provider.

3413.25 Each MHRS provider shall utilize a TTY communications line (or an equivalent) to enhance the MHRS provider's ability to respond to service requests and needs of consumers and potential consumers. MHRS provider staff shall be trained in the use of such communication devices as part of the annual language access training.

3413.26 Each MHRS provider shall establish and adhere to policies and procedures which govern the provision of services in natural settings ("Natural Settings Policy"). The Natural Settings Policy shall require the MHRS provider to document how it respects consumers' and families' rights to privacy and confidentiality when services are provided in natural settings.

3413.27 Each MHRS provider shall establish and adhere to anti-discrimination policies and procedures relative to hiring, promotion, and provision of services to consumers

that comply with applicable Federal and District laws and regulations ("Anti-Discrimination Policy").

3413.28 Each MHRS provider shall establish a quality improvement program ("QI program") and adhere to policies and procedures governing quality improvement ("Quality Improvement Policy"). The Quality Improvement Policy shall require the MHRS provider to adopt a written Quality Improvement ("QI") plan describing the objectives and scope of its QI program and requiring MHRS provider staff, consumer, and family involvement in the QI program. The Department shall review and approve each MHRS provider's QI program at a minimum as part of the certification process. The QI program shall submit data to the Department, upon request. The QI program shall be:

(a) Directed by a coordinator ("QI Coordinator") who has direct access to the Chief Executive Officer or Program Director, if applicable. In addition to directing the QI program's activities, the QI Coordinator shall also review unusual incidents, deaths, and other sentinel events; monitor and review utilization patterns; and track consumer complaints and grievances. The QI Coordinator shall be:

(1) An individual licensed as one of the following practitioner types: Psychiatrist, Psychologist, Licensed Independent Clinical Social Worker ("LICSW"), Advanced Practice Registered Nurse ("APRN"), Licensed Professional Counselor ("LPC"), Licensed Marriage and Family Therapist ("LMFT"), Registered Nurse ("RN"), Licensed Independent Social Worker ("LISW"), Licensed Graduate Professional Counselors ("LGPC"), Licensed Graduate Social Worker ("LGSW"), or Physician Assistant; or registered as a Psychology Associate; or

(2) An individual with a Bachelors' Degree and a minimum of two (2) years of relevant, qualifying experience, such as experience in behavioral health care delivery or health care quality improvement initiatives.

(b) The QI program shall measure and ensure at least the following:

(1) Timely access to and availability of services;

(2) Adequacy, appropriateness, and quality of care, including treatment and prevention of acute and chronic conditions;

(3) Close monitoring of high-volume services, consumers with high risk conditions, and services for children and youth;

(4) Coordination of care among behavioral health treatment providers, and between behavioral health providers and primary and other specialty care providers;

(5) Compliance with all MHRS certification standards;

(6) Consumer and family satisfaction with services; and

(7) Any other indicators that are part of the Department QI program for the larger system.

3413.29 Each MHRS provider shall comply with the following requirements for facilities management:

(a) Each service site of an MHRS provider shall be an adequate and appropriate facility with:

(1) A reception area;

(2) Consumer interview rooms for private, confidential individual and group counseling sessions and private areas for other individual treatment services;

(3) Appropriate space for group activities and educational programs; and

(4) Restrooms available to consumers and their families and significant others.

(c) All areas of the MHRS provider's service site(s) shall be kept clean and safe, and shall be appropriately equipped and furnished for the services delivered.

(d) In-office waiting time shall be less than one (1) hour from the scheduled appointment time. Each MHRS provider shall demonstrate that it can document the time period for in-office waiting.

(e) Each MHRS provider shall comply with applicable provisions of the Americans with Disabilities Act in all business locations.

(f) Each MHRS provider's main service site shall be located within reasonable walking distance of public transportation.

(g) Each MHRS provider shall establish and adhere to a written evacuation plan to be used in fire, natural disaster, medical emergencies, bomb threats,

terrorist attacks, violence in the workplace, or other disaster events for all service sites ("Disaster Evacuation Plan").

(h) The Disaster Evacuation Plan shall require the MHRS provider:

(1) To conduct periodic disaster evacuation drills;

(2) Ensure that all evacuation routes are clearly marked by lighted exit signs; and

(3) Ensure that all staff participate in annual training about the Disaster Evacuation Plan and disaster response procedures.

(i) Each MHRS provider shall obtain a written certificate of compliance from the District of Columbia Department of Fire and Emergency Medical Services indicating that all applicable fire and safety code requirements have been satisfied.

(j) Each MHRS provider shall provide physical facilities for all service site(s) that are structurally sound and meet all applicable Federal and District laws and regulations for construction, safety, sanitation, and health.

(k) Each MHRS provider shall establish and adhere to policies and procedures governing infection control ("Infection Control Policy"). The Infection Control Policy shall comply with applicable Federal and District laws and regulations, including, but not limited to the blood borne pathogens standard set forth in 29 CFR § 1910.1030.

(l) Each MHRS provider shall establish and adhere to policies and procedures governing the purchase, receipt, storage, distribution, return, and destruction of medication that include accountability for and security of medications located at any of its service sites ("Medication Policy"). The Medication Policy shall comply with applicable Federal and District laws and regulations regarding the purchase, receipt, storage, distribution, dispensing, return, and destruction of medications and require the MHRS provider to maintain all medications and prescription blanks in a secured and locked area.

3413.30 Each MHRS provider shall have established by-laws or other legal documentation regulating the conduct of its internal financial affairs. This documentation shall clearly identify the individual(s) that are legally responsible for making financial decisions for the MHRS provider and the scope of such decision-making authority. Each MHRS provider shall:

(a) Maintain an accounting system that conforms to generally accepted accounting principles, provides for adequate internal controls, permits the

development of an annual budget, an audit of all income received, and an audit of all expenditures disbursed by the MHRS provider in the provision of services;

(b) Have an internal process for the development of interim and annual financial statements that compares actual income and expenditures with budgeted amounts, accounts receivable, and accounts payable information; and

(c) Operate in accordance with an annual budget established by its governing authority.

3413.31 Each MHRS provider shall establish and adhere to policies and procedures governing the retention, maintenance, purging and destruction of its business records ("Records Retention Policy"). The Records Retention Policy shall:

(a) Comply with applicable Federal and District laws and regulations;

(b) Require the MHRS provider to maintain all business records pertaining to costs, payments received and made, and services provided to consumers for a period of ten (10) years or until all audits are completed, whichever is longer; and

(c) Require the MHRS provider to allow the Department, DHCF, the District's Inspector General, the United States Department of Health and Human Services, the Comptroller General of the United States, or any of their authorized representatives to review the MHRS provider's business records, including clinical and financial records.

3413.32 Each MHRS provider shall comply with the following requirements for maintaining certification, provider status, and contracts:

(a) Maintain proof of the Department certification;

(b) Maintain an active Medicaid provider status at all times;

(c) Maintain copies of contracts with the Department, vendors, suppliers, and independent contractors; and

(d) Require that its subcontractors continuously comply with the provisions of the MHRS provider's HCA with the Department.

3413.33 Each MHRS provider, at its expense, shall:

(a) Obtain at least the minimum insurance coverage required by its HCA; and

(b) Make evidence of its insurance coverage available to the Department upon request.

3413.34 Each MHRS provider shall establish and adhere to policies and procedures governing billing and payment for MHRS ("Billing and Payment Policy"). The Billing and Payment Policy shall require the MHRS provider to have the necessary operational capacity to submit claims, document information on services provided, and track payments received. This operational capacity shall include the ability to:

(a) Verify eligibility for Medicaid and other third-party payers;

(b) Document MHRS provided by MHRS provider staff and subcontractors;

(c) Submit claims and documentation of MHRS on a timely basis with applicable DBH and DHCF requirements; and

(d) Track payments for all provided MHRS.

3413.35 Each MHRS provider shall submit claims for MHRS provided to consumers described in § 3407.2 to the Department within ninety (90) days of the date of service, or thirty (30) days after a secondary or third-party payer has adjudicated a claim for this service. The Department shall not pay for a claim that is submitted more than one (1) year from the date of service, except when federal law or regulations would require such payment to be made.

3413.36 Each MHRS provider shall have an established sliding fee schedule covering each of the MHRS it provides. For services provided to Medicaid-eligible consumers, no additional charge shall be imposed for services beyond that paid by Medicaid.

3413.37 Each MHRS provider shall utilize, and require its subcontractors to utilize, payments from other public or private sources, including Medicare. Payment of the Department and federal funds to the MHRS provider shall be conditional upon the utilization of all benefits from other payment sources.

3413.38 Each MHRS provider shall operate according to all applicable Federal and District laws and regulations relating to fraud, waste, and abuse in health care, the provision of mental health services, and the Medicaid program. An MHRS provider's failure to report potential or suspected fraud, waste or abuse may result in sanctions, cancellation of contract, or exclusion from participation as an MHRS provider. Each MHRS provider shall:

(a) Cooperate and assist any District or Federal agency charged with the duty of identifying, investigating, or prosecuting suspected fraud, waste or abuse;

(b) Provide the Department with regular access to the provider's medical and billing records, including electronic medical records, within twenty-four (24) hours of a Departmental request, or, immediately in the case of emergency;

(c) Be responsible for promptly reporting suspected fraud, waste, or abuse to the Department, taking prompt corrective actions consistent with the terms of any contract or subcontract with the Department, and cooperating with DHCF or other governmental investigations; and

(d) Ensure that none of its practitioners have been excluded from participation as a Medicaid or Medicare provider. If a practitioner is determined to be excluded by the Center for Medicare and Medicaid Services ("CMS"), the provider shall notify the Department immediately.

3413.39 Each MHRS provider shall establish and adhere to a plan for ensuring compliance with applicable Federal and District laws and regulations ("Corporate Compliance Plan"), approved by the Department. Each MHRS provider shall submit any updates or modifications to its Corporate Compliance Plan to the Department for prior review and approval. Each MHRS provider's Corporate Compliance Plan shall:

(a) Designate an officer or director with responsibility and authority to implement and oversee the operation of the Corporate Compliance Plan;

(b) Require that all officers, directors, managers, and employees sign a statement that they understand the Corporate Compliance Plan;

(c) Include procedures designed to prevent and detect potential or suspected fraud, waste, or abuse in the administration and delivery of MHRS;

(d) Include procedures for the confidential reporting of violations of the Corporate Compliance Plan to the Department, including procedures for the investigation and follow-up of any reported violations;

(e) Ensure that the identities of individuals reporting suspected violations of the Corporate Compliance Plan are protected and that individuals reporting suspected violations, fraud, waste, or abuse are not retaliated against;

(f) Require that confirmed violations of the Corporate Compliance Plan be reported to the Department within twenty-four (24) hours of confirmation; and

(g) Require any confirmed or suspected fraud, waste, or abuse under state or Federal laws or regulations be reported to the Department.

3413.40 Each MHRS provider shall ensure that sufficient resources (e.g., personnel, hardware, or software) are available to support the operations of computerized systems for collection, analysis, and reporting of information, along with claims submission.

3413.41 Each MHRS provider shall have the capability to submit accurate claims, encounter data, and other submissions as necessary directly to the Department.

3413.42 Claims for MHRS provided to consumers described in § 3407.2 shall be submitted using the format required by the Department.

3413.43 Each MHRS provider shall manage protected health information in compliance with the confidentiality requirements contained in applicable Federal and District laws and regulations, including HIPAA and the D.C. Mental Health Information Act. The provider shall develop and implement policies and procedures to disclose protected behavioral health information to other certified providers, primary health care providers, and other health care organizations when necessary to coordinate the care and treatment of its consumers. These procedures shall include entering into an agreement with the District HIE, unless exempted pursuant to § 3402.1. The program shall advise each consumer of the program's notice of privacy practices that authorizes the disclosure to other providers and shall afford the consumer the opportunity to opt-out of that disclosure in accord with the District of Columbia Mental Health Information Act, D.C. Official Code § 7-1203.01. The program shall document the individual's decision.

3413.44 Each MHRS provider shall establish and adhere to a plan that contains policies and procedures for maintaining the security of data and information ("Disaster Recovery Plan"). Each MHRS provider's Disaster Recovery Plan shall also stipulate back-up and redundant systems and measures that are designed to prevent the loss of data and information and to enable the recovery of data and information lost due to disastrous events.

3414 CORE SERVICES AGENCY REQUIREMENTS

3414.1 Each CSA shall comply with the certification standards described in § 3413, the service specific standards applicable to core services, and the certification standards set forth in this section, as well as the other certification standards in this chapter.

3414.2 Each CSA shall:

(a) Serve as the clinical home for the consumers it enrolls;

(b) Be responsible for ensuring that Plans of Care are developed and approved for its enrolled consumers; and

(c) Provide clinical management for its enrolled consumers.

3414.3 Each CSA shall satisfy the following minimum staffing requirements:

(a) A Chief Executive Officer with professional qualifications and experience who meets the requirements established by the MHRS provider's governing authority. The Chief Executive Officer shall be charged with responsibility for day-to-day management of the CSA, and shall be a full-time employee devoting at least twenty (20) hours a week to administrative and management functions of the CSA;

(b) A Medical Director who is a board-eligible psychiatrist, responsible for the quality of medical and psychiatric care provided by the MHRS provider. A child and youth-serving CSA may have a staff or consulting board-eligible child psychiatrist or a staff board-eligible psychiatrist with substantial child and adolescent experience as its Medical Director;

(c) A full-time Clinical Director who is an independently licensed qualified practitioner with an appropriate, relevant behavioral health advanced degree, with overall responsibility for oversight of the clinical program of the MHRS provider. The Clinical Director may also serve as the Medical Director if the Clinical Director is a board-eligible psychiatrist;

(d) A Controller, Chief Financial Officer, or designated individual responsible for executing or overseeing the financial operations of the MHRS provider. The designated financial officer shall have a Bachelors' Degree plus two (2) years of fiscal experience and may also oversee administrative operations and information services;

(e) A medical records administrator responsible for the following:

(1) Ongoing quality control of clinical documentation;

(2) Assuring that clinical records are maintained, completed, and preserved in accordance with the MHRS provider's Clinical Records Policy;

(3) Assuring that information on enrolled consumers is immediately retrievable; and

(4) Establishing a central records index for the MHRS provider.

3414.4 The CSA shall have an annual audit by an independent certified public accountant or a certified public accounting firm in accordance with generally accepted auditing standards. The resulting financial audit report shall be consistent with formats recommended by the American Institute of Public Accountants. The CSA shall

submit a copy of the financial audit report to the Department within one hundred and twenty (120) calendar days after the end of the provider's fiscal year.

3414.5 Each CSA shall comply with the following requirements regarding clinical operations:

(a) The CSA shall accommodate consumer preferences and needs with respect to primary staff and team representation.

(b) The consumer and the assigned CSA staff shall be responsible for the development and periodic review of the consumer's Plan of Care and for the coordination the delivery of all MHRS received by the consumer.

(c) The signing independently licensed qualified practitioner shall be primarily responsible for assuring that the Plan of Care assists the consumer in developing self-care skills and achieving recovery.

(d) Each CSA shall establish and adhere to policies and procedures governing its relationship with subcontractors ("Subcontractor Policy") in compliance with Federal and District laws and regulations. The Subcontractor Policy shall address, at a minimum, access to records, clinical responsibility and supervision, legal liability, and insurance and dispute resolution.

(e) Each CSA shall establish and adhere to policies and procedures governing the means by which family education and support will be offered and provided ("Consumer and Family Education Policy"). The Consumer and Family Education Policy shall require, at a minimum, the following:

(1) The CSA shall make family education and support available for all consumer families;

(2) Family education and support shall include general information about mental health and psychiatric illness;

(3) For adult consumers, a provider shall only disclose information about a consumer with the consent of the consumer. In the case of child, the provider shall only disclose information about a consumer with the consent of the parent or guardian in accordance with the CSA's Release of Consumer Information Policy;

(4) The availability of appointments for family members to meet with staff and availability of family support and education groups to be scheduled at times convenient for the family; and

(5) In written materials and face-to-face contacts provide information about available and needed services, as well as how the consumer

may access Crisis/Emergency Services. The materials shall be written at the 4th grade reading level and shall be printed in English and either Spanish or the secondary language conducive to facilitating communication with the majority of the CSA's target population.

3414.6 Each CSA shall comply with the following requirements regarding service accessibility:

(a) Each CSA shall operate an on-call system for its enrolled consumers twenty-four (24) hours per day, seven (7) days per week, to respond to urgent, emergency, and routine situations ("CSA On-Call System").

(b) Each CSA shall establish and adhere to policies and procedures governing the operation of its On-Call System ("On-Call System Policy"). The On-Call System Policy shall require the CSA to provide:

(1) Telephone access to an independently licensed qualified practitioner for consumers and their significant others to resolve problems telephonically, when possible;

(2) Timely access to an independently licensed qualified practitioner in order to provide any needed crisis support services, to include face-to-face interventions; and

(3) Linkage to Crisis/Emergency Services, including crisis stabilization services and "next day" appointments to assist the consumer to address urgent problems during the next business day.

(c) Each CSA shall, at a minimum, offer the core services as specified in § 3417.2.

(d) Each CSA shall ensure that its business hours comply with the requirements of § 3413.21 and facilitate each enrolled consumer's ability to choose an MHRS provider.

(e) Each CSA shall provide a consumer presenting with an urgent need with an independently licensed qualified practitioner for an intervention which may include face-to-face contact on the same day that the consumer presents for service.

(f) Each potential consumer presenting with a routine need shall be provided an intake appointment by a CSA within seven (7) business days of presentation for service.

(g) Each CSA shall have policies and procedures for the provision of outreach services, including means by which these services and individuals will be targeted ("Outreach Policy"). The Outreach Policy shall include procedures for protecting the safety of staff who engage in outreach activities.

(h) Each CSA shall educate consumers on EBPs and document consumers' receipt of this information.

3414.7 Each CSA shall comply with the requirements for assessment and referral for Mental Health Supported Employment services and integration of Employment Specialists into the CSA's treatment team, in accordance with the requirements set forth in 22-A DCMR Chapter 37.

3414.8 Each CSA shall make a play area available for children in the waiting room area.

3414.9 Each CSA shall be responsible for submitting enrolled consumers' clinical information to the Department upon request to receive and maintain authorization for medically necessary services.

3414.10 The Department shall review and approve each CSA's Subcontractor Policy, Consumer and Family Education Policy, On-Call System Policy, Outreach Policy, Quality Improvement Policy, and Evidence-Based Practices Information Policy as part of the certification process.

3414.11 All MHRS providers certified for ACT, CPP-FV, Functional Family Therapy, Multisystemic Therapy, Community Based Intervention Level II and III, TF-CBT, and TST shall obtain the Department's approval to add teams supported through an HCA. Providers shall submit a written request which must include the staffing patterns, including supervisors, training plan and/or dates, staff-to-consumer ratio, and new capacity for the entire team including the new addition.

3415 SUB-PROVIDER AND SPECIALTY PROVIDER REQUIREMENTS

3415.1 Each sub-provider and specialty provider shall comply with the certification standards described in § 3413, the service specific standards applicable to the MHRS offered by the sub-provider or specialty provider, and the other certification standards in this chapter.

3415.2 Each sub-provider and specialty provider shall establish and adhere to policies and procedures ("CSA Referral Policy") governing its relationship with a CSA that address access to records, clinical responsibilities, legal liability, dispute resolution, and all other MHRS certification standards.

3415.3 Sub-providers shall provide one (1) or more of the core services only through a written agreement with a CSA. Sub-providers shall ensure consumers are enrolled with a CSA.

3415.4 Except for the provision of ACT, CBI, or Clubhouse services, specialty providers shall ensure consumers are enrolled with a CSA.

3415.5 Each specialty provider shall screen and assess consumers for EBP as appropriate and applicable, and shall refer them to services as necessary. Each specialty provider shall have an Evidence-Based Practices Information Policy, which includes how providers shall:

(a) Screen and document screening consumers for EBP;

(b) Describe the process of referring and linking consumers to another provider using a warm handoff, if the specialty provider does not render the appropriate EBP; and

(c) Collaborate with the CSA to ensure there are periodic assessments for the need for EBP.

3415.6 Each sub-provider and specialty provider shall satisfy the following minimum staffing requirements:

(a) A Chief Executive Officer or Program Director with professional qualifications and experience who shall meet requirements as established by the MHRS provider's governing authority and is responsible for day-to-day management of the MHRS provider;

(b) A sub-provider or specialty provider who provides Rehabilitation Day services shall also have a Consulting Psychiatrist who is a board-eligible psychiatrist and advises the sub-provider or specialty provider on the quality of medical and psychiatric care provided;

(c) A Clinical Director who is an independently licensed qualified practitioner with overall responsibility for oversight of the clinical program of the sub-provider or specialty provider. If not full-time, the Clinical Director must dedicate sufficient time to execute the duties of the position;

(d) Each sub-provider who provides either Diagnostic Assessment or Medication/Somatic Treatment shall demonstrate adequate oversight of quality of medical and psychiatric care by employing or contracting with a Medical Director or arranging for the Medical Director of the consumer's CSA to provide such oversight; and

(e) The required staff listed in this subsection shall be either employees of the sub-provider or specialty provider or under contract to the sub-provider or specialty provider for an amount of time sufficient to carry out the duties

assigned.

3415.7 Each sub-provider and specialty provider shall establish and adhere to policies and procedures governing its collaboration with a referring CSA in the development, implementation, evaluation, and revision of each consumer's Plan of Care, that comply with the Department rules (Collaboration Policy). The Collaboration Policy shall:

(a) Be a part of each sub-provider and specialty provider's Treatment Planning Policy;

(b) Require sub-providers and specialty providers to incorporate CSA-developed Diagnostic Assessment material into the sub-provider and specialty provider's treatment planning process, including the use of EBP as an intervention; and

(c) Require sub-providers and specialty providers to coordinate the consumer's treatment with the consumer's CSA assigned staff.

3415.8 Each sub-provider shall offer core services in accordance with requirements in § 3413.21. At a minimum, the sub-provider shall offer services during these hours at its primary service site.

3415.9 At a minimum, each specialty provider shall offer access to specialty services in accordance with requirements in § 34132.22.

3415.10 Each sub-provider and specialty provider with total annual revenues at or exceeding three hundred thousand dollars ($300,000.00) shall have an annual audit by an independent certified public accountant or certified public accounting firm in accordance with generally accepted auditing standards. The resulting financial audit report shall be consistent with formats recommended by the American Institute of Public Accountants. Each sub-provider and specialty provider shall submit a copy of the financial audit report to the Department within one hundred and twenty (120) calendar days after the end of its fiscal year.

3415.11 Each sub-provider and specialty provider with total annual revenues less than three hundred thousand dollars ($300,000.00) shall submit financial statements reviewed by an independent certified public accountant or certified public accounting firm within one hundred twenty (120) calendar days after the end of its fiscal year.

3415.12 Each sub-provider and specialty provider shall only provide MHRS to consumers as specified in the consumers' Plans of Care as designated by the consumers' CSA.

3415.13 The Department shall review and approve the CSA Referral Policy, Collaboration Policy, and the Evidence-Based Programs Information Policy during the certification process.

3416 QUALIFIED PRACTITIONERS AND CREDENTIALED STAFF

3416.1 Qualified practitioners and credentialed staff are individuals permitted to provide MHRS, as identified in this section; the applicable service specific standards; and any other applicable standards in this chapter.

3416.2 Qualified practitioners are behavioral health clinicians appropriately licensed or registered in the District or jurisdiction where services are delivered, and who practice within the scope of their license or certification. Applicable laws and regulations dictate whether, and to what extent, a qualified practitioner:

(a) Is subject to supervision requirements when providing MHRS; and

(b) May supervise other qualified practitioners or credentialed staff in the provision of MHRS.

3416.3 Credentialed staff are non-licensed staff or staff who are not qualified practitioners who are permitted to provide MHRS or components of MHRS if under the supervision of an appropriate qualified practitioner in accordance with applicable laws and regulations.

3416.4 For the purposes of this chapter:

(a) A psychiatrist shall be a:

(1) Licensed physician who is at a minimum a board-eligible psychiatrist;

(2) Psychiatric resident providing care in an approved clinical rotation; or

(3) Moonlighting psychiatric resident.

(b) An APRN shall:

(1) Have psychiatry as a specialty area of practice;

(2) Work in a collaborative protocol with a psychiatrist; or

(3) Demonstrate proficiency in mental health, by having at least five (5) years of experience in psychiatric care delivery.

3416.5 A psychiatric resident is a medical school graduate from a program that meets the standards for medical education found in 17 DCMR § 4602, and who:

(a) Has completed at least one year of a psychiatric residency program that satisfies the requirements of 17 DCMR § 4611.4;

(b) Is supervised by a licensed psychiatrist who satisfies the requirements of 17 DCMR § 4611.4; and

(c) Complies with the standards of conduct for licensed physicians found in 17 DCMR § 4612.

3416.6 A moonlighting psychiatric resident is a medical school graduate who:

(a) Satisfies all of the requirements of § 3416.5; and

(b) Is working under the supervision of the Medical Director or Consulting Psychiatrist of a certified MHRS provider in accordance with protocols approved by the Department's chief clinical officer.

3417 COVERED MHRS

3417.1 The service specific standards described in this section apply to the individual MHRS offered by each MHRS provider and reimbursed by the District in accordance with this chapter.

3417.2 Covered core services shall be Diagnostic Assessment, Medication/Somatic Treatment, Counseling, and Community Support.

3417.3 Covered specialty services shall be Crisis/Emergency Services, Rehabilitation Day Services, Intensive Day Treatment, CBI, ACT, Psychosocial Rehabilitation Clubhouse, CPP-FV, TF-CBT, TREM, and TST.

3418 DIAGNOSTIC ASSESSMENT

3418.1 A Diagnostic Assessment is an intensive clinical and functional evaluation of a consumer’s mental health condition that results in the issuance of a Diagnostic Assessment report, including a clinical formulation, with recommendations for service delivery that provides the basis for and includes the development of a Plan of Care. A psychiatrist shall supervise and coordinate all psychiatric and medical functions required by a consumer’s Diagnostic Assessment.

3418.2 A Diagnostic Assessment shall:

(a) Determine whether the consumer is appropriate for and can benefit from MHRS based upon the consumer’s diagnosis, presenting problems, and recovery goals;

(b) Evaluate the consumer's level of readiness and motivation to engage in treatment;

(c) Include the development of a Plan of Care; and

(d) Screen and assess consumers for EBP and Mental Health Supported Employment services as appropriate and applicable.

3418.3 An initial Diagnostic Assessment shall be performed by an independently licensed qualified practitioner for each consumer being considered for enrollment with a CSA.

3418.4 The Diagnostic Assessment shall include the following elements:

(a) A chronological behavioral health history of the consumer's symptoms, treatment, treatment response, and attitudes about treatment and recovery, emphasizing factors that have contributed to or inhibited previous recovery efforts;

(b) For youth and adults, the chronological behavioral health history shall include both psychiatric history and substance use disorder history, treatment history for either or both diagnoses, and the consumer's perception of the outcome;

(c) Biological, psychological, familial, social, and environmental dimensions, and identified strengths and weaknesses in each area;

(d) A description of the presenting problem(s), including source of distress, precipitating events, associated problems or symptoms, and recent progression;

(e) Both a strengths summary and a problem summary, which address the following:

(1) Risk of harm;

(2) Functional status, including relevant emotional and behavioral conditions or complications, and self-control, self-care and interpersonal abilities, coping, and independent living skills;

(3) Co-morbidity, including biomedical conditions and complications;

(4) Recovery environment, including supports and stressors; and

(5) Treatment and recovery history, including relapse potential.

(f) Diagnoses in the DSM-5 or any subsequent version adopted by the Department pursuant to written notice published in the District of Columbia Register;

(g) A review of the consumer's substance use history and presenting problem(s), including an assessment of substances used and intensity of use, the likelihood and severity of withdrawal, and the medical and behavioral risks secondary to intoxication. This review shall identify or exclude substance use disorder as a co-occurring treatment need;

(h) Assessment of the need for psychiatric hospitalization for consumers referred to psychiatric inpatient services to assure that less restrictive alternatives are considered and used when appropriate; and

(i) Evidence of consumer participation and including families' or guardians' participation if appropriate.

3418.5 The Diagnostic Assessment may include psychological testing.

3418.6 Following the completion of the Diagnostic Assessment, an interpretative clinical summary of findings and recommendations for treatment shall be listed in a Diagnostic Assessment report. A Diagnostic Assessment report shall identify barriers to be addressed during treatment and recovery to reduce or eliminate identified deficits.

3418.7 The independently licensed qualified practitioner that performed the Diagnostic Assessment shall complete the Diagnostic Assessment report no later than ten (10) business days after completing the Diagnostic Assessment. The results of the Diagnostic Assessment shall be incorporated into the Plan of Care.

3418.8 A qualified practitioner shall convene the consumer, and the consumer's family and significant others, if appropriate, to review the Diagnostic Assessment report and develop the Plan of Care.

3418.9 One (1) Diagnostic Assessment shall be allowable every one hundred and eighty (180) calendar days. Additional units of Diagnostic Assessment shall be allowable with prior authorization by the Department when there is a significant change in the consumer's mental health status.

3418.10 Diagnostic Assessment shall not be billed on the same day as ACT.

3418.11 Diagnostic Assessment services shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community setting; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3418.12 Qualified practitioners of Diagnostic Assessment permitted to both diagnose and assess are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs; and

(d) APRNs working in a collaborative protocol with a psychiatrist.

3418.13 Individuals who may provide assessment and treatment planning services as part of a Diagnostic Assessment, but who may not diagnose, are:

(a) The following qualified practitioners:

(1) RNs;

(2) LISWs;

(3) LPCs; and

(b) Credentialed staff under the supervision of a qualified practitioner permitted to diagnose mental illness.

3419 MEDICATION/SOMATIC TREATMENT

3419.1 Medication/Somatic Treatment services are medical services and interventions, including physical examinations; prescription, supervision, or administration of mental-health related medications; monitoring and interpreting results of laboratory diagnostic procedures related to mental health-related medications; and medical interventions needed for effective mental health treatment provided as either an individual or group intervention.

3419.2 Medication/Somatic Treatment services include monitoring the side effects and interactions of a consumer's medications and the adverse reactions which a consumer may experience, and providing education and direction for symptom and medication self-management.

3419.3 Group Medication/Somatic Treatment services shall be therapeutic, educational, and interactive with a strong emphasis on group member selection. These services shall facilitate therapeutic peer interaction and support as specified in the Plan of Care.

3419.4 Each Medication/Somatic Treatment provider shall offer:

(a) A comprehensive psycho-educational program for consumers and families, as appropriate, regarding the consumer's mental illness, emotional disturbance, or behavior disorder; treatment and recovery goals; potential benefits and risk of treatment; and self-monitoring aids; and

(b) Consumer/family groups for education, support, and enhancement of the therapeutic alliance between the consumer and the MHRS provider.

3419.5 Consumers receiving Medication/Somatic Treatment shall participate in a psychoeducational session to discuss medication side effects, adverse reactions to medications, and medication self-monitoring and management.

3419.6 Medication/Somatic Treatment shall be provided with no annual limits on services.

3419.7 Medication/Somatic Treatment shall not be billed on the same day as:

(a) ACT; or

(b) IDT.

3419.8 Medication/Somatic Treatment shall be provided:

(a) At the MHRS provider's service site;

(b) By telemedicine pursuant to 29 DCMR § 910;

(c) In natural settings, including the consumer's home or community setting; or

(d) A residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3419.9 Qualified practitioners of Medication/Somatic Treatment are:

(a) Psychiatrists;

(b) APRNs working in a collaborative protocol with a psychiatrist; and

(c) RNs.

3420 COUNSELING

3420.1 Counseling services are individual, group, or family face-to-face services for symptom and behavior management; development, restoration, or enhancement of adaptive behaviors and skills; and enhancement or maintenance of daily living skills. Adaptive behaviors and skills, and daily living skills include those skills necessary to access community resources and support systems, interpersonal skills, and restoration or enhancement of the family unit and/or support of the family. Mental health support and consultation services provided to consumer's families are reimbursable only when such services and supports are directed exclusively to the well-being and benefit of the consumer.

3420.2 Counseling services provided in excess of one hundred sixty (160) units within a twelve-month (12-month) period require prior authorization from the Department.

3420.3 Counseling shall not be billed:

(a) On the same day as:

(1) Intensive Day Treatment;

(2) CBI;

(3) ACT;

(4) TF-CBT;

(5) TST; or

(b) During a Rehabilitation Day Services encounter.

3420.4 Counseling shall be provided:

(a) At the MHRS provider's service site;

(b) By telemedicine pursuant to 29 DCMR § 910;

(c) In natural settings, including the consumer's home or community setting; or

(d) A residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3420.5 Qualified practitioners of Counseling are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) RNs;

(f) LPCs;

(g) LISWs; and

(h) LGSWs and credentialed staff that are under supervision and are behavioral health clinicians appropriately and independently licensed by the jurisdiction where services are delivered and who practice within the scope of their license.

3421 COMMUNITY SUPPORT

3421.1 Community Support services are rehabilitation and environmental supports considered essential to assist the consumer in achieving rehabilitation and recovery goals that focus on building and maintaining a therapeutic relationship with the consumer.

3421.2 Community Support services include but are not limited to:

(a) Participation in the development and implementation of a consumer's Plan of Care;

(b) Assistance and support for the consumer in stressor situations;

(c) Mental health education, support, and consultation to consumers' families and support systems directed exclusively to the well-being and benefit of the consumer;

(d) Individual mental health intervention for the development of interpersonal and community coping skills, including adapting to home, school, and work environments;

(e) Assistance to the consumer in symptom self-monitoring and self-management to identify and minimize the negative effects of psychiatric symptoms, which interfere with the consumer's daily living, financial management, personal development, or school or work performance;

(f) Assistance to the consumer in increasing social support skills and networks that ameliorate life stresses resulting from the consumer's mental illness or emotional disturbance and which are necessary to enable and maintain the consumer's independent living;

(g) Development of strategies and supportive mental health intervention to avoid out-of-home placement for adults, children, and youth and to build stronger family support skills and knowledge of the adult's, child's, or youth's strengths and limitations;

(h) Development of mental health relapse prevention strategies and plans; and

(i) Assistance with coordination of any substance use disorders, co-occurring disorders, and primary care needs.

3421.3 Community Support services may be provided by a team of staff that is responsible for an assigned group of consumers, or by staff who are individually responsible for assigned consumers.

3421.4 The Community Support provider shall maintain a staff-to-consumer ratio of no less than one (1) staff person for every twenty (20) consumers for children and youth, and one (1) staff person for every forty (40) consumers for adults.

3421.5 Community Support services provided to children and youth shall include coordination with family and significant others and with other systems of care, such as education, managed health plans (including Medicaid managed care plans), juvenile justice, and children's protective services, when appropriate to treatment and recovery needs.

3421.6 Community Support services provided in excess of two hundred (200) units within one hundred and eighty (180) calendar days require prior authorization from the Department. Each subsequent authorization shall not exceed two hundred (200) units within a one hundred and eighty (180) calendar day time period.

3421.7 Community Support shall not be billed on the same day as ACT.

3421.8 Individual Community Support shall not be billed during a Rehabilitation Day Services encounter.

3421.9 Group Community Support shall not be billed on the same day as Rehabilitation Day Services.

3421.10 Community Support services shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community settings; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3421.11 Subsections 3421.3 through 3421.9 shall not apply to Therapeutic Supported Employment services, as defined in 22-A DCMR Chapter 37, which are provided as Community Support services. Therapeutic Supported Employment services are reimbursed pursuant to any applicable authorization requirements and billing limitations set forth in 22-A DCMR Chapter 37.

3421.12 Qualified practitioners of Community Support are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) RNs;

(f) LPCs; and

(g) LISWs.

3421.13 Credentialed staff shall be permitted to provide Community Support under the supervision of an independently licensed qualified practitioner.

3422 CRISIS/EMERGENCY SERVICES

3422.1 A Crisis/Emergency Service is an immediate response face-to-face or via telephone to an emergency situation involving a consumer with mental illness or emotional disturbance that is available twenty-four (24) hours per day, seven (7) days per week.

3422.2 Crisis/Emergency Services are provided to consumers involved in an active mental health crisis and consist of immediate response to evaluate and screen the presenting situation, assist in immediate crisis stabilization and resolution, and ensure the consumer's access to care at the appropriate level.

3422.3 The Crisis/Emergency Services provider shall adjust its staffing to meet the requirements for immediate response.

3422.4 Each Crisis/Emergency Services provider shall:

(a) Consult with other service providers, locate other MHRS and resources, and provide written and oral information to assist the consumer in obtaining follow-up MHRS;

(b) Be a certified MHRS provider of Diagnostic Assessment or have an agreement with a CSA as a sub-provider or specialty provider to provide hospital pre-admission screenings; and

(c) Demonstrate the capacity to assure continuity of care for consumers by facilitating follow-up mental health appointments and providing telephonic support until outpatient services occur.

3422.5 Each Crisis/Emergency Services provider shall have waiting, assessment, and treatment areas for children, youth, and families that are separate from the areas for adults.

3422.6 Each Crisis/Emergency Services provider shall establish and adhere to policies, procedures, and staffing sufficient to ensure that all individuals seeking and in need of Crisis/Emergency Services receive face-to-face services within one (1) hour of request or referral ("Crisis/Emergency Staffing Policy"). The Crisis/Emergency Staffing Policy shall:

(a) Require independently licensed qualified practitioners to be available twenty-four (24) hours per day, seven (7) days per week for telephone, face-to-face and mobile interventions for individuals needing crisis services;

(b) Delineate the criteria upon which appropriate venue for service delivery is determined;

(c) Require that backup support for staff who need assistance during an intervention is always available;

(d) Require that all staff receive current training in persuasion, engagement, and de-escalation techniques for disruptive or aggressive acts, consumers, and situations; and

(e) Require all staff to hold current certification in cardiopulmonary resuscitation and first aid.

3422.7 Crisis/Emergency Services shall be provided with no annual limits on services.

3422.8 ACT providers shall not bill Crisis/Emergency Services when provided to one of their current consumers.

3422.9 Crisis/Emergency Services shall be provided:

(a) At the MHRS provider's service site;

(b) By telemedicine pursuant to 29 DCMR § 910; or

(c) In natural settings, including the consumer's home or community settings.

3422.10 Qualified practitioners of Crisis/Emergency Services are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) LISWs;

(f) LPCs; and

(g) RNs.

3422.11 Credentialed staff shall be permitted to provide Crisis/Emergency Services under the supervision of an independently licensed qualified practitioner.

3423 REHABILITATION DAY SERVICES

3423.1 Rehabilitation Day Services is a structured, clinical program intended to develop skills and foster social role integration through a range of social, psycho-educational, behavioral, and cognitive mental health interventions. Rehabilitation Day Services:

(a) Are curriculum-driven and psycho-educational and assist the consumer in the retention or restoration of independent and community living, socialization, and adaptive skills;

(b) Include cognitive-behavioral interventions and diagnostic, psychiatric, rehabilitative, psychosocial, counseling, and adjunctive treatment; and

(c) Are offered most often in group settings, but may be provided individually.

3423.2 Rehabilitation Day Services shall:

(a) Be founded on the principles of consumer choice and the active involvement of each consumer in their mental health recovery;

(b) Provide both formal and informal structures through which consumers can influence and shape service development;

(c) Facilitate the development of a consumer's independent living and social skills, including the ability to make decisions regarding self-care, management of illness, life, work, and community participation;

(d) Promote the use of resources to integrate the consumer into the community; and

(e) Include education on self-management of symptoms, medications and side effects, the identification of rehabilitation preferences, the setting of rehabilitation goals, and skills teaching and development.

3423.3 Each consumer shall have a person-centered plan that addresses the consumer's needs and progress toward achievement of Rehabilitation Day Services treatment goals.

3423.4 Each Rehabilitation Day Services provider shall provide adequate space, equipment, and supplies to ensure that services can be provided effectively. Rehabilitation Day Services program space and furnishings shall be separate and distinct from other services offered within the same service site(s).

3423.5 Each Rehabilitation Day Services provider shall have policies and procedures included in its Service Specific Policies addressing the provision of Rehabilitation Day Services ("Rehabilitation Day Services Organizational Plan") which includes:

(a) A description of the particular rehabilitation models utilized, types of intervention practiced, and typical daily curriculum and schedule; and

(b) A description of the staffing pattern, including a staffing plan to ensure that the required staff-to-consumer ratios are maintained, and a plan for coverage during unplanned staff absences.

3423.6 Each Rehabilitation Day Services provider shall have a minimum of one (1) full-time equivalent staff for every ten (10) consumers based on average daily attendance.

3423.7 At least one (1) independently licensed qualified practitioner shall be present on site at all times.

3423.8 Each Rehabilitation Day Services provider shall have a clinical supervisor or director who is an independently licensed qualified practitioner on site at least thirty (30) hours per week.

3423.9 Each consumer shall participate in at least three (3) hours of Rehabilitation Day Services per day, excluding adequate time for breaks and administrative functions, for the services to be reimbursable.

3423.10 Rehabilitation Day Services in excess of ninety (90) days within a twelve-month (12-month) period shall require prior authorization from the Department. Each subsequent authorization shall not exceed ninety (90) days within a twelve-month (12-month) period.

3423.11 Rehabilitation Day Services shall not be billed:

(a) On the same day as:

(1) Group Community Support;

(2) ACT;

(3) IDT;

(4) TF-CBT;

(5) TREM;

(6) TST;

(7) Psychosocial Rehabilitation Clubhouse; or

(b) During:

(1) A Counseling encounter; or

(2) An Individual Community Support encounter.

3423.12 Rehabilitation Day Services shall only be provided at an MHRS provider's service site.

3423.13 Qualified practitioners of Rehabilitation Day Services are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) RNs;

(f) LPCs; and

(g) LISWs.

3423.14 Credentialed staff shall be permitted to provide Rehabilitation Day Services under the supervision of an independently licensed qualified practitioner.

3424 INTENSIVE DAY TREATMENT

3424.1 Intensive Day Treatment is a facility-based, structured, intensive, and coordinated acute treatment program which serves as an alternative to acute inpatient treatment or as a step-down service from inpatient care, and is rendered by an interdisciplinary team to provide stabilization of psychiatric impairments.

3424.2 Daily physician and nursing services are essential components of Intensive Day Treatment services.

3424.3 Intensive Day Treatment shall:

(a) Be time-limited and provided in an ambulatory setting to consumers who are not in danger of self-harm or harming others, but who have behavioral health issues that are incapacitating and interfering with their ability to carry out daily activities;

(b) Be provided within a structured program of care which offers individualized, strengths-based, active and timely treatment directed toward alleviating the impairment which caused the admission to Intensive Day Treatment;

(c) Be an active treatment program that consists of documented mental health interventions that address the individualized needs of the consumer as identified in the Plan of Care;

(d) Consist of structured individual and group activities and therapies that are planned and goal-oriented, and provided under active psychiatric supervision;

(e) Offer short-term day-programming consisting of therapeutically intensive, acute, and active treatment;

(f) Be comprised of services that closely resemble the intensity and comprehensiveness of inpatient services; and

(g) Include psychiatric, other medical, nursing, social work, occupational therapy, medication/somatic treatment, care coordination, and psychology services focusing on timely crisis intervention and psychiatric stabilization so that consumers can return to their normal daily lives.

3424.4 Each consumer shall participate in at least five (5) hours of Intensive Day Treatment services per day, excluding time for adequate breaks and administrative functions, for the services to be reimbursable.

3424.5 Each consumer shall be directly evaluated by an independently licensed qualified practitioner as part of the admissions process.

3424.6 Each consumer's care shall be supervised by an independently licensed qualified practitioner who assumes primary responsibility for the consumer's assessment, treatment planning, and treatment services.

3424.7 Each consumer shall be assigned to a full-time staff member who assists the consumer and the consumer's family to assess the consumer's needs and progress toward achieving the treatment goals.

3424.8 An interdisciplinary treatment team shall meet within one (1) business day of the consumer's admission to develop an initial Intensive Day Treatment Plan of Care.

3424.9 Each Intensive Day Treatment Plan of Care shall be updated every three (3) business days and shall be reviewed by the interdisciplinary treatment team on a weekly basis and upon termination of treatment.

3424.10 At least one (1) independently licensed qualified practitioner shall be present on site at all times.

3424.11 Each Intensive Day Treatment provider shall have policies and procedures included in its Service Specific Policies addressing the provision of Intensive Day Treatment (Intensive Day Treatment Organizational Plan) which includes the following:

(a) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule;

(b) A description of the staffing pattern including a staffing plan to ensure that the required staff-to-consumer ratios are maintained, and a plan for coverage for unplanned staff absences; and

(c) A description of how the Intensive Day Treatment Plan of Care is modified or adjusted to meet the needs specified in each consumer's Plan of Care.

3424.12 The Intensive Day Treatment provider shall maintain a minimum staff-to-consumer ratio of one (1) staff for every eight (8) consumers. The Intensive Day Treatment provider shall maintain a minimum staffing pattern sufficient to address consumer needs, including adequate physician, nursing, social work, therapy, and psychology services to assure the availability of intensive services.

3424.13 Prior authorization by the Department shall be required for Intensive Day Treatment services. Initial and any subsequent authorizations shall not exceed seven (7) units at a time.

3424.14 Intensive Day Treatment shall not be billed on the same day as:

(a) Medication/Somatic Treatment;

(b) Counseling;

(c) Rehabilitation Day Services;

(d) ACT;

(e) TF-CBT;

(f) TREM;

(g) TST;

(h) Psychosocial Rehabilitation Clubhouse; or

(i) Supported Employment services subject to the Supported Employment program standards set forth in 22-A DCMR Chapter 37.

3424.15 Intensive Day Treatment shall only be provided at an MHRS provider's service site.

3424.16 Qualified practitioners of Intensive Day Treatment are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice, working in a collaborative protocol with a psychiatrist, or demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(e) RNs;

(f) LPCs; and

(g) LISWs.

3424.17 Credentialed staff shall be permitted to provide Intensive Day Treatment under the supervision of an independently licensed qualified practitioner.

3425 COMMUNITY BASED INTERVENTION

3425.1 Community Based Intervention ("CBI") services are time-limited, intensive, mental health services delivered to children and youth. CBI services are intended to prevent the utilization of an out-of-home therapeutic resource or a detention of the consumer. CBI services may be provided at the time a child or youth is identified for a service, particularly to meet an urgent or emergent need during his or her course of treatment.

3425.2 In order to be eligible for CBI services, a consumer shall have:

(a) Insufficient or severely limited individual or family resources or skills to cope with an immediate crisis; and

(b) Either individual or family issues, or a combination of individual and family issues, that are unmanageable and require intensive coordinated clinical and positive behavioral interventions.

3425.3 There shall be four (4) levels of CBI services available to children and youth. A provider may be certified to offer one (1) or more level(s) of CBI services. The four (4) levels of CBI services are:

(a) CBI Level I, delivered using the Multisystemic Therapy ("MST") treatment model adopted by the Department;

(b) CBI Level II, delivered using the Intensive Home and Community-Based Services (IHCBS) model adopted by the Department;

(c) CBI Level III, delivered using the IHCBS model adopted by the Department; and

(d) CBI Level IV, delivered using the Functional Family Therapy ("FFT") model adopted by the Department.

3425.4 The CBI provider shall be responsible for coordinating the treatment planning process for all consumers authorized to receive CBI for the duration of CBI services. CBI services shall be delivered primarily in natural settings and shall include in-home services.

3425.5 The basic goals of all levels of CBI services are to:

(a) Defuse the consumer's current situation to reduce the likelihood of a recurrence, which if not addressed, could result in the use of more intensive therapeutic interventions;

(b) Coordinate access to covered mental health services and other covered Medicaid services;

(c) Provide mental health services and support interventions for consumers that develop and improve consumer and family interaction and improve the ability of parents, legal guardians, or caregivers to care for the consumer; and

(d) Assess the needs of the consumer, and transition the consumer to an appropriate level of care following the end of CBI treatment services.

3425.6 All levels of CBI services shall include the following services, as medically necessary and clinically appropriate for the consumer:

(a) Immediate crisis response for enrolled consumers;

(b) Stabilization and behavioral support services to:

(1) Reduce family conflict;

(2) Stabilize the family unit;

(3) Maintain the consumer in the home environment;

(4) Increase family support; and

(5) Monitor the consumer's medication compliance with prescribed psychiatric medications;

(c) Environmental assessment to:

(1) Identify risk factors that may endanger either the consumer or the consumer's family; and

(2) Assess the strengths of the consumer and the consumer's family;

(d) Individual and family support interventions that develop and improve the ability of parents, legal guardians, or significant others to care for the consumer's behavioral and emotional disturbance(s);

(e) Skills training related to:

(1) Consumer self-help;

(2) Parenting techniques to help the consumer's family develop skills for managing the consumer's emotional disturbance;

(3) Problem solving;

(4) Behavior management;

(5) Communication techniques, including the facilitation of communication and consistency of communication for both the consumer and the consumer's family; and

(6) Medication management, monitoring, and follow-up for family members and other caregivers; and

(f) Coordination and linkage with other covered MHRS and supports and other covered Medicaid services to prevent the utilization of more restrictive residential treatment, including one (1) or more of the following activities:

(1) Referral of consumers to other MHRS providers;

(2) Assisting consumers in transition to less intensive or more intensive MHRS;

(3) Referral of consumers to providers of other Medicaid covered services; or

(4) Supporting and consulting with the consumer's family or support system directed exclusively to the well-being and benefit of the consumer.

3425.7 CBI Level I services are intended for children and youth ages twelve (12) through seventeen (17) who are experiencing serious emotional disturbance with either of the following:

(a) A documented behavioral concern with externalizing (aggressive or violent) behaviors; or

(b) A history of chronic juvenile offenses that has resulted or may result in involvement with the juvenile justice system.

3425.8 CBI Level I services shall not be authorized for:

(a) Children or youth who require the safety of a hospital or other secure setting;

(b) Children or youth in independent living programs; or

(c) Children or youth without a long-term placement option.

3425.9 Eligible consumers of CBI Level I services shall have a permanent caregiver who is willing to participate with service providers for the duration of CBI Level I treatment services and be:

(a) At imminent risk for out-of-home placement within thirty (30) calendar days; or

(b) Currently in out-of-home placement due to the consumer's disruptive behavior, with permanent placement expected to occur within thirty (30) calendar days.

3425.10 CBI Level I services shall require prior authorization from the Department. Authorizations shall not exceed one hundred eight (180) calendar days.

3425.11 Re-admission to CBI Level I services, after the one hundred eighty (180) calendar day time period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.12 CBI Level II is intended for consumers ages birth through twenty-one (21) who shall meet at least one (1) of the following criteria:

(a) A history of involvement with the Child and Family Services Agency ("CFSA") or the Department of Youth Rehabilitation Services ("DYRS");

(b) A history of negative involvement with schools for behavioral-related issues; or

(c) A history of either chronic or recurrent episodes of negative behavior that has resulted or may result in out-of-home placement.

3425.13 CBI Level II services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.

3425.14 CBI Level II services shall require prior authorization from the Department. Authorizations shall not exceed one hundred eight (180) calendar days.

3425.15 Re-admission to CBI Level II services, after the one hundred eighty (180) calendar day time period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.16 CBI Level III is intended for consumers ages birth through twenty-one (21) who shall meet at least one (1) of the following criteria:

(a) Has situational behavioral problems that require short-term, intensive treatment;

(b) Is currently dealing with stressor situations such as trauma or violence and requires development of coping and management skills;

(c) Recently experienced out-of-home placement and requires development of communication and coping skills to manage the placement change;

(d) Is undergoing transition from adolescence to adulthood and requires skills and supports to successfully manage the transition; or

(e) Was recently discharged or is being discharged within the next thirty (30) calendar days from an inpatient setting such as a hospital or psychiatric residential treatment facility.

3425.17 CBI Level III services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.

3425.18 CBI Level III services shall require prior authorization from the Department. Authorizations shall not exceed ninety (90) calendar days.

3425.19 Re-admission to CBI Level III services, after the ninety (90) calendar day period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.20 CBI Level IV is intended for consumers ages eleven (11) through eighteen (18), who shall meet the following two (2) criteria:

(a) First (1st) criteria:

(1) Have a documented history of moderate to serious behavioral problems which impair functioning in at least one (1) area (for example school or home);

(2) Exhibit significant externalizing behavior which impairs functioning in at least one (1) area (for example school or home); or

(3) Be at risk of a disruption in placement; and

(b) Second (2nd) criteria:

(1) Be willing to participate with service providers for the duration of CBI Level IV treatment services; and

(2) Be involved with a caregiver who is willing to participate with service providers for the duration of CBI Level IV treatment services.

3425.21 CBI Level IV services shall not be authorized for:

(a) Children or youth who require the safety of a hospital or other secure setting;

(b) Children or youth in congregate living programs; or

(c) Children or youth in an emergency or respite placement.

3425.22 CBI Level IV Service providers shall obtain prior authorization of CBI Level IV services from the Department for a period not to exceed one hundred and eighty (180) calendar days.

3425.23 Re-admission to CBI Level IV services after the one hundred and eighty (180) calendar day time period may be considered for prior authorization by the Department in accordance with medical necessity requirements specified by the Department.

3425.24 A maximum of twenty-four (24) additional units of CBI Level IV services may be delivered at the discretion of the provider, in consultation with the consumer and the consumer's caregiver without an additional authorization, within twelve (12) months of the close of the initial one hundred and eighty (180) calendar day authorization period.

3425.25 Discharge from all levels of CBI services shall occur when the consumer has achieved the goals for CBI outlined in the Plan of Care, or the consumer no longer

benefits from CBI services. Discharge decisions shall be based on one (1) or a combination of the following:

(a) The consumer is performing reasonably well in relation to goals contained in the Plan of Care and discharge to a lower level of care is indicated (for example, the consumer is not exhibiting risky behaviors or family functioning has improved);

(b) The consumer or the consumer's family or caregiver has developed the skills and resources needed to step down to a less intensive service;

(c) The consumer is not making progress or is regressing and all realistic CBI treatment options have been exhausted;

(d) A family member or caregiver requests discharge and the consumer is not imminently dangerous to self or others;

(e) The consumer requires a higher level of care (for example, inpatient hospitalization or psychiatric residential treatment facility); or

(f) The consumer does not reside in the District and:

(1) Is not eligible to participate in the District's Medicaid program;

(2) Is not within the physical or legal custody of the CFSA; or

(3) Is not within the physical or legal custody of the DYRS.

3425.26 Eligible providers of CBI Level I services shall:

(a) Be licensed MST providers in good standing;

(b) Be either a Network Partner that is providing the MST services and receiving MST consultation services from another MST Network Partner, or a non-Network Partner that is receiving MST consultant services from a MST Network Partner or MST Services;

(c) Have the capacity to provide or arrange for the non-Medicaid reimbursed wraparound services required by eligible consumers;

(d) Meet CBI Level I training requirements specified by the Department;

(e) Have the capacity to deliver CBI Level I services to four (4) to six (6) consumers for each full-time team member; and

(f) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3425.27 Eligible providers of CBI Level II services shall:

(a) Meet CBI Level II training requirements specified by the Department;

(b) Have the capacity to provide or arrange for the non-Medicaid reimbursed wraparound services required by eligible consumers;

(c) Have the capacity to deliver CBI Level II services to at least four (4) to six (6) consumers for each full-time team member; and

(d) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3425.28 Eligible providers of CBI Level III services shall:

(a) Meet CBI Level III training requirements specified by the Department;

(b) Have the capacity to provide or arrange for the non-Medicaid reimbursed wraparound services required by eligible consumers;

(c) Have the capacity to deliver CBI Level III services to at least four (4) to six (6) consumers for each full-time team member; and

(d) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3425.29 Eligible providers of CBI Level IV services shall:

(a) Be certified by FFT LLC as an FFT provider;

(b) Comply with the CBI Level IV training and site certification requirements specified by the Department;

(c) Have the capacity to deliver CBI Level IV services to at least ten (10) to twelve (12) consumers for each therapist; and

(d) Be available to work a flexible schedule based on the needs of the consumer and the family or caregiver.

3425.30 Providers of all levels of CBI services shall:

(a) Individually design CBI services for each consumer and family to minimize intrusion and maximize independence;

(b) Provide more intensive services at the beginning of treatment and decrease the intensity of treatment over time as the strengths and coping skills of the consumer and family develop;

(c) Provide services utilizing a team approach;

(d) Maintain appropriate back-up coverage for team member absences and facilitate substitution of team members, as necessary;

(e) Conduct face-to-face transition planning with consumers and families no later than thirty (30) calendar days prior to the anticipated discharge date, including meetings with providers of more intensive or less intensive services;

(f) Conduct continuity of care planning with consumers and families prior to discharge from any level of CBI services, including facilitating follow-up mental health appointments and providing telephonic support until follow-up mental health services occur;

(g) Provide all of the components of treatment specified in § 3425.6, as appropriate, based on each consumer's needs;

(h) Provide CBI services with a family-focus;

(i) Assist the consumer and his or her family with the development of mental health relapse prevention strategies and plans, if none exist;

(j) Assist the consumer and his or her family with the development of a safety plan to address risk factors identified during the environmental assessment;

(k) Have policies and procedures included in its Service Specific Policies that address the provision of CBI ("CBI Organizational Plan") which include the following:

(1) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule;

(2) A description of the staffing pattern and how staff is deployed to ensure that the required staff-to-consumer ratios are maintained, including a plan for unplanned staff absences;

(3) A requirement to directly conduct or arrange for Diagnostic Assessment services within thirty (30) calendar days before or after the initiation of CBI services. The Department may approve alternative sources to serve as the diagnostic assessment instrument

if similar assessments have been conducted within the past twelve (12) months of an individual's referral to CBI services; and

(4) A requirement to collect and submit clinical outcome data and any other requested information using the process, timeline, and tools specified or approved by the Department.

3425.31 Each CBI Level I team shall include:

(a) A full-time CBI Level I clinical supervisor; and

(b) Two (2) to four (4) full-time CBI Level I clinicians.

3425.32 The CBI Level I team clinical supervisor shall be an independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3425.33 The CBI Level I team clinicians shall be qualified practitioners.

3425.34 Each CBI Level II team shall include:

(a) A full-time clinical supervisor dedicated at a minimum fifty percent (50%) to IHCBS; and

(b) At a minimum, two (2) full-time clinicians dedicated to IHCBS.

3425.35 The CBI Level II team clinical supervisor shall be a Master's level independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3425.36 The CBI Level II team clinicians shall be qualified practitioners and have a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.

3425.37 Each CBI Level III team shall include:

(a) A full-time clinical supervisor dedicated at a minimum fifty percent (50%) to IHCBS; and

(b) At a minimum, two (2) full-time clinicians dedicated to IHCBS.

3425.38 The CBI Level III team clinical supervisor shall be a Master's level independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3425.39 The CBI Level III team clinicians shall be qualified practitioners and have a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.

3425.40 Each CBI Level IV team shall include:

(a) An FFT-trained supervisor who provides the clinical and administrative supervision of the FFT Team and has the capacity to carry up to five (5) cases; and

(b) Three (3) to eight (8) FFT clinicians who have satisfied the FFT requirements for a therapist.

3425.41 The CBI Level IV supervisor shall be a Master's level independently licensed qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings who has satisfied the FFT requirements for a clinical supervisor.

3425.42 The CBI Level IV clinicians shall be qualified practitioners and have a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings, and shall have satisfied the FFT requirements for FFT therapists.

3425.43 Providers of all levels of CBI services shall ensure referral to and coordination with any medically necessary substance use disorder treatment and recovery support services and any services to facilitate consumers' transition from adolescence to adulthood.

3425.44 CBI shall not be billed on the same day as:

(a) Counseling;

(b) ACT; or

(c) TF-CBT.

3425.45 CBI Level II and CBI Level III shall not be billed on the same day as TREM.

3425.46 CBI Level IV shall not be billed on the same day as TST.

3425.47 CBI shall be provided:

(a) At the MHRS provider's service site; or

(b) In natural settings, including the consumer's home or community settings.

3425.48 Qualified practitioners of CBI:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LPCs;

(f) RNs; and

(g) LISWs.

3425.49 Credentialed staff who may provide this service working under appropriate supervision are the following:

(a) LGSWs; and

(b) LGPCs.

3425.50 CBI services shall not exceed thirty-two (32) units in a twenty-four (24) hour period, without prior authorization from the Department. The Department may conduct clinical record reviews to verify the medical necessity of services provided.

3425.51 CBI providers shall comply with training requirements:

(a) For CBI Level I through nationally recognized body;

(b) For CBI Level II and CBI Level III in accordance with the Department CBI Policy;

(c) For CBI IV through FFT LLC; and

(d) All other trainings provided through the Department's Training Institute during the calendar year as requested by the Department.

3426 ASSERTIVE COMMUNITY TREATMENT

3426.1 ACT is an intensive, integrated, rehabilitative, crisis, treatment, and mental health community support service provided by an interdisciplinary team to individuals eighteen (18) and over with serious and persistent mental illness with dedicated staff time and specific staff-to-consumer ratios.

3426.2 Service coverage by the ACT team is required twenty-four (24) hours per day, seven (7) days per week.

3426.3 The consumer's ACT team shall complete a comprehensive or supplemental assessment and develop a self-care-oriented Plan of Care (if a current and effective one does not already exist).

3426.4 Services offered by the ACT team shall include:

(a) Medication prescription, administration, and monitoring;

(b) Crisis assessment and intervention;

(c) Symptom assessment, management, and individual supportive therapy;

(d) Substance use disorder treatment for consumers with a co-occurring substance use disorder;

(e) Psychosocial rehabilitation and skill development;

(f) Interpersonal, social, and interpersonal skill training;

(g) Education, support, and consultation to consumers' families and their support system which is directed exclusively to the well-being and benefit of the consumer;

(h) Finding safe and affordable supportive housing;

(i) Money management and benefits counseling and acquisition; and

(j) Coordination of medical and psychosocial services.

3426.5 ACT services shall include a comprehensive and integrated set of medical and psychosocial services for the treatment of the consumer's mental health condition that is provided in non-office settings by the consumer's ACT team.

3426.6 The ACT team provides community support services that are interwoven with treatment and rehabilitative services and regularly scheduled team meetings. ACT team meetings shall be held a minimum of four (4) times a week.

3426.7 ACT services and interventions shall be highly individualized and tailored to the needs and preferences of the consumer, with the goal of maximizing independence and supporting recovery.

3426.8 Each ACT provider shall have policies and procedures included in its Service Specific Policies that address the provisions of ACT ("ACT Organizational Plan") which include the following:

(a) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule; and

(b) A description of the staffing pattern and how staff are deployed to ensure that the required staff-to-consumer ratios are maintained, including how unplanned staff absences and illnesses are accommodated.

3426.9 At a minimum, the ACT team shall include the following members:

(a) A full-time team leader or supervisor who is the clinical and administrative supervisor of the ACT team and who is at minimum an independently licensed Master's level qualified practitioner or a Master's level RN;

(b) A psychiatrist or a psychiatric prescriber working on a full-time or part-time basis for a minimum of four (4) hours per week per twenty (20) consumers, who provides clinical and crisis services to all consumers served by the ACT team, works with the ACT team leader to monitor each consumer's clinical status and response to treatment, and directs psychopharmacologic and medical treatment;

(c) An RN working on a full-time basis, who provides nursing services for all ACT team consumers. The RN works with the ACT team to monitor each consumer's clinical status and response to treatment, and who functions as a primary practitioner on the ACT team for a caseload of consumers;

(d) A certified addiction counselor who is working on a full-time basis and providing or accessing substance use disorder services for ACT team consumers, and who functions as a primary practitioner on the ACT team for a caseload of consumers;

(e) A clinically trained and licensed generalist practitioner working on a full-time basis and providing individual and group supportive therapy to ACT team consumers, and who functions as a primary practitioner on the ACT team for a caseload of consumers and is a qualified practitioner;

(f) A certified recovery coach or certified peer specialist carrying out rehabilitation and support functions who may be a consumer in recovery

that has been specially credentialed based on their psychiatric and life experiences. Certified recovery coaches and certified peer specialists are fully integrated ACT team members who provide consultation to the ACT team and highly individualized services in the community, and who promote consumer self-determination and decision making; and

(g) A vocational specialist with at least one year of training or experience who has knowledge of supported employment, vocational assessment, job exploration and marketing to recipient's interest and strengths and securing and maintain employment.

3426.10 The ACT team shall maintain a minimum consumer-to-staff ratio of no more than ten (10) consumers per staff person, and such ratio shall take into consideration evening and weekend hours, needs of special populations, and geographical areas to be covered.

3426.11 Eligible providers of ACT services shall:

(a) Utilize the ACT model adopted by the Department;

(b) Meet ACT training requirements specified by the Department; and

(c) Have culturally and linguistically competent staff.

3426.12 ACT shall require prior authorization from the Department. Initial and subsequent authorizations shall not exceed one hundred eighty (180) calendar days and five hundred (500) units.

3426.13 ACT consumers shall receive vocational and supported employment services through their ACT team. ACT consumers shall not be eligible for Supported Employment services that are subject to the Supported Employment program standards set forth in 22-A DCMR Chapter 37.

3426.14 ACT shall not be billed on the same day as:

(a) Diagnostic Assessment;

(b) Medication/Somatic Treatment;

(c) Counseling;

(d) Community Support;

(e) Rehabilitation Day Services;

(f) Intensive Day Treatment;

(g) CBI;

(h) TF-CBT;

(i) TREM; or

(j) TST.

3426.15 ACT providers shall not bill Crisis/Emergency Services when provided to one of their current consumers.

3426.16 ACT shall be provided:

(a) At the MHRS provider's service site; or

(b) In natural settings, including the consumer's home or community settings.

3426.17 Qualified practitioners of ACT are:

(a) Psychiatrists; and

(b) RNs.

3426.18 Credentialed staff shall be permitted to provide ACT services under the supervision of an independently licensed qualified practitioner or a Master's level RN.

3427 CHILD-PARENT PSYCHOTHERAPY FOR FAMILY VIOLENCE

3427.1 Child-Parent Psychotherapy for Family Violence ("CPP-FV") is a relationship-based treatment intervention for young children with a history of trauma exposure or maltreatment, and their parents or caregivers. CPP-FV helps restore developmental functioning and reduce trauma symptoms in the wake of trauma by focusing on restoring the attachment relationship that was negatively affected. Young children, birth through six (6) years of age, who have experienced traumatic stress often have difficulty regulating their behaviors and emotions during distress. They may exhibit fearfulness of new situations, be easily frightened, difficult to console, aggressive, or impulsive. These children may also have difficulty sleeping, lose recently acquired developmental skills, and show regression in functioning and behavior. Under CPP-FV, clinicians assess and provide information on how parents' or caregivers' past experiences, including past insecure or abusive relationships, affect their relationships with their children. Sessions focus on parent/caregiver-child interactions and clinicians provide support on healthy coping, affect regulation, and increased appropriate reciprocity between parent/caregiver and child, resulting in a stronger relationship between a child and his or her parent or caregiver, and improvement in the child's symptoms. On

average CPP-FV sessions are sixty (60) to ninety (90) minutes, one (1) time per week, for a period up to fifty-two (52) weeks. CPP-FV sessions are longer in the first six months of treatment (i.e., ninety (90) minutes) and decrease over time (to sixty (60) minutes) as the child improves his or her coping skills.

(a) The goals of CPP-FV are to:

(1) Reduce post-traumatic stress reactions and symptoms in children;

(2) Improve both parent/caregiver and child functioning, as well as improve the parent/caregiver-child attachment relationship;

(3) Establish a sense of safety and trust within the parent/caregiver-child relationship;

(4) Return a child to a normal developmental trajectory; and

(5) Restore parental/caregiver sensitivity and responsiveness, in order to strengthen the child-parent/caregiver relationship.

(b) CPP-FV is available to children ages birth through six (6) years with a mental health diagnosis, who have experienced at least one traumatic event including maltreatment, the sudden or traumatic death of a caregiver, a serious accident, medical traumas, sexual abuse, physical abuse, neglect, or exposure to domestic violence, and, as a result, are experiencing behavioral, attachment, and/or mental health problems, including post-traumatic stress symptoms.

(c) CPP-FV shall only be provided with the participation of the parent or caregiver.

(d) Providers of CPP-FV services shall meet and maintain certification as a CPP-FV provider from the Department-approved training entity.

(e) All CPP-FV clinicians shall complete the Department-approved CPP-FV clinical training.

(f) Each CPP-FV Team shall include one (1) clinical supervisor and no more than six (6) clinicians who have successfully completed the CPP-FV training requirements. The clinical supervisor shall be an independently licensed qualified practitioner.

(g) CPP-FV clinicians shall be qualified practitioners who hold a Master's degree in psychology, social work, therapy, or other related field;

(h) Credentialed staff shall receive supervision from a qualified practitioner trained in CCP-FV in accordance with the CPP-FV fidelity standards; and

(i) Providers of CCP-FV shall maintain an acceptable rating on an annual CPP-FV fidelity audit.

3427.2 CPP-FV may be provided without prior authorization from the Department.

3427.3 CPP-FV shall not be billed on the same day as:

(a) TF-CBT; or

(b) TST.

3427.4 CPP-FV shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community settings; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3427.5 Qualified practitioners of CPP-FV are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LPCs;

(f) RNs.

3427.6 Credentialed staff who may provide this service working under appropriate supervision are the following:

(a) LGSWs;

(b) LGPCs;

(c) LISWs; and

(d) Psychology Associates.

3428 TRAUMA-FOCUSED COGNITIVE BEHAVIORAL THERAPY

3428.1 Trauma-Focused Cognitive Behavioral Therapy ("TF-CBT") is a psychotherapeutic intervention designed to help children, working with their parent or caregivers, overcome the negative effects of traumatic life events. The treatment focuses on parent-child interactions, parenting skills, therapeutic treatment, skills development (such as stress management, cognitive processing, communication, problem solving, and safety), and parental support. A parent/caregiver treatment component is an integral part of this treatment model. It parallels the interventions used with the child so that parent or caregivers are aware of the content covered with the child and are prepared to reinforce or discuss this material with the child between treatment sessions and after treatment has ended. A typical course of TF-CBT treatment requires children to participate in sixty (60) to ninety (90) minute individual and conjoint child parent or caregiver sessions, at a minimum one (1) time per week, over an average period of twelve (12) to sixteen (16) weeks in accordance with the evidence-based practice requirements.

(a) The goals of TF-CBT are to:

(1) Target symptoms of post-traumatic stress disorder that are often co-occurring with depression and behavior problems;

(2) Address issues commonly experienced by traumatized children, such as poor self-esteem, difficulty trusting others, mood instability, and self- injurious behavior, including substance use disorder;

(3) Increase stress management skills of youth and parent/caregiver;

(4) Improve youth's self-esteem, problem-solving and safety skills and decrease self-injurious and aggressive behaviors; and

(5) Decrease caregiver trauma-related distress.

(b) TF-CBT is available to children ages four (4) through eighteen (18) years of age with a diagnosed serious emotional disorder, who have experienced or witnessed one or more traumatic events and who are experiencing behavioral, or mental health problems, including post-traumatic stress symptoms as a result of the event.

(c) TF-CBT is recommended to be provided with an active parent/caregiver willing to participate for the anticipated treatment period.

(d) Providers of TF-CBT services shall maintain fidelity to the TF-CBT model adopted by the Department.

(e) All TF-CBT Clinical team members shall complete the Department-approved TF-CBT clinical training.

(f) Each TF-CBT Team shall include at least one (1) clinical supervisor, and no more than ten (10) clinicians who have successfully completed the TF-CBT training requirements. The clinical supervisor shall be an independently licensed qualified practitioner experienced in providing individual, group, marital, or family counseling or psychotherapy.

(g) TF-CBT clinicians shall be qualified practitioners who hold a Master's degree in psychology, social work, therapy, or other related field.

(h) Services provided by credentialed staff shall be supervised by a qualified practitioner trained in TF-CBT as required by the TF-CBT requirements and documented in the TF-CBT Practice Session Checklist.

3428.2 TF-CBT may be provided without prior authorization from the Department.

3428.3 TF-CBT shall not be billed the same day as:

(a) Counseling;

(b) Rehabilitation Day Services;

(c) IDT;

(d) CBI;

(e) ACT;

(f) CPP-FV; or

(g) TST.

3428.4 TF-CBT shall be provided:

(a) At the MHRS provider's service site;

(b) In natural settings, including the consumer's home or community settings; or

(c) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3428.5 Qualified practitioners of TF-CBT are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) RNs; and

(f) LPCs.

3428.6 Credentialed staff who may provide this service working under appropriate supervision are the following:

(a) LGSWs;

(b) LGPCs;

(c) LISWs; and

(d) Psychology Associates.

3429 TRAUMA RECOVERY AND EMPOWERMENT MODEL

3429.1 Trauma Recovery and Empowerment Model ("TREM") is a structured group therapy intervention designed for individuals who have survived trauma and have substance use disorders and/or mental health conditions. TREM draws on cognitive restructuring, skills training, and psychoeducational and peer support to address recovery and healing from sexual, physical, and emotional abuse. A curriculum for each model outlines the topic of discussion, a rationale, a set of goals, and a series of questions to be posed to the group in addition to an experiential exercise for each session.

The components are:

(a) Therapy sessions focused on empowerment, self-comfort, and accurate self-monitoring, as well as ways to establish safe physical and emotional boundaries;

(b) Therapy sessions focused on the trauma experience and its consequences; and

(c) Therapy sessions focused on skills building, including emphases on communication style, decision-making, regulating overwhelming feelings, and establishing safer, more reciprocal relationships.

3429.2 Each TREM group is population specific and on average consists of eighteen (18) to twenty-four (24) sessions, with each session at least seventy-five (75) minutes in duration. Population-specific groups include:

(a) TREM for women;

(b) TREM for men;

(c) TREM for girls twelve (12) to seventeen (17) years of age;

(d) TREM for boys twelve (12) to seventeen (17) years of age; and

(e) TREM for individuals who are lesbian, gay, bisexual, transgender, questioning, intersex, or asexual (groups for either individuals under eighteen (18) or individuals eighteen (18) and over.

3429.3 Due to the sensitive nature of the discussions, TREM requires at least two (2) facilitators to be assigned to every group to ensure the safety and continuity of the group. At least one (1) facilitator shall be an independently licensed qualified practitioner. A team approach is required to: address situations that may arise within the group; decrease burnout; provide continuity if one facilitator is absent; and to lend additional therapeutic support to the group. Qualified practitioners staff working as facilitators shall have completed Department-approved, population-specific TREM training.

3429.4 TREM may be provided without prior authorization from the Department.

3429.5 TREM shall not be billed on the same day as:

(a) Rehabilitation Day Services;

(b) Intensive Day Treatment;

(c) CBI Level II and III; or

(d) ACT.

3429.6 TREM shall be provided:

(a) At the MHRS provider's service site; or

(b) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3429.7 Qualified Practitioners of TREM are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LMFTs;

(f) LPCs;

(g) LISWs;

(h) LGSWs;

(i) LGPCs; and

(j) Psychology Associates.

3429.8 Certified Recovery Coaches, Certified Peer Specialists, and Certified Addiction Counselors I and II who have successfully completed a TREM group and Department-approved TREM training shall be authorized to support TREM services under the supervision of the two (2) group facilitators.

3430 TRAUMA SYSTEMS THERAPY

3430.1 Trauma Systems Therapy ("TST") is a comprehensive, phase-based model for treating traumatic stress in children and adolescents that adds to individually-based approaches by specifically addressing the child's social environment and/or system of care. TST is designed to provide an integrated highly coordinated system of services guided by the specific understanding of the nature of child traumatic stress. TST focuses on the interaction between the child's difficulties regulating their emotions and the deficits within the child's social environment. The three phases of the model are Safety-Focused, Regulation-Focused, and Beyond Trauma.

3430.2 On average, individual TST sessions are one (1) to three (3) sessions per week, depending on the phase of treatment. Sessions are on average forty-five (45) to sixty (60) minutes in duration.

3430.3 TST is intended for children and youth ages six (6) through eighteen (18) years of age, who have:

(a) Been exposed to trauma;

(b) Plausible trauma histories;

(c) Difficulty regulating emotional and behavioral states;

(d) Dysregulation that is plausibly related to the trauma history; and

(e) Stable housing or a plan to achieve stable housing in the community.

3430.4 At a minimum, the TST team shall include:

(a) A TST-trained supervisor who provides the clinical and administrative supervision of the TST team. The supervisor shall be an independently licensed qualified practitioner experienced in providing individual, group, marital, or family counseling or psychotherapy;

(b) Access to a psychiatrist to monitor each youth's clinical status and response to treatment, and to direct psychopharmacologic treatment or consult with the consumer's psychopharmacologic treatment team. The psychiatrist shall be knowledgeable in TST ("be TST-informed");

(c) TST-trained therapists who provide individual therapy. Therapists shall hold a Master's degree in psychology, social work, counseling, or other related field and shall be appropriately licensed by the jurisdiction where services are delivered and practice within the scope of their license.

(d) TST-trained individuals who are qualified practitioners of Community-Based Intervention or who are credentialed to provide Community Support to provide crisis support, care coordination, skills building, and TST treatment plan support; and

(e) Individuals who provide Legal Advocacy Support and who are knowledgeable in TST ("are TST-informed").

3430.5 All TST supervisors and therapists shall have completed DBH-approved TST training.

3430.6 Providers of TST services shall maintain certification as a TST provider from a DBH-approved training entity.

3430.7 TST may be provided without prior authorization from the Department.

3430.8 TST shall not be billed on the same day as:

(a) Counseling;

(b) Rehabilitation Day Services;

(c) Intensive Day Treatment;

(d) CBI Level IV;

(e) ACT;

(f) CPP-FV; or

(g) TF-CBT.

3430.9 TST shall be provided:

(a) At the MHRS provider's service site; or

(b) In natural settings, including the consumer's home or community settings;

3430.10 Qualified Practitioners of TST are:

(a) Psychiatrists;

(b) Psychologists;

(c) LICSWs;

(d) APRNs with psychiatry as a specialty area of practice;

(e) LMFTs;

(f) LPCs;

(g) LGSWs;

(h) LGPCs;

(i) LISWs; and

(j) Psychology Associates.

3430.11 Services provided by qualified practitioners who are subject to supervision requirements, per applicable licensing and registration laws and regulations, shall be supervised by a qualified practitioner who is:

(a) Licensed to practice independently, and

(b) Trained in TST, as required by this chapter's TST requirements.

3431 REIMBURSABLE SERVICES

3431.1 Reimbursement for the provision of MHRS shall be on a per unit basis as indicated in § 3431.4.

3431.2 Each covered service shall have a unique billing code as established by the Department.

3431.3 The actual start and stop time of the service shall be used to calculate the duration of the service rounded to the nearest fifteen-minute unit.

3431.4 Reimbursement shall be limited as follows:

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Diagnostic Assessment	• One (1) every one hundred and eighty (180) calendar days • Additional units allowable when there is a significant change in the consumer's mental health status • Shall not be billed the same day as ACT • Provided only in an MHRS provider's service site, home or community setting, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department	An assessment, which is at least three (3) hours in duration
Medication/ Somatic Treatment	• No annual limits • Shall not be billed the same day as ACT or IDT • Provided only in an MHRS provider's service site, home or community setting, via telemedicine, or in residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) Minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Counseling	• One hundred sixty (160) units per twelve (12) month period • Additional units allowable with prior authorization • Shall not be billed the same day as IDT, CBI, ACT, TF-CBT, or TST. Shall not be billed during a Rehabilitation Day Services encounter • Shall be rendered face-to-face, when consumer is present, unless there is adequate documentation to justify why the consumer was not present during the session • May be provided in individual on-site, individual off-site or group • Provided only in an MHRS provider's service site, home or community setting, via telemedicine, or in a residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) minutes
Community Support	• Two hundred (200) units per one hundred and eighty (180) calendar days • Additional units allowable with prior authorization; each authorization cannot exceed (200) units per one hundred and eighty (180) calendar days • Shall not be billed on the same day as ACT. Individual Community Support shall not be billed during a Rehabilitation Day Services encounter and Group Community Support shall not be billed on the same day as Rehabilitation Day Services • Provided only in an MHRS provider's service site, home, community setting, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department • Limitations applicable to Therapeutic Supported Employment services provided as Community Support services are described in 22-A DCMR Chapter 37	Fifteen (15) minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Crisis/ Emergency Services	• No annual limits • ACT providers shall not bill Crisis/Emergency Services when provided to one of their current consumers. • Provided only in an MHRS provider's service site, home or community setting, or via telemedicine	Fifteen (15) minutes
Rehabilitation Day Services	• Ninety (90) days within a twelve (12) month period • Additional units allowable with prior authorization; each authorization cannot exceed ninety (90) days per twelve (12) month period • Shall not be billed on the same day as Group Community Support, ACT, IDT, TF-CBT, TREM, TST, or Clubhouse. Shall not be billed during a Counseling or Individual Community Support encounter • Provided only in an MHRS provider's service site	One (1) day (which shall consist of at least three (3) hours) of service, excluding appropriate time for breaks and administrative functions)
Intensive Day Treatment ("IDT")	• Prior authorization required. Initial and subsequent authorizations shall not exceed seven (7) days at a time • Shall not be billed on the same day as Medication/Somatic Treatment, Counseling, Rehabilitation Day Services, ACT, TF-CBT, TREM, TST, Clubhouse, or Supported Employment • Provided only in an MHRS provider's service site	One (1) day [which shall consist of at least five (5) hours of IDT services, excluding appropriate time for breaks and administrative functions]
Community Based Intervention ("CBI")	• Prior authorization required for enrollment and continued stay (see §3425 for details) • Shall not be billed on the same day as Counseling, ACT, or TF-CBT. CBI Level II and III shall not be billed on the same day as TREM and CBI Level IV shall not be billed on the same day as TST • Provided only in an MHRS provider's service site, or home or community setting	Fifteen (15) minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Assertive Community Treatment ("ACT")	• Prior authorization required. Initial and subsequent authorizations shall not exceed one hundred eighty (180) calendar days and five (500) hundred units • Shall not be billed on the same day as Diagnostic Assessment, Medication/Somatic Treatment, Counseling, Community Support, Rehabilitation Day Services, IDT, CBI, TF-CBT, TREM, or TST. ACT providers shall not bill Crisis/Emergency Services if provided to one of their current consumers • Provided only in an MHRS provider's service site, or home or community setting	Fifteen (15) minutes
Child-Parent Psychotherapy for Family Violence ("CPP-FV")	• May be provided without prior authorization • Shall not be billed on the same day as TF-CBT or TST • Provided only in an MHRS provider's service site, home or community setting, or residential facility of sixteen (16) beds or less. unless otherwise stated by the Department	Fifteen (15) minutes up to ninety (90) minutes once (1) per week
Trauma-Focused Cognitive Behavioral Therapy ("TF-CBT')	• May be provided without prior authorization • Shall not be billed the same day as Counseling, Rehabilitation Day Services, IDT, CBI, ACT, CPP-FV, or TST • Provided only in an MHRS provider's service site, home or community setting, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) minutes up to ninety (90) minutes once (1) per week
Trauma Recovery and Empowerment Model ("TREM")	• May be provided without prior authorization • TREM shall not be billed on the same day as Rehabilitation Day Services, IDT, CBI Level II and III, or ACT • Provided only in an MHRS provider's service site, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department	Fifteen (15) minutes
Trauma Systems Therapy ("TST")	• May be provided without prior authorization • TST shall not be billed on the same day as Counseling, Rehabilitation Day Services, IDT, CBI Level IV, ACT, CPP-FV, or TF-CBT	Fifteen (15) minutes

3432 NON-REIMBURSABLE SERVICES

3432.1 Services not covered as MHRS include, but are not limited to:

(a) Room and board residential costs;

(b) Inpatient hospital services, including hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, and institutions for mental diseases;

(c) Transportation services;

(d) Educational, vocational, and job training services;

(e) Services rendered by parents or other family members;

(f) Social or recreational services;

(g) Screening and prevention services (other than those provided under Early and Periodic Screening, Diagnosis, and Treatment requirements);

(h) Services that are not medically necessary;

(i) Services that are not provided and documented in accordance with these certification standards;

(j) Services that are not behavioral health services as described in these rules; and

(k) Services furnished to persons other than the consumer, when those services are not directed primarily to the well-being and benefit of the consumer.

3499 DEFINITIONS

3499.1 The following terms in this chapter have the meaning ascribed in this section:

Advanced Practice Registered Nurse ("APRN") – A person licensed as an advanced practice registered nurse in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered. For the purposes of this chapter and depending on the service specific standards, an APRN shall have psychiatry as a specialty area of practice, work in a collaborative protocol with a psychiatrist, or demonstrate proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery.

Assertive Community Treatment team ("ACT team") – A mobile inter-disciplinary team of qualified practitioners and other staff involved in providing ACT to a consumer.

Authorized - MHRS services that are prior authorized or reauthorized by the Department, in accordance with these standards.

Behavioral concern – A behavioral and emotional reaction of childhood and adolescence that can range from normal to severe responses and can be categorized as troubling, disruptive, or threatening. Behavioral concerns can have varying ranges of manifestations by children that include but are not limited to poor concentration, changes in social interactions, sadness, poor academic performance, high levels of irritability, acting out aggressively, expressing anger inappropriately, and engaging in a variety of antisocial and destructive acts, including violence towards people and animals, destruction of property, lying, stealing, truancy, and running away from home.

Certified Addiction Counselor ("CAC") – A person certified as a Certified Addiction Counselor I or II in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Certification – The written authorization from the Department rendering an entity eligible to provide MHRS. The Department grants certification to community-based organizations that submit an approved certification application and satisfy the certification standards.

Certification application – The application and supporting materials prepared and submitted to the Department by a community-based organization requesting a new certification or renewal of an existing certification to provide MHRS.

Certification standards – The minimum requirements established by the Department in this chapter that a provider shall satisfy to obtain and maintain certification to provide MHRS and receive reimbursement from the District for MHRS.

Certified Peer Specialist – An individual who has completed the Peer Specialists Certification Program requirements and is approved to deliver Peer Support Services within the District's public behavioral health network.

Certified Recovery Coach – A Certified Recovery Coach is an individual with any DBH-approved recovery coach certification.

Child and Family Services Agency ("CFSA") – The District agency responsible for the coordination of foster care, adoption, and child welfare services and services to protect children against abuse or neglect.

Child-Parent Psychotherapy for Family Violence or CPP-FV Fidelity Audit - A process by which the implementation of CPP-FV, in accordance with the established standards and guiding principles, will be evaluated annually.

Community Based Intervention team ("CBI team") – The interdisciplinary team of qualified practitioners and other staff involved in providing CBI to a consumer.

Consumer – A person eligible to receive MHRS as set forth in this chapter.

Core services – Are the following five categories of MHRS: Diagnostic Assessment, Medication/Somatic Treatment, Counseling, and Community Support.

Core Services Agency ("CSA") – A Department-certified community-based MHRS provider that has entered into a Human Care Agreement with the Department to provide specified MHRS. A CSA shall provide at least one core service directly and may provide up to three core services via contract with a sub-provider or subcontractor. A CSA may provide specialty services directly if certified by the Department as a specialty provider.

Corporate Compliance Plan – A written plan developed by each MHRS provider to ensure that the MHRS provider operates in compliance with all applicable Federal and District laws and regulations.

Corrective Action Plan ("CAP") – A written plan prepared by either an applicant for certification or the certified MHRS provider describing the actions that the provider intends to take to correct or abate the violations described in an SOD issued by the Department.

CPP-FV Fidelity Standards – The six established interconnected standards of fidelity, as set forth by the developers of CCP-FV.

Credentialed staff – Non-licensed staff or staff who are not qualified practitioners that are credentialed by the MHRS provider to perform certain MHRS or components of MHRS under the clinical supervision of an appropriate qualified practitioner.

Crisis support services – Mental health services that support the consumer through a crisis, such as meeting with the consumer in the community or an emergency department to help calm the consumer; implementing the crisis plan developed for the consumer; assisting the consumer to reach an emergency department; and providing pertinent mental health information about a consumer to an emergency department to assist in addressing a crisis.

Cultural and linguistic competence – Means the ability of an MHRS provider to deliver mental health services and mental health supports in a manner that effectively responds to the languages, values, and practices present in the various cultures of the MHRS provider's consumers.

Department ("DBH") – The Department of Behavioral Health, the successor in interest to the Department of Mental Health and the Addiction and Prevention Recovery Administration.

Department Consumer Enrollment and Referral System – The system developed and administered by the Department to enroll eligible consumers into the MHRS system.

Department of Health Care Finance ("DHCF") – The District's Medicaid authority.

Department of Youth Rehabilitation Services ("DYRS") – The District agency responsible for providing security, supervision, and residential and community support services for committed and detained juvenile offenders and juvenile persons in need of supervision.

Diagnostic Assessment Report – The report prepared by an independently licensed qualified practitioner that summarizes the results of the Diagnostic Assessment service and includes recommendations for service delivery. The Diagnostic Assessment report is used to initiate the Plan of Care.

Director – The Director of the Department of Behavioral Health.

Disaster Recovery Plan – The policies and procedures developed by each MHRS provider to ensure that computerized data is properly maintained and can be retrieved in the event of a disaster.

District of Columbia ("District") – The government of the District of Columbia.

Economic Security Administration ("ESA") – The unit within the District of Columbia Department of Human Services that determines eligibility for medical assistance programs for District residents.

Emergency – A situation in which a consumer is experiencing a mental health crisis and the immediate provision of mental health treatment is, in the written judgment of the consumer's attending physician, necessary to prevent serious injury to the consumer or others.

Enrollment – Process by which the Department adds a consumer to the MHRS system of care and assigns them to a provider after ascertaining their

eligibility. The intake appointment at the assigned provider should occur no later than seven (7) calendar days after enrollment, and providers are required to document steps taken to locate and provide services to a consumer in the Department's electronic data management system.

Evidence-based practice – Evidence-based practice is a process that brings together the best available research, professional expertise, and input from consumers to identify and deliver services that have been demonstrated to achieve positive outcomes for individuals. Evidence-based programs and practices (EBPPs) are specific techniques and intervention models that have shown to have positive effects on outcomes through rigorous evaluations.

Foster home – A residence in which a foster parent is licensed by the District to provide care to a foster child in accordance with the requirements of Title 29 DCMR Chapter 60.

Governing authority – The designated individuals or governing body legally responsible for conducting the affairs of the MHRS provider.

Grievance – A description by any individual of his or her dissatisfaction with an MHRS provider, including the denial or abuse of any consumer right or protection provided by applicable Federal and District laws and regulations.

Human Care Agreement ("HCA") – A written agreement entered into by the certified MHRS provider and the Department which establishes a contractual relationship between the parties.

ICD-10 – The 10th Revision of the International Classification of Diseases and Related Health Problems.

Independent Living Program – A residential program licensed by the District in accordance with Title 29 DCMR Chapter 63, Licensing of Independent Living Programs for Adolescents and Young Adults.

Intensive Home and Community-Based Services or IHCBS – An intensive model of treatment adopted by the Department to prevent the utilization of out-of-home treatment resources by emotionally disturbed children and youth. IHCBS is the modality adopted for CBI Levels II and III.

Licensed independent clinical social worker ("LICSW") – A person licensed as an independent clinical social worker in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed independent social worker ("LISW") – A person licensed as a licensed independent social worker in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed marriage and family therapist ("LMFT") – A person licensed as a licensed marriage and family therapist under laws and regulations of the District or jurisdiction where services are delivered.

Licensed graduate professional counselor ("LGPC") – A person licensed as a licensed graduate professional counselor in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed graduate social worker or ("LGSW") – A person licensed as a licensed graduate social worker in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Licensed professional counselor ("LPC") – A person licensed as a licensed professional counselor in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Long-term placement option – A permanent caregiver or permanent home. A group home or other residential placement is not a long-term placement option.

Medicaid – The medical assistance program approved by federal Centers for Medicare and Medicaid Services ("CMS") and administered by the Department of Health Care Finance ("DHCF"), which enables the District to receive Federal financial assistance for its medical assistance program and other purposes as permitted by law.

Medical necessity (or medically necessary) – Health care services or products that a prudent provider would provide to a client for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is: (a) in accordance with generally accepted standards of health care practice; (b) clinically appropriate in terms of type, frequency, extent, site, and duration; and (c) not primarily for the economic benefit of the health plans and purchasers or for the convenience of the client or treating provider.

Member – A consumer who has joined a Psychosocial Rehabilitation Clubhouse.

Mental Health Rehabilitation Services ("MHRS") – Mental health rehabilitative services provided by a certified MHRS provider to consumers in accordance with the District of Columbia State Medicaid Plan, the Department Memorandum of Understanding with the Department of Health Care Finance and this chapter.

Mental illness – A substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

MHRS provider – An organization certified by the Department to provide MHRS. MHRS provider are CSAs, sub-providers, and specialty providers.

Mobile Crisis Response Team – A team of mental health clinicians who provide face-to-face and telephone support to children and families in crisis.

Multisystemic Therapy ("MST") – An intensive model of treatment based on empirical data and evidence-based interventions that target specific behaviors with individualized behavioral interventions.

Natural settings – The consumer's home; the consumer's residence, school, or workplace; or other locations in the community the consumer frequents, such as community centers, homeless shelters, street locations, or other public facilities. Natural settings do not include inpatient hospitals.

Organizational onboarding – The mechanism through which new employees acquire the necessary knowledge, skills, and behaviors to become effective performers. It begins with recruitment and includes a series of events, one of which is employee orientation, which helps new employees understand performance expectations and contribute to the success of the organization.

Out-of-home therapeutic resource – A psychiatric hospital or psychiatric residential treatment facility.

Permanent caregiver – A natural or adoptive family or foster home that has cared for the consumer for at least six (6) consecutive months within the twelve (12) month period immediately preceding the referral for CBI. A group home or other residential placement is not a permanent caregiver.

Permanent home – A natural or adoptive family or foster home where the consumer has lived for at least six (6) consecutive months within the twelve month (12) month period immediately preceding the referral to CBI with a permanent caregiver. A group home or other residential placement is not a permanent home.

Physician Assistant – A person licensed as a physician assistant in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered. For the purposes of this chapter a physician assistant shall be under the supervision of a psychiatrist.

Plan of Care (formerly called the Individual Plan of Care / Individual Recovery Plan) – The Plan of Care refers to what the DBH formerly called

the IPC/IRP, and encompasses the provision of services to all consumers regardless of age.

Policy – A written statement developed by an MHRS provider that gives specific direction regarding how the MHRS provider shall operate administratively and programmatically.

Prior authorization – Approval by the Department in advance for the initiation of an MHRS to a consumer.

Procedure – A written set of instructions describing the step-by-step actions to be taken by MHRS provider staff in implementing a policy of the MHRS provider.

Psychiatric residential treatment facility – Shall have the meaning ascribed in 42 CFR Subpart G, Section 483.352.

Psychiatrist – A person who is: 1) licensed as a physician in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered; 2) a psychiatric resident providing care in an approved clinical rotation; or 3) a moonlighting psychiatric resident.

Psychologist – A person licensed as a psychology in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Psychology Associate – A person registered as a psychology associate in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Psychosocial Rehabilitation Clubhouse ("Clubhouse") – MHRS specialty service that assists individuals with behavioral health diagnoses to develop social networking, independent living, budgeting, self-care, and other skills that will assist them to live in the community and to prepare for securing and retaining employment. A Clubhouse shall operate in accordance with established standards coordinated by Clubhouse International and the standards set forth in 22-A DCMR Chapter 39.

Qualified Practitioner – A Qualified Practitioner is a behavioral health clinician appropriately licensed or registered in the District or by the jurisdiction where services are delivered. Pursuant to service specific MHRS standards a qualified practitioner may practice MHRS within the scope of their license or registration, and any applicable supervision requirements.

Re-authorized – Having received approval by the Department for the continued provision of medically necessary MHRS that are time-limited.

Referral – A recommendation to seek or request services or evaluation between a CSA and a sub-provider or specialty provider in order to assess or meet the needs of consumers.

Registered nurse ("RN") – A person licensed as a registered nurse in accordance with applicable laws and regulations of the District or jurisdiction where services are delivered.

Residential placement – A psychiatric residential treatment center, group home, independent living program, or other residence where children or youth are temporarily receiving services. A permanent home is not a residential placement.

Service specific standards – The certification standards described in §§ 3418 through 3430, which set forth the specific requirements applicable to each MHRS.

Specialty provider – An MHRS provider certified by the Department to provide specialty services either directly or through contract.

Specialty services – Assertive Community Treatment, Child-Parent Psychotherapy for Family Violence, Community Based Interventions, Psychosocial Rehabilitation Clubhouse, Crisis Emergency Services, Intensive Day Treatment, Rehabilitation Day Services, Trauma-Focused Cognitive-Behavioral Therapy, Trauma Recovery and Empowerment Model, and Trauma Systems Therapy.

Statement of Deficiencies ("SOD") – A written statement of non-compliance issued by the Department, which describes the areas in which an applicant for certification or the certified provider fails to comply with the certification standards.

Subcontractor – A licensed independent practitioner qualified to provide mental health services in the District or in the jurisdiction in services are provided. A subcontractor may provide one (1) or more core service(s) under contract with a CSA. A subcontractor may also provide specialty service(s) under contract with a specialty provider.

Subcontractor Agreement – An agreement by and between an MHRS provider and a subcontractor that describes how they will work together to benefit consumers in the form approved by the Department.

Sub-provider – A community-based organization certified by the Department to provide one (1) or more core services.

Supported Employment Services – Evidence-based Mental Health Supported Employment program designed for MHRS consumers for whom competitive employment has been interrupted or is intermittent as a result of a severe mental illness. Services assist consumers in obtaining and maintaining permanent part-time or full-time employment in a competitive setting. Mental Health Supported Employment service providers shall be certified and deliver services to eligible consumers according to standards set forth in 22-A DCMR Chapter 37.

TF-CBT Practice Session Checklist – An instrument used to track whether supervisors and therapists are implementing TF-CBT in accordance with the established model.

Triaging – Prioritizing the level of crisis services required by a consumer, based upon the assessed needs of the consumer.

Urgent need – A situation where, due to a mental illness, there is no immediate risk to life, health, or property, but if the situation is not addressed promptly may turn into an emergency situation. An emergency situation is where a consumer is an immediate risk to life, health, or property due to a mental illness.

Chapter 35, DEPARTMENT OF MENTAL HEALTH (DMH) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICE AND CIVIL INFRACTIONS, is amended as follows:

Section 3502, MENTAL HEALTH PROVIDER CERTIFICATION INFRACTIONS, is repealed in its entirety.

Chapter 25, HEALTH HOME CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is amended as follows:

Section 2512, COMPREHENSIVE CARE PLAN, is amended by amending § 2512.4 to read as follows:

2512.4 The CCP shall be developed in coordination with the consumer's healthcare providers. If the Health Home team develops the CCP, the MHRS Plan of Care, developed in accordance with Section 3411 of Chapter 34 of this title, shall be incorporated into the CCP. If the MHRS team develops the care plan the Health Home team will collaborate and participate in the care planning process to ensure the care plan is comprehensive.

Chapter 39, PSYCHOSOCIAL REHABILITATION CLUBHOUSE CERTIFICATION STANDARD, of Title 22-A DCMR, MENTAL HEALTH, is amended as follows:

Section 3900, PSYCHOSOCIAL REHABILITATION CLUBHOUSE CERTIFICATION STANDARDS, is amended by amending:

§ 3900.5(c) to read as follows:

3900.5

…

(c) In compliance with the qualification standards described in § 3413 of this subtitle and the certification standards as required by this chapter, except an affiliation agreement with a CSA is not necessary for the provision of Clubhouse services; and

§ 3900.7(b) to read as follows:

3900.7

…

(b) Require Clubhouse specialty providers to incorporate CSA-developed Diagnostic Assessment material into the Clubhouse specialty provider's Plan of Care process; and

§ 3900.8 to read as follows:

3900.8 Each Clubhouse specialty provider shall offer access or referrals to core and other specialty services, as clinically indicated.

§ 3900.9 to read as follows:

3900.9 Each Clubhouse specialty provider with total annual revenues at or exceeding three hundred thousand dollars ($300,000.00) shall have an annual audit by an independent certified public accountant or certified public accounting firm in accordance with generally accepted auditing standards. The resulting financial audit report shall be consistent with formats recommended by the American Institute of Public Accountants. Each Clubhouse specialty provider shall submit a copy of the financial audit report to the Department within one hundred and twenty (120) calendar days after the end of its fiscal year.

§ 3900.10 to read as follows:

3900.10 Each Clubhouse specialty provider with total annual revenues less than three hundred thousand dollars ($300,000.00) shall submit financial statements reviewed by an independent certified public accountant or certified public accounting firm within one hundred twenty (120) calendar days after the end of its fiscal year.

§ 3900.11 to read as follows:

3900.11 Each Clubhouse specialty provider shall have the capability to submit accurate claims, encounter data, and other submissions as necessary directly to the Department.

Section 3902, CERTIFICATION REQUIREMENTS, is amended as follows:

3902.1 A Clubhouse providing services to members shall comply with all of the requirements set forth in Chapter 34 of this subtitle except for the requirements set forth in §§ 3411, 3412, 3413.7, 3413.12-3413.16, 3413.19, 3413.26, 3413.29(d), 3414, 3415, and 3418-3430.

Section 3906, DISTRICT REIMBURSEMENT LIMITATIONS, is amended by amending § 3906.6 to read as follows:

3906.6 In accordance with § 3432 of this subtitle, certain services may not be reimbursed through Medicaid.

Section 3907, DOCUMENTATION REQUIREMENTS, is amended by amending § 3907.2(c) to read as follows:

3907.2

…

(c) Current Plan of Care prepared by the Clubhouse and if applicable, the Plan of Care prepared by the CSA in accordance with §§ 3411-3412 of this subtitle that includes a recommendation for Clubhouse services;

Section 3908, CLUBHOUSE REFERRALS, is amended by amending:

§ 3908.4 to read as follows:

3908.4 A person enrolled with a CSA must have a Diagnostic Assessment and a Plan of Care that includes Clubhouse services in order to participate in the Clubhouse.

§ 3908.5 is deleted.

Section 3909, PLAN OF CARE DEVELOPMENT PROCESS, is amended by amending:

The title of § 3909 to read as follows:

3909 CLUBHOUSE PLAN OF CARE DEVELOPMENT PROCESS

§ 3909.1 to read as follows:

3901.1 The Clubhouse Plan of Care development process for members shall, at a

minimum, include:

(a) The completion of a Diagnostic Assessment service and required components as described in § 3418 of this subtitle, unless the referral comes from a CSA, in which case the CSA may provide the Diagnostic/Assessment report;

(b) Development of a Clubhouse Plan of Care as described in § 3910 of this chapter;

(c) Consideration of the member's beliefs, values, and cultural norms in how, what, and by whom Clubhouse services are to be provided; and

(d) Consideration, screening, and assessment of the member for treatment via other appropriate evidence-based practices (EBP) offered through DBH MHRS providers.

§ 3909.3 to read as follows:

3909.3 The Clubhouse Plan of Care shall be developed by the Clubhouse in accordance with the member's existing MHRS Plan of Care for those members enrolled in a CSA and in cooperation with other specialty providers if applicable

Section 3910, PLAN OF CARE DEVELOPMENT, is amended by amending:

The title of § 3910 to read as follows:

3910 CLUBHOUSE PLAN OF CARE DEVELOPMENT

§ 3910.1 to read as follows:

3910.1 Each Clubhouse Plan of Care shall:

(a) Be person-centered:

(b) Include the member's self-identified recovery goals; and

(c) Provide for the delivery of services in the most normative, least restrictive environment that is appropriate for the member.

Section 3911, PLAN OF CARE IMPLEMENTATION, is amended by amending the title of § 3911 to read as follows:

3911 CLUBHOUSE PLAN OF CARE IMPLEMENTATION

Section 3999, DEFINITIONS, Subsection 3999.1, is amended by amending:

The definition of "Rehabilitation Plan" to read as follows, and moved to be in alphabetical order:

Clubhouse Plan of Care – the plan developed to provide services to Clubhouse members in accordance with ICCD standards.

The definition of "Specialty services" to read as follows:

Specialty services – ACT, CBI, Crisis/Emergency Services, Intensive Day Treatment, Psychosocial Rehabilitative Clubhouse, Rehabilitation Day Services, TF-CBT, TREM, and TST.

Chapter 73, DEPARTMENT OF BEHAVIORAL HEALTH PEER SPECIALIST CERTIFICATION, of Title 22-A DCMR, MENTAL HEALTH, is amended to read as follows:

Section 7300, PURPOSE AND APPLICATION, is amended by amending § 7300.5 to read as follows:

7300.5 Certified Peer Specialists, certified in accordance with this chapter, must also meet all MHRS non-licensed staff requirements as specified in Sections 3413 and 3416 in Chapter 34 of this subtitle in order to be employed as a Certified Peer Specialist by a Department-certified mental health provider.

Section 7303, CORE COMPETENCIES, is amended by amending § 7303.1(d) to read as follows:

7303.1

…

(d) Ability to document services provided including preparation of encounter notes required by Subsection 3413.19 of Chapter 34 of this subtitle;

Section 7308, FIELD PRACTICUM SUPERVISION AND ACTIVITIES, is amended by amending § 7308.5(b) to read as follows:

7308.5

…

(b) Ensure that peer support services delivered by the candidate during the field practicum are consistent with the Plan of Care for the consumer receiving the services; and

Section 7314, CERTIFIED PEER SPECIALIST SUPERVISION, is amended by amending § 7314.7 to read as follows:

7314.7 The Peer Specialist Supervisor shall:

(a) Ensure that when Peer Support Services are identified as part of a consumer's Plan of Care, the Plan of Care:

(1) Specifies individualized goals and objectives pertinent to the consumer's recovery and community integration in language that is outcome oriented and measurable;

(2) Identifies interventions directed to achieving the individualized goals and objectives;

(3) Specifies the Certified Peer Specialist's role in relating to the consumer and involved others; and

(4) Identifies both the specific components of MHRS that will be provided by the Certified Peer Specialist, and the frequency of delivery;

(b) Ensure that the Certified Peer Specialist participates in treatment planning activities for consumers whose Plans of Care include or are expected to include Peer Support Services;

(c) Ensure that delivery of services is consistent with the requirements of the Plan of Care; and

(d) Ensure that Peer Support Services delivered by the Certified Peer Specialist are coordinated with the other mental health services provided to the consumer.

Section 7399, DEFINITIONS, is amended by amending 7399.1 as follows:

Replace definitions of "Individualized Plan of Care" and "Individualized Recovery Plan" with the following:

Plan of Care – developed in accordance with the requirements of Chapter 34 of this subtitle. The Plan of Care includes the consumer's treatment goals, strengths, challenges, objectives, and interventions.

All persons desiring to comment on the subject matter of this second emergency and proposed rule should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Trina Dutta, Director, Strategic Management and Policy Division, Department of Behavioral Health, 64 New York Ave, N.E., Second Floor, Washington, D.C. 20002, (202) 671-4075, trina.dutta@dc.gov, or DBHpubliccomments@dc.gov.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Behavioral Health (Department), pursuant to the authority set forth in §§ 5113, 5115, 5117, and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 37 (Mental Health Supported Employment Services and Provider Certification Standards) in Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR). The Director also hereby gives notice of the repeal of Title 22-A DCMR, Chapter 51 (Supported Employment Program – Reimbursement).

The current regulations in Chapter 37 about Mental Health Supported Employment Services and Provider Certification Standards were most recently updated in January 2020 to implement requirements under the District's Section 1115 Behavioral Health Transformation Demonstration Program (demonstration program) for Medicaid reimbursement of vocational Mental Health (MH) Supported Employment services. This Emergency and Proposed rulemaking was published in the *D.C. Register* on February 7, 2020 at 67 DCR 1286. The Department, in partnership with the Department of Health Care Finance, had submitted a demonstration program application to the Centers for Medicare and Medicaid Services (CMS) on June 3, 2019 and received federal approval on November 6, 2019. Under the demonstration program, the District received authority to provide new behavioral health services reimbursed by the Medicaid program. This includes reimbursement for the vocational MH Supported Employment services that the Department currently funds with local dollars and to implementation of a new benefit for vocational and therapeutic Supported Employment services for individuals with Substance Use Disorder (SUD). The goals of this demonstration program are to increase access to a broader continuum of behavioral health services for District Medicaid beneficiaries, advance the District's goals in the Opioid Strategic Plan Live.Long.DC., and support a more person-centered system of physical and behavioral health care. Further information on the demonstration program is available at https://dhcf.dc.gov/1115-waiver-initiative.

The purpose of this revised Chapter 37 rule is to implement demonstration program requirements for reimbursement of vocational and therapeutic SUD Supported Employment services, beginning on April 1, 2020. This includes establishing: (1) certification standards for MH Supported Employment providers who want to also deliver SUD Supported Employment services; (2) client eligibility criteria; and (3) service authorization and referral requirements and processes, including requirements for outpatient Level OTP, 1, 2.1, and 2.5 SUD providers to submit certain information in specified timeframes and formats to the Department.

Additionally, in response to stakeholder feedback, this emergency and proposed rulemaking also expands the types of practitioners who may conduct the needs-based assessment for MH Supported Employment service eligibility. The revised chapter also adds clarifying language applicable to both MH and SUD Supported Employment providers related to the overall certification process, service eligibility, and staffing requirements; and increases the document retention time-period. Finally, the revised chapter establishes a section on reimbursement of Supported Employment

services, replacing the provisions of Title 22-A DCMR Chapter 51 (Supported Employment Program – Reimbursement). Therefore, Chapter 51 is repealed.

Significant changes to Chapter 37 are outlined in the following chart:

Section Number	Description of Change	Reasoning
Chapter Title and multiple sections	Add mentions of "Substance Use Disorder", "SUD", "client(s)", and "ASARS".	Reflect new Supported Employment service benefit for individuals with SUD.
§§ 3701 and 3702	Establish certification standards and process for becoming certified and recertified as an SUD Supported Employment provider.	Reflect standards for new SUD Supported Employment service.
§ 3703	Add section on exemption from certification standards.	Align requirements across DBH mental health and substance use regulations.
§ 3705	Detail the staffing requirements when provider is certified for delivery of SUD Supported Employment services.	Reflect staffing standards for new SUD Supported Employment service.
§ 3705.3 (formerly § 3704.2)	Specify that providers adding new Employment Specialists supported through Human Care Agreements must receive Department approval.	Reflect existing Department practice.
§ 3705.4 (formerly § 3704.3)	Add detail about the responsibilities of the Supported Employment Supervisor.	Clarify the Supervisor's role to ensure effective delivery of Supported Employment services.
§ 3706 (formerly § 3705)	Detail the records and documentation requirements for SUD Supported Employment providers.	Reflect standards for new SUD Supported Employment service.
§ 3706.1(f) (formerly § 3705.1(e))	Increase the document retention time-period from six (6) to ten (10) years.	Align with Medicaid program requirements.
§ 3707.1(d)	Make consumers receiving Assertive Community Treatment (ACT) ineligible for Supported Employment services.	Reflect evidence-based practices for ACT and Supported Employment.
§ 3708.3 (formerly § 3707.3)	Add additional behavioral clinician types and credentialed staff who are permitted to conduct the face-to-face needs-based assessment.	Address stakeholder feedback and improve access to Supported Employment services.
§ 3710 through § 3712	For SUD Supported Employment services, establish: • Client eligibility criteria; • Authorization and referral processes; and • Requirements for Employment Specialists to be integrated in client's ASARS treatment team.	Reflect requirements for new SUD Supported Employment service.

§ 3713	Add Reimbursement section on which services are vocational or therapeutic and reimbursable by DBH or Medicaid; reimbursement rates; unit limits; and site-of-service and same-day-billing restrictions.	Consolidate Supported Employment provider, service, and reimbursement standards into one chapter.

Emergency rulemaking is necessary for the immediate preservation of the behavioral health needs and welfare of District of Columbia residents with serious mental illness and/or SUD. The rule establishes improved Mental Health and new SUD Supported Employment services and provider certification standards that will expand this practice and support an increase in the number of individuals with serious mental illness and/or SUD who obtain and maintain employment in the District of Columbia, while supporting recovery in a community-based setting and least restrictive environment. Additionally, to meet the deadlines of the Section 1115 waiver demonstration implementation plan, the Department requires the Emergency Rules to begin appropriate work immediately.

These emergency rules were adopted on May 13, 2020 and became effective on that date. The emergency rules shall remain in effect for no longer than one hundred and twenty (120) calendar days from the adoption date unless superseded by publication of subsequent rulemaking in the *D.C. Register*.

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

Chapter 51, SUPPORTED EMPLOYMENT PROGRAM—REIMBURSEMENT, of Title 22-A DCMR, MENTAL HEALTH, is repealed in its entirety.

Chapter 37, MENTAL HEALTH SUPPORTED EMPLOYMENT SERVICES AND PROVIDER CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is repealed and replaced in its entirety with the following:

CHAPTER 37 MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED EMPLOYMENT SERVICES AND PROVIDER CERTIFICATION STANDARDS

3700 MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED EMPLOYMENT SERVICES AND PROVIDER CERTIFICATION STANDARDS

3700.1 These rules establish the requirements and process for certifying a provider as a Mental Health Supported Employment provider or a Substance Use Disorder (SUD) Supported Employment provider in the District of Columbia, in order to provide services to consumers and clients eligible under this chapter.

3700.2 Supported Employment is an evidence-based practice adopted by the Department of Behavioral Health (Department) for mental health and adapted for SUD that:

(a) Provides ongoing work-based vocational assessment, job development, job coaching, treatment team coordination, and vocational and therapeutic follow-along supports;

(b) Involves community-based employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the consumer/client;

(c) Provides services at various work sites; and

(d) Provides part-time and full-time job options that are diverse, competitive, integrated with co-workers without disabilities; are based in business or employment settings that have permanent status rather than temporary or time-limited status; and that pay at least the minimum wage of the jurisdiction in which the job is located.

3701 INITIAL CERTIFICATION REQUIREMENTS

3701.1 No person or entity shall provide Mental Health or SUD Supported Employment services to consumers/clients eligible for services under this chapter unless certified in accordance with this chapter.

3701.2 No person or entity shall apply for certification from the Department as a Mental Health Supported Employment provider unless already certified as a Mental Health Rehabilitation Services (MHRS) provider in accordance with 22-A DCMR Chapter 34.

3701.3 A person or entity seeking certification as a Mental Health Supported Employment provider shall submit an application to the Department in the format established by the Department. The completed application shall include, at a minimum:

(a) Proof of current certification as an MHRS provider;

(b) Proof of adequate staffing for the delivery of Mental Health Supported Employment services in accordance with § 3704 of this chapter;

(c) Proof of a Staff Selection Policy that complies with all applicable requirements of the Staff Selection Policy set forth in 22-A DCMR Chapter 34; and

(d) Proof of a Supported Employment Policy that states the policies and procedures related to the provider's set-up for delivering Mental Health Supported Employment services.

3701.4 No person or entity shall apply for certification from the Department as an SUD Supported Employment provider unless already certified as:

(a) An MHRS provider in accordance with 22-A DCMR Chapter 34; and

(b) A Mental Health Supported Employment provider under this chapter.

3701.5 A person or entity seeking certification as an SUD Supported Employment provider shall submit an application to the Department in the format established by the Department. The completed application shall include, at a minimum:

(a) Proof of current certification as:

(1) An MHRS provider, and

(2) A Mental Health Supported Employment provider.

(b) Proof of adequate staffing for the delivery of SUD Supported Employment services in accordance with § 3704 of this chapter;

(c) Proof of a Staff Selection Policy that complies with all applicable requirements of the Staff Selection Policy set forth in 22-A DCMR Chapter 34; and

(d) Proof of a Supported Employment Policy that states the policies and procedures related to the provider's set-up for delivering SUD Supported Employment services.

3701.6 The Department shall follow the applicable processes established for certification set forth in 22-A DCMR Chapter 34 to certify, deny certification, or decertify providers as Mental Health or SUD Supported Employment providers.

3701.7 Initial certification as a Mental Health or SUD Supported Employment provider shall be effective for a one (1)-year period. Certification shall remain in effect until it expires or is revoked, or the provider is recertified in accordance with § 3702 of this chapter.

3701.8 During the initial certification period, the Mental Health or SUD Supported Employment provider shall:

(a) Participate in a baseline program evaluation conducted by the Department within thirty (30) business days after the provider has begun delivering Mental Health or SUD Supported Employment services. The evaluation shall include a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy;

(b) Enter into a contractual relationship with the Department on Disability Services' Rehabilitation Services Administration (RSA) within six (6) months of initial certification and maintain such contract for the remainder of the certification period; and

(c) Participate in a second program evaluation conducted by the Department six (6) months after the provider has begun delivering Mental Health or SUD Supported Employment services. The evaluation includes a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy.

3701.9 A certified Mental Health or SUD Supported Employment provider receiving a fidelity score below an acceptable score as specified in Department policy during the fidelity assessments shall develop a corrective action plan to promptly address the deficiencies and shall receive technical assistance from the Department. If the Supported Employment provider's annual score does not improve to an acceptable score within six (6) months of the previous fidelity score, the provider shall not be eligible for recertification and may be subject to decertification.

3701.10 Certification is not transferable to any other organization.

3702 RECERTIFICATION REQUIREMENTS

3702.1 The Department shall follow the applicable processes set forth in 22-A DCMR Chapter 34 to recertify, deny recertification, or decertify providers as Mental Health or SUD Supported Employment providers.

3702.2 A Mental Health or SUD Supported Employment provider seeking recertification from the Department shall submit an application to the Department in the format established by the Department and meet the requirements in § 3701.3 for Mental Health or § 3701.5 for SUD, respectively. The completed application shall also include proof of a current contract with the RSA.

3702.3 Recertification shall be effective for a two (2)-year period from the date of issuance of recertification by the Department, subject to the provider's continuous compliance with the certification standards.

3702.4 During any recertification period, the Mental Health or SUD Supported Employment Program shall:

(a) Participate in an annual program evaluation conducted by the Department. The evaluation shall include a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy; and

(b) Maintain a contractual relationship with RSA.

3702.5 A recertified Mental Health or SUD Supported Employment provider receiving a fidelity score below an acceptable score as specified in Department policy during the fidelity assessments shall develop a corrective action plan to correct the deficiencies and receive technical assistance from the Department. If the Supported Employment provider's score does not improve to an acceptable score within six (6) months of the previous fidelity score, the provider shall not be eligible for further recertification and may be subject to decertification.

3702.6 Recertification is not transferable to any other organization.

3703 EXEMPTIONS FROM CERTIFICATION STANDARDS

3703.1 Upon good cause shown, the Department may exempt an applicant or current Mental Health or SUD Supported Employment provider from a certification standard if the exemption does not jeopardize the health and safety of Supported Employment consumers/clients, violate Supported Employment consumers'/client's rights, or otherwise conflict with the purpose and intent of these rules.

3703.2 If the Department approves an exemption, such exemption shall end on the expiration date of the provider certification or on an earlier date if specified by the Department; unless the provider requests renewal of the exemption prior to expiration of its certification or the earlier date set by the Department.

3703.3 The Department may revoke an exemption that it determines is no longer appropriate.

3703.4 All requests for an exemption from certification standards shall be submitted in writing to the Department.

3704 MENTAL HEALTH AND SUD SUPPORTED EMPLOYMENT SERVICES

3704.1 Both Mental Health and SUD Supported Employment providers shall deliver the following services to Supported Employment consumers/clients:

(a) Vocational Supported Employment services:

(1) Intake, which involves obtaining background, clinical, and employment information in order to enroll the consumer into Mental Health Supported Employment services or the client into SUD Supported Employment services and initiate a referral to RSA;

(2) Vocational Assessment, which consists of conducting vocational assessments and assessment of person-centered employment

information, in order to identify the consumer's/client's 's employment interests, preferences, and abilities;

(3) Individualized Work Plan (IWP) Development, which includes the process of developing an IWP plan with the consumer/client, and which meets the following standards:

(A) The consumer's/client's preferences, not provider expectations or decisions, drive the consumer's/client's employment and career planning process;

(B) The IWP includes an employment goal and the support services required to reach the goal, such as:

(i) Integrating employment goals into the consumer's MHRS person-centered Plan of Care or client's Adult Substance Abuse Rehabilitative Services (ASARS) person-centered Plan of Care,

(ii) Strategies to address stressor situations,

(iii) Assistance with symptom self-monitoring and self-management, and

(iv) Assistance in increasing social support skills and networks that ameliorate life stresses resulting from the consumer's mental illness or client's SUD and which are necessary to enable and maintain the consumer's/client's independent living;

(C) The IWP shall be updated annually or any time there is a significant change in the consumer's/client's condition or situation that affects progress toward the IWP's goals; and

(D) The IWP shall be completed and signed by the consumer/client within thirty (30) calendar days of the delivery of the first Supported Employment service.

(4) Disclosure Counseling, which helps the consumer/client examine and understand the advantages and disadvantages of disclosing one's mental illness or SUD to their employer;

(5) Treatment Team Coordination, which involves coordination and contact with the treatment team members of the consumer's CSA or the client's outpatient Level Opioid Treatment Program (OTP),

Level 1, Level 2.1, or Level 2.5 provider regarding the provision of Supported Employment services;

(6) Job Development, which involves contacting employers through various activities in order to obtain community-based employment for consumers/clients;

(7) Job Coaching, which helps consumers/clients learn job duties once employed through on-the-job training, effective use of community resources, and consultation with the worker's employer, co-workers, family, or supervisors as necessary; and

(8) Vocational Follow-Along Supports, which are provided to the consumer/client or employer to help the consumer/client maintain employment including through review of job performance and problem-solving; and

(b) Therapeutic Supported Employment services:

(1) Therapeutic Follow-Along Supports, which are interventions related to addressing behavioral health symptoms, and which include: crisis intervention, symptom management, behavior management, and coping skills needed to improve the consumer's/client's ability to maintain employment; and

(2) Benefits Counseling, which helps consumers/clients to examine and understand how employment may impact benefits such as Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), medical assistance, and other disability-related benefits, and which may also involve advocacy on behalf of the person to resolve issues.

3705 MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED EMPLOYMENT PROVIDER STAFFING REQUIREMENTS

3705.1 A Mental Health or SUD Supported Employment provider shall have at a minimum:

(a) One (1) Supported Employment Supervisor; and

(b) One (1) Supported Employment Team comprised of:

(1) One (1) Supported Employment Manager; and

(2) Two (2) full-time Employment Specialists.

3705.2 In cases where a provider is certified as both a Mental Health Supported Employment provider and an SUD Supported Employment provider:

(a) The Supervisor and Manager may be responsible for both Mental Health and SUD Supported Employment services, if appropriately trained in both mental health and SUD (e.g., the Manager is permitted to supervise both SUD Employment Specialists and Mental Health Employment Specialists);

(b) Each Employment Specialist shall only provide services to one population (*e.g.*, the Employment Specialist shall only provide Mental Health Supported Employment services, but not SUD Supported Employment Services); and

(c) The provider shall maintain compliance with the staffing requirements and staffing ratios set forth in this Subsection.

3705.3 Certified Mental Health and SUD Supported Employment providers must obtain Department approval to add Supported Employment Teams or Specialists supported through a Human Care Agreement.

3705.4 The Supported Employment Supervisor shall be responsible for overall monitoring of the Supported Employment program and provide clinical interventions and expertise in response to a Supported Employment consumer's/client's clinical and care coordination needs. The Supervisor shall be one of the following behavioral health clinicians appropriately licensed in the District or by the jurisdiction where services are delivered, who practices within the scope of their license:

(a) Physician;

(b) Psychologist;

(c) Licensed independent clinical social worker (LICSW);

(d) Licensed professional counselor (LPC);

(e) Licensed marriage and family therapist (LMFT); or

(f) Advanced practice registered nurse (APRN):

(1) With psychiatry as a specialty area of practice,

(2) Working in a collaborative protocol with a psychiatrist,

(3) Demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery,

(4) Demonstrated proficiency in SUD treatment, as evidenced by specialized training, or

(5) A minimum of five (5) years of experience in SUD care delivery.

3705.5 One (1) full-time equivalent Supported Employment Manager shall be responsible for no more than ten (10) Supported Employment Specialists, and shall not have other supervisory responsibilities. However, in cases where the Manager supervises fewer than ten (10) Supported Employment Specialists, the Manager may spend their time on other supervisory activities on a prorated basis.

3705.6 A Mental Health or SUD Supported Employment provider shall have one (1) full-time Supported Employment Specialist for every twenty (20) Supported Employment consumers/clients. Supported Employment Specialists shall satisfy all requirements for non-licensed credentialed staff pursuant to 22-A DCMR Chapter 34.

3705.7 A Mental Health or SUD Supported Employment provider shall comply with all applicable staff requirements set forth in 22-A DCMR Chapter 34.

3705.8 Supported Employment Specialists shall carry out all phases of Supported Employment services, including:

(a) Intake;

(b) Vocational Assessment;

(c) IWP Development;

(d) Benefits Counseling;

(e) Disclosure Counseling;

(f) Treatment Team Coordination;

(g) Job Development;

(h) Job Coaching;

(i) Vocational Follow-Along Supports; and

(j) Therapeutic Follow-along Supports.

3705.9 Supported Employment Supervisors, Managers, and Specialists shall be trained in evidence-based Supported Employment principles and practices. Supported

Employment Managers and Specialists shall attend the Department's Supported Employment provider meetings that are held periodically.

3706 MENTAL HEALTH AND SUD SUPPORTED EMPLOYMENT RECORDS AND DOCUMENTATION REQUIREMENTS

3706.1 Each Supported Employment provider shall establish and adhere to an Employment Record Policy for employment record documentation, security, and confidentiality of consumer/client information. The Employment Record Policy shall:

(a) Require the Supported Employment provider to maintain all written employment records in a secured and locked storage area and any electronic records in compliance with all applicable Federal and District laws and regulations, and Department policies;

(b) Require the Supported Employment provider to maintain secure, clear, organized, and comprehensive employment records for every consumer/client enrolled in the Supported Employment Program;

(c) Set forth requirements for documentation maintained in the employment record;

(d) For SUD Supported Employment providers require documentation in the Department-specified electronic health records system;

(e) Require that the Supported Employment provider comply with a Documentation and Retention and Disaster Recovery Plan:

(1) For providers of Mental Health Supported Employment services the Plan shall comply with all applicable provisions of the Disaster Recovery Plan and document retention requirements set forth in 22-A DCMR Chapter 34; and

(2) For providers of SUD Supported Employment services, the Plan shall comply with all applicable provisions of the client records management and confidentiality requirements set forth in 22-A DCMR Chapter 63; and

(f) Keep Supported Employment documents for a minimum of ten (10) years.

3706.2 The following information shall be included in the Supported Employment consumer's/client's employment record:

(a) Referral and intake information;

(b) Identifying information about the consumer/client;

(c) Appropriate release of information forms;

(d) Current MHRS or ASARS person-centered Plan of Care which includes the consumer's employment goals and objectives and identification of Supported Employment as a necessary service;

(e) Individualized Work Plan (IWP);

(f) Employment and employer contact information;

(g) Benefits information such as receipt of Social Security and Temporary Assistance to Needy Families benefits;

(h) Information about referrals to RSA; and

(i) Encounter notes for each service.

3706.3 Employment Specialists shall document services on an encounter note, which shall include:

(a) A description of the Supported Employment service(s) that is sufficient to document that the provision was in accordance with this chapter;

(b) The time, date, and duration, including beginning and end time, of the provided services;

(c) The name, title, and credentials of the person providing the services;

(d) The setting in which the services were provided;

(e) Confirmation that the provided services are in the consumer's/client's IWP;

(f) A description of what supports were provided to enhance the consumer's/client's potential for securing employment;

(g) Description of the consumer's/client's response to the Supported Employment services and supports, including the choices and perceptions of the consumer/client regarding the services provided;

(h) Be dated and authenticated in written or electronic form by the person rendering the services; and

(i) Include the appropriate billing codes for those particular services.

3706.4 A Mental Health or SUD Supported Employment provider shall collect and provide the following information and data to the Department monthly and upon request:

(a) Number of consumers/clients referred to the Supported Employment provider and the source of the referral;

(b) Number of consumers/clients enrolled in Supported Employment services;

(c) Number of Supported Employment consumers/clients served;

(d) Number of Supported Employment consumers/clients employed;

(e) Number of inactive Supported Employment consumers/clients;

(f) Number of consumers/clients on wait list;

(g) Number of total full-time Employment Specialists;

(h) Number of Supported Employment consumers/clients referred to RSA;

(i) Number of Supported Employment consumers/clients participating in education programs;

(j) Average number of hours that Supported Employment consumers/clients worked;

(k) Average hourly wage paid to Supported Employment consumers/clients;

(l) Number of Supported Employment consumers/clients receiving benefits (health, dental, or retirement) from employers;

(m) Names and contact information (including locations) of employers who have hired Supported Employment consumers/clients;

(n) Job titles and types of jobs for which Supported Employment consumers/clients have been hired; and

(o) Any other information that the Department requires.

3707 MENTAL HEALTH SUPPORTED EMPLOYMENT SERVICES ELIGIBILITY

3707.1 To be eligible for Mental Health Supported Employment services, a consumer shall:

(a) Be at least eighteen (18) years of age;

(b) Indicate an interest in employment;

(c) Have Mental Health Supported Employment identified as a needed service on a current, MHRS person-centered Plan of Care that has been reviewed by the Department;

(d) Not be receiving MHRS Assertive Community Treatment (ACT) services; and

(e) Be determined by the Department as meeting the following needs-based criteria:

(1) Be assessed to have mental health needs that require an improvement, stabilization, or prevention of deterioration in functioning (including ability to live independently without support), which result from the presence of a mental illness; and

(2) Have at least one (1) of the following risk factors:

(A) Be unable to sustain gainful employment for at least ninety (90) consecutive days as related to a history of mental illness;

(B) An inability to obtain or maintain employment resulting from age or disability (physical or behavioral);

(C) More than one instance of mental illness treatment in the past two (2) years; or

(D) Be at risk for deterioration of mental illness as evidenced by one (1) or more of the following:

(i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;

(ii) Care for mental illness requiring multiple provider types, including behavioral health, primary care, and long-term services and supports; or

(iii) A past psychiatric history with no significant functional improvement that can't be maintained

without treatment and supports.

3708 AUTHORIZATION OF AND REFERRALS TO MENTAL HEALTH SUPPORTED EMPLOYMENT SERVICES

3708.1 MHRS CSAs shall assess all consumers eighteen (18) years of age and older for interest in and potential eligibility for Mental Health Supported Employment services as a part of:

(a) Developing or updating the consumer's MHRS person-centered Plan of Care; or

(b) Upon request by family members, advocates, or other service providers.

3708.2 If a consumer is interested in Mental Health Supported Employment services, the CSA shall, in a manner specified by the Department, collect and submit the following information to the Department for its review and a service authorization determination:

(a) Completed needs-based assessment that assesses for the criteria listed in § 3707.1(e);

(b) MHRS person-centered Plan of Care; and

(c) Documentation that the consumer made the choice about which certified Mental Health Supported Employment provider to receive services from, pending service authorization by the Department.

3708.3 The needs-based assessment must be completed face-to-face using the Department-specified needs-based assessment tool. It must be completed by one of the following:

(a) Psychiatrist;

(b) Psychologist;

(c) LICSW;

(d) LPC;

(e) LMFT;

(f) APRN:

(1) With psychiatry as a specialty area of practice;

(2) Working in a collaborative protocol with a psychiatrist; or

(3) Demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;

(g) Registered Nurse (RN);

(h) Licensed Independent Social Worker (LISW);

(i) Psychology Associate;

(j) Licensed Graduate Professional Counselors (LGPC);

(k) Licensed Graduate Social Worker (LGSW);

(l) Physician Assistant; or

(m) Credentialed staff, as described in 22-A DCMR Chapter 34, under the supervision of a behavioral health clinician permitted to diagnose mental illness.

3708.4 In order to prevent conflicts of interest, the Department shall make authorization determinations for the provision of Mental Health Supported Employment services. The determinations shall be based on review of the needs-based assessment and MHRS person-centered Plan of Care submitted by the CSA.

3708.5 The Department shall notify the CSA of the authorization decision, and the CSA shall communicate such determination to the consumer. Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded Supported Employment services. The Department shall provide local-only beneficiaries the same Notice and Appeal rights as those provided to Medicaid beneficiaries in 29 DCMR § 9508.

3708.6 If the Department has authorized the provision of Mental Health Supported Employment services, the CSA shall within five (5) business days of receiving the determination make a referral to the Mental Health Supported Employment provider of the consumer's choosing. The referral shall be in writing in a format specified by the Department and include the following information:

(a) CSA treatment team contact information;

(b) Contact information for the consumer, including emergency contact information; and

(c) Current MHRS person-centered Plan of Care.

3708.7 The Mental Health Supported Employment provider, upon receipt of a CSA referral, shall engage the consumer within three (3) business days.

3708.8 The provider must have a Wait List Policy to track and manage timely access to services. If the Mental Health Supported Employment provider is unable to accept new consumers, the provider shall notify the consumer, the referring CSA, and the Department.

3708.9 The Department authorization for provision of Mental Health Supported Employment services shall not exceed one-hundred and eighty (180) calendar days. To request continuation of Mental Health Supported Employment services, the Mental Health Supported Employment provider shall notify the consumer's CSA. The CSA shall reassess the consumer for the needs-based criteria and review the MHRS person-centered Plan of Care and update it as needed. Both the assessment and Plan of Care shall be submitted to the Department for review and a reauthorization determination.

3708.10 CSAs shall also reassess consumers receiving Supported Employment services and review, and update as needed, the MHRS person-centered Plans of Care any time there is a significant change in the consumer's condition or situation that affects progress toward the Supported Employment-related goals of the Plan of Care. The Department in those cases shall also review and make an authorization determination for Mental Health Supported Employment services.

3709 INTEGRATION WITH THE CSA TREATMENT TEAM

3709.1 Mental Health Employment Specialists shall be integrated as part of the Supported Employment consumer's CSA treatment team. The Mental Health Employment Specialist shall attend regular treatment team meetings and maintain frequent contact with treatment team members.

3709.2 As a treatment team member, the Mental Health Employment Specialist may participate in updating the MHRS person-centered Plan of Care and is responsible for helping the consumer achieve the goals written in the Plan of Care with regard to employment.

3709.3 Services provided by the Mental Health Employment Specialist shall be consistent with the goals relating to employment included in the consumer's MHRS person-centered Plan of Care.

3710 SUD SUPPORTED EMPLOYMENT SERVICES ELIGIBILITY

3710.1 To be eligible for SUD Supported Employment services, a client shall:

(a) Be at least eighteen (18) years of age;

(b) Indicate an interest in employment;

(c) Not be receiving MHRS ACT services;

(d) Be receiving services in one of the following Levels of Care:

(1) Level: OTP on an outpatient basis;

(2) Level 1: Outpatient;

(3) Level 2.1: Intensive Outpatient;

(4) Level 2.5: Day Treatment;

(e) Be assessed as being able to benefit from and meaningfully engage in SUD Supported Employment services;

(f) Have SUD Supported Employment identified as a needed service on a current, ASARS person-centered Plan of Care that has been reviewed by the Department; and

(g) Be determined by the Department to meet the following needs-based criteria:

(1) Be assessed to have substance use needs, where an assessment using the American Society of Addiction Medicine (ASAM) Criteria indicates that the client meets at least ASAM Level 1.0, indicating the need for outpatient SUD treatment; and

(2) Have at least one (1) of the following risk factors:

(A) Unable to sustain gainful employment for at least ninety (90) consecutive days as related to a history of SUD;

(B) Unable to obtain or maintain employment resulting from age or disability (physical or behavioral); or

(C) More than one instance of SUD treatment in the past two (2) years;

(D) Be at risk for deterioration of SUD as evidenced by one (1) or more of the following:

(i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;

(ii) Care for SUD requiring multiple provider types, including behavioral health, primary care, and long-term services and supports; or

(iii) A past psychiatric history with no significant functional improvement that can't be maintained without treatment and supports.

3711 AUTHORIZATION OF AND REFERRALS TO SUD SUPPORTED EMPLOYMENT SERVICES

3711.1 Providers of outpatient Level OTP, Level 1, Level 2.1, and Level 2.5 shall assess all clients eighteen (18) years of age and older for interest in and potential eligibility for SUD Supported Employment services as a part of:

(a) Developing or updating the client's ASARS person-centered Plan of Care; or

(b) Upon request by family members, advocates, or other service providers.

3711.2 If a client is interested in SUD Supported Employment services and assessed as being able to benefit from and meaningfully engage in SUD Supported Employment services, the provider shall, in a manner specified by the Department, collect and submit the following information to the Department for its review and a service authorization determination:

(a) Completed needs-based assessment that assesses for the criteria listed in § 3710.1(g);

(b) ASARS person-centered Plan of Care; and

(c) Documentation that the client made the choice about which certified SUD Supported Employment provider to receive services from, pending service authorization by the Department.

3711.3 The needs-based assessment must be completed face-to-face using the Department-specified needs-based assessment tool. It must be completed by one of the following behavioral health clinicians appropriately licensed (or certified, if applicable) in the District or by the jurisdiction where services are delivered, and who practices within the scope of their license (or registration, if applicable) and any applicable supervision requirements:

(a) Physician;

(b) Psychologist;

(c) LICSW;

(d) LPC;

(e) LMFT; or

(f) APRN who has:

(1) Demonstrated proficiency in SUD treatment, as evidenced by specialized training, or

(2) A minimum of five (5) years of experience in SUD care delivery;

(g) LISW;

(h) LGPC;

(i) LGSW;

(j) RN;

(k) Physician Assistant; or

(l) Certified Addiction Counselor I or II.

3711.4 In order to prevent conflicts of interest, the Department shall make authorization determinations for the provision of SUD Supported Employment services. The determinations are based on review of the needs-based assessment and ASARS person-centered Plan of Care submitted by the client's outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider.

3711.5 The Department shall notify the provider of the authorization decision, and the provider shall communicate such determination to the client. Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded Supported Employment services. The Department shall provide local-only beneficiaries the same Notice and Appeal rights as provided to Medicaid beneficiaries per 29 DCMR § 9508.

3711.6 If the Department has authorized the provision of SUD Supported Employment services, the provider shall within five (5) business days of receiving the

determination make a referral to the SUD Supported Employment provider of the client's choosing. The referral shall be in writing in a format specified by the Department and include the following information:

(a) Referring provider's treatment team contact information;

(b) Contact information for the client, including emergency contact information;

(c) Current ASARS person-centered Plan of Care; and

(d) Advance directives or instructions, if available.

3711.7 The SUD Supported Employment provider, upon receipt of a referral from an outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, shall engage the client within three (3) business days.

3711.8 The provider must have a Wait List Policy to track and manage timely access to services. If the SUD Supported Employment provider is unable to accept new clients, the provider shall notify the client, the referring provider, and the Department.

3711.9 The Department authorization for provision of SUD Supported Employment services shall not exceed one-hundred and eighty (180) calendar days. To request continuation of SUD Supported Employment services, the SUD Supported Employment provider shall notify the client's referring outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider. The referring provider shall reassess the client for the needs-based criteria and review the ASARS person-centered Plan of Care and update it as needed. Both the assessment and Plan of Care shall be submitted to the Department for review and a reauthorization determination.

3711.10 Outpatient Level OTP, Level 1, Level 2.1, and Level 2.5 providers shall also reassess clients receiving Supported Employment services and review, and update as needed, the ASARS person-centered Plans of Care any time there is a significant change in the client's condition or situation that affects progress toward the SUD Supported Employment-related goals of the Plan of Care. The Department in those cases shall also review and make an authorization determination for SUD Supported Employment services.

3712 INTEGRATION WITH THE ASARS TREATMENT TEAM

3712.1 SUD Employment Specialists shall be integrated as part of the Supported Employment client's referring SUD provider's treatment team. The SUD Employment Specialist shall attend regular treatment team meetings and maintain frequent contact with treatment team members.

3712.2 As a treatment team member, the SUD Employment Specialist may participate in updating the ASARS person-centered Plan of Care and is responsible for helping the client achieve the goals written in the Plan of Care with regard to employment.

3712.3 Services provided by the SUD Employment Specialist should be consistent with the goals relating to employment included in the client's ASARS person-centered Plan of Care.

3713 REIMBURSEMENT

3713.1 Mental Health and SUD Supported Employment providers, pursuant to their contract with RSA, shall seek reimbursement from RSA for the following services when provided to their Supported Employment consumers/clients while they are enrolled with RSA:

(a) Job Development; and

(b) Job Coaching.

3713.2 All Mental Health and SUD Supported Employment services not subject to reimbursement by RSA shall be billed by the Supported Employment provider in accordance with the remainder of this section. Reimbursement for Medicaid-funded and locally-funded Mental Health and SUD Supported Employment services described in §§ 3713.3 and 3713.4 shall be at the rate contained in the District of Columbia Medicaid fee schedule available online at www.dc-medicaid.com. All future updates to the service codes and rates will be included in the District of Columbia Medicaid fee schedule pursuant to the procedures established in 29 DCMR Chapter 9 § 988.

3713.3 The following services shall be billed as Vocational Supported Employment:

(a) Intake;

(b) Vocational Assessment;

(c) IWP Development;

(d) Disclosure Counseling;

(e) Treatment Team Coordination;

(f) Job Development (if provided outside of time-period of RSA involvement);

(g) Job Coaching (if provided outside of time-period of RSA involvement); and

(h) Vocational Follow-Along Supports.

3713.4 The following services shall be billed as Therapeutic Supported Employment and shall be delivered by qualified practitioners or credentialed staff eligible to provide Community Support services as specified in 22-A DCMR Chapter 34:

(a) Benefits Counseling; and

(b) Therapeutic Follow-Along Supports.

3713.5 Prior authorization by the Department shall be required for Vocational and Therapeutic Supported Employment services. Initial and any subsequent authorizations for Vocational Supported Employment services shall not exceed ninety-six (96) units per one hundred and eighty (180) calendar day time period. Authorizations for Therapeutic Supported Employment services shall not exceed one hundred and eighty (180) calendar days.

3713.6 Vocational and Therapeutic Supported Employment Services shall not be billed on the same day as Intensive Day Treatment services, as defined in 22-A DCMR Chapter 34.

3713.7 Billing units are fifteen (15) minutes.

3713.8 Mental Health and SUD Supported Employment services shall only be provided:

(a) At the Supported Employment provider's service site; or

(b) In natural settings, including the consumer's/client's work site or other community setting.

3799 DEFINITIONS

3799.1 When used in this chapter, the following words shall have the meanings ascribed:

Adult Substance Abuse Rehabilitative Services or ASARS – substance use disorder-related rehabilitative services provided by a Department-certified SUD provider.

ASARS Person-Centered Plan of Care – the ASARS person-centered Plan of Care developed by an outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, pursuant to the requirements set forth in 22-A DCMR Chapter 63.

Client – a person admitted to an SUD treatment or recovery program and is assessed to need SUD treatment services or recovery support services.

Consumer – a person who seeks or receives mental health services funded or regulated by the Department.

Core Services Agency or CSA – a Department-certified MHRS provider that has entered into a Human Care Agreement with the Department to provide specific MHRS in accordance with the requirements of 22-A DCMR Chapter 34.

Department of Behavioral Health or the Department – the District of Columbia agency that regulates the District's behavioral health system for adults, children, and youth.

Department on Disability Services' Rehabilitation Services Administration or RSA – the District of Columbia government entity that provides employment services to those individuals with developmental and other disabilities.

Individualized Work Plan or IWP – a plan developed by the Mental Health or SUD Supported Employment provider with the consumer that includes an employment goal and the support services required to reach the goal.

Level 1 Provider – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Outpatient Services in accordance with the requirements of 22-A DCMR Chapter 63.

Level 2.1 Provider – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Intensive Outpatient Services in accordance with the requirements of 22-A DCMR Chapter 63.

Level 2.5 Provider – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Day Treatment Services in accordance with the requirements of 22-A DCMR Chapter 63.

Mental Health Rehabilitation Services or MHRS – mental health rehabilitative services provided by a Department-certified mental health provider.

MHRS Person-Centered Plan of Care – the MHRS person-centered Plan of Care developed by a Core Services Agency pursuant to the requirements set forth in 22-A DCMR Chapter 34.

MHRS Provider – providers certified by the Department as a Core Services Agency, sub-provider, or specialty provider to deliver MHRS.

Needs-Based Assessment – an assessment conducted by a consumer's CSA or client's outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, using the Department-specified needs-based assessment tool, to help determine if a consumer or client meets the needs-based criteria for receipt of Mental Health or SUD Supported Employment services.

Outpatient Level Opioid Treatment Program or Outpatient Level OTP – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Opioid Treatment Program services on an outpatient basis in accordance with the requirements of 22-A DCMR Chapter 63.

Supported Employment Fidelity Scale – the Supported Employment provider evaluation tool developed in accordance with the evidence-based practice adopted by the Department and as stated in Department policy.

All persons desiring to comment on the subject matter of this proposed rule should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Trina Dutta, Director, Strategic Management and Policy Division, Department of Behavioral Health, 64 New York Ave, N.E., Second Floor, Washington, D.C. 20002, (202) 671-4075, trina.dutta@dc.gov, or DBHpubliccomments@dc.gov.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING BOARD

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2018 Repl.)) and Mayor's Order 2009-22, dated February 25, 2009, as amended, hereby gives notice of the adoption of the following amendments, on an emergency basis, to Chapter 9 (Fire Protection Systems) of Subtitle A (Building Code Supplement of 2017), and Chapter 9 (Fire Protection Systems) of Subtitle H (Fire Code Supplement of 2017), of Title 12 (District of Columbia Construction Codes Supplement of 2017) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessitated by the immediate need to revise Section 906.1 of the District of Columbia Building Code (2017) and Section 906.1 of the District of Columbia Fire Code (2017) (together the "Codes") for fire safety reasons, since Section 906.1 in the Codes contains an exemption that would allow removal of portable fire extinguishers from residential and other occupancies contrary to model code provisions. The subject amendment will conform Section 906.1 to the International Building Code (2018 edition) and the International Fire Code (2018 edition) published by the International Code Council.

This emergency rulemaking was adopted on May 29, 2020, to become effective immediately. This emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of adoption and will expire on September 26, 2020.

To clearly show the changes being made to the Codes, additions are shown in underlined text and deletions are shown in ~~strikethrough~~ text.

The process for submitting comments on the proposed rulemaking is detailed on the final page of this Notice.

The Chairperson also hereby gives notice of the intent to take final rulemaking action to adopt this amendment. Pursuant to Section 10(a) of the Act, the proposed amendment will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review, and final rulemaking action will not be taken until the later of thirty (30) days after the date of publication of this notice in the *D.C. Register* or Council approval of the amendment.

Title 12 DCMR, the DISTRICT OF COLUMBIA CONSTRUCTION CODES SUPPLEMENT OF 2017, is amended as follows:

Chapter 9, FIRE PROTECTION SYSTEMS, of 12-A DCMR, BUILDING CODE SUPPLEMENT OF 2017, is amended as follows:

Section 906, PORTABLE FIRE EXTINGUISHERS, § 906.1, is amended as follows:

906 PORTABLE FIRE EXTINGUISHERS

~~*Strike the exception to Section 906.1 Item 1 in the International Building Code in its entirety and insert new exceptions to Section 906.1 Item 1 in the Building Code in its place to read as follows:*~~

Strike Section 906.1 in the International Building Code in its entirety and insert a new Section 906.1 in the Building Code in its place to read as follows:

906.1 Where required. Portable fire extinguishers shall be installed in all of the following locations:

1. In Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

   Exceptions:

   ~~1. In new and existing Group A, B, E and R occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~

   ~~2.~~ 1. In Group R-2 occupancies, ~~which are not equipped throughout with quick response sprinklers,~~ portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each *dwelling unit* is provided with a portable fire extinguisher having a minimum rating of 1-A:10-B:C.

   2. In Group E occupancies, portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each classroom is provided with a portable fire extinguisher having a minimum rating of 2- A:20-B:C.

   3. Within 30 feet (9144 mm) distance of travel from ~~of~~ commercial cooking equipment and from domestic cooking equipment in Group I-1; I-2, Condition 1; and R-2 college dormitory occupancies.

   4. In areas where flammable or *combustible liquids* are stored, used or dispensed.

   5. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 3315.1 of the *Fire Code*.

6. Where required by the *Fire Code* sections indicated in Table 906.1.

7. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the *fire code official*.

[Table 906.1 is unchanged.]

Chapter 9, FIRE PROTECTION SYSTEMS, of 12-H DCMR, FIRE CODE SUPPLEMENT OF 2017, is amended as follows:

Section 906, PORTABLE FIRE EXTINGUISHERS, § 906.1, is amended as follows:

906 PORTABLE FIRE EXTINGUISHERS

~~*Strike the exception to Section 906.1 Item 1 in the International Fire Code in its entirety and insert new exceptions to Section 906.1 Item 1 in the Fire Code in its place to read as follows:*~~

Strike Section 906.1 in the International Fire Code in its entirety and insert new Section 906.1 in its place in the Fire Code to read as follows:

906.1 Where required. Portable fire extinguishers shall be installed in all of the following locations:

1. In Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

   Exceptions:

   ~~1. In new and existing Group A, B, E and R occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~

   ~~2.~~1. In Group R-2 occupancies, ~~which are not equipped throughout with quick response sprinklers,~~ portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each *dwelling unit* is provided with a portable fire extinguisher having a minimum rating of 1-A:10-B:C.

   2. In Group E occupancies, portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each classroom is provided with a portable fire extinguisher having a minimum rating of 2- A:20-B:C.

2. Within 30 feet (9144 mm) distance of travel from ~~of~~ commercial cooking equipment and from domestic cooking equipment in Group I-1; I-2, Condition 1; and R-2 college dormitory occupancies.

3. In areas where flammable or *combustible liquids* are stored, used or dispensed.

4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 3315.1.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the *fire code official*.

[Table 906.1 is unchanged.]

All persons desiring to comment on the proposed regulations should submit comments in writing to Jill Stern, Chairperson, Construction Codes Coordinating Board, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., Room 5100, Washington, D.C. 20024, or via e-mail at jill.stern@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Emergency and Proposed Rulemaking should email the CCCB Chairperson at the email address above or call (202) 442-4400. After publication of the subject Notice of Emergency and Proposed Rulemaking in the *D.C. Register,* a copy of the rulemaking can be downloaded from the website of the Office of the Secretary of the District of Columbia/Office of Documents and Administrative Issuances at https://www.dcregs.dc.gov/.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2016 Repl.)), hereby gives notice of a correction to the Notice of Emergency and Proposed Rulemaking issued by the D.C. Department of Human Resources and published in the *D.C. Register* on May 22, 2020, at 67 DCR 5406.

The rulemaking amends Chapter 4 (Suitability) of Title 6 (Personnel), Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR), to amend relevant provisions to align with Mayor's Order 2019-081 for the application and enforcement of the District of Columbia's general suitability and drug screening program as it relates to permitted cannabis use.

The preamble of the rulemaking did not specify the expiration of the emergency period. The rulemaking preamble is corrected to include the following sentence:

> The emergency and proposed rules were adopted by the Director on May 22, 2020, became effective immediately, and shall remain in effect for no longer than one hundred and twenty (120) calendar days, expiring September 19, 2020, unless superseded by publication of subsequent rulemaking in the *D.C. Register*.

These corrections by this Errata Notice to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules.

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

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in the District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of emergency and proposed rulemaking action to adopt amendments to Chapter 16 (Candidate Nomination: Delegate To The U.S. House Of Representatives, Mayor, Chairman and Members of The Council of The District Of Columbia, Attorney General, U.S. Senator, U.S. Representative, Members of The State Board of Education, and Advisory Neighborhood Commissioner) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to Chapter 16 is to place the Board's regulations into conformity with the Coronavirus Omnibus Emergency Amendment Act of 2020, which altered the ballot access signature requirements for the November 3, 2020 General Election for local elected offices.

Emergency action is necessary in order for these amendments to be in place prior to the petition circulation period for the November 3, 2020 General Election. Accordingly, the Board adopted these rules on an emergency basis at a special meeting on Thursday, May 28, 2020. The emergency rules shall remain in effect until Friday, September 25, 2020 (one hundred and twenty (120) days from the adoption date), unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Chapter 16, CANDIDATE NOMINATION: DELEGATE TO THE U.S. HOUSE OF REPRESENTATIVES, MAYOR, CHAIRMAN AND MEMBERS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, ATTORNEY GENERAL, U.S. SENATOR, U.S. REPRESENTATIVE, MEMBERS OF THE STATE BOARD OF EDUCATION, AND ADVISORY NEIGHBORHOOD COMMISSIONER, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

A new Subsection 1603.9 of Section 1603, SIGNATURE REQUIREMENTS, is amended to read as follows:

1603.9 Notwithstanding the signature requirements specified in subsections 1603.3 through 1603.7 of this section, to obtain ballot access for the November 3, 2020 General Election:

(a) A candidate for the office of Delegate, At-Large Member of the Council, U.S. Senator, or U.S. Representative shall submit a nominating petition that contains the valid signatures of at least two hundred fifty (250) registered qualified electors in the District;

(b) A candidate for the office of Member of the Council elected by ward shall submit a nominating petition that contains the valid signatures of at least one hundred fifty (150) registered qualified electors who are registered in the same ward as the candidate;

(c) A candidate for the office of Member of the State Board of Education elected at-large shall submit a nominating petition that contains the valid signatures of at least one hundred fifty (150) registered qualified electors in the District;

(d) A candidate for the office of Member of the State Board of Education elected from a ward shall submit a nominating petition that contains the valid signatures of at least fifty (50) registered qualified electors who are registered in the same ward as the candidate; and

(e) A candidate for the office of Advisory Neighborhood Commissioner shall submit a nominating petition that contains the valid signatures of at least ten (10) registered qualified electors who are registered in the same single-member district from which the candidate seeks election.

All persons desiring to comment on the subject matter of this rulemaking should file written comments by no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, Board of Elections, 1015 Half Street S.E., Suite 750, Washington D.C. 20003. Please direct any questions or concerns to the Office of the General Counsel at 202-727-2194 or ogc@dcboe.org. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-068
May 31, 2020

SUBJECT: COVID-19 Public Emergency and Declaration of a Second Public Emergency - District-wide Curfew

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22 (2016 Repl.); pursuant to the Coronavirus Support Emergency Amendment Act of 2020 (the "Act"), effective May 19, 2020, D.C. Act 23-326, and any substantially similar subsequent emergency or temporary legislation; section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304 (2018 Repl.); section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002, D.C. Law 14-194, D.C. Official Code § 7-2304.01 (2018 Repl.); section 1 of An Act To Authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939, 53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.* (2012 Repl.); 24 DCMR §§ 2200 - 2203, and in accordance with Mayor's Order 2020-045, dated March 11, 2020, Mayor's Order 2020-046, dated March 11, 2020, Mayor's Order 2020-050, dated March 20, 2020, Mayor's Order 2020-063, dated April 15, 2020, and Mayor's Order 2020-066, May 13, 2020, it is hereby **ORDERED** that:

I. BACKGROUND

1. Washington, DC, is the proud host of demonstrations and peaceful protests, and as Mayor of Washington, DC, I am proud of our city.

2. For the past two nights, our police, and firefighters, and members of the public safety team for Washington, DC, along with our federal partners, have been working to make sure people may exercise their First Amendment rights, while not destroying Washington, DC.

3. I recognize and empathize with the outrage that people feel following the murder of George Floyd in Minnesota last week. We are grieving hundreds of years of institutional racism – systems that require Black Americans to prove their humanity, just for it to be disregarded.

4. In the downtown area of the District of Columbia, numerous businesses and government buildings were vandalized, burned, or looted. Over the past nights, there has been a glorification of violence, particularly during later hours of the night. This violence is not representative of peaceful protest or individuals

exercising their lawful First Amendment rights.

5. The health, safety, and well-being of persons within the District of Columbia are threatened and endangered by the existence of these violent actions.

6. Moreover, the District is currently under a declared public health state of emergency due to COVID-19, and gatherings of more than ten (10) persons are currently prohibited in order to reduce the spread of the disease and to protect the public health. Many protesters are not observing physical distancing requirements and many protestors are not wearing masks or face coverings, putting the public health at further risk.

7. I now must exercise my authority to impose a curfew, in order to protect the safety of persons and property in the District.

8. By this Order, a second public emergency is declared in the District of Columbia, and a curfew is ordered for the night of May 31, 2020.

II. CURFEW ORDERED

1. A District-wide curfew is hereby ordered commencing at 11:00 p.m. on Sunday, May 31, 2020 and ending at 6:00 a.m. on Monday, June 1, 2020.

2. During the hours of the curfew, no person, other than persons designated by the Mayor, shall walk, bike, run, loiter, stand, or motor by car or other mode of transport upon any street, alley, park, or other public place within the District. Individuals performing essential duties as authorized by prior Mayor's Orders, including working media with their outlet-issued credentials and healthcare personnel, are exempt when engaged in essential functions.

III. ENFORCEMENT

Any person who violates the curfew imposed by this Order may be subject to a criminal fine of up to three-hundred dollars ($300) or to imprisonment for not more than ten (10) days pursuant to Title 24 of the District of Columbia Municipal Regulations § 2203.4.

IV. EFFECTIVE DATE: This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: _____

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-069
June 1, 2020

SUBJECT: Continuation of District-wide Curfew during COVID-19 Public Emergency and Second Public Emergency

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22 (2016 Repl.); pursuant to the Coronavirus Support Emergency Amendment Act of 2020 (the "Act"), effective May 19, 2020, D.C. Act 23-326, and any substantially similar subsequent emergency or temporary legislation; section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304 (2018 Repl.); section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002, D.C. Law 14-194, D.C. Official Code § 7-2304.01 (2018 Repl.); section 1 of An Act To Authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939, 53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.* (2012 Repl.); 24 DCMR §§ 2200 - 2203, and in accordance with Mayor's Order 2020-045, dated March 11, 2020, Mayor's Order 2020-046, dated March 11, 2020, Mayor's Order 2020-050, dated March 20, 2020, Mayor's Order 2020-063, dated April 15, 2020, Mayor's Order 2020-066, May 13, 2020, and Mayor's Order 2020-068, dated May 31, 2020, it is hereby **ORDERED** that:

I. BACKGROUND

1. The findings of Mayor's Order 2020-068, dated May 31, 2020, are incorporated herein.

2. For the past several nights, our police, firefighters, and members of the public safety team for Washington, DC, along with our federal partners, have been working to make sure people may exercise their First Amendment rights, while not defacing, damaging, or destroying churches, monuments, parks, businesses, and government offices in Washington, DC.

3. In multiple areas throughout the District of Columbia, numerous businesses, vehicles, and government buildings have been vandalized, burned, or looted. More than eighty (80) individuals were arrested over the past two (2) days in connection with these incidents, with the majority charged with felonies.

4. On the night of May 31, 2020, looting and vandalism occurred at multiple locations throughout the city, in addition to the rioting in the downtown area.

Vandals smashed windows in Northeast DC, upper Northwest DC stretching to Georgetown, and caused extensive damage in the Golden Triangle Business Improvement District, Downtown DC Business Improvement District, and Mount Vernon Triangle Community Improvement District. Rioting and looting affected the operations of District government agencies.

5. Moreover, the District continues to be under a declared public health state of emergency due to COVID-19, and gatherings of more than ten (10) persons are currently prohibited in order to reduce the spread of the disease and to protect the public health.

6. I must exercise my authority to impose a new curfew, in order to protect the safety of persons and property in the District.

II. CURFEW ORDERED

1. A District-wide curfew is hereby imposed during the following times:

   a. Monday, June 1, 2020, beginning at 7:00 p.m. and ending at 6:00 a.m. on Tuesday, June 2, 2020; and

   b. Tuesday, June 2, 2020, beginning at 7:00 p.m. and ending at 6:00 a.m. on Wednesday, June 3, 2020;

2. During the hours of the curfew, no person, other than persons designated by the Mayor, shall walk, bike, run, loiter, stand, or motor by car or other mode of transport upon any street, alley, park, or other public place within the District.

3. **Exemptions**: The curfew imposed by this Order shall not apply to:

   a. Essential workers, including healthcare personnel and working media with their outlet-issued credentials, when engaged in essential functions, including travel to and from their essential work; and

   b. Individuals who are voting and participating in election activities, including poll workers, volunteers, and individuals exercising their right to vote.

4. Nothing in this Order shall be construed to prohibit or restrict travel to a hospital or urgent care facility, nor shall such travel be considered in violation of this Order.

III. ENFORCEMENT

Any person who violates the curfew imposed by this Order may be subject to a criminal fine of up to three-hundred dollars ($300) or to imprisonment for not more than ten (10) days pursuant to Title 24 of the District of Columbia Municipal Regulations § 2203.4.

IV. EFFECTIVE DATE: This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-070
June 3, 2020

SUBJECT: Continuation of District-wide Curfew during COVID-19 Public Emergency and Second Public Emergency

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22; pursuant to the Coronavirus Support Emergency Amendment Act of 2020 (the "Act"), effective May 19, 2020, D.C. Act 23-326, and any substantially similar subsequent emergency or temporary legislation; section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304; section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002, D.C. Law 14-194, D.C. Official Code § 7-2304.01; section 1 of An Act To Authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939, 53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.*; 24 DCMR §§ 2200 - 2203, and in accordance with Mayor's Order 2020-045, dated March 11, 2020, Mayor's Order 2020-046, dated March 11, 2020, Mayor's Order 2020-050, dated March 20, 2020, Mayor's Order 2020-063, dated April 15, 2020, Mayor's Order 2020-066, May 13, 2020, and Mayor's Order 2020-068, dated May 31, 2020, it is hereby **ORDERED** that:

I. BACKGROUND

1. The findings of Mayor's Order 2020-068, dated May 31, 2020 and Mayor's Order 2020-069, dated June 1, 2020 are incorporated herein.

2. For the past several nights, our police, firefighters, and members of the public safety team for Washington, DC, have been working to make sure people may exercise their First Amendment and voting rights, while not defacing, damaging, or destroying churches, monuments, parks, vehicles, businesses, or government offices in Washington, DC.

3. However, in multiple areas throughout the District of Columbia, numerous businesses, vehicles, and buildings have been vandalized, burned, or looted. This destruction is not representative of peaceful protest or individuals exercising their First Amendment rights. These incidents affect the operations of District government agencies.

4. Although I requested the aid of an unarmed contingent of the District of Columbia National Guard, activated as part of the COVID-19 public health emergency in the District, I have not requested any additional National Guard members from any state.

5. Nor have I requested any additional law enforcement assistance from neighboring jurisdictions.

6. Further, I have not requested any military forces that the President has deployed in the District. That presence is not under my direction nor accountable to me, the Chief of Police, or the residents of the District of Columbia.

7. Since home rule, the District has developed a finely wrought system of incident command with our federal partners. This week's actions by the federal government upended that system of coordination, risking potential harm to our residents and visitors.

8. This is an incendiary situation where the health, safety, and well-being of persons within the District of Columbia are threatened and endangered.

9. I must exercise my authority to continue, but shorten, the imposition of a curfew, in order to protect the safety of persons and property in the District of Columbia.

II. CURFEW ORDERED

1. A District-wide curfew is hereby imposed on Wednesday, June 3, 2020, beginning at 11:00 p.m. and ending at 6:00 a.m. on Thursday, June 4, 2020.

2. During the hours of the curfew, no person, other than persons designated by the Mayor, shall walk, bike, run, loiter, stand, or motor by car or other mode of transport upon any street, alley, park, or other public place within the District.

3. **Exemptions**: The curfew imposed by this Order shall not apply to essential workers, including healthcare personnel and working media with their outlet-issued credentials, when engaged in essential functions, including travel to and from their essential work.

4. Nothing in this Order shall be construed to prohibit or restrict travel to a hospital or urgent care facility, nor shall such travel be considered in violation of this Order.

III. ENFORCEMENT

Any person who violates the curfew imposed by this Order may be subject to a criminal fine of up to three-hundred dollars ($300) or to imprisonment for not more than ten (10) days pursuant to Title 24 of the District of Columbia Municipal Regulations § 2203.4.

IV. EFFECTIVE DATE: This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett

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

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF FUNDING AVAILABILITY

FY2021 Cure the Streets Violence Reduction Program
Community-Based Host Site Selection

Grant Identification No.: OAG-VRD-340920

The Office of the Attorney General (OAG) invites the submission of applications from community-based organizations to be host sites for four new Cure the Streets Sites.

Purpose: In the summer of 2018, in response to an uptick in homicides in the District, Attorney General Karl Racine launched the Cure the Streets (CTS) pilot project in two sites of the District. The Cure the Streets Initiative is based on the Cure Violence public health approach to violence reduction used in over 100 sites across the world. The Cure Violence model of violence reduction has been provend to reduce shootings and homicides in sites when implemented with fidelity to the model.

Background Information: The Office of Attorney General (OAG) invites the submission of applications for Cure the Streets Violence Reduction Program Community-Based Host Site Selection. Pursuant to the Attorney General Limited Grant-Making Authority Emergency Act 2018, effective June 27, 2018 (D.C. Act 22-391; 65 DCR 7144); and from the Omnibus Plublic Safety and Justice Amendment Act of 2019, effective May 10, 2019 (D.C. Law 22-313; D.C. Official Code §1-301.88f)

Amount of Award: Eligible organizations will be awarded up to $796,000.00 per site.

Eligible Applicants:

*Eligible applicants are limited to***:** Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;

Applicants may develop collaborations or partnerships to carry out the goals and objectives of the RFA, preferably with District-based organizations with substantial experience working with and serving target communities chosen for Cure the Street sites.

Period of Performance: date of execution through September 30, 2021**.**

Grant Information Sessions: The Violence Reduction division will host multiple information sessions. Details about the information sessions will be posted at https://oag.dc.gov/public-safety.

Request for Application (RFA) release date: Wednesday, June 24, 2020. The RFA for this competitive grant program will be available on OAG's website at www.oag.dc.gov

Deadline for Electronic Submission: Applications are due by Wednesday, August 5, 2020, and must be submitted through ZoomGrants, OAG's online grant management system.

For more information on this grant, please email LaToyia Hampton at curethestreets@dc.gov.

CARLOS ROSARIO PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Laptops

The Carlos Rosario International Public Charter School seeks qualified proposals for the purchase of approximately 1500 laptops. HP is the preferable brand, however other manufacturers will be considered. The bulk of the laptops (about 1300) will be used to facilitate distance learning for students so should be as cost efficient as possible while still maintaining a high degree of reliability. The remaining laptops will be designated for staff use and will need to have more robust capabilities while keeping costs contained. Each laptop should ship with the latest release of Windows 10 Pro. We may want to include a Sim card in each laptop so please include that as an option. Please also provide a separate cost to configure the laptops to our specifications should we decide to go that route. Questions and completed proposals should be directed to Fernando Sugaray at fsugaray@carlosrosario.org. Proposals are due by 5p on June 19, 2020 via email to Fernando Sugaray with a copy to Gwenever Ellis at gellis@carlosrosario.org.

OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS

Notice of Increase in the
Applicable Dollar Amount for Computation of
the District's Shared Responsibility Payment
for Tax Year 2020

Per D.C. Code § 47-5102, nonexempt individuals and dependents of nonexempt individuals must have minimum essential health insurance coverage or pay the District's shared responsibility payment for each month without such coverage beginning after December 31, 2018.

Per 9 DCMR §3904.04, the applicable dollar amount for computation of the shared responsibility payment shall be equal to six hundred ninety-five dollars ($695) for the tax year beginning after December 31, 2018 and increased annually beginning with the tax year commencing after December 31, 2019 by the cost-of-living adjustment.[1]

The Washington Area Average CPI value for calendar year 2018:	261.45
The Washington Area Average CPI value for calendar year 2019:	264.78
The percent change in the index for the above time period:	1.27%

Therefore, for tax year 2020:

- **the Applicable Dollar Amount shall remain** **$695.00**

A Summary of Applicable Dollar Amount for Computation of the District's Shared Responsibility Payment for Tax Year 2020			
	Base Amounts	**CPI Adjustment Factor***	**2020 Amount**
Applicable Dollar Amount	$695.00	1.0127	$695.00

* Source: U.S. Bureau of Labor Statistics, data accessed May 4, 2020

[1] If the adjustment does not result in a multiple of fifty dollars ($50), it shall be rounded down to the next lowest multiple of $50.

OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS

Notice of Increase in the Keep Child Care Affordable Tax Credit and Income Thresholds for Tax Year 2020

I. The Keep Child Care Affordable Tax Credit

Per D.C. Code § 47-1806.15, the Keep Child Care Affordable Tax Credit for tax year 2020 is adjusted in the following manner:

The Washington Area Average CPI value for calendar year 2018:	261.45
The Washington Area Average CPI value for calendar year 2019:	264.78
The percent change in the index for the above time period:	1.27%

Therefore, for tax year 2020[1]:

- **the Keep Child Care Affordable Tax Credit will be $1,010.00**

II. The Income Thresholds by Tax Filer Status

Per D.C. Code § 47-1806.15, the Keep Child Care Affordable Tax Credit eligibility income threshold amount by Tax Filer Status for tax year 2020 is adjusted in the following manner:

The Washington Area Average CPI value for calendar year 2018:	261.45
The Washington Area Average CPI value for calendar year 2019:	264.78
The percent change in the index for the above time period:	1.27%

Therefore, for tax year 2020[2]:

- **For single and head of household tax filers the maximum eligible income shall be $151,900.00**
- **For married filing jointly tax filers the maximum eligible income shall be $151,900.00**
- **For married filing separate tax filers the maximum eligible income shall be $75,900.00**

[1] Annual dollar amount changes are rounded down to the nearest $5.00 increment.
[2] Annual dollar amount changes are rounded down to the nearest $100.00 increment.

A Summary of the Keep Child Care Affordable Credit and Income Threshold Amounts for Tax Year 2020			
	Base Amounts	**CPI Adjustment Factor***	**2020 Amounts**
Keep Child Care Affordable Maximum Credit	$1,000.00	1.0127	$1,010.00
Maximum Eligible Income for			
• single and head of household tax filers	$150,000.00	1.0127	$151,900.00
• married filing jointly tax filers	$150,000.00	1.0127	$151,900.00
• married filing separate tax filers	$75,000.00	1.0127	$75,900.00

* Source: U.S. Bureau of Labor Statistics, data accessed May 4, 2020

OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS

Notice of Increase in the Tax Year 2021 Surtax for Cigarette Packages in the District of Columbia

Pursuant to D.C. Code § 47-2402(a)(3)(A), the District of Columbia shall provide notice of the appropriate calculated surtax on a package of cigarettes on or before September 1st of each year for the upcoming tax year that begins on October 1st. The calculated surtax levy shall be equivalent to a levy of the general sales tax rate in effect for the upcoming tax year.

Under D.C. Code Ann. § 47-2402.01(a)(2)(A), on March 31 of each year, The District is required to re-evaluate the percentage of the sum of the cigarette tax and surtax applied over the average wholesale price of a package of cigarettes calculated for the previous year. In March 2014, the Office of Revenue Analysis (ORA) collected retail sale price data on packages of 20 cigarettes from a cross section of retail outlets in the city to determine the average sale price. In 2020, as in recent previous years, ORA used the Bureau of Labor Statistics' Consumer Price Index (CPI) for all urban consumers, to compare prices of cigarettes in the current year with prices of cigarettes in the previous year and to compute the percentage change in prices. The retail sales tax rate (applicable to the surtax on cigarettes) is 6% (effective October 1, 2018). Comparing average cigarette prices for 2019 and 2018 and the percentage change in prices, and applying the retail sales tax rate, ORA has determined that the 2020 average retail sale price of a package of 20 cigarettes in the city is $9.82, and the calculated surtax for tax year 2020 shall be $0.50 per pack of cigarettes. This is an increase of $0.02 over the surtax for tax year 2019. The surtax will be re-evaluated in the Spring of 2021.

A package of cigarettes is defined as one with 20 or fewer cigarettes. However, if a package of cigarettes sold in tax year 2020 contains more than 20 cigarettes, the surtax per pack must be incrementally increased by $0.025 per each cigarette above 20.

Calculated Surtax on a Package of 20 Cigarettes (or Fewer) For Tax Year 2021	
2020 Average Retail Sale Price for a Package of 20 Cigarettes	$9.82
Less Current Surtax & Estimated Costs of Business	-$1.46
Adjusted Average Retail Sales Price	$8.36
Calculated Surtax (Sales Tax Equivalent) Effective October 1, 2020	**$0.50**

Effective October 1, 2020, the above surtax of $0.50 per pack of cigarettes is in addition to the cigarette excise tax of $4.50 per pack. Thus, the total tax levy for cigarettes in the District of Columbia for tax year shall be $5.00 per pack of 20.

OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS

Notice of Increases in the Schedule H Maximum Credit and Income Thresholds for Tax Year 2020

I. The Schedule H Maximum Credit

Per the D.C. Code § 47-1806.06, the Schedule H Maximum Credit amount (pertaining to the Individual Income Tax) for tax year 2020 is adjusted in the following manner:

The Washington Area Average CPI value for calendar year 2018:	261.45
The Washington Area Average CPI value for calendar year 2019:	264.78
The percent change in the index for the above time period:	1.27%

Therefore, for tax year 2020[1]:

- **the Schedule H Maximum Credit amount shall remain $1,200.00**

II. The Schedule H Income Threshold (Non-Seniors)

Per the D.C. Code § 47-1806.06, the Schedule H eligibility income threshold amount for non-seniors (pertaining to the Individual Income Tax) for tax year 2020 is adjusted in the following manner:

The Washington Area Average CPI value for calendar year 2018:	261.45
The Washington Area Average CPI value for calendar year 2019:	264.78
The percent change in the index for the above time period:	1.27%

Therefore, for tax year 2020[2]:

- **the Schedule H eligibility income threshold amount for non-seniors shall be $55,700.00**

[1] Annual dollar amount changes are rounded down to the nearest $25.00 increment.
[2] Annual dollar amount changes are rounded down to the nearest $100.00 increment.

III. The Schedule H Income Threshold (Seniors)

Per the D.C. Code § 47-1806, et seq., the Schedule H eligibility income threshold amount for seniors (pertaining to the Individual Income Tax) for tax year 2020 is adjusted in the following manner:

The Washington Area Average CPI value for calendar year 2018:	261.45
The Washington Area Average CPI value for calendar year 2019:	264.78
The percent change in the index for the above time period:	1.27%

Therefore, for tax year 2020[3]:

- **the Schedule H eligibility income threshold amount for seniors shall be $75,900.00**

A Summary of Schedule H Credit and Income Threshold Amounts for Tax Year 2020			
	Base Amounts	**CPI Adjustment Factor***	**2020 Amounts**
Schedule H Maximum Credit	$1,200.00	1.0127	$1,200.00
Schedule H Income Threshold (non-senior)	$55,000.00	1.0127	$55,700.00
Schedule H Income Threshold (senior)	$75,000.00	1.0127	$75,900.00

* Source: U.S. Bureau of Labor Statistics, data accessed May 4, 2020

[3] Annual dollar amount changes are rounded down to the nearest $100.00 increment.

OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS

Notice of Tax Rate on Other Tobacco Products for Tax Year 2021

Pursuant to D.C. Code § 47-2402.01, the District of Columbia shall provide notice of the tax rate on other tobacco products on or before September 1st of each year for the upcoming tax year that begins on October 1st. The tax for other tobacco products shall be equal to the cigarette tax and surcharge on a pack of 20 cigarettes under § 47-2402(a)(1)-(2), expressed as a percentage of the average wholesale price of a package of 20 cigarettes on March 31st, preceding the September 1st announcement of the change in rates.

The Office of Revenue Analysis (ORA) collected wholesale price data from the United States Department of Labor: Bureau of Labor Statistics. Based on the analysis of the data, ORA has determined that the average wholesale price of a package of 20 cigarettes in the District as of April 1, 2020 was $5.52. The Budget Support Act of 2018 (Bill 22-753), increased the cigarette tax rate to $4.50 per pack of 20 cigarettes starting October 1, 2018. The retail sales tax rate (applicable to the surtax on cigarettes) is 6%, effective October 1, 2018. The tax and surtax on a package of cigarettes, effective October 1, 2020 will be $5.00. The calculated tax that shall be applicable to other tobacco products for tax year 2021 is 91%.

Calculated Tax on Other Tobacco Products for Tax Year 2021	
2020 Average Wholesale Price for a Package of 20 Cigarettes	$5.52
Tax on a Package of 20 Cigarettes	$4.50
Surtax on a Package of 20 Cigarettes	$0.50
Total tax on a Package of 20 Cigarettes	$5.00
Total Tax on a Package of Cigarettes as a Percent of Wholesale Price	91%

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 (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permits (Nos. 6370-R1 and 6371-R1) to Service King Paint & Body, LLC to operate two down draft Garmat® USA Zephyr paint spray booths at the facility located at 4121 13th Street NW, Washington DC 20011. The contact person for the facility is Thomas W. Burton at (972) 960-7595.

Emissions Estimate:

AQD estimates that the potential to emit volatile organic compounds (VOC) from each of the automotive paint spray booths will not exceed 3.12 tons per year.

The proposed emission limits are as follows:

a. No chemical strippers containing methylene chloride (MeCl) shall be used for paint stripping at the facility. [20 DCMR 201.1]

b. The Permittee shall not use or apply to a motor vehicle, mobile equipment, or associated parts and components, an automotive coating with a VOC regulatory content calculated in accordance with the methods specified in this permit that exceeds the VOC content requirements of Table I below. [20 DCMR 718.3]

Table I. Allowable VOC Content in Automotive Coatings for Motor Vehicle and Mobile Equipment Non-Assembly Line Refinishing and Recoating

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Adhesion promoter	4.5	540
Automotive pretreatment coating	5.5	660
Automotive primer	2.1	250
Clear coating	2.1	250
Color coating, including metallic/iridescent color coating	3.5	420
Multicolor coating	5.7	680
Other automotive coating type	2.1	250
Single-stage coating, including single-stage metallic/iridescent coating	2.8	340
Temporary protective coating	0.50	60
Truck bed liner coating	1.7	200

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Underbody coating	3.6	430
Uniform finish coating	4.5	540

*VOC regulatory limit as applied = weight of VOC per volume of coating (prepared to manufacturer's recommended maximum VOC content, minus water and non-VOC solvents)

c. Each cleaning solvent present at the facility shall not exceed a VOC content of twenty-five (25) grams per liter (twenty-one one-hundredths (0.21) pound per gallon), calculated in accordance with the methods specified in this permit, except for [20 DCMR 718.4]:

1. Cleaning solvent used as bug and tar remover if the VOC content of the cleaning solvent does not exceed three hundred fifty (350) grams per liter (two and nine-tenths (2.9) pounds per gallon), where usage of cleaning solvent used as bug and tar remover is limited as follows:

A. Twenty (20) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with four hundred (400) gallons or more of coating usage during the preceding twelve (12) calendar months;

B. Fifteen (15) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with one hundred fifty (150) gallons or more of coating usage during the preceding twelve (12) calendar months; or

C. Ten (10) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with less than one hundred fifty (150) gallons of coating usage during the preceding twelve (12) calendar months;

2. Cleaning solvents used to clean plastic parts just prior to coating or VOC-containing materials for the removal of wax and grease provided that non-aerosol, hand-held spray bottles are used with a maximum cleaning solvent VOC content of seven hundred eighty (780) grams per liter and the total volume of the cleaning solvent does not exceed twenty (20) gallons per consecutive twelve-month (12) period per automotive refinishing facility;

3. Aerosol cleaning solvents if one hundred sixty (160) ounces or less are used per day per automotive refinishing facility; or

4. Cleaning solvent with a VOC content no greater than three hundred fifty (350) grams per liter may be used at a volume equal to two-and-one-half percent (2.5%) of the preceding calendar year's annual coating usage up to a maximum of fifteen (15) gallons per calendar year of cleaning solvent.

d. The Permittee may not possess either of the following [20 DCMR 718.9]:

1. An automotive coating that is not in compliance with Condition (b) (relating to coating VOC content limits); and

2. A cleaning solvent that does not meet the requirements of Condition (c) (relating to cleaning solvent VOC content limits).

e. 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]

f. Visible emissions shall not be emitted into the outdoor atmosphere from the paint booths. [20 DCMR 201.1, 20 DCMR 606, and 20 DCMR 903.1]

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours, P.E.
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 July 6, 2020 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

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 permit No. 6550-R2 to Monumental Concrete, LLC, to operate an existing ready mix concrete batch plant, located at 3 DC Village Lane SW, Washington DC. The contact person for the facility is Rebecca McCollum, General Manager, at 202-563-5209.

Emissions:

Based on the emission calculations provided by the facility, the ready mix concrete batch plant has the potential to emit the following:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	2.78
Sulfur Dioxide (SO_2)	0.02
Nitrogen Oxides (NOx)	1.69
Volatile Organic Compounds (VOC)	0.02
Carbon Monoxide (CO)	0.42

The proposed emission limits are as follows:

a. Emissions of dust shall be minimized in accordance with the requirements of 20 DCMR 605 and the "Operational Limitations" of this permit.

b. The emission of fugitive dust from any material handling, screening, crushing, grinding, conveying, mixing, or other industrial-type operation or process is prohibited. [20 DCMR 605.2]

c. The discharge of total suspended particulate matter into the atmosphere from any process shall not exceed three hundredths (0.03) grains per dry standard cubic foot of the exhaust. [20 DCMR 603.1]

d. The discharge of total suspended particulate matter from the ready mix concrete batch plant shall not exceed 40 pounds per hour. [20 DCMR 603.1 and Appendix 6-1]

e. Total suspended particulate matter emissions from the boiler shall not exceed 0.13 pounds per million BTU of heat input. [20 DCMR 600.1]

f. Visible emissions shall not be emitted from the equipment covered by this permit except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in

any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment. [20 DCMR 606.1]

g. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The application to operate an existing ready mix concrete batch plant and the draft permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permits.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after July 6, 2020 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

GIRLS GLOBAL ACADEMY PUBLIC CHARTER HIGH SCHOOL

REQUEST FOR PROPOSAL (RFP)

Girls Global Academy Public Charter School is seeking proposals from individuals or companies to provide the following services for the 2020-2021 school year:

> **Security Services** including daily on site coverage from 7:30 AM to 5:00 PM on school days. To request a full copy of the RFP, send email to the Point of Contact, jason@girlsglobalacadmy.org. Send your proposal by **12 (noon) on June 15th 2020** via e-mail to: jason@girlsglobalacademy.org.

Proposals that do not address the areas as outlined in the RFPs or proposals received past the deadline will not be considered.

For additional information, please contact: jason@grlsglobalacademy.org.

DEPARTMENT OF HEALTH CARE FINANCE

PUBLIC NOTICE

MEDICAID FEE SCHEDULE UPDATES FOR PERSONAL CARE AIDE (PCA) SERVICES

The Department of Health Care Finance (DHCF), in accordance with the requirements in 29 DCMR §§ 988.4 and 5015.3, announces changes to the Medicaid reimbursement rates for PCA services provided by Home Health Agencies. The changes to the rates will become effective on July 1, 2020.

The PCA services reimbursement rates are adjusted to reflect the annual rate changes to the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.01 *et seq.* (2012 Repl.)).

The table below provides a listing of both the billing codes and new rates for PCA services.

Code	Service Description	Reimbursement Rate
T1019-NP	State Plan	$ 21.84 Per Hour, $5.46 per 15 minutes
T1019-UT	Personal Care Aide Services	$ 21.84 Per Hour, $5.46 per 15 minutes
T1019-52	Personal Care Service Per 15 Min	$ 21.84 Per Hour, $5.46 per 15 minutes
T1019-U3	EPD Waiver Services Per 15 Min	$ 21.84 Per Hour, $5.46 per 15 minutes
T1019-NP-U3	EPD Waiver Services Per 15 Min	$ 21.84 Per Hour, $5.46 per 15 minutes
T1019-UT-U3	ASSESSED AND SERVICES BEING TERMINATED	$ 21.84 Per Hour, $5.46 per 15 minutes
T1019-52-U3	ASSESSED AND SERVICES BEING REDUCED	$ 21.84 Per Hour, $5.46 per 15 minutes

The PCA rates will be included on the Medicaid Fee Schedule and will become effective July 1, 2020. The Medicaid Fee Schedule for the PCA services is located on the DHCF website at https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload.

If you have any questions, please contact Andrea Clark, Reimbursement Analyst, Office of Rates Reimbursement and Financial Analysis, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, or email at andrea.clark@dc.gov or (202) 724-4096.

DEPARTMENT OF HEALTH CARE FINANCE

PUBLIC NOTICE

MEDICAID FEE SCHEDULE UPDATES FOR THE HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES (EPD)

The Department of Health Care Finance (DHCF), in accordance with the requirements set forth in 29 DCMR §§ 988.4 and 4209.7, announces changes to the Medicaid reimbursement rates for EPD waiver services. The changes to the rates will become effective on July 1, 2020.

The EPD reimbursement rates are adjusted to reflect the annual rate changes to the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.01 *et seq*. (2012 Repl.)).

DHCF is increasing the reimbursement rates for five (5) EPD Waiver services as follows: (1) Personal Care Aide (PCA) Services, 29 DCMR § 4211; (2) Respite Services, 29 DCMR § 4213; (3) Homemaker Services, 29 DCMR § 4214; (4) Chore Aide Services, 29 DCMR § 4215; (5) Assisted Living Services, 29 DCMR § 4216. For Personal Emergency Response Service (PERS), 29 DCMR § 4212; Environmental Accessibility Adaptations Services, 29 DCMR § 4217 and Community Transition Services, 29 DCMR § 4221, DHCF has not changed the reimbursement rates.

These reimbursement rates for each service will be included on the Medicaid Fee Schedule for the EPD Waiver and will become effective on July 1, 2020. The Medicaid Fee Schedule for the EPD Waiver is located on the DHCF website at https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload.

If you have any questions, please contact Andrea Clark, Reimbursement Analyst, Office of Rates Reimbursement and Financial Analysis, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, or email at andrea.clark@dc.gov or (202) 724-4096.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Audiology & Speech-Language Pathology ("Board") hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a quarterly basis and the next meeting will be held on Monday, June 15, 2020 from 2:00 PM – 5:00 PM. The meeting will be open to the public from 2:00 PM until 2:30 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 2:30 PM to 5:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:
Webex meeting number (access code): 471 887 216
Password: GiX27bFSkv4
https://dcnet.webex.com/dcnet/j.php?MTID=m30c62265393619c5b668e89c317e6a98

By phone
1-650-479-3208 Call-in toll number (US/Canada)
Access code: 471 887 216

The Board's next meetings for the year 2020 will be held at the same time on Monday, September 21, 2020 and Monday, December 21, 2020.

The agenda is available at https://dchealth.dc.gov/node/1170311. For additional information, contact the Health Licensing Specialist at ashley.balma@dc.gov or (202)724-8819.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Dietetics and Nutrition ("Board") hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a quarterly basis and the next meeting will be held on Tuesday, June 9, 2020 from 9:00 AM – 12:00 PM. The meeting will be open to the public from 9:00 AM until 9:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 9:30 AM to 12:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:
Webex meeting number (access code): 478 633 378
Password: hKJ8PZCpa27
https://dcnet.webex.com/dcnet/j.php?MTID=m10ce943b849e1d63b5b5e9c38f84ec7b

By phone
1-650-479-3208 Call-in toll number (US/Canada)
Access code: 478 633 378

The Board's next meetings for the year 2020 will be held at the same time on Tuesday, September 8, 2020 and Tuesday, December 8, 2020.

The agenda is available at https://dchealth.dc.gov/page/board-agendas-Dietetics%20and%20Nutrition. For additional information, contact the Health Licensing Specialist at ashley.balma@dc.gov or (202)724-8819.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Occupational Therapy ("Board") hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a quarterly basis and the next meeting will be held on Monday, June 15, 2020 from 2:00 PM – 5:00 PM. The meeting will be open to the public from 2:00 PM until 2:30 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 2:30 PM to 5:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:
Webex meeting number (access code): 473 153 723
Password: HxWn4pRxv33
https://dcnet.webex.com/dcnet/j.php?MTID=m9b77c4fde33477cdb9456dd5be299903

By phone
1-650-479-3208 Call-in toll number (US/Canada)
Access code: 473 153 723

The Board's next meetings for the year 2020 will be held at the same time on Monday, September 21, 2020 and Monday, December 21, 2020.

The agenda is available at https://dchealth.dc.gov/event/board-occupational-therapy-calendar-and-meeting. For additional information, contact the Health Licensing Specialist at mavis.azariah@dc.gov or (202) 442-4782.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Professional Counseling ("Board") hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

The Board meets monthly on the second Friday of each month from 10:00 AM to 1:00 PM. The meeting will be open to the public from 10:00 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 10:30 AM to 1:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:
Meeting number: 475 199 633
Password: b5aXwWhTi49
https://dcnet.webex.com/dcnet/j.php?MTID=m0d5d7c16ea055f3350294ef4e11c3f95

By phone:
1-650-479-3208 Call-in toll number (US/Canada)
Access code: 475 199 633

The agenda is available at https://dchealth.dc.gov/page/board-professional-counseling-open-session-agendas. For additional information, contact the Health Licensing Specialist at david.walker2@dc.gov or (202) 727-1611.

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF PUBLIC MEETING

Homeland Security Commission

June 10, 2020

2:00 p.m. to 3:30 p.m.

Virtual Meeting via WebEx: 1-650-479-3208; access code: 160 506 1334

On June 10, 2020 at 2:00 p.m., the Homeland Security Commission (HSC) will hold a meeting that may proceed into closed session pursuant to D.C. Code § 2-575(b), D.C. Code § 7-2271.04, and D.C. Code § 7-2271.05, for the purpose of discussing the annual report.

The meeting will be held remotely via WebEx. For additional information, please contact Dion Black, General Counsel, by phone at 202-481-3011 or by email at dion.black1@dc.gov.

INGENUITY PREP PUBLIC CHARTER SCHOOL

NOTICE: REQUEST FOR PROPOSALS

The Ingenuity Prep Public Charter School solicits proposals for the following services:

- Classroom and Office Furniture

Full RFP available by request. Proposals shall be emailed as PDF documents no later than 5:00 PM on Tuesday, June 16, 2020. Contact: bids@ingenuityprep.org

THE NOT FOR PROFIT HOSPITAL CORPORATION
BOARD OF DIRECTORS
NOTICE OF PUBLIC MEETING
LARUBY Z. MAY, BOARD CHAIR

The monthly Governing Board meeting of the Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will convene at 12:00pm on Wednesday, May 27th, 2020. Due to the Coronavirus pandemic, the meeting will be held via Webex.

Meeting link:
https://unitedmedicalcenter.webex.com/unitedmedicalcenter/j.php?MTID=m411e1e31e2052b19b59ee2a060cfb7b3
Meeting number:717 322 395 Password: cBZYg9xeW73

Notice of a location, time change, or intent to have a closed meeting will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

DRAFT AGENDA

I. DETERMINATION OF A QUORUM
II. APPROVAL OF AGENDA
III. READING OF APPROVAL OF MINUTES
    April 22, 2020
IV. CONSENT AGENDA
    A. Dr. Raymond Tu, Chief Medical Officer
    B. Dr. Marilyn McPherson-Corder, Medical of Staff
    C. Dr. Jacqueline Payne-Borden, Chief Nursing Officer
V. EXECUTIVE MAMAGEMENT REPORT
    A. Colene Daniel, Chief Executive Officer
VI. CORPORATE SECRETARY REPORT
    A. Toya Carmichael, VP Public Relations/Corporate Secretary
VII. NFPH
VIII. PUBLIC COMMENTS
IX. OTHER BUSINESS
    A. Old Business
    B. New Business
X. ANNOUNCEMENTS
XI.ADJOURN

NOTICE OF INTENT TO CLOSE. The NFPHC Board hereby gives notice that it may close meeting and move to executive session to discuss collective bargaining agreements, personnel, and discipline matters. D.C. Official Code §§2-575(b)(1)(2)(4A)(5),(9),(10),(11),(14).

Government of the District of Columbia
Public Employee Relations Board

In the Matter of	
Fraternal Order of Police/ Protective Services Division Labor Committee	
Petitioner	PERB Case No. 18-U-01
v.	Opinion No. 1739
District of Columbia Department of General Services	
Respondent	

DECISION AND ORDER

I. Statement of the Case

On October 9, 2017, the Fraternal Order of Police/Protective Services Division Labor Committee (FOP) filed an Unfair Labor Practice Complaint (Complaint) against the Department of General Services (DGS). FOP alleged violations of D.C. Official Code § 1-617.04(a)(1) and (5), asserting DGS unilaterally implemented a change in a parking policy of providing free worksite parking. FOP claimed that the parking policy was a mandatory subject of bargaining and that DGS failed to bargain in good faith.[1] Among other remedies, FOP requested attorney fees and back pay.

On November 22, 2017, DGS filed an Answer to the Complaint. DGS raised the affirmative defense that it did not have a past practice of free worksite parking and requested dismissal of the Complaint.[2] DGS also asserted that the bargaining unit employees' compensation agreement covered parking and that the Board did not have jurisdiction over the Complaint.

On April 29, 2019, the Hearing Examiner issued his Report and Recommendation (Report). The Hearing Examiner found that DGS committed an unfair labor practice by unilaterally

[1] Compl. at 2.
[2] Answer at 3.

implementing a change in the parking policy and failing to negotiate with FOP upon request.[3] DGS filed Exceptions, arguing that the Hearing Examiner's Report and Recommendation is contrary to law, unreasonable, and inconsistent with PERB precedent.[4] FOP filed an Opposition to DGS's Exceptions.[5]

The Board adopts the Hearing Examiner's Report and Recommendation finding that DGS violated D.C. Official Code § 1-617.04(a)(1) and (5).

For the reasons stated herein, the Board finds that an award of attorney fees is an available remedy within the Board's jurisdiction in accordance with the Federal Back Pay Act (Back Pay Act)[6] and the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA).[7] Therefore, the Board overturns its prior precedents and remands the attorney fees issues to the Hearing Examiner for further consideration.[8]

II. Hearing Examiner's Report and Recommendation

A. Background

FOP represents approximately sixty-five (65) protective service officers who serve as the police force for DGS in the Protective Services Division. The officers are responsible for law enforcement and the physical security of government property.[9]

The Protective Services Division was previously headquartered at 1900 Massachusetts Avenue SE. At that location, bargaining unit employees parked for free at the former D.C. General Hospital's campus.[10] Parking was open to the public on a first-come, first-serve basis. Bargaining unit employees parked in a fenced-in area within the larger public lot.[11] Although the parking area was fenced-in, DGS did not pay for parking.[12]

At some point, the Protective Services Division began the process of relocating its headquarters from 1900 Massachusetts Avenue to its current location at 64 New York Avenue NE.[13] DGS was aware that the relocation of the headquarters would lead to a change in the parking conditions for bargaining unit employees.[14]

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[3] Report at 25.
[4] Resp't Exceptions to Report filed May 24, 2019.
[5] Opp'n to Exceptions to Report filed June 7, 2019.
[6] 5 U.S.C.A. § 5596.
[7] D.C. Law 2-139, D.C. Official Code § 1-601.01 *et seq*. (2016 Repl.)
[8] *E.g.*, *UDCFA/NEA v. UDC*, Slip Op. No. 272 at 5, PERB Case No. 90-U-10 (1991) (holding that the Board is not authorized to award attorney fees).
[9] Report at 5.
[10] Report at 5.
[11] Report at 5. The Hearing Examiner found no evidence of who constructed the fence marking the boundaries of the Protective Services Division employee parking.
[12] Report at 5.
[13] Report at 5.
[14] Report at 5.

Prior to the move, DGS addressed the changes anticipated by the relocation with Protective Services Division employees. On April 7, 2014, a DGS management official sent an email to the Protective Services Division employees stating that "the Director of DGS had confirmed [that the Protective Services Division] should have subsidized parking based on its mission for the city."[15]

By October 2014, the Office of Labor Relations and Collective Bargaining (OLRCB) and FOP counsel discussed the Protective Services Division relocation and free worksite parking.[16] The parties agreed to a pilot parking program that provided 20-25 parking spaces for bargaining unit employees to use over the course of three shifts.[17] Following the relocation, DGS issued parking passes to bargaining unit employees that allowed free parking at 64 New York Avenue.[18]

In or around May 2017, construction began at the 64 New York Avenue parking lot to convert it into a multi-level garage.[19] After construction began, DGS reviewed the parking privileges of bargaining unit employees.[20] On September 29, 2017, DGS canceled the bargaining unit employees' parking passes and subsequently required bargaining unit employees to pay for parking.[21] Bargaining unit employees had free parking from October 2014 to October 2017.[22]

B. Hearing Examiner's Recommendations

The Hearing Examiner determined that employee parking was a mandatory subject of bargaining and that the parties' collective bargaining agreement was silent on the topic.[23] The Hearing Examiner found that the parties established a past practice of free worksite parking that was known, accepted by, and readily ascertainable.[24] The Hearing Examiner concluded that the provision of free parking for three years constituted a binding past practice and an implied term and condition of employment.[25]

The Hearing Examiner found that DGS recognized its obligation to provide free worksite parking, reached an agreement on a pilot parking program, and issued parking passes to all bargaining unit employees.[26] The Hearing Examiner determined that DGS refused to bargain upon FOP's demand after the cancelation of free worksite parking.[27] The Hearing Examiner rejected two defenses proffered by DGS: (1) DGS managers were unauthorized to approve the free worksite

[15] Report at 5.
[16] Report at 6.
[17] Report at 7.
[18] Report at 7.
[19] Report at 7.
[20] Report at 7.
[21] Report at 7-8.
[22] Report at 19.
[23] Report at 17.
[24] Report at 19.
[25] Report at 19.
[26] Report at 19.
[27] Report at 20.

parking, and (2) the District cannot pay for commuter parking.[28] Thus, the Hearing Examiner found DGS violated D.C. Official Code § 1- 617.04(a)(1) and (5).[29]

III. Discussion

Under Board Rule 520.11, "[t]he party asserting a violation of the CMPA shall have the burden of proving the allegations of the complaint by a preponderance of the evidence." The Board has held that "issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner."[30] The Board will adopt a Hearing Examiner's Report and Recommendation if it is reasonable, supported by the record, and consistent with Board precedent.[31]

A. DGS's Exceptions

DGS filed Exceptions, contesting the Hearing Examiner's finding that DGS committed an unfair labor practice. DGS challenges the Hearing Examiner's (1) admission of witness testimony into evidence, (2) application of appropriations law, and (3) determination that free worksite parking was a past practice and mandatory subject of bargaining.

1. Witness Testimony

In the Report, the Hearing Examiner addressed DGS's objection at the hearing, which was renewed in DGS's post-hearing brief.[32] DGS objected to the participation of FOP's prior counsel in the hearing as a fact witness.[33]

The hearing was scheduled for January 9, 2019. On January 7, 2019, FOP entered a notice of appearance for new counsel into the record.[34] On January 8, 2019, DGS received an amended witness list naming FOP's prior counsel as a witness.[35] DGS objected on the grounds that testimony from FOP's prior counsel would violate Rule 3.7 of the D.C. Rules of Professional Conduct.[36] FOP's prior counsel also withdrew from the case at the hearing and was sequestered as

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[28] Report at 20-21.
[29] Report at 20.
[30] *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 5, PERB Case No. 15-U-28 (2018). *See Council of Sch. Officers, Local 4 v. DCPS,* 59 D.C. Reg. 6138, Slip Op. No. 1016 at 6, PERB Case No. 09-U-08 (2010).
[31] *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 6, PERB Case No. 15-U-28 (2018). *See AFGE, Local 1403 v. D.C. Office of the Attorney General*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012).
[32] Report at 3.
[33] Report at 3.
[34] Report at 3.
[35] Report at 3.
[36] Rules of Professional Conduct: Rule 3.7--Lawyer as Witness
(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where:
(1) The testimony relates to an uncontested issue;
(2) The testimony relates to the nature and value of legal services rendered in the case; or

a witness before the new FOP counsel began its case-in-chief.[37] The Hearing Examiner overruled DGS's objection and permitted the testimony of FOP's prior counsel.[38]

In its Exceptions, DGS argues that the testimony of FOP's prior counsel was accepted uncritically[39] and should have been prevented by Rule 3.7 of the D.C. Rules of Professional Conduct.[40] FOP opposes DGS's Exception, arguing that DGS's argument is nothing more than a disagreement with the Hearing Examiner and provides no basis for the reversal of the Hearing Examiner's factual findings.[41]

The Board finds the Hearing Examiner's ruling on DGS's objection was reasonable. Hearing Examiners have broad powers in determining the admissibility of evidence.[42] Rule 3.7 of the D.C. Rules of Professional Conduct prohibits a lawyer from acting as an advocate at a trial in which the lawyer is likely to be a necessary witness. Rule 3.7 is primarily concerned with instances where trial counsel takes the stand.[43] The prohibitions found in Rule 3.7 prevent conflicts that arise when an attorney places their own credibility at issue in litigation.[44] Such combined roles may prejudice the client when the attorney testimony is impeached on cross-examination, or may prejudice the opposing party, when the attorney testimony is given undue weight by the fact-finder because of the dual role.[45]

Here, FOP's prior counsel, whose name had been added to the witness list on January 8, withdrew on the record at the beginning of the hearing, and was thereafter sequestered as a witness before the opening of the case-in-chief.[46] The potential prejudice to the opposing party was avoided because FOP's prior counsel did not appear in dual roles. FOP's prior counsel did not act as trial

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(3) Disqualification of the lawyer would work substantial hardship on the client.

(b) A lawyer may not act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness if the other lawyer would be precluded from acting as advocate in the trial by Rule 1.7 or Rule 1.9. The provisions of this paragraph (b) do not apply if the lawyer who is appearing as an advocate is employed by, and appears on behalf of, a government agency (District of Columbia Bar 2007).

[37] Report at 3.

[38] Report at 3.

[39] Resp't Exceptions at 19. The Board will not evaluate the probative weight given to FOP's prior counsel's testimony because the Board does not find a violation of Rule 3.7 of the D.C. Professional Rules of Conduct. Such determinations are reserved for the Hearing Examiner. *See WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 5, PERB Case No. 15-U-28 (2018).

[40] Resp't Exceptions at 18.

[41] Opp'n to Exceptions at 7.

[42] *See* PERB Rule 550.13(f), "Hearing Examiners shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. Hearing Examiners shall have all powers necessary to that end including, but not limited to, the power to: (f) Call and examine witnesses and introduce or exclude documentary or other evidence." *See also,* PERB Rule 550.16, "In hearings before Hearing Examiners, strict compliance with the rules of evidence applied by the courts shall not be required. The Hearing Examiner shall admit and consider proffered evidence that possesses probative value. Evidence that is cumulative or repetitious may be excluded."

[43] *Coleman v. United States*, 948 A.2d 534, 546 (D.C. 2008).

[44] *S.S. v. D.M.*, 597 A.2d 870, 877 (D.C. 1991).

[45] *Id.*

[46] Tr. at 10-13.

counsel; therefore, she was not prohibited by the D.C. Rules of Professional Conduct from providing testimony as a witness. The Hearing Examiner's decision to permit the testimony of FOP's prior counsel was reasonable and supported by the record.[47]

2. Law and Policy of Appropriations and Collective Bargaining

In the Report, the Hearing Examiner considered DGS's argument that it relied upon a November 2018 memorandum issued by the D.C. Office of Attorney General to support its cancelation of free worksite parking.[48] DGS acknowledged that the November 2018 memorandum did not prohibit expenditures on worksite parking, but provided a narrow "necessary expense" exception to the rule that agencies may not provide free worksite parking.[49] Nevertheless, DGS argued that the "necessary expense" exception did not apply; therefore, DGS was prohibited from paying a third-party vendor for worksite parking.[50] The Hearing Examiner found that DGS failed to provide credible, material evidence for its argument. The Hearing Examiner found that evidence and testimony based on the November 2018 memorandum amounted to a *post hoc* legal opinion that did not specifically prohibit the free worksite parking policy.[51]

In its Exceptions, DGS argues that 31 U.S.C § 1301(a) and 31 U.S.C. § 1341 prohibits the District from making expenditures for personal expenses except when the expenditure is a "necessary expense."[52] A "necessary expense" means that the lack of an expenditure would significantly impair the operating efficiency of the agency, which would be detrimental to the hiring and retention of personnel.[53] DGS argues that it did not apply the "necessary expense" exception to the free worksite parking policy; therefore, it did not have the discretion to pay a third-party vendor for free worksite parking.[54]

The Board finds DGS's Exception unconvincing. An agency may exercise its discretion related to parking accommodations through collective bargaining thereby making the provision of

[47] *FOP/MPD Labor Comm. ex rel. Daniels v. MPD,* 62 D.C. Reg. 5878, Slip Op. No. 1510 at 7, PERB Case No. 08-U-26(a) (2015) (holding that credibility resolutions are reserved for the hearing examiner and challenging a hearing examiner's findings with competing evidence does not constitute a proper exception if the record contains evidence supporting the hearing examiner's conclusions).
[48]Report at 9.
[49]Report at 9.
[50] Resp't Post-Hearing Br. 22-23.
[51]Report at 21 n.6.
[52] Resp't Exceptions at 12.
[53] 31 U.S.C §1301(a) requires appropriations be applied only to the objects for which the appropriation was made. Additionally, 31 U.S.C. §1341 makes it unlawful for government officials to make an expenditure that exceeds appropriations or to enter into a contract before an appropriation is authorized.
[54] Resp't Exceptions at 15.

such parking a nondiscretionary agency policy.[55] Here, the Hearing Examiner found that free worksite parking was negotiated and established as a binding past practice between the parties."[56]

The Board has held that issues of fact concerning the probative value of evidence and credibility determinations are reserved for the Hearing Examiner.[57] In this case, the Hearing Examiner concluded that the evidence presented to support the assertion that DGS did not apply the "necessary expense" exception had marginal relevance, lacked materiality and evidentiary weight, and raised no material defense to the ULP charge. [58] The Board finds that DGS waived its discretion through collective bargaining and that the Hearing Examiner's determination was reasonable, supported by the record, and not contrary to law.

3. Past Practice

In the Report, the Hearing Examiner relied on *FOP/MPD Labor Committee v. MPD* [59] and determined that parking is a mandatory subject of bargaining.[60] The Hearing Examiner was unpersuaded by DGS's argument that parking was addressed in the compensation agreement covering the bargaining unit employees.[61] The Hearing Examiner found that the parties' compensation agreement was silent on the issue of free commuter parking, and the parties established a past practice of free worksite parking for commuting.[62]

In its Exceptions, DGS argues that free worksite parking is not a mandatory subject of bargaining.[63] DGS argues that the Hearing Examiner erred in holding that free worksite parking was (1) an established past practice and (2) compensation requiring bargaining under *FOP/MPD Labor Committee v. MPD* and *AFGE Local 383 v. D.C. MRDDA*.[64]

Generally, a unilateral change in employees' existing terms and conditions of employment is a violation of the CMPA.[65] Notwithstanding, the Board has held that "the duty to bargain over

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[55] *See Fed. Aviation Admin. & Prof'l Air Traffic Controllers Org.- Arbitration Awards of Employee Parking Accommodations,* 55 Comp. Gen. 1197 (June 25, 1976) (upholding arbitration awards to provide commuter parking and finding that the FAA determined that parking accommodations were a necessary expense and exercised its discretion through the collective bargaining agreement, therefore it became a nondiscretionary agency policy to provide parking accommodations).

[56] Report at 19.

[57] *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 5, PERB Case No. 15-U-28 (2018). *See Council of Sch. Officers, Local 4 v. DCPS,* 59 D.C. Reg. 6138, Slip Op. No. 1016 at 6, PERB Case No. 09-U-08 (2010).

[58] Report at 21.

[59] *FOP/MPD Labor Committee v. MPD*, 38 D.C. Reg. 847, Slip Op. No. 261, PERB Case No. 90-N-05 (1991).

[60] Report at 17.

[61] A unilateral change in a past practice is an unfair labor practice unless the terms and conditions are specifically covered by the parties' collective bargaining agreement. A change in past practice covered by the contract is subject to the parties' grievance procedure. *See AFGE, Local 2978 v. DOH*, 62 D.C. Reg. 2874, Slip Op. No. 1499 at 1-2, PERB Case No. 14-U-14 (2015).

[62] Report at 19.

[63] Resp't Exceptions at 4.

[64] Resp't Exceptions at 8. *FOP/MPD Labor Committee v. MPD*, 38 D.C. Reg. 847, Slip Op. No. 261, PERB Case No. 90-N-05 (1991) and *AFGE Local 383 v. D.C. MRDDA*, 59 D.C. Reg. 4584, Slip Op. No. 938, PERB Case No. 07-U-03 (2011).

[65] *AFGE, Local 2978 v. DOH*, 62 D.C. Reg. 2874, Slip Op. No. 1499, PERB Case No. 14-U-14 (2015).

a unilateral change in a past practice is limited by statutory rights."[66] DGS challenges the existence of a past practice and the determination that free worksite parking is compensation within the scope of bargaining, and therefore, DGS asserts that it did not have a duty to bargain with FOP. For the following reasons, DGS's arguments fail.

DGS's argument that the Hearing Examiner erred in finding a past practice is unpersuasive. A condition of employment becomes a past practice when it is readily ascertainable over a reasonable period of time and goes unchallenged by the parties.[67] In the absence of a documented agreement, the customs and practices that the parties have maintained over time are particularly important.[68] Determining whether the parties have established a mutually acceptable past practice is an issue of fact concerning the probative value of the evidence reserved for the Hearing Examiner.[69]

Here, the Hearing Examiner found that months before the relocation to 64 New York Avenue a DGS management official notified bargaining unit employees that the DGS Director confirmed the need for free worksite parking.[70] The Hearing Examiner found that DGS initiated negotiations with FOP to address free worksite parking and the parties agreed to a pilot program of 20-25 parking spaces for bargaining unit employees.[71] The Hearing Examiner determined that the pilot program was an extension of the free worksite parking at 1900 Massachusetts Avenue. The Hearing Examiner found that soon after the pilot program was negotiated, DGS management officials issued parking passes to all FOP bargaining unit employees. The Hearing Examiner held that free worksite parking moved from a pilot program to a formal practice and continued from October 2014 until October 2017. In this instance, the Hearing Examiner's finding that the parties established free worksite parking as a binding past practice was reasonable and supported by the record.

Furthermore, the Board has held that parking is a mandatory subject of bargaining.[72] The Board resolves issues involving the scope of bargaining on a case-by-case basis by using three categories of collective bargaining. The three categories are (1) mandatory subjects over which the

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[66] *AFSCME District Council 20 and Local 2091 v. DPW*, 62 D.C. 5925, Slip Op. No. 1514 at 2, PERB Case No. 14-U-14 (2015).
[67] *AFGE, Local 383 v. DYRS and OLCRB*, 60 D.C. Reg. 7160, Slip Op. No. 1301 at 4, PERB Case No. 09-U-04 (2013). *See U.S. Dep't of Labor and AFGE, Nat'l Council of Field Labor Locals, Local 1748*, 38 FLRA 899, 908 (Dec. 13, 1990) (holding that past practice must be consistently exercised over a significant period of time and followed by both parties or followed by one party and not challenged by the other).
[68] *Id. Accord, United Steelworkers of Am. v. Warrior & Gulf Nav. Co.*, 363 U.S. 574, 581–82 (1960)("The labor arbitrator's source of law is not confined to the express provisions of the contract, as the industrial common law—the practices of the industry and the shop—is equally a part of the collective bargaining agreement although not expressed in it.").
[69] *FOP/DOC Labor Comm. v. DOC*, 49 D.C. Reg. 8937, Slip Op. No. 679 n. 20, PERB Case No. 00-U-36 and 00-U-40 (2002).
[70] Report 18.
[71] Report 18.
[72] *See FOP/MPD Labor Committee v. MPD*, Slip Op. No. 261, (1991); *AFGE Local 383 v. D.C. MRDDA*, Slip Op. No. 938 (2011).

parties must bargain, (2) permissive subjects over which the parties may bargain, and (3) illegal subjects over which the parties may not legally bargain.[73]

The Board's precedent is clear that employer-provided parking is part of employees' wages and constitutes a bargainable term and condition of employment under the CMPA.[74] Failure to bargain before implementing a unilateral change in mandatory subjects of bargaining such as wages, hours, and working conditions is an unfair labor practice.[75] In the present case, DGS does not cite any legal authority to contradict the Board's precedent that parking is compensation. Consequently, DGS's request to reverse the Board's precedent is without merit.[76]

The duty to bargain requires an employer to provide the bargaining representative with notice and an opportunity to bargain before unilaterally changing an established past practice affecting a mandatory subject of bargaining.[77] "A pervasive unilateral change occurs when an employer changes a past practice which affects a term and condition of employment without giving the Union an opportunity to bargain over the issue."[78] The Hearing Examiner's finding that DGS unilaterally changed a past practice and refused to bargain was reasonable and supported by the record. Therefore, the Board finds that DGS implemented a pervasive unilateral change, thereby committing an unfair labor practice in violation of D.C. Official Code § 1-617.04(a)(1) and (5).

IV. Attorney Fees

FOP requested attorney fees in accordance with the Back Pay Act.[79] The issue of whether the Board has authority to order attorney fees pursuant to the Back Pay Act is now before the Board.

D.C. Official Code § 1-617.13 authorizes the Board to provide remedies for employees who have "suffered adverse economic effects" as a result of an unfair labor practice.[80] Relevant here, the Board is authorized to award back pay, costs, and make whole remedies.[81]

A. Prior Board Precedent

[73] *AFGE, Local 3721 v. FEMS*, 65 D.C. Reg.7650, Slip Op. No. 1658, PERB Case No. 17-N-03 (2018).
[74] *AFGE Local 383 v. D.C. MRDDA*, 59 D.C. Reg. 4584, Slip Op. No. 938 at 5 (2011) (citing *FOP/MPD Labor Committee v. MPD*, Slip Op. No. 261 at n. 3 (1991)).
[75] *AFGE, Local 631 v. DPW*, 59 D.C. Reg. 5981, Slip Op. No. 1001 at 4, PERB case No. 05-U-43 (2012) (upholding a hearing examiner's report that found that "unilaterally changing a mandatory subject of bargaining such as wages, hours, or working conditions before reaching impasse in bargaining over those matters (unless you have waived this right in the contract), is an unfair labor practice").
[76] *See AFGE, Local 383 v. MRDDA*, Slip Op. No. 938 at 5 (2011) (holding that a request to reverse the Board's prior decisions is without merit when the request lacks citation to legal authority, and when the precedent has not been reversed by the Board, Superior Court of the District of Columbia, or District of Columbia Court of Appeals).
[77] *AFGE Local 383 v. D.C. MRDDA*, Slip Op. No. 938 at 8 (2011).
[78] *FOP/DOC Labor Comm. v. DOC*, 49 D.C. Reg. 8937, Slip Op. No. 679 at 5, PERB Case No. 00-U-36 and 00-U-40 (2002).
[79] Report 24.
[80] D.C. Official Code §1-617.13(a).
[81] D.C. Official Code §1-617.13(a), (d).

In *UDCFA/NEA v. UDC*,[82] the Board held that the CMPA does not provide the Board with authority to award attorney fees.[83]

For nearly thirty years, the Board has relied on *UDCFA/NEA v. UDC* to limit the available relief for parties in unfair labor practice cases. *UDCFA/NEA v. UDC* was decided by the Board on May 9, 1991. Later that year, on November 6, 1991, the D.C. Court of Appeals decided *Zenian v. OEA.*[84] As explained below, the Board's position in *UDCFA/NEA v. UDC* is inconsistent with the *Zenian* decision. Here, upon scrutiny of the Board's prior holdings and analysis of decisions from the D.C. Court of Appeals, the Board overturns its previous rulings and finds that it has jurisdiction to award attorney fees in appropriate unfair labor practice cases under the CMPA and the Back Pay Act.

B. Background

The CMPA, D.C. Official Code §§ 1-601.1 to 1-637.2 (1987),[85] governs the rights of District of Columbia employees in personnel actions arising out of their employment. The *Zenian* decision provides a background summary of the interplay between the CMPA and the Back Pay Act:

> The CMPA was designed to replace an existing personnel system which was said to be in "disarray" and "chaos"—an "'inefficient hodge-podge system [that] ignore[d] the rudimentary merit rules' and 'awkwardly meshed' the District personnel apparatus with the federal personnel system." The state of the law under the CMPA, however, has yet to become a model of luminous clarity.
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> Prior to the effective date of the CMPA, the Federal Back Pay Act (FBPA), now codified at 5 U.S.C. § 5596 (1988), applied to all employees of the District of Columbia government. The CMPA purported to supersede the FBPA as to District employees. Insofar as this attempted supersession applied to employees hired prior to January 1, 1980, it ran afoul of the Home Rule Act, D.C. Code § 1–242(3) (1987), which "provide[s] a floor for benefits under the [C.M.P.A.], equal to those applicable to federal employees immediately prior to enactment of District personnel legislation."
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> …. [E]ffective March 4, 1981, the CMPA was amended by D.C. Law 3–130, 1979–1980 D.C. Stat. 544, now codified at D.C. Code § 1–612.4 (1987). Law 3–130 requires the Mayor to develop a new compensation system for all employees in the Career and Excepted Services. The statute further directs, subject to a

[82] *UDCFA/NEA v. UDC*, Slip Op. No. 272, PERB Case No. 90-U-10 (1991).
[83] *UDCFA/NEA v. UDC*, Slip Op. No. 272 at 5, PERB Case No. 90-U-10 (1991) (holding that the Board is not authorized to award attorney fees); *accord, Milton v. WASA*, Slip Op. No. 606 at 3, PERB Case Nos. 98-U-24 and 98-U-28 (1999); *WTU, Local 6 v. DCPS*, Slip Op. No. 1418 at 6-7, PERB Case No. 05-U-15(2013); *WTU, Local 6 v. DCPS*, Slip Op. No. 1642 at 15-16, PERB Case No. 14-U-02 (2017).
[84] *Zenian v. OEA*, 598 A.2d 1161 (D.C. 1991).
[85] Renumbered to §§ 1-601.01 to 1-636.03 (2001).

> proviso not here relevant, that [u]ntil such time as a new compensation system is approved, the compensation system, including the salary and pay schedules, in effect on December 31, 1979, shall continue in effect.[86]

The Back Pay Act provides attorney fees to employees as a remedy for the successful litigation of a grievance or unfair labor practice complaint resulting from the appeal of an unjustified or unwarranted personnel action resulting in back pay. The relevant section of the Back Pay Act states:

> An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—
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> (A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—
>
> (i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and
>
> (ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, or under chapter 11 of title I of the Foreign Service Act of 1980, shall be awarded in accordance with standards established under § 7701(g) of this title.[87]

Under the Back Pay Act, an employee found to have been affected by an unjustified or unwarranted personnel action is entitled to reasonable attorney fees related to the personnel action, if the fees are in the interest of justice.[88] The Board has upheld attorney fees when presented with the question in the context of the Board's appellate jurisdiction.[89] The Board has held that the Back Pay Act is a general law applicable to the District of Columbia by its own terms and provides an entitlement for litigation expenses for a prevailing party.[90] Here, the Board must determine whether

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[86] *Zenian v. OEA*, 598 A.2d 1161, 1163 (D.C. 1991) (citations omitted).
[87] *See* 5 U.S.C. § 5596(b).
[88] *See* 5 U.S.C §7701(g) ("The Board . . . may require payment by the agency involved of reasonable attorney fees incurred by . . . the prevailing party and the Board . . . determines that payment by the agency is warranted in the interest of justice including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.").
[89] *UDC v. AFSCME, Council 20, Local 2087*, 59 D.C. Reg. 15167, Slip Op. No. 1333, PERB Case No. 12-A-01 (2012), *aff'd sub nom. American Federation of State, County, and Muni. Empls. Dist. Council 20, Local 2087, AFL-CIO v. Univ. District of Columbia*, 166 A. 3d 967 (2017).
[90] *DCHA v. AFGE, Local 2725*, 62 D.C. Reg. 2893, Slip Op. No. 1503 at 3-5, PERB Case No. 14-A-07 (2015).

it has original jurisdiction under the CMPA to award attorney fees and whether an award of attorney fees is in the interest of justice.

C. District of Columbia Court of Appeals Treatment

DGS argues that the Back Pay Act and the Board have co-existed for decades and that the Board has never found that the Back Pay Act authorized attorney fees.[91] FOP contends that the Board has repeatedly and inaccurately stated that it lacks authority under the CMPA to award attorney fees.[92]

Previously, the Board found that it is not authorized to award attorney fees under the CMPA because there is no explicit statutory language empowering it to provide a remedy of attorney fees. The Board has stated that D.C. Official Code § 1-617.13, governing its remedial authority, does not refer to attorney fees nor is the Board given the authority to award attorney fees elsewhere.[93] The Board never revisited its prior decisions on attorney fees or analyzed its authority in light of *Zenian.* In fact, the Board continued to rely upon *UDCFA/NEA v. UDC* without addressing, considering, or citing D.C. Official Code § 1-611.04(e),[94] which states that "[u]ntil such time as a new compensation system is approved, the compensation system, including the salary and pay schedules, in effect on December 31, 1979, shall continue in effect."[95]

In *Zenian,*[96] the D.C. Court of Appeals held that, in appropriate circumstances, the Back Pay Act applies to cases under the CMPA. In that case, an employee appealed an Office of Employee Appeals (OEA) decision, which denied an attorney fees request based on a finding that OEA lacked statutory authority under the CMPA to provide an award of attorney fees.

The *Zenian* decision relied upon a D.C. Court of Appeals decision, which held that attorney fees under the Back Pay Act were available to employees hired prior to January 1, 1980, as a concrete benefit required to be maintained by the Home Rule Act.[97] The court concluded that Mr. Zenian was hired after March of 1981, and thus he could not recover attorney fees unless the CMPA's "jump back" provision, D.C. Official Code § 1-611.04(e), included attorney fees in its definition of a "compensation system."[98]

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[91] Opp'n to Fees Br. at 5.
[92] Complainant Fees Br. at 2.
[93] *E.g., UDCFA/NEA v. UDC*, Slip Op. No. 272 at 5, PERB Case No. 90-U-10 (1991) (holding that the Board is not authorized to award attorney fees); a*ccord Milton v. WASA*, 47 D.C. Reg. 10102, Slip Op. No. 606 at 3, PERB Case Nos. 98-U-24 and 98-U-28 (2000); *WTU, Local 6 v. DCPS*, Slip Op. No. 1418 at 6-7, PERB Case No. 05-U-15(2013); *WTU, Local 6 v. DCPS*, Slip Op. No. 1642 at 15-16, PERB Case No. 14-U-02 (2017).
[94] D.C. Official Code § 1-612.4(e) renumbered to §1-611.04(e), the "jump back" provision, states that "[u]ntil such time as a new compensation system is approved, the compensation system, including the salary and pay schedules, in effect on December 31, 1979, shall continue in effect."
[95] *See Zenian* at 1166 (holding that there is no deference to provide to an agency's construction of a statute when prior decisions do not construe the relevant statute).
[96] *Zenian v. OEA*, 598 A.2d 1161 (D.C. 1991).
[97] *Zenian* at 1163 (citing *District of Columbia v. Hunt*, 520 A. 2d 300, 303 (D.C.1987)).
[98] *Zenian* at 1164.

The D.C. Court of Appeals held that, although the CMPA did not expressly mention attorney fees, D.C. Official Code § 1-611.04(e) incorporates the compensation system in effect on December 31, 1979, which includes the Back Pay Act and its explicit provision of attorney fees.[99] *Zenian* makes it clear that the Back Pay Act is not to be applied in a piecemeal fashion and that the attorney fee provision is an integral part of the compensation system in effect on December 31, 1979.[100] The D.C. Court of Appeals found that the Back Pay Act is incorporated into the CMPA. Consequently, the Board may rely on the Back Pay Act to award attorney fees in unfair labor practice cases consistent with the statutory language.[101]

DGS argues that the Back Pay Act's incorporation into the CMPA was superseded when the District adopted the District Personnel Manual (DPM) and the Council of the District of Columbia approved it.[102] DGS's argument is unpersuasive. On at least three occasions following the implementation of the DPM, the D.C. Court of Appeals has maintained that the attorney fees provision of the Back Pay Act continues to apply to District employees as a part of the "compensation system" that existed on December 31, 1979, which must be retained until a new system is adopted.[103] Further, the D.C. Court of Appeals has previously accepted the District's argument that the DPM "provides an interpretation of the [Back Pay Act] in concert with federal holdings" and therefore does not conflict with the "jump back" provisions incorporation of the Back Pay Act into the CMPA.[104]

The Back Pay Act provides an entitlement for attorney fees for a prevailing party when a request for attorney fees is warranted.[105] The D.C. Court of Appeals has found that the Back Pay Act, which authorizes attorney fee awards, is incorporated into the CMPA under D.C. Official Code § 1-611.04(e).[106] The Board has original jurisdiction to determine whether an unfair labor practice has been committed and to provide an appropriate remedial order under the CMPA.[107] A claim for attorney fees is an ancillary aspect of unfair labor practice litigation within the Board's jurisdiction.[108] Therefore, the Board concludes that it is authorized to award attorney fees under the CMPA's incorporation of the Back Pay Act, if such an award is appropriate.

D. Public Policy

"The rights of District of Columbia employees in personnel actions arising out of their employment are governed by the Comprehensive Merit Personnel Act (CMPA), D.C. [Official] Code §§ [1-601.01 to 1-636.03 (2001)]."[109] The *Zenian* decision noted that Congress and the

[99] *Zenian* at 1165.
[100] *Id.*
[101] *Zenian* at 1165-1166.
[102] D.C. Council Proposed Resolution No. 15-1045, deemed approved December 5, 2004.
[103] *See AFSCME District 20, Local 2087 v. UDC,* 166 A.3d 967, n. 5 (D.C. 2017); *AFGE v. WASA*, 942 A.2d 1108, 1112–13 (D.C. 2007); *White v. WASA*, 962 A.2d 258, 259 (D.C. 2008).
[104] *Walker v. Off. of the Chief Info. Tech. Officer*, 127 A. 3d 524, 530 (D.C. 2015).
[105] *DCHA v. AFGE, Local 2725*, 62 D.C. Reg. 2893, Slip Op. No. 1503 at 5, PERB Case No. 14-A-07 (2015).
[106] *Zenian* at 1165. D.C. Official Code § 1-612.4(e) renumbered to §1-611.04(e).
[107] D.C. Official Code § 1-605.02(3).
[108] *AFGE v. WASA*, 942 A.2d 1108, 1114 (D.C. 2007).
[109] *Zenian* at 1163. D.C. Code §§ 1-601.1 to 1-637.2 (1987) renumbered 1-601.01 to 1-636.03 (2001).

Council of the District of Columbia intended to provide as comprehensive a system of employee rights and entitlements as possible.[110] The Back Pay Act provides a statutory reimbursement for attorney fees when a party prevails against the government for an unwarranted or unjustified personnel action. The Board's refusal to exercise its jurisdiction to award attorney fees under the CMPA in these narrow circumstances would deprive prevailing parties of their right to relief when an award of attorney fees is in the interest of justice. As the *Zenian* decision noted, a deprivation of attorney fees to successful litigants could have the potential chilling effect on the private enforcement of workplace rights.[111] Such a deprivation is inconsistent with the Board's mandate to establish a labor relations program that resolves allegations of unfair labor practices and protects the rights of employees.[112] Thus, the Board finds that it is in the public's interest and the interest of justice to award attorney fees when warranted.

E. Appropriateness of awarding attorney fees and the interest of justice

Back pay is authorized under the Back Pay Act when (1) an employee was affected by an unjustified or unwarranted personnel action; (2) the unjustified or unwarranted personnel action resulted in a withdrawal or reduction in the pay, allowances, or differentials of the employee; and (3) the withdrawal or reduction would not have occurred but for the unjustified action.[113]

Here, the first requirement is satisfied because the Hearing Examiner found that DGS's unfair labor practice directly affected the bargaining unit employees.[114] The second requirement is also met because DGS's unfair labor practice resulted in the loss of compensation for the affected employees.[115] Finally, it is clearly established that DGS's unfair labor practice caused the reduction in compensation.[116] The record demonstrates that the Back Pay Act permits an award of back pay for bargaining unit employees for DGS's unfair labor practice.

Furthermore, the Back Pay Act requires that an award of attorney fees follow the standards established by § 5 U.S.C. 7701(g), meaning that an award of attorney fees must be in the interest of justice. The D.C. Court of Appeals and the Board have accepted the non-exhaustive, illustrative list of examples in *Allen v. U.S. Postal Service*[117] to aid in determining whether an award of attorney fees is in the interest of justice.[118]

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[110] *Zenian* at 1166 n.10.
[111] *Zenian* at 1166 n.10.
[112] D.C. Official Code §§ 1-617.01 and 1-617.02.
[113] *Fed. Aviation Admin., Washington, D.C. &* Prof'l *Airways Sys. Specialists, MEBA*, 27 FLRA 230, 234–35 (May 29, 1987).
[114] *Id.* at 233 (holding that an unjustified or unwarranted personnel action is established when it is determined that the employee was affected by an unfair labor practice, including a refusal to bargain where the agency changes the conditions of employees without providing an opportunity to bargain).
[115] *AFGE Local 383 v. D.C. MRDDA*, Slip Op. No. 938 at 5 (2011) (citing *FOP/MPD Labor Committee v. MPD*, Slip Op. No. 261 at n. 3 (1991) (finding that employer-provided parking is part of employees' wages)).
[116] 27 FLRA 230 at 233-234 (holding that when the causal relationship is clearly established the Authority will order back pay as corrective action for the unfair labor practice to make the employee whole).
[117] 2 M.S.P.R. 420 (1980).
[118] *AFGE, Local 1975 v. DMV*, Slip Op. No. 1697 at 3, PERB Case No. 18-A-18 (2019) (citing *Surgent v. District of Columbia,* 683 A. 2d 493,495 (D.C. 1996)).

The parties do not dispute that the appropriateness of an award of attorney fees should be evaluated under the *Allen v. U.S. Postal Service* standards. *Allen* introduced factors to consider in determining whether attorney fees under the Back Pay Act are in the interest of justice.[119] *Allen* held that attorney fees may be awarded where: (1) the agency engaged in a prohibited personnel practice; (2) the agency's actions are clearly without merit or wholly unfounded, or the employee is substantially innocent of charges brought by the agency; (3) the agency's actions are taken in bad faith; (4) the agency committed gross procedural error; or (5) the agency knew or should have known that it would not prevail on the merits when it brought the proceeding.[120]

In non-disciplinary cases, the most relevant factors in the Board's assessment of whether an attorney fees award is in the interest of justice will generally be *Allen* factor (2) whether the agency's actions are clearly without merit or wholly unfounded, and *Allen* factor (5) whether the agency knew or should have known that it would not prevail on the merits when it brought the proceeding.[121]

The Hearing Examiner did not provide a recommendation as to whether an award of attorney fees was in the interest of justice. Therefore, the Board remands this issue for a recommendation applying the standards above.

V. Conclusion

The Board finds that the Hearing Examiner's Report and Recommendation is reasonable, supported by the record, and consistent with Board precedent. The Board concludes that DGS violated D.C. Official Code § 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act. The Board finds that it is authorized to award attorney fees under the Back Pay Act and the CMPA. The Board remands the matter to the Hearing Examiner for a recommendation as to whether an award of attorney fees is in the interest of justice and, if found, the appropriate fee award.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Protective Services Division Labor Committee Unfair Labor Practice Complaint is granted.

2. The District of Columbia Department of General Services must cease and desist from interfering with, restraining, or coercing employees of the FOP in exercising their rights under the CMPA.

3. The District of Columbia Department of General Services must cease and desist from refusing to bargain.

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[119] *Allen v. U.S. Postal Service*, 2 M.S.P.R. 420 (1980).
[120] *Allen* at 429.
[121] *AFGE, Local 1633 v. Dep't of Vet. Aff's.,* 71 FLRA 211, 216-217 (2019).

4. The District of Columbia Department of General Services shall return to the *status quo ante* past practice of providing bargaining unit employees with free worksite parking.

5. The District of Columbia Department of General Services shall reimburse bargaining unit employees for their parking expenses at 64 New York Avenue NE from October 1, 2017, until the past practice of free worksite parking is reinstated.

6. The District of Columbia Department of General Services must provide reasonable notice if it wishes to change a past practice and must negotiate in good faith.

7. The District of Columbia Department of General Services shall within ten (10) days of issuance of this Decision and Order post a Notice on all bulletin boards where notices to bargaining unit employees are normally posted for thirty (30) days.

8. The District of Columbia Department of General Services shall notify the Board of the posting within fourteen (14) days after issuance of the decision and order requiring posting.

9. The Hearing Examiner shall make factual findings and conclusions as to whether an award of attorney fees is in the interest of justice and, if it is, whether the amount of attorney fees requested is appropriate. The Hearing Examiner shall base this decision on *Allen v. U.S. Postal Service* and the attorney fee briefs submitted by the parties in the record.

10. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By the unanimous vote of Board Chairperson Douglas Warshof, Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler

February 20, 2020

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-U-01, Op. No. 1739 was sent by File and ServeXpress to the following parties on this the 28th day of February 2020.

Rosann R. Romano
Murphy Anderson PLLC
1401 K Street NW, Suite 300
Washington, D.C. 20005

Michael Kentoff
Michael D. Levy
District of Columbia
Office of Labor Relations and Collective Bargaining
441 4th Street NW, Suite 820 North
Washington, D.C. 20001

/s/ Royale Simms
Public Employee Relations Board

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

WGPOR-2020-01, IN THE MATTER OF THE INVESTIGATION INTO THE ESTABLISHMENT OF A PURCHASE OF RECEIVABLES PROGRAM FOR NATURAL GAS SUPPLIERS AND THEIR CUSTOMERS IN THE DISTRICT OF COLUMBIA,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,[1] of its final action taken on Washington Gas Light Company's (WGL or Company) tariff revisions to address the discount rate and Reconciliation Factor components of WGL's Purchase of Receivables (POR) program, as required by Order No. 19772.

2. By Order No. 19140, the Commission approved a POR program for WGL and by its subsequent Order No. 19772, directed WGL to track and report all revenues of its POR program at the end of the first year of operation and file on annual basis POR discount rate calculations and new tariff pages reflecting the updated discount rates.[2] Pursuant to these directives, on March 10, 2020, WGL filed a proposed change to Rate Schedule No. 5, Component No. 6 – Reconciliation Factor of its General Regulations Tariff.[3] WGL's filing provided the POR discount rate calculations for WGL's residential and non-residential customers, which reflect the costs and revenues for the first year of the POR program's operation.

3. WGL's proposed tariff changes describe how the POR discount rate is calculated and updates the Reconciliation Factor.[4] According to WGL, the Reconciliation Factor adjusts for any under- and over-collection of costs associated with the POR program.[5] The Company experienced an over-collection of bad debt expense and cash working capital costs during the first year of POR implementation, and therefore the

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1 D.C. Code § 2-505 (2016 Repl.) and D.C. Code § 34-802 (2019 Repl.).

2 *Formal Case No. 1140, In the Matter of the Investigation into the Establishment of a Purchase of Receivables Program for Natural Gas Suppliers and Their Customers in the District of Columbia*, Order No. 19140, ¶ 1, rel. October 19, 2017; Order No. 19772, ¶ 2, rel. December 13, 2018.

3 *WGPOR-2020-01, In the Matter of the Investigation into the Establishment of a Purchase of Receivables Program for Natural Gas Suppliers and Their Customers in the District of Columbia ("WGPOR*"), Washington Gas Light Company's Annual POR Discount Rate Calculations and Proposed Tariff Revision ("WGL's Proposed Tariff"), filed March 10, 2020.

4 *WGPOR 2020-01*, WGL's Proposed Tariff, at 1.

5 *WGPOR 2020-01*, WGL's Proposed Tariff, at 2.

Reconciliation Factor calculation going forward will include bad debt expense and cash working capital costs.[6]

4. To adjust the POR programs' Reconciliation Factor, WGL proposes to amend the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3
(Former) Original Page No. 27GG, Section B (6)
(New) Original Page No. 27GG, Section B (6)

5. On April 3, 2020, the Commission published a Notice of Proposed Tariff ("NOPT") in the *D.C. Register* inviting public comment on WGL's proposed changes to Rate Schedule No. 5, Component No. 6 – Reconciliation Factor of WGL's General Regulations Tariff.[7] Based on the calculation methodology included in WGL's tariff, the new discount rate for residential and non-residential customers will be 0.716% and 0%, respectively.[8] No comments were filed in response to the NOPT. The Commission, at its Open Meeting on May 20, 2020, took final action by Order No. 20350 approving WGL's proposed Rate Schedule No. 5, Component No. 6 – Reconciliation Factor of WGL's General Regulations Tariff, effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

6 *WGPOR 2020-01*, WGL's Proposed Tariff, at 2.

7 67 *D.C. Reg.* 003893-003894 (April 3, 2020).

8 *See* Washington Gas Light Company's Rate Schedules and General Service Provisions for Gas Service in the District of Columbia, Components of Purchase of Receivables, Components No. 8 and 9, Discount Rate, Original Page No. 27GG, issued October 23, 2018.

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF OPEN PUBLIC MEETING

June 18, 2020
1:00 p.m.

900 7th Street, N.W.
2nd Floor, DCRB Boardroom
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, June 18, 2020, at 1:00 p.m. The meeting will be held at 900 7th Street, N.W., 2nd floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.Reaves@dc.gov.

AGENDA

I.	Call to Order and Roll Call	Chair Clark
II.	Approval of Board Meeting Minutes	Chair Clark
III.	Chair's Comments	Chair Clark
IV.	Executive Director's Report	Ms. Morgan-Johnson
V.	Investment Committee Report	Mr. Warren
VI.	Operations Committee Report	Mr. Smith
VII.	Benefits Committee Report	Ms. Collins
VIII.	Legislative Committee Report	Mr. Blanchard
IX.	Audit Committee Report	Mr. Hankins
X.	Other Business	Chair Clark
XI.	Adjournment	

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL

NOTICE OF REQUEST FOR PROPOSALS

Chromebooks and Laptops

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter school located in Southeast Washington, DC—seeks one of more vendors to furnish computer hardware.

Needs include:

- Chromebooks
- Laptops

Details appear in the full RPF available at
https://thurgoodmarshallacademy.org/about/employment-opportunities/
or by emailing dschlossman@tmapchs.org.

Amendments/changes (if any) to the RFP—including but not limited to deadline extensions—will be posted on the webpage linked above.

By bidding, vendors agree to Thurgood Marshall Academy's General Conditions Statement (also found at the link above).

The school may cover a portion of project costs with federal funds at a percentage to be determined based on availability of funds

For further information about the bid contact David Schlossman, dschlossman@tmapchs.org, 202-276-4722. Further information about Thurgood Marshall Academy—including the school's nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission:

- Bids/quotations must respond to the full RFP.
- Bids/quotations must not exceed **10-page and a 5 MB file-size limit**
- Email bids/quotations to **dschlossman@tmapchs.org**
- Review of bids/quotations will begin after **Tuesday, June 16, 2020.**

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL

NOTICE OF REQUEST FOR PROPOSALS

Special Education Services

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school—seeks contractors to provide special education services. Approximately 20% of the student population receives special education services. The school seeks **non-exclusive** contractors to provide comprehensive special education related services. The school uses an inclusion model.

Full RFP:
Interested contractors can obtain the full RFP by emailing dschlossman@tmapchs.org or at the link below. Amendments and extensions of the RFP—if any—will be published exclusively on the page linked below (with e-mail notice to bidders who have already submitted proposals including e-mail addresses):

https://thurgoodmarshallacademy.org/about/employment-opportunities/

Questions & Information:

- Please address questions concerning this RFP to **David Schlossman,** dschlossman@tmapchs.org
- The school intends to cover a portion of contractors' fees with federal funds at a percentage based upon availability of funds.
- Further information about Thurgood Marshall Academy—including the school's nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission:

- Submissions must respond to the full RFP.
- Proposals **must not exceed 10 pages (other than contracts/resumes) and 5MB file size**.
- For best consideration submit bids by **5 pm Washington, DC, time on Tuesday, June 16, 2020,** via e-mail to **dschlossman@tmapchs.org**.

YOUTHBUILD DC PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Technology Equipment

YouthBuild DC Public Charter School is soliciting quotes to provide Chromebooks, carts and Google enterprise licenses. To request a copy of the RFP, E-mail Komal Bonsal at komal.bansal@youthbuildpcs.org. Proposals are due by 5:00 P.M., Friday, June 15, 2020.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 19618-B of Hillsdale College, pursuant to 11 DCMR Subtitle Y § 703, for a minor modification to the plans approved in BZA Order No. 19618, to raze and rebuild the carriage house with an improved structural integrity in the RF-3 Zone at premises 19 4th Street Rear, N.E. (Square 816, Lot 18).

HEARING DATES (19618):	December 6 and December 13, 2017
DECISION DATE (19618):	December 13, 2017
ORDER ISSUANCE DATE (19618):	December 14, 2017
TIME EXTENSION	
DECISION DATE (19618-A):	October 16, 2019
MINOR MODIFICATION	
DECISION DATE (19618-B):	May 27, 2020

SUMMARY ORDER ON REQUEST FOR MINOR MODIFICATION

Original Application. In Application No. 19618, the Board of Zoning Adjustment ("Board" or "BZA") approved a request by Gillette Wing, former owner of the property, for a special exception under Subtitle U § 601.1(c), to permit a one-family dwelling unit in an existing structure on an alley lot in the RF-3 Zone at premises 19 4th Street Rear, N.E. (Square 816, Lot 18). The Board issued Order No. 19618 on December 14, 2017. (Exhibit 2.)

Request for Two-Year Time Extension. On October 16, 2019, the Board granted the request submitted by the current owner of the property, Hillsdale College (the "Applicant"), for a two-year extension of Order No. 19618 until December 24, 2021. (Exhibit 4.)

Proposed Modification. On April 23, 2020, the Applicant submitted a request for minor modification to Order No. 19618, as extended by Order No. 19618-A. (Exhibits 1-11.) In the original application, the Applicant proposed to retain the existing structure; however, the Applicant's engineers have determined that the carriage house is not structurally sufficient to be retained. Therefore, the Applicant requests to modify the application to reflect their plans to demolish and replace the structure. The Applicant submitted revised plans reflecting these modifications. (Exhibit 5.)

Notice of the Request for Modification. Pursuant to Subtitle Y §§ 703.8-703.9 of Title 11 of the DCMR (Zoning Regulations of 2016, the "Zoning Regulations" to which all references are made unless otherwise specified), the Applicant provided proper and timely notice of the request for minor modification. (Exhibit 1.)

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

ANC Report. The ANC did not submit a written report to the record.

OP Report. Office of Planning submitted a report recommending approval of the proposed modification. (Exhibit 14.)

Request for Minor Modification

The Applicant seeks a minor modification under Subtitle Y § 703 to raze and rebuild the carriage house with an improved structural integrity in the RF-3 Zone.

The Board determines that the Applicant's request complies with Subtitle Y § 703.3, which defines minor modifications as "modifications that do not change the material facts upon which the Board based its original approval of the application." Based upon the record, the Board concludes that in seeking a minor modification, the Applicant has met its burden of proof under as directed by Subtitle Y § 703.

"Great Weight" to the Recommendations of OP
The Board is required to give "great weight" to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8). The Board finds OP's recommendation that the Board approve the application persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANC
The Board must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Y § 406.2) As the ANC did not submit a written report, the Board has no issues or concerns to afford great weight.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for minor modification of Order No. 19618, as extended by Order No. 19618-A, is hereby **GRANTED**, subject to the approved plans at Exhibit 5.

In all other respects, Order No. 19618 remains unchanged.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter G. May to APPROVE; one Board seat vacant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 28, 2020

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. 19794-A of Scott Giering, pursuant to 11 DCMR Subtitle Y, § 705.1, for a two year time extension of BZA Order No. 19794 approving special exceptions under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a two-story rear addition to an existing principal dwelling unit in the RF-1 Zone at premises 744 Hobart Place, N.W. (Square 2888, Lot 117).

HEARING DATES (19794):	September 12, 2018
DECISION DATES (19794):	September 12, 2018
ORDER ISSUANCE DATE (19794):	September 14, 2018
TIME EXTENSION DECISION DATE:	May 28, 2020

SUMMARY ORDER ON REQUEST FOR TWO-YEAR TIME EXTENSION

Original Application. In Application No. 19794, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by Scott Giering (the "Applicant") for special exceptions under Subtitle E §§ 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4, the lot occupancy requirements of Subtitle E § 304.1, the rear yard requirements of Subtitle E § 306.1, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a two-story rear addition to an existing principal dwelling unit The Board issued Order No. 19794 on September 14, 2018. (Exhibit 2.) Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became effective.

Request for Two-Year Time Extension. On April 20, 2020, the Applicant submitted a request that the Board grant a two-year extension of Order No. 19794. (Exhibits 1-5.)

Notice of the Request. Pursuant to Subtitle Y §§ 705.1(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 5.)

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1B.

ANC Report. The ANC did not submit a written report, but the ANC Chair indicated that he had no concerns with the request. (Exhibit 6.)

OP Report. The Office of Planning submitted a report recommending approval of the time extension. (Exhibit 9.)

Request to Extend the Validity of the Order

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order.

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 request for two-year time extension to the validity of the Board's approval in Order No. 19794 is hereby **GRANTED**, and the Order shall be valid until **September 14, 2022**.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter G. May to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 28, 2020

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

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-071
June 4, 2020

SUBJECT: Ending of Second Public Emergency Declared May 31, 2020

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22, and in accordance with the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code §§ 7-2304 *et seq.*, it is hereby **ORDERED** that:

1. The second public emergency declared May 31, 2020 by Mayor's Order 2020-068 is hereby ended.

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

MURIEL BOWSER
MAYOR

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

District of Columbia REGISTER – June 5, 2020 – Vol. 67 - No. 24 006591 – 007042