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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 23-349, Connected Transportation Network Temporary Act of 2020
- D.C. Council passes Resolution 23-504, General Election Preparations Emergency Declaration Resolution of 2020
- D.C. Council schedules a public hearing on Bill 23-787, Black Lives Matter Plaza Designation Act of 2020
- Office of the State Superintendent of Education sets the application deadline for the District of Columbia Tuition Assistance Grant ("DCTAG") to November 13, 2020
- Department of Health establishes guidelines for licensing home support agencies to provide non-medical personal care services in the District
- Department of Health establishes minimum health and nutrition standards for food and beverage items sold through automated vending operations in the District
- Office of the Deputy Mayor for Planning and Economic Development announces funding for the FY20 Great Streets Small Business Resiliency Administration Grant
- Department of Small and Local Business Development announces availability of the FY 2021 Ward 7 and 8 Dream Grants, Clean Team Grants, and DC Main Streets Grants

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act,* D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 et *seq*. (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative· Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act,* D.C. Official Code §§2-50l et *seq.* (2012 Repl.).

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DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW L23-0125

"Ghost Guns Prohibition Temporary Amendment Act of 2020"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-0682 on First Reading and Final Reading, on March 3, 2020, and March 17, 2020, respectively, pursuant to Section 404(e) of the Charter, the bill became Act A23-0276 and was published in the edition of the D.C. Register (Vol. 67, page 3945). Act A23-0276 was transmitted to Congress on April 27, 2020 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act A23-0276 is now D.C. Law L23-0125, effective July 30, 2020.

Phil Mendelson
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Month	Dates Counted
May	5,6,7,8,11,12,13,14,15,18,19,20,21,22,26,27,28,29
June	1,2,3,4,5,8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30
July	1,2,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24,27,28,29

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-337

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To symbolically designate, on an emergency basis, 16th Street, N.W., between H Street, N.W., and K Street N.W., in Ward 2, as Black Lives Matter Plaza.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Black Lives Matter Plaza Designation Emergency Act of 2020".

Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a) ("Act"), and notwithstanding section 423 of the Act (D.C. Official Code § 9-204.23), the Council symbolically designates 16th Street, N.W., between H Street, N.W., and K Street N.W., in Ward 2, as Black Lives Matter Plaza.

Sec. 3. Section 10 of the Coronavirus Support Clarification Emergency Amendment Act of 2020, effective July 7, 2020 (D.C. Act 23-332; 67 DCR ___), is repealed.

Sec. 4. Applicability.

This act shall apply as of June 5, 2020.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-338

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To approve, on an emergency basis, Modification Nos. 9 and 10 to Contract No. CW42156 with Advanced Data Processing, Incorporated to provide patient account management services, and to 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. 9 and 10 to Contract No. CW42156 with Advanced Data Processing, Incorporated 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 Nos. 9 and 10 to Contract No. CW42156 with Advanced Data Processing, Incorporated to provide patient account management services and authorizes payment in the amount of $3,535,995 for the goods and services received and to be received under the 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

ENROLLED ORIGINAL

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
July 27,2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-339

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To amend, on an emergency basis, due to congressional review, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to prohibit the District of Columbia government from taking adverse employment actions against individuals for participating in a medical marijuana program; and to amend the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996 to do the same.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Medical Marijuana Program Patient Employment Protection Congressional Review Emergency Amendment Act of 2020".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 2051 (D.C. Official Code § 1-620.11) is amended as follows:

(1) Designate the existing text as subsection (a).

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

"(b) To the extent permitted by federal law and regulations, programs and rules adopted pursuant to subsection (a) of this section shall accommodate qualifying patients, as that term is defined in section 2(19) of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.01(19)), in compliance with title XX-E.".

(b) Section 2025 (D.C. Official Code § 1-620.25) is amended by adding a new subsection (d) to read as follows:

"(d) Notwithstanding subsection (a) of this section, the testing program established pursuant to this title shall comply with the requirements of title XX-E.".

(c) Section 2032 (D.C. Official Code § 1-620.32) is amended by adding a new subsection (g) to read as follows:

"(g) The testing program established pursuant to this title shall comply with the requirements of title XX-E.".

(d) A new title XX-E is added to read as follows:

ENROLLED ORIGINAL

"TITLE XX-E
"MEDICAL MARIJUANA PROGRAM PATIENT EMPLOYMENT PROTECTIONS
"Sec. 2051. Definitions.
"For the purposes of this title, the term:
"(1) "Marijuana" shall have the same meaning as provided in section 102(3)(A) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.02(3)(A)).
"(2) "Qualifying patient" shall have the same meaning as provided in section 2(19) of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.01(19)).
"(3) "Public employer" means the District government.
"(4) "Safety sensitive position" means a position with duties that, if performed while under the influence of drugs or alcohol, could lead to a lapse of attention that could cause actual, immediate, and permanent physical injury or loss of life to self or others.
"Sec. 2052. Patient protections.
"(a)(1) Notwithstanding any other provision of law, except as provided in subsection (b) of this section, a public employer may not refuse to hire, terminate from employment, penalize, fail to promote, or otherwise take adverse employment action against an individual based upon the individual's status as a qualifying patient unless the individual used, possessed, or was impaired by marijuana at the individual's place of employment or during the hours of employment.
"(2) A qualifying patient's failure to pass a public employer-administered drug test for marijuana components or metabolites may not be used as a basis for employment-related decisions unless reasonable suspicion exists that the qualifying patient was impaired by marijuana at the qualifying patient's place of employment or during the hours of employment.
"(b) Subsection (a) of this section shall not apply to safety sensitive positions or if compliance would cause the public employer to commit a violation of a federal law, regulation, contract, or funding agreement.".

Sec. 3. Section 3 of the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996, effective September 20, 1996 (D.C. Law 11-158; DC. Official Code § 24-211.22), is amended by adding a new subsection (d) to read as follows:
"(d) The testing program established pursuant to this act shall comply with the requirements of title XX-E of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 8, 2020 (D.C. Act 23-327; 67 DCR 7595).".

ENROLLED ORIGINAL

Sec. 4. Fiscal impact.

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

Sec. 5. Effective date.

This 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
July 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-340

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To approve, on an emergency basis, Contract No. CW40699 with Mercer Health & Benefits, LLC to provide actuarial consulting services for the Department of Healthcare Finance, and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. CW40699 with Mercer Health & Benefits, 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 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 Contract No. CW40699 with Mercer Health & Benefits, LLC to provide actuarial consulting services for the Department of Healthcare Finance and authorizes payment in the amount of $3,853,000 for the goods and services received and to be received under the contract for the period from February 1, 2020, through January 31, 2021.

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 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
July 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-341

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To require, on an emergency basis, the Department of Insurance, Securities, and Banking to provide for the licensing of certain entities providing appraisal management services in the District of Columbia and to require an annual registration fee to be paid by those entities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Appraisal Management Company Regulation Emergency Act of 2020".

TITLE I. APPRAISAL MANAGEMENT COMPANY REGULATIONS

Sec. 101. Definitions.

For purposes of this act, the term:

(1) "Affiliate" means any company that controls, is controlled by, or is under common control of another company.

(2) "AMC National Registry" means the registry of state-registered appraisal management companies and federally regulated appraisal management companies maintained by the Appraisal Subcommittee.

(3) "Appraisal Foundation" means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(4) "Appraisal management company" means a person, not including a department or division of an entity that provides appraisal management services only to that entity, that:

(A)(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates; or

(ii) Provides appraisal management services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(B) At any time in a 12-calendar month period oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed appraisers in 2 or more states, as described in section 103.

(5) "Appraisal management services" means one or more of the following:

(A) Recruiting, selecting, and retaining appraisers;

(B) Contracting with state-certified or state-licensed appraisers to perform appraisal assignments;

(C) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and

(D) Reviewing and verifying the work of appraisers.

(6) "Appraisal panel" means a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company. Appraisers on an appraiser panel include both appraisers accepted by the appraisal management company for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the appraisal management company to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor or if the appraiser is treated as an independent contractor by the appraisal management company for purposes of federal income taxation.

(7) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment and is related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:

(A) A general examination for grammatical, typographical, or other similar errors;

(B) A general examination for completeness, including regulatory or client requirements as specified in the agreement process that does not communicate an opinion of value.

(8) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(9) "Consumer credit" means credit offered or extended to a consumer primarily for personal, family, or household purposes.

(10) "Controlling person" means:

(A) An officer, director, or owner of greater than a 10% interest of a corporation, partnership, or other business entity seeking to act as an appraisal management company;

(B) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter a contractual relationship with other persons for the performance of services requiring registration as an appraisal management company and has the authority to enter agreements with appraisers for the performance of appraisals; or

(C) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management of policies of an appraisal management company.

(11) "Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling.

(12) "Creditor" means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than 4 installments (not including a down payment), and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract. A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension for transactions secured by a dwelling.

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

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

(15) "Dwelling" means a residential structure that contains one to 4 units, regardless of whether that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

(16) "Federal financial institutions regulatory agency" includes the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration.

(17) "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in section 3(c)(2) of the Federal Deposit Insurance Act, approved September 21, 1950 (64 Stat. 873; 12 U.S.C. § 1813(c)(2)), and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration.

(18) "Federally regulated transaction regulations" means regulations established by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, pursuant to sections 1112, 1113, and 1114 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, approved August 9, 1989 (103 Stat. 183; 12 U.S.C. §§ 3341-3343).

(19) "Federally related transaction" means any real-estate-related financial transaction that involves an insured depository institution regulated by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal

Deposit Insurance Corporation, or National Credit Union Administration and that requires the services of an appraiser under the interagency appraisal rules.

(20) "Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

(21) "Principal dwelling" means the primary residence of a consumer. For purposes of this act, a consumer may only have one principal dwelling. A vacation or other second home shall not be considered a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's primary residence within one year or upon completion of the construction, the new residence shall be considered the principal dwelling for purposes of this act.

(22) "Real-estate-related financial transaction" means any transaction involving the sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof; the refinancing of real property or interests in real property; or the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(23) "Secondary mortgage market participant" means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. The term includes an individual investor in a mortgage-backed security only if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

(24) "State" includes the District of Columbia.

(25) "Uniform Standards of Professional Appraisal Practice" or "USPAP" means the appraisal standards as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

Sec. 102. Administration.

(a) The Department shall have the authority to adopt rules that are reasonably necessary to establish an appraisal management company licensing program and implement, administer, and enforce the provisions set forth under this act.

(b) The Department shall charge appraisal management companies operating in the District reasonable fees to administer this act. The Department's fees shall be established by rule.

(c) The Department shall perform the following functions:

(1) Review and approve or deny an appraisal management company's application for initial registration in the District;

(2) Periodically review and renew or review and deny an appraisal management company's registration;

(3) Examine the books and records of an appraisal management company operating in the District and require the appraisal management company to submit reports, information, and documents;

(4) Verify that the appraisers on the appraiser panel of an appraisal management company operating in the District hold valid District certifications or licenses, as applicable;

(5) Conduct investigations of appraisal management companies operating in the District to assess potential violations of applicable appraisal-related laws, regulations, or orders; and

(6) Report an appraisal management company's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about the operations of an appraisal management company operating in the District.

(d) The Department shall impose requirements on appraisal management companies operating in the District that are not owned and controlled by an insured depository institution and not regulated by a federal financial institutions regulatory agency to:

(1) Register with and be subject to supervision by the Department;

(2) Engage only state-certified or state-licensed appraisers for federally related transactions in conformity with any federally regulated transaction regulations;

(3) Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;

(4) Direct appraisers to perform assignments in accordance with Uniform Standards of Professional Appraisal Practice; and

(5) Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company conducts its appraisal management services in accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act, approved July 21, 2010 (124 Stat. 2187; 15 U.S.C. § 1639e(a)-(i)), and regulations thereunder.

(e) The Department shall maintain a list of the appraisal management companies that are registered in the District.

(f) The Department shall issue a unique registration number to each appraisal management company that is registered in the District pursuant to regulations or guidance promulgated by the Department.

(g) The Department shall require an appraisal management company registered in the District to place its registration number on engagement documents utilized by the appraisal management company to procure appraisal services in the District.

Sec. 103. Appraisal panel size and calculation.

(a) For purposes of determining whether a person is an appraisal management company within the meaning of section 101(4), an appraiser is deemed part of an appraiser panel as of the earliest date on which the person overseeing the appraisal panel:

(1) Accepts the appraiser for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or

(2) Engages the appraiser to perform one or more appraisals on behalf of a creditor for covered transactions or secondary mortgage market participant in connection with covered transactions.

(b) An appraiser who is deemed part of an appraiser panel pursuant to subsection (a) of this section is deemed to remain on the panel until the date on which the person overseeing the appraisal panel:

(1) Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or

(2) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

(c) If an appraiser is removed from an appraiser panel pursuant to subsection (b)(2) of this section, but the person overseeing the appraisal panel subsequently accepts the appraiser for consideration for future assignments or engages the appraiser at any time during the 12 months after the appraiser's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the appraiser panel without interruption.

Sec. 104. Registration.

(a) It shall be unlawful for a person to directly or indirectly engage or to attempt to engage in business as an appraisal management company in the District, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in the District without first obtaining a registration issued by the Department.

(b) An applicant for registration as an appraisal management company in the District shall submit to the Department an application on forms prescribed by the Department and pay a fee established by the Department. The forms shall require information necessary to determine eligibility for registration.

(c) Upon registration of an appraisal management company in the District, the Department may require a surety bond of not more than $25,000.

Sec. 105. Reporting requirements.

(a) The Department shall collect from each appraisal management company registered or seeking to be registered in the District the information and fees that the Department requires to be submitted to it pursuant to regulations or guidance promulgated by the Department.

(b) A federally regulated appraisal management company operating in the District must report to the Department the information required to be submitted by the District to the Appraisal Subcommittee, pursuant to the Appraisal Subcommittee's policies regarding the determination of

the appraisal management company National Registry fee. These reporting requirements will be set forth by the Department by rule, and will include:

(1) A report to the Department on a form prescribed by the Department of intent to operate in the District of Columbia;

(2) Information related to whether the appraisal management company is owned in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state for a substantive cause, as determined by the Appraisal Subcommittee; and

(3) If such a person has had such action taken on his or her appraisal license, information related to whether the license was revoked for a substantive cause and whether it has been reinstated by the state or states in which the appraiser was licensed or certified.

Sec. 106. Appraisal management company requirements.

(a) An appraisal management company operating in the District shall meet the following requirements at all times:

(1) At the time of applying for registration or renewing registration in the District, the appraisal management company shall designate one of its controlling persons to serve as the main contact for all communication between the Department and the company. The designated controlling person shall:

(A) Remain in good standing in the District and in any other state that has issued the controlling person an appraiser license or certification; however, nothing in this act shall require that a designated controlling person hold or continue to hold an appraiser license or certification in any jurisdiction;

(B) Never have had an appraiser license or certification in the District or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted; and

(C) Be of good moral character;

(2) Before or at the time of placing an assignment to appraise real property in the District with an appraiser on the appraiser panel of the appraisal management company, the appraisal management company shall verify that the appraiser receiving the assignment holds an appraiser license or certification in good standing in the District;

(3) Any employee of or independent contractor to the appraisal management 'company who performs an appraisal review for a property located in the District must be a certified or licensed appraiser in good standing in the District; and

(4) An appraisal management company registered in the District shall place its registration number on engagement documents utilized by the appraisal management company to procure appraisal services in the District of Columbia.

(b) An appraisal management company that has a reasonable basis to believe an appraiser has materially failed to comply with applicable laws or rules or has materially violated the

USPAP shall refer the matter to the Department in conformance with applicable federal laws and regulations.

Sec. 107. Verification of licensure or certification.

(a) An appraisal management company registered in the District may not enter into any contract or agreement with an appraiser for the performance of appraisals in the District unless the company verifies that the appraiser is licensed or certified in good standing in the District.

(b) An appraisal management company seeking to be registered or to renew a registration in the District shall certify to the Department on a form prescribed by the Department that the company has a system and process in place to verify that an individual being added to the appraiser panel of the company for appraisal services holds an appraiser license or certification in good standing in the District.

Sec. 108. Retention of records.

(a) Each appraisal management company seeking to be registered or to renew an existing registration in the District shall certify to the Department on a form prescribed by the Department that the company maintains a detailed record of each service request that the company receives for appraisals of real property located in the District.

(b) An appraisal management company registered in the District shall retain all records required to be maintained under this act for at least 5 years after the file is submitted to the appraisal management company or for at least 2 years after final disposition of any related judicial proceeding of which the appraisal management company is provided notice, whichever period expires later.

(c) All records required to be maintained by the registered appraisal management company shall be made available for inspection by the Department on reasonable notice to the appraisal management company.

Sec. 109. Payment to appraisers.

(a) An appraisal management company shall, except in bona fide cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment no later than 45 days after the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation assignment to the company or its assignee unless a mutually agreed-upon alternate arrangement previously has been established.

(b) An appraisal management company seeking to be registered or to renew an existing registration in the District shall certify that the company will require appraisals to be conducted independently as required by the appraisal independence standards under section 129E of the Truth in Lending Act, approved July 21, 2010 (124 Stat. 2187; 15 U.S.C. § 1639e), including the requirement that a customary and reasonable fee be paid to an independent appraiser who

completes an appraisal in connection with a consumer credit transaction secured by a principal dwelling.

Sec. 110. Prohibited conduct.

A violation of this section may constitute grounds for discipline against an appraisal management company registered in the District. However, nothing in this act shall prevent an appraisal management company from requesting that an appraiser provide additional information about the basis for a valuation, correct objective factual errors in an appraisal report, or consider additional appropriate property information. No employee, director, officer, agent, independent contractor, or other third party acting on behalf of an appraisal management company may do any of the following:

(1) Procure or attempt to procure a registration or renewal by knowingly making a false statement, submitting false information or refusing to provide complete information in response to a question in an application for registration or renewal;

(2) Willfully violate this act or rules of the Department pertaining to this act;

(3) Improperly influence or attempt to improperly influence the development, reporting, result, or review of an appraisal through intimidation, coercion, extortion, bribery, or any other manner, including:

(A) Withholding payment for appraisal services;

(B) Threatening to exclude an appraiser from future work or threatening to demote or terminate the appraiser in order to improperly obtain a desired result;

(C) Conditioning payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached by the appraiser; or

(D) Requesting that an appraiser report a predetermined opinion, conclusion, or valuation, or the desired valuation of any person or entity;

(4) Alter, amend, or change an appraisal report submitted by an appraiser without the appraiser's knowledge and written consent;

(5) Except within the first 90 days after an independent appraiser is added to an appraiser panel, remove an independent appraiser from an appraiser panel without prior written notice to the appraiser, with the prior written notice including evidence of the following, if applicable:

(A) The appraiser's illegal conduct;

(B) A violation of USPAP, this act, or the rules adopted by the Department pursuant to this act;

(C) Improper or unprofessional conduct; or

(D) Substandard performance or other substantive deficiencies;

(6) Require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents or employees for any liability, damage, losses, or claims arising out of the services

performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser;

(7) Prohibit lawful communications between the appraiser and any other person whom the appraiser, in the appraiser's professional judgment, believes possesses information that would be relevant;

(8) Fail to timely respond to any subpoena or any other request for information;

(9) Fail to timely obey an administrative order of the Department; or

(10) Fail to fully cooperate in any investigation.

Sec. 111. Disciplinary proceedings.

The Department may deny, suspend, or revoke the registration of an appraisal management company, impose a monetary penalty of an amount not to exceed $5,000 per violation, issue a letter of reprimand, refuse to issue or renew the registration of an appraisal management company, or take other disciplinary action against an appraisal management company when an appraisal management company engages in conduct prohibited under section 110.

Sec. 112. Criminal history checks.

The Department shall require any controlling person or persons to submit to a criminal history record check. All costs associated with obtaining a background check shall be the responsibility of the appraisal management company.

TITLE II. APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 201. Applicability.

This act shall apply as of July 9, 2020.

Sec. 202. 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. 203. Effective date.

This act shall take effect following approval by the Mayor (or in the event of a 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

ENROLLED ORIGINAL

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
July 27,2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-342

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To amend, on an emergency basis, due to congressional review, the Office of Administrative Hearings Establishment Act of 2001 to extend the jurisdiction of the Office of Administrative Hearings to adjudicated cases involving certain civil violations relating to fare evasion and other unlawful conduct on passenger vehicles; to amend the District of Columbia Mental Health Information Act of 1978 to authorize mental health professionals to disclose mental health information when necessary to request an extreme risk protection order and to require the disclosure of mental health information to the Office of Attorney General in response to a court order; to amend the Firearms Control Regulations Act of 1975 to prohibit the issuance of a firearm registration certificate to the subject of an extreme risk protection order, to require the Superior Court for the District of Columbia, for good cause shown, to issue such orders as may be necessary to obtain mental health records and other relevant information for the purposes of petitions for relief from disqualifications from firearm registration, to authorize the Mayor to issue rules - subject to Council review, to implement the provisions of the Firearms Control Regulations Act of 1975, to clarify that the Office of Attorney General may intervene and represent the interests of the District of Columbia with respect to petitions for extreme risk protection orders or provide individual legal representation, upon request, to a petitioner, to broaden the court's ability to place records related to extreme risk protection orders under seal, to establish procedures for computing periods of time relating to an extreme risk protection order, to provide for the use of calendar days instead of business days for timelines related to extreme risk protection orders, to require that the court consider the unlawful or reckless use, display, or brandishing of any weapon by the respondent in determining whether to issue an extreme risk protection order, to require that the initial hearing for a petition for a final extreme risk protection order be held within 14 days after the petition was filed, to require the Superior Court for the District of Columbia, for good cause shown, to issue such orders as may be necessary to obtain mental health records and other relevant information for the purposes of petitions for an extreme risk protection order, to modify the duration of ex parte extreme risk protection orders, to establish procedures for the issuance and execution of search warrants

accompanying extreme risk protection orders, to add the Office of Attorney General and the Superior Court for the District of Columbia to the list of entities that shall receive from the Metropolitan Police Department information related to extreme risk protection orders, to require the Mayor or the Mayor's designee to submit information about extreme risk protection orders to the National Instant Criminal Background Check System for the purposes of firearm purchaser background checks; to amend the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006 to create a quorum requirement for the Comprehensive Homicide Elimination Strategy Task Force and extend its report submission deadline; and to amend the Act to Regulate Public Conduct on Public Passenger Vehicles to provide that certain violations of the act shall be punishable by civil fine and adjudicated by the Office of Administrative Hearings and to authorize Metro Transit Police Department officers to issue notices of infractions for alleged civil violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Firearms Safety Omnibus Clarification Congressional Review Emergency Amendment Act of 2020".

Sec. 2. Section 6 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by adding a new subsection (b-26) to read as follows:

"(b-26) This act shall apply to all adjudicated cases involving a civil violation penalized under section 5(a) of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective September 23, 1975 (D.C. Law 1-18; D.C. Official Code § 35-254(a)).".

Sec. 3. Title IV of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1204.01 et seq.), is amended as follows:

(a) Section 402 (D.C. Official Code § 7-1204.02) is amended to read as follows:

"Sec. 402. Civil commitment proceedings; extreme risk protection orders.

"Mental health information may be disclosed by a mental health professional when and to the extent necessary to:

"(1) Initiate or seek civil commitment proceedings under D.C. Official Code § 21-541; or

"(2) Request an extreme risk protection order under Title X of the Firearms Control Regulations Act of 1975, effective May 10, 2019 (D.C. Law 22-314; 66 DCR 1672).".

(b) Section 403 (D.C. Official Code § 7–1204.03) is amended by adding a new subsection (c) to read as follows:

"(c) Mental health information shall be disclosed to the Office of the Attorney General for the District of Columbia in response to a court order issued pursuant to section

203(f)(3)(A)(i) of the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2502.03(f)(3)(A)(i)) ("Firearms Act") or section 1003(d)(2) of the Firearms Act (D.C. Official Code § 7-2510.03(d)(2)).".

Sec. 4. 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 203 (D.C. Official Code § 7-2502.03) is amended as follows:

(1) Subsection (a)(15) is amended to read as follows:

"(15) Is not the subject of an ex parte extreme risk protection order issued pursuant to section 1004 or a final extreme risk protection order issued pursuant to section 1003 or renewed pursuant to section 1006.".

(2) Subsection (f)(3) is amended as follows:

(A) Subparagraph (A) is amended to read as follows:

"(A)(i) Upon receipt of a petition filed under paragraph (1) of this subsection, and for good cause shown, the court shall issue such orders as may be necessary to obtain any mental health records and other information relevant for the purposes of the petition. The order shall require the disclosure of records to the Office of the Attorney General so that the Office of the Attorney General can conduct a search of the petitioner's mental health records and report its findings to the court as required by subparagraph (B) of this paragraph.

"(ii) The court shall order the Office of the Attorney General to file a response to the petition. Within 60 days after the court's order for a response, the Office of the Attorney General shall file a response indicating whether the Office of the Attorney General supports or opposes the petition.

"(iii) The court may, for good cause shown, extend in 30-day increments the date by which the Office of Attorney General must file its response under sub-subparagraph (ii) of this subparagraph.".

(B) Subparagraph (B) is amended by striking the phrase "criminal history" and inserting the phrase "criminal history and firearms eligibility" in its place.

(b) Section 705(b) (D.C. Official Code § 7–2507.05(b)) is amended by striking the phrase "the United States Attorney and the Corporation Counsel for the District whether" and inserting the phrase "the United States Attorney's Office and the Office of Attorney General whether" in its place.

(c) Section 712 (D.C. Official Code § 7–2507.11) is amended to read as follows:

"The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved.".

(d) Section 1001(2)(A) (D.C. Official Code § 7-2510.01(2)A)) is amended by striking the phrase "relationship rendering the application of this title appropriate" and inserting the word "relationship" in its place.

(e) Section 1002 (D.C. Official Code § 7-2510.02) is amended as follows:

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

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

(B) Paragraph (4) is repealed.

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

"(c)(1) The Office of the Attorney General may:

"(A) Intervene in the case and represent the interests of the District of Columbia; or

"(B) At the request of the petitioner, provide individual legal representation to the petitioner in proceedings under this title.

"(2) If the Office of the Attorney General intervenes in a case under paragraph (1)(A) of this subsection, the intervention shall continue until:

"(A) The court denies the petition for a final extreme risk protection order pursuant to section 1003;

"(B) The court terminates a final extreme risk protection order pursuant to section 1008; or

"(C) The Office of the Attorney General withdraws from the intervention.".

(3) Subsection (d) is amended to read as follows:

"(d) The court may place any record or part of a proceeding related to the issuance, renewal, or termination of an extreme risk protection order under seal for good cause shown.".

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

"(e) When computing a time period specified in this title, or in an order issued under this title:

"(1) Stated in days or a longer unit of time:

"(A) Exclude the day of the event that triggers the time period;

"(B) Count every day, including intermediate Saturdays, Sundays and legal holidays; and

"(C) Include the last day of the time period, but if the last day of the time period specified falls on a Saturday, Sunday, a legal holiday, or a day on which weather or other conditions cause the court to be closed, the time period specified shall continue to run until the end of the next day that is not a Saturday, Sunday, legal holiday, or a day on which weather or other conditions cause the court to be closed.

"(2) Stated in hours:

"(A) Begin counting immediately on the occurrence of the event that triggers the time period;

"(B) Count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

"(C) If the time period would end on a Saturday, Sunday, legal holiday, or a day on which weather or other conditions cause the court to be closed, the time period shall continue to run until the same time on the next day that is not a Saturday, Sunday, legal holiday, or a day on which weather or other conditions cause the court to be closed.".

(f) Section 1003 (D.C. Official Code § 7-2510.03) is amended as follows:

(1) Subsection (a)(2) is amended to read as follows:

"(2) The initial hearing shall be held within 14 days after the date the petition was filed.".

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

(A) Paragraph (1) is amended by striking the phrase "5 business days" and inserting the phrase "7 days" in its place.

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

"(3) If the respondent is unable to be personally served after the court has set a new hearing date and required new attempts at service pursuant to paragraph (2) of this subsection, the court may dismiss the petition without prejudice.".

(3) Subsection (d) is amended to read as follows:

"(d) Upon receipt of a petition filed under section 1002, and for good cause shown, the court shall issue such orders as may be necessary to obtain any mental health records and other information relevant for the purposes of the petition. The order shall require the disclosure of records to the Office of the Attorney General so that it can conduct a search of the respondent's mental health records and report its findings to the court as required by this subsection. Before the hearing for a final extreme risk protection order, the court shall order that the Office of the Attorney General:

"(1) Conduct a reasonable search of all available records to determine whether the respondent owns any firearms or ammunition;

"(2) Conduct a reasonable search of all available records of the respondent's mental health;

"(3) Perform a national criminal history and firearms eligibility background check on the respondent; and

"(4) Submit its findings under this subsection to the court.".

(4) The lead-in language for subsection (e) is amended by striking the phrase "consider all relevant evidence," and inserting the phrase "consider any exhibits, affidavits, supporting documents, and all other relevant evidence," in its place.

(5) Subsection (h)(6) is amended by striking the phrase "connected with a petition filed under this title" and inserting the phrase "connected with this title" in its place.

(g) Section 1004 (D.C. Official Code § 7-2510.04) is amended as follows:

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

(A) The lead-in language for subsection (c) is amended by striking the phrase "consider all relevant evidence," and inserting the phrase "consider any exhibits, affidavits, supporting documents, and all other relevant evidence," in its place.

(B) Paragraph (4) is amended by striking the phrase "firearm by" and inserting the phrase "firearm or other weapon by" in its place.

(2) Subsection (f) is amended by striking the phrase "to section" and inserting the phrase "to this section" in its place.

(3) Subsection (g) is amended as follows:

(A) Paragraph (3) is amended to read as follows:

"(3) The date and time the order will expire;".

(B) Paragraph (7) is amended to read as follows:

"(7) The procedures for the surrender of firearms, ammunition, registration certificates, licenses to carry a concealed pistol, or dealer's licenses in the respondent's possession, control, or ownership pursuant to section 1007; and".

(4) Subsection (h) is amended to read as follows:

"(h) An ex parte extreme risk protection order issued pursuant to this section shall remain in effect for an initial period not to exceed 14 days. The court may extend an ex parte extreme risk protection order in additional 14-day increments for good cause shown.".

(h) Section 1005(a) (D.C. Official Code § 7-2510.05) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase "next business day" and inserting the phrase "next day" in its place.

(2) Paragraph (3) is amended by striking the phrase "5 business days" and inserting the phrase "7 days" in its place.

(3) Paragraph (4) is amended by striking the phrase "one business day" and inserting the phrase "24 hours" in its place.

(i) Section 1006 (D.C. Official Code § 7-2510.06) is amended as follows:

(1) Subsection (c) is amended by striking the phrase "15 business days" and inserting the phrase "21 days" in its place.

(2) Subsection (d)(4) is amended by striking the phrase "firearm by" and inserting the phrase "firearm or other weapon by" in its place.

(j) Section 1007(a) (D.C. Official Code § 7-2510.07(a)) is repealed.

(k) New sections 1007a, 1007b, 1007c, and 1007d are added to read as follows:

"Sec. 1007a. Nature and issuance of search warrants.

"(a) If the court issues a final extreme risk protection order pursuant to section 1003, issues an ex parte extreme risk protection order pursuant to section 1004, or renews a final extreme risk protection order pursuant to section 1006, the court may issue an accompanying search warrant. The search warrant may authorize a search to be conducted anywhere in the District of Columbia and shall be executed pursuant to its terms.

"(b) A search warrant issued under this section may direct a search of any or all of the following:

"(1) One or more designated or described places or premises;

"(2) One or more designated or described vehicles;

"(3) One or more designated or described physical objects; or

"(4) The respondent.

"(c) The search warrant shall authorize the search for, and seizure of, any firearms, ammunition, registration certificates, licenses to carry a concealed pistol, or dealer's licenses that the respondent is prohibited from having possession or control of, purchasing, or receiving pursuant to the terms of an extreme risk protection order issued or renewed under this title.

"(d) A search warrant issued under section 1007a may be addressed to a specific law enforcement officer or to any classification of officers of the Metropolitan Police Department of the District of Columbia or other agency authorized to make arrests or execute process in the District of Columbia.

"(e) A search warrant issued under section 1007a shall contain:

"(1) The name of the issuing court, the name and signature of the issuing judge, and the date of issuance;

"(2) If the search warrant is addressed to a specific officer, the name of that officer, otherwise, the classifications of officers to whom the warrant is addressed;

"(3) A designation of the premises, vehicles, objects, or persons to be searched, sufficient for certainty of identification;

"(4) A description of the property whose seizure is the object of the search warrant;

"(5) A direction that the search warrant be executed between 6 a.m. and 9:00 p.m. or, where the court has found cause therefor, including one of the grounds set forth in section 1007b(c), an authorization for execution at any time of day or night; and

"(6) A direction that the search warrant and an inventory of any property seized pursuant thereto be returned to the court within 72 hours after its execution.

"Sec. 1007b. Time of execution of search warrants.

"(a) A search warrant issued under section 1007a shall not be executed after the expiration of the extreme risk protection order it accompanies, or after 10 days from the date the warrant was issued, whichever is earlier.

"(b) The search warrant shall be returned to the court after its execution or expiration in accordance with section 1007a(e)(6).

"(c) A search warrant issued under section 1007a may be executed on any day of the week and, in the absence of express authorization in the warrant pursuant to subsection (c) of this section, shall be executed only between 6 a.m. and 9:00 p.m.

"(d) If the court finds that there is probable cause to believe that the search warrant cannot be executed between 6 a.m. and 9:00 p.m., the property sought is likely to be removed or destroyed if not seized forthwith, or the property sought is not likely to be found except at certain times or in certain circumstances, the court may include in the search warrant an authorization for execution at any time of day or night.

"Sec. 1007c. Execution of search warrants.

"(a) An officer executing a search warrant issued under section 1007a directing a search of a dwelling house or other building or a vehicle shall execute that search warrant in accordance with 18 U.S.C. § 3109.

"(b) An officer executing a search warrant issued under section 1007a directing a search of a person shall give, or make reasonable effort to give, notice of his identity and purpose to the person, and, if such person thereafter resists or refuses to permit the search, such person shall be subject to arrest by such officer pursuant to D.C. Official Code § 23-581(a) for violation of section 432a of the Revised Statutes of the District of Columbia (D.C. Official Code § 22-405.01), or other applicable provision of law.

"(c)(1) An officer or agent executing a search warrant issued under section 1007a shall write and subscribe an inventory setting forth the time of the execution of the search warrant and the property seized under it.

"(2) If the search is of a person, a copy of the search warrant and of the return shall be given to that person.

"(3) If the search is of a place, vehicle, or object, a copy of the search warrant and of the return shall be given to the owner thereof or, if the owner is not present, to an occupant, custodian, or other person present. If no person is present, the officer shall post a copy of the warrant and of the return upon the premises, vehicle, or object searched.

"(d) A copy of the search warrant shall be filed with the court on the next court day after its execution, together with a copy of the return.

"(e) An officer executing a search warrant issued under section 1007a directing a search of premises or a vehicle may search any person therein to the extent reasonably necessary to:

"(1) Protect himself or others from the use of any weapon which may be concealed upon the person; or

"(2) Find property enumerated in the warrant which may be concealed upon the person.

"Sec. 1007d. Disposition of property.

"(a) A law enforcement officer or a designated civilian employee of the Metropolitan Police Department who seizes property in the execution of a search warrant issued under section 1007a shall cause it to be safely kept until the property is returned to:

"(1) The respondent, upon the expiration of the extreme risk protection order that the search warrant accompanied; or

"(2) A lawful owner, other than the respondent, claiming title to the property pursuant to section 1007(d).

"(b) Nothing in subsection (a) of this section shall be construed to require the Metropolitan Police Department to release property seized pursuant to a warrant to a person who did not legally possess the property at the time it was taken.

"(c) No property seized shall be released or destroyed except in accordance with law and upon order of a court or of the United States Attorney for the District of Columbia or the Office of the Attorney General.".

(l) Section 1008 (D.C. Official Code § 7-2510.08) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "order in in effect" and inserting the phrase "order is in effect" in its place.

(2) Subsection (c)(4) is amended by striking the phrase "firearm by" and inserting "firearm or other weapon by" in its place.

(3) Subsection (f) is amended as follows:

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

(i) Strike the phrase "upon the petitioner" and insert the phrase "upon the petitioner and respondent" in its place.

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

"(1A) If the petitioner or respondent was personally served in court when the motion to terminate an extreme risk protection order was granted, the personal service requirement of paragraph (1) of this subsection shall be waived with respect to the party served in court.".

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

(i) Strike the phrase "next business day" and insert the phrase "next day" in its place.

(ii) Strike the phrase "the respondent" and insert the phrase "the petitioner" in its place.

(C) Paragraph (3) is amended by striking the phrase "5 business days" and inserting the phrase "7 days" in its place.

(D) Paragraph (4) is amended by striking the phrase "one business day" and inserting the phrase "24 hours" in its place.

(m) Section 1010 (D.C. Official Code § 7-2510.10) is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "available to any" and inserting the phrase "available to the Superior Court for the District of Columbia, the Office of the Attorney General, and any" in its place.

(2) Subsection (b) is amended by striking the phrase "Superior Court of the District of Columbia" and inserting the phrase "Mayor, or the Mayor's designee," in its place.

Sec. 5. Section 501 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 22-4251), is amended as follows:

(a) Subsection (b)(1) is amended by striking the phrase "following entities" and inserting the phrase "following entities, of which one-third shall constitute a quorum" in its place.

(b) Subsection (c) is amended by striking the phrase "June 1, 2019" and inserting the phrase "June 1, 2020" in its place.

Sec. 6. Section 5(a) of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective September 23, 1975 (D.C. Law 1-18; D.C. Official Code § 35-254(a)), is amended to read as follows:

"(a)(1) Except as provided in subsection (b)(1) of this section, a violation of section 2(b) or section 3 shall be punishable by a civil fine of not more than $50.

"(2)(A) Violations penalized under this subsection shall be adjudicated by the Office of Administrative Hearings in accordance with Title II of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code § 48-1211 et seq.); provided, that a person issued a notice of infraction shall not be assessed any additional penalties other than the civil fine for the violation, including the penalties described in sections 202(e) and 203(d) of the Marijuana Possession Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code §§ 48-1212(e) and 48-1213(d)).

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

"(3) Individuals authorized to issue notices of infractions for the violations penalized under this subsection include any police officer with authority to make arrests within the District, including members of the Metro Transit Police Department.".

Sec. 7. Applicability.

This act shall apply as of July 22, 2020.

Sec. 8. 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. 9. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), 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
July 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-343

IN THE COUNCIL OF THE DISTRICT OF CO LUMBIA

JULY 27, 2020

To require, on an emergency basis, for the length of the public health emergency and for 90 days thereafter, the tolling of all time periods for holders of a commercial policy of insurance to exercise their rights under the policy or District law for losses covered under the existing policy.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Commercial Insurance Claim Tolling Emergency Act of 2020".

Sec. 2. Tolling of deadlines under commercial insurance policies.

(a) Notwithstanding any provision of District law and notwithstanding the terms of any policy of insurance subject to this section, for commercial policies of insurance issued by a licensed insurer, in force as of March 25, 2020, and that include coverage under the existing policy for losses in the District, the running of all time periods for policy holders to exercise rights under a policy or District law for a claim for a loss shall by tolled during 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), and for 90 days thereafter.

(b) For the purposes of this section, the term "loss" means physical loss of property, loss of use of property, loss of occupancy, property damage, loss of income, incurred expenses, and other business interruption losses.

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

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
July 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-344

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To amend, on an emergency basis, the Business Improvement District Act of 1996 to provide the taxable properties located in the Adams Morgan Business Improvement District an abatement in full of the Business Improvement District taxes assessed for the period October 1, 2020, through March 31, 2021.

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

Sec. 2. Section 206 of the Business Improvement District Act of 1996, effective March 8, 2006 (D.C. Law 16-56; D.C. Official Code § 2-1215.56), is amended by adding a new subsection (d) to read as follows:

"(d) Notwithstanding any other provision of law, the taxable properties in the Adams Morgan BID shall receive an abatement in full of the BID taxes assessed for the period October 1, 2020, through March 31, 2021.".

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 after 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
July 27,2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-345

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To amend, on an emergency basis, Chapter 48 of Title 16 of the District of Columbia Official Code to expand the standby guardianship law to enable a parent, legal guardian, or legal custodian who is, or may be, subject to an adverse immigration action or who has been exposed to COVID-19 to make short-term plans for a child without terminating or limiting that person's parental or custodial rights.

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

Sec. 2. Chapter 48 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-4801 is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "or who is periodically incapable of caring for the needs of a child due to the parent's incapacity or debilitation resulting from illness," and inserting the phrase "who is periodically incapable of caring for the needs of a child due to the parent's incapacity or debilitation resulting from illness, or who may be subject to an adverse immigration action," in its place.

(2) Paragraph (2) is amended by striking "ill parents" and inserting "parents who may be ill or subject to an adverse immigration action" in its place.

(b) Section 16-4802 is amended as follows:

(1) Paragraph (1) is redesignated as Paragraph (1A).

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

"(1) "Adverse immigration action" includes any of the following events:

"(A) Arrest or apprehension by any local, state, or federal law enforcement officer for an alleged violation of federal immigration law;

"(B) Arrest, detention, or custody by the Department of Homeland Security or a federal, state, or local agency authorized or acting on behalf of the Department of Homeland Security;

"(C) Departure from the United States under an order of removal, deportation, exclusion, voluntary departure, or expedited removal, or a stipulation of voluntary departure;

"(D) The denial, revocation, or delay of the issuance of a visa or transportation letter by the Department of State;

"(E) The denial, revocation, or delay of the issuance of a parole document or reentry permit by the Department of Homeland Security; or

"(F) The denial of admission or entry into the United States by the Department of Homeland Security or a local or state officer acting on behalf of the Department of Homeland Security.".

(3) A new paragraph (5A) is added to read as follows:

"(5A) "COVID-19" means the disease caused by the novel coronavirus SARS-CoV-2.".

(4) Paragraph (6) is amended to read as follows:

"(6) "Debilitation" means those periods when a person cannot care for that person's minor child as a result of:

"(A) A chronic condition caused by physical illness, disease, or injury from which, to a reasonable degree of probability, the designator may not recover; or

"(B) A serious medical condition caused by COVID-19.".

(5) Paragraph (8) is amended by striking the phrase ", who has been diagnosed, in writing, by a licensed clinician to suffer from a chronic condition caused by injury, disease, or illness from which, to a reasonable degree of probability, the designator may not recover." and inserting a period in its place.

(6) Paragraph (10) is amended to read as follows:

"(10) "Incapacity" means:

"(A) A chronic and substantial inability, as a result of a mental or organic impairment, to understand the nature and consequences of decisions concerning the care of a minor child, and a consequent inability to care for the minor child; or

"(B) A substantial inability, as a result of COVID-19, to understand the nature and consequences of decisions concerning the care of a minor child, and a consequent inability to care for the minor child.".

(7) Paragraph (13) is amended to read as follows:

"(13) "Triggering event" means any of the following events:

"(A) The designator is subject to an adverse immigration action;

"(B) The designator has been diagnosed, in writing, by a licensed clinician to suffer from a chronic condition caused by injury, disease, or illness from which, to a reasonable degree of probability, the designator may not recover and the designator:

"(i) Becomes debilitated, with the designator's written acknowledgement of debilitation and consent to commencement of the standby guardianship;

"(ii) Becomes incapacitated as determined by an attending clinician; or

"(iii) Dies; or

"(C) The designator has been diagnosed, in writing, by a licensed clinician to suffer from COVID-19 and the designator:

"(i) Becomes debilitated, with the designator's written acknowledgement of debilitation and consent to commencement of the standby guardianship;

"(ii) Becomes incapacitated as determined by an attending clinician; or

"(iii) Dies.".

(c) Section 16-4804(a) is amended by striking the phrase "the designator's health" and inserting the phrase "the designator's health or immigration status" in its place.

(d) Section 16-4805(b) is amended as follows:

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

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

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

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

"(D) An adverse immigration action against the designator;".

(2) Paragraph (4) is amended by striking the phrase "that the designator suffers" and inserting the phrase "that the designator experienced an adverse immigration action or suffers" in its place.

(3) A new paragraph (7A) is added to read as follows:

"(7A) If an adverse immigration action is the triggering event, documentation demonstrating that an adverse immigration action occurred;".

(e) Section 16-4806 is amended as follows:

(1) Subsection (b) is amended by striking the phrase "or dies." and inserting the phrase "dies, or is subject to an adverse immigration action." in its place.

(2) Subsection (c) 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 and inserting the phrase "; or" in its place.

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

"(4) The documentation demonstrating that an adverse immigration action occurred against the designator.".

(3) Subsection (l) is amended by striking the phrase "medically unable to appear" and inserting the phrase "unable to appear for medical reasons or due to an adverse immigration

action" in its place.

Sec. 3. Applicability.

This act shall apply as of July 8, 2020.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect after 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
July 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-346

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To amend Title 25 of the District of Columbia Official Code to allow on-premises retailer's licenses, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including multipurpose facilities and private clubs that register with the Board to offer alcoholic beverages for indoor on-premises consumption as part of indoor dining and carryout and delivery on a temporary basis from up to two additional locations, and to allow on-premises retailer's licenses, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including multipurpose facilities and private clubs, manufacturer licenses, class A or B, and Convention Center food and alcohol businesses that register with the Board to sell, serve, and allow the consumption of alcoholic beverages at new or expanded temporary ground floor or street level outdoor public or private space.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Streatery Program and Pop Up Locations Emergency Amendment Act of 2020".

Sec. 2. Section 25-113(a) is amended as follows:

(1) Paragraph (3)(D) is amended to read as follows:

"(D)(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 is registered with the Board under subparagraph (C) of this paragraph may also register with the Board to sell, on a temporary basis, beer, wine, or spirits for on-premises consumption indoors and to sell beer, wine, or spirits in closed containers accompanied by one or more prepared food items for off-premises consumption from up to 2 additional locations other than the licensed premises.

"(ii) Board approval shall not be required for the additional registration under this subparagraph; provided, that:

"(I) The licensee separately registers with the Board and receives written authorization from ABRA prior to offering beer, wine, or spirits for carryout or delivery or on-premises consumption indoors at the additional location;

"(II) For carry-out and delivery, the licensee, the additional

location's owner, or a prior tenant at the additional location possesses a valid certificate of occupancy for the building used as the additional location, unless the additional location is located on outdoor private space;

"(III) For on-premises consumption indoors, the additional location's owner or a prior tenant at the additional location possesses a valid certificate of occupancy for a restaurant or other eating or drinking establishment;

"(IV) The licensee has been legally authorized by the owner of the building or the property utilized as the additional location to utilize the space for carryout and delivery, or indoor dining;

"(V)The licensee agrees to follow all applicable District laws, regulations, guidance documents, administrative orders, including Mayor's Orders, and permit requirements or conditions, which may contain requirements that supersede provisions contained in this section; and

"(VI) The additional location from which the licensee intends to offer alcoholic beverages for carryout or delivery or on-premises consumption for indoor dining is located in a commercial or mixed-use zone as defined in the zoning regulations for the District.

"(iii) 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, may sell, serve, and allow the consumption of beer, wine, or spirits indoors on the premises of the additional location pursuant to sub-subparagraph (i) of this paragraph; provided, that the licensee shall:

"(I) Limit its indoor capacity to no more than 50% of the lowest indoor occupancy load or seating capacity on its certificate of occupancy, excluding employees and any separately registered outdoor seating;

"(II) Place indoor tables so that patrons are at least 6 feet apart from one another;

"(III) Ensure for non-movable communal tables that parties are seated at least 6 feet apart from one another and that the communal table is marked with 6 foot divisions, such as with tape or signage;

"(IV) Ensure that all indoor dining customers are seated and place orders and are served food or alcoholic beverages at tables;

"(V) Prohibit events and activities that would require patrons to be standing, cluster, or be in close contact with one another, including dancing, playing darts, video games, including games of skill, bowling, ping pong, pool, throwing axes, or indoor playgrounds;

"(VI) Prohibit patrons from bringing their own alcoholic beverages;

"(VII) Prohibit self-service buffets;

"(VIII) Have a menu in use containing a minimum of 3 prepared food items available for purchase by patrons;

"(IX) Require the purchase of one or more prepared food items per table;

"(X) Ensure that prepared food items offered for sale or served to patrons are prepared on the licensed premises or off-premises at another licensed entity that has been approved to sell and serve food by the District of Columbia Department of Health ("DC Health");

"(XI) Restrict its operations, excluding carry-out and delivery, and the sale, service, or the consumption of alcoholic beverages indoors for on-premises consumption to the hours between 8:00 a.m. and midnight, Sunday through Saturday;

"(XII) Not have more than 6 individuals seated at a table or a joined table;

"(XIII) Require patrons to wait outside at least 6 feet apart until they are ready to be seated or make an on-site reservation;

"(XIV) Not provide live music or entertainment on the registered indoor space without a waiver from the District of Columbia Homeland Security and Emergency Management Agency, although background or recorded music played at a conversational level that is not heard in the homes of District residents shall be permitted;

"(XV) Not serve alcoholic beverages or food to standing patrons;

"(XVI) Prohibit standing at indoor bars and only permit seating at indoor bars that are not being staffed or utilized by a bartender;

"(XVII) Require a minimum of 6 feet between parties seated at indoor bars, rail seats, or communal tables;

"(XVIII) Provide and require that wait staff wear masks;

"(XIX) Require that patrons wear masks or face coverings when waiting in line outside of the establishment or while traveling to use the restroom or until they are seated and eating or drinking;

"(XX) Implement a reservation system by phone, on-line, or on-site and consider keeping customer logs to facilitate contact tracing by DC Health;

"(XXI) Implement sanitization and disinfection protocols including the provision of single use condiment packages; and

"(XXII) Have its own clearly delineated indoor space and not share tables and chairs with another business.

"(iv) An on-premises retailer licensee shall not offer beer, wine, or spirits for carryout and delivery on public space; except, that an additional location under this subparagraph may include a sidewalk café that has been issued a public space permit by the District Department of Transportation ("DDOT").

"(v) An on-premises retailer's licensee who has been registered to offer beer, wine, or spirits for carryout or delivery in accordance with this subparagraph shall do so only at the additional location.

"(vi) An on-premises retailer licensee who has been registered to offer beer, wine, or spirits for carryout or delivery or on-premises alcohol consumption for indoor dining in accordance with this subparagraph may do so for no longer than 60 calendar days. The Board may approve a written request from an on-premises retailer's licensee to extend carryout or delivery alcohol sales or on-premises alcohol sales and consumption for indoor dining from an additional location pursuant to this subparagraph for one additional 30 calendar-day period. A licensee shall not offer beer, wine, or spirits for carryout or delivery for off-premises consumption or on-premises alcohol sales and consumption for indoor dining from the additional location for more than 90 calendar days unless a completed application to do so has been filed with the Board with notice provided to the public in accordance with § 25-421.

"(vii) The on-premises retailer licensee may sell and deliver alcoholic beverages for carryout and delivery from an additional location in accordance with this subparagraph only between the hours of 7:00 a.m. and midnight, 7 days a week.

"(viii) The Board may fine, suspend, cancel, or revoke an on-premises retailer's licensee, and shall revoke its registration to offer beer, wine, or spirits for carryout or delivery or on-premises alcohol sales and consumption of the indoor location at the additional location if the licensee fails to comply with sub-subparagraphs (i) through (vi) of this subparagraph.

"(ix) Notwithstanding sub-subparagraph (iii) of this subparagraph, if an on-premises retailer's licenses, class C or D, has a settlement agreement governing its operations, the Board shall interpret the settlement agreement language that restricts the indoor sale, service, and consumption of beer, wine, or spirits on-premises as applying only to indoor sales, service, or consumption of beer, wine, or spirits at the licensed premises and not the additional location on a temporary basis because prior to the Coronavirus pandemic this new registration process was not available to eligible licensees.".

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

"(6)(A) 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, or a manufacturer's licensee, class A or B, with an on-site sales and consumption permit, or a Convention Center food and alcohol business may register with the Board at no cost to sell, serve, and permit the consumption of beer, wine, or spirits on new or expanded temporary ground floor or street level outdoor public or private space not listed on its existing license. Upon registration, Board approval shall not be required; provided, that the licensee:

"(i) Registers with the Board and receives written authorization from ABRA prior to selling, serving, or permitting the consumption of beer, wine, or spirits on the proposed outdoor public or private space;

"(ii) Registers with DDOT prior to operating on any proposed outdoor public space or receives written approval from the property owner prior to utilizing any proposed outdoor private space; and

"(iii) Agrees to follow all applicable District laws, regulations, guidance documents, administrative orders, including Mayor's Orders, and permit requirements or conditions, which may contain requirements that supersede provisions contained in this section.

"(B) An on-premises retailer's license, class C or D, or a manufacturer's license, class A or B, with an on-site sales and consumption permit, or a Convention Center food and alcohol business that has registered with the Board to sell, serve, and permit the consumption of beer, wine, and spirits to seated patrons on outdoor public or private space not listed on its existing license in accordance with subparagraph (A) of this paragraph shall:

"(i) Place tables on outdoor public or private space so that patrons are at least 6 feet apart from one another;

"(ii) Ensure that all outdoor dining customers are seated and place orders and are served food or alcoholic beverages at tables;

"(iii) Prohibit events and activities that would require patrons to cluster or be in close contact with one another, including dancing, playing darts, video games, or other outdoor games;

"(iv) Prohibit patrons from bringing their own alcoholic beverages;

"(v) Prohibit self-service buffets;

"(vi) Have a menu in use containing a minimum of 3 prepared food items available for purchase by patrons;

"(vii) Require the purchase of one or more prepared food items per table;

"(viii) Ensure that prepared food items offered for sale or served to patrons are prepared on the licensed premises or off-premises at another licensed entity that has been approved to sell and serve food by the DC Health;

"(ix) Ensure that the proposed outdoor public or private space is located in a commercial or mixed-use zone as defined in the District's zoning regulations;

"(x) Restrict its operations, excluding carry-out and delivery, and the sale, service, or the consumption of alcoholic beverages outdoors for on-premises consumption to the hours between 8:00 a.m. and midnight, Sunday through Saturday;

"(xi) Not have more than 6 individuals seated at a table;

"(xii) Require patrons to wait outside at least 6 ft. apart until they are ready to be seated or make an on-site reservation;

"(xiii) Not provide live music or entertainment, except for background or recorded music played at a conversational level that is not heard in the homes of District residents;

"(xiv) Not serve alcoholic beverages or food to standing patrons;

"(xv) Prohibit standing at outdoor bars and only permit seating at outdoor bars that are not being staffed or utilized by a bartender;

"(xvi) Abide by the terms of their public space permit with regard to the allowable placement of alcohol advertising, if any, in outdoor public space;

"(xvii) Provide and require that wait staff wear masks;

"(xviii) Require that patrons wear masks or face coverings while waiting in line outside of the restaurant or while traveling to use the restroom or until they are seated and eating or drinking;

"(xix) Implement a reservation system by phone, on-line, or on-site and consider keeping customer logs to facilitate contact tracing by DC Health;

"(xx) Implement sanitization and disinfection protocols including the provision of single use condiment packages; and

"(xxi) Have its own clearly delineated outdoor space and not share tables and chairs with another business.

"(C) Registration under subparagraph (A) of this paragraph shall be valid until October 25, 2020.

"(D) The Board may fine, suspend, or revoke an on-premises retailer's licensee, class C or D, or a manufacturer's licensee, class A or B, with an on-site sales and consumption permit, and shall revoke the registration to sell, serve, or permit the consumption of beer, wine, or spirits on outdoor public or private space not listed on the license, if the licensee fails to comply with subparagraph (A) or (B) of this paragraph.

"(E)(i) Notwithstanding subparagraph (B) of this paragraph, the Board shall interpret settlement agreement language that restricts sidewalk cafés or summer gardens as applying only to those outdoor spaces that are currently licensed by the Board as sidewalk cafés or summer gardens.

"(ii) The Board shall not interpret settlement agreement language that restricts or prohibits sidewalk cafés or summer gardens to apply to new or extended outdoor space, the use of which is now permitted under this paragraph.

"(iii) The Board shall not interpret settlement agreement language that restricts or prohibits the operation of permanent outdoor space to mean prohibiting the temporary operation of sidewalk cafés or summer gardens.

"(iv) The Board shall require all on-premises retailer licenses, class C or D, or manufacturer licenses, class A or B, with an on-site sales and consumption permit, to delineate or mark currently licensed outdoor space from new or extended outdoor space authorized by the DDOT or the property owner.

"(v) With regard to existing outdoor public or private space, parties to a settlement agreement shall be permitted to waive provisions of settlement agreements that address currently licensed outdoor space for a period not to exceed 180 days.

"(E) For purposes of this paragraph, ground floor or street level sidewalk cafés or summer gardens enclosed by awnings or tents having no more than one side shall be considered outdoor space. Areas enclosed by retractable glass walls and other forms of operable walls shall not be considered outdoor dining. Temporary unlicensed rooftops and summer gardens not located on the ground floor or street level are not eligible for registration under subparagraph (A) of this paragraph.

"(F) A manufacturer's licensee, class A or B, with an on-site sales and consumption permit or a retailer's licensee class C/T, D/T, C/N, D/N, C/X, or D/X, may partner with a food vendor during its operating hours to satisfy the requirement of subparagraph (B)(vi) of this paragraph; provided, that patrons are seated when ordering and ordered food is delivered by the licensee or the food vendor to the seated patron.".

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
July 27, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-347

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To amend, on an emergency basis, the Small and Certified Business Enterprise Development and Assistance Act of 2005 to establish the Business Support Grant program to provide eligible businesses financial support to aid in their recovery from the public health emergency.

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

Sec. 2. 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. 2317. Business Support Grant program.".

"(b) A new section 2317 is added to read as follows:

"Sec. 2317. Business Support Grant program.

"(a)(1) 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.*), the Mayor, in the Mayor's sole discretion, may issue a grant to an eligible business in accordance with this section and rules issued pursuant to this section; provided, that:

"(A) The eligible business submits a grant application in the form and with the information required by the Mayor;

"(B) The eligible business demonstrates, to the satisfaction of the Mayor, a reduction in business revenue due to circumstances resulting from the public health emergency, showing, for an eligible business opened a year or more, financial distress of a 50% or more loss in gross receipts of sales for April, May, and June of 2020 combined compared to the gross receipts reported for the same period in 2019, or, for an eligible business opened fewer than 12

months as of the public health emergency, compared to the 3-month period preceding the public health emergency; and

"(C) A grant is equivalent to up to 15% of lost revenue over the 3-month period from April, May, and June of 2020, and not more than the average monthly gross receipts for any single month in 2019, or, for an eligible business opened fewer than 12 months as of the public health emergency, over the 3-month period preceding the public health emergency; provided further, that at least 12.5% is set aside for an eligible business that is:

"(i) Also, or is eligible to be, a resident-owned business and a small business enterprise as those terms are defined, respectively, in section 2302(15) and (16) and

"(ii)(I) At least 51% owned by economically disadvantaged individuals, as that term is defined in section 2302(7);

"(II) At least 51% owned by a woman or a majority of women; or

"(III) Is, or eligible to be, a disadvantaged business enterprise, as that term is defined in 2302(5).

"(2) An eligible business awarded a grant pursuant to this section may use the grant funds for costs associated with complying with the demands of the public health emergency, reopening, to accommodate to the emerging business environment, or for any other reason determined by the Mayor, as set forth in rules issued pursuant to this section, to likely spur economic recovery.

"(b)(1) The Mayor may award a grant to a lessor of property that leases to an eligible business; provided, that the lessor shall only qualify after demonstrating to the Mayor, in a form acceptable to the Mayor, rental income limited to the property leased to the eligible business and that the lessor has abated rent payments or otherwise provided a benefit to the eligible business in an amount equal in value to at least twice the amount of the grant.

"(2) A lessor who receives an award pursuant to this subsection shall notify the Mayor if the lessor terminates, during the 18 months following receipt of an award pursuant to this subsection, a lease agreement with an eligible business and shall provide, in a form determined by the Mayor, evidence that the termination was:

"(A) With the consent of the eligible business; or

"(B) Unrelated to nonpayment of rent due to the impact of the public health emergency on the eligible business.

"(c) The Mayor may award one or more grants to a third-party grant-managing entity for the purpose of administering the Business Support Grant program and making subgrants on behalf of the Mayor in accordance with the requirements of this section or rules issued pursuant to this section.

"(d)(1) The Mayor, pursuant to section 105 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat.1206; D.C. Official Code 2-505), shall issue rules to implement the provisions of this section, which shall include the grant application process.

"(2) The Mayor, in promulgating the rules shall consider prioritizing available funding, with a priority for those eligible businesses closed due to the public health emergency and unable to open until Phase 3 or Phase 4 of the District's Reopening plan pursuant to the guidelines issued by Executive Order of the Mayor and but for the public health emergency would be open, as follows:

"(A) Thirty-eight percent to restaurants;

"(B) Twenty-eight percent to hotels;

"(C) Fourteen and a half percent to retail;

"(D) Fourteen and a half percent to sports and entertainment sectors; and

"(E) Five percent to child development facilities.

"(e) The Mayor, in the Mayor's sole discretion, may authorize funds of up to $100 million received pursuant to the CARES Act, approved March 27, 2020 (Pub. L. No. 116-136; 134 Stat.281), be used to fund the Business Support Grant program established by this section.

"(f) The Mayor, and any third-party entity chosen pursuant to subsection (c) of this section, 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 December 1, 2020.

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

"(1) "Eligible business" means:

"(A) A child development facility, as that term is defined in the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code 7-2031 (3)); provided that, the child development center has not previously received public vouchers during the public health emergency; or

"(B) A business enterprise eligible for certification under section 2331 and that:

"(i) Is an establishment in the hotel, retail, restaurant, or sports and entertainment sector;

"(ii) Derives at least 80% of its revenue from sales of merchandise, food, beverages, accommodation services, ticket sales, advertising, media, or sponsorship, or a combination of the foregoing; and

"(iii) Is still open or would still be open were it not for the public health emergency.

"(2) "Public health 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.

"(3) "Restaurant" means full-service restaurants, including limited-service restaurants, fast food restaurants, and food service providers such as cafes, delicatessens, coffee shops, supermarkets, grocery stores, vending trucks or carts, food trucks, and cafeterias.

"(4) "Sports and entertainment sector" means an establishment that is open or was open to the public prior to the declaration of the public health emergency for entertainment or leisure. The term "sports and entertainment venue" includes bars, entertainment venues, nightlife establishments, theatres, sports, recreation and entertainment venues, and art galleries.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement 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
July 27,2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-348

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To amend, on an emergency basis, section 47-802 of the District of Columbia Official Code to extend eligibility for the performance arts venue real property tax rebate program for certain businesses that host live performances by performing artists during tax year 2020.

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

Sec. 2. Section 47-802(17) of the District of Columbia Official Code is amended by adding a new subparagraph (C) to read as follows:

"(C) For tax year 2020, a business satisfies the requirements of subparagraph (A)(i) of this paragraph if the business hosts live performances by performing artists for a minimum of 48 hours per month during at least 5 months of the tax year.".

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 27,2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-349

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 27, 2020

To require, on a temporary basis, that the District Department of Transportation to publish a report identifying modifications to roadways in each ward that will create space for uses other than for motorized vehicles and to set a timeline for implementation.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Connected Transportation Network Temporary Act of 2020".

Sec. 2. Connected transportation network.

(a) Within 28 days after the effective date of this act, the District Department of Transportation ("DDOT") shall publish a report identifying modifications to at least 20 miles of streets in the District, including streets in all 8 wards, that will allow, in the roadway, uses other than for motorized vehicles, such as for bicycles. The streets identified pursuant to this subsection shall, to the greatest extent possible, be connected to each other, creating a network of lanes or safe traveling spaces.

(b) The modifications identified pursuant to subsection (a) of this section shall be one of, or a combination of, the following:

(1) Closure of a street to through traffic;

(2) Creation of a protected bicycle lane; or

(3) Reduction of travel lanes to expand public space.

(c)(1) By September 1, 2020, DDOT shall implement at least 20 miles of the modifications identified in the report required by subsection (a) of this section; except, that no modifications shall be implemented in Ward 8.

(2) By October 15, 2020, DDOT shall amend the report required by subsection (a) of this section, to include at least 5 additional miles of modifications.

(3) By November 1, 2020, DDOT shall have implemented at least another 5 miles of modifications identified in the report required by subsection (a) of this section; except, that no modifications shall be implemented in Ward 8.

(d) Modifications made pursuant to this section shall remain in place until at least 270 days following the expiration of a public health emergency declared pursuant to section 5a of the

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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 at such time as the Mayor declares the District to be in phase 4 of reopening as described in the ReOpen DC Advisory Group Recommendations to the Mayor, whichever is later.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
July 27,2020

ENROLLED ORIGINAL

A RESOLUTION

23-466

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To declare and approve as surplus the District-owned real property, known as Howard Road, located at 1004-1018 Howard Road, S.E., and known for taxation and assessment purposes as Lots 0948, 0906, 1035, 0839, 1034, 0952, 0897, and 0908 in Square 5860.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Howard Road Surplus Declaration and Approval Resolution of 2020".

Sec. 2. Findings.

(a) The District is the owner of the real property, located at 1004-1018 Howard Road, S.E., known for taxation and assessment purposes as Lots 0948, 0906, 1035, 0839, 1034, 0952, 0897, and 0908 in Square 5860 ("Property"). The Property consists of approximately 27,000 square feet of land.

(b) The Property does not have any necessary use by the District and is no longer required for public purposes. The most pragmatic solution for activating this site is to declare the Property surplus and dispose of the Property for development.

(c) The District has satisfied the public hearing requirements of section 1(a-1)(4) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(a-1)(4)) ("Act"), by holding a public hearing on March 20, 2018, at the Department of Housing and Community Development Housing Resource Center located at 1800 Martin Luther King Jr. Avenue, S.E.

Sec. 3. Pursuant to D.C. Official Code §10-801(a-1) of the Act, the Council finds that the Property is no longer required for public purposes.

Sec. 4. Transmittal.

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

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Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-467

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve the disposition of District-owned real property located at 1004-1018 Howard Road S.E., known for taxation and assessment purposes as Lots 0948, 0906, 1035, 0839, 1034, 0952, 0897, and 0908 in Square 5860.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Howard Road Disposition Approval Resolution of 2020".

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) "Act" means An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*).

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

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

(4) "Developer" means Howard Road Community Partners LLC with a business address of 4700 14th Street, N.W., Unit B, Washington, DC 20011, managed by H2DesignBuild with a business address of 4700 14th Street, N.W., Washington, DC 20011, and includes ASSET Management Consulting and its successors, assignees, sublessees, or affiliates, as approved by the Mayor.

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

(6) "Project" means a mixed-use development including residential units, affordable residential units, and any ancillary uses allowed under applicable law, as further described in the term sheet submitted with this resolution, in accordance with section (b-1) of the Act.

(7) "Property" means the real property and improvements located at 1004-1018 Howard Road S.E., known for taxation and assessment purposes as Lots 0948, 0906, 1035, 0839, 1034, 0952, 0897, and 0908 in Square 5860.

Sec. 3. Findings.

(a) The Property consists of approximately 27,000 square feet of land.

(b) The intended use of the Property is a mixed-use development as described in section 2(6) and in the term sheet submitted with this resolution.

(c) The Mayor finds that the disposition shall include the following terms:

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

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

(3) The Developer shall enter into a First Source Agreement with the District that shall govern certain obligations of the Developer regarding job creation and employment as a result of the construction on the Property.

(e) Pursuant section 1(b)(8)(F) of the Act, the proposed method of disposition is a public or private sale to the bidder providing the most benefit to the District, as further described in the documents submitted with this resolution.

(f) The District has satisfied the public hearing requirements of section 1(b-2) of the Act by holding a public hearing on March 12, 2019, at the Department of Housing and Community Development Housing Resource Center, located at 1800 Martin Luther King Jr. Avenue, S.E., to obtain community comment and suggestions on the proposed use of the Property.

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

Sec. 4. Approval of disposition.

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

(b) The Council approves the disposition of the Property.

Sec. 5. Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 6. Transmittal.
The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 7. Effective date.
This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-468

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To confirm the appointment of Ms. Victoria Wassmer to the Board of Directors of the Washington Metrorail Safety Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Directors of the Washington Metrorail Safety Commission Victoria Wassmer Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Victoria Wassmer
Hobart Street, N.W.
Washington, D.C. 20009
(Ward 1)

as an alternate member of the Board of Directors of the Washington Metrorail Safety Commission ("Board"), pursuant to Article III.B of section 2 of the Washington Metrorail Safety Commission Establishment Act of 2016, effective April 7, 2017 (D.C. Law 21-250; D.C. Official Code § 9-1109.11), and the Washington Metrorail Safety Commission Board of Directors Amendment Act of 2018, effective March 29, 2018 (D.C. Law 22-84; 65 DCR 1590), replacing Christopher Geldart, for a term to end February 9, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee, the Board, and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-469

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To confirm the reappointment of Mr. Robert Bobb to the Board of Directors of the Washington Metrorail Safety Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Robert Bobb
Taylor Street, N.W.
Washington, D.C. 20011
(Ward 4)

as a principal member of the Board of Directors of the Washington Metrorail Safety Commission ("Board"), pursuant to Article III.B of section 2 of the Washington Metrorail Safety Commission Establishment Act of 2016, effective April 7, 2017 (D.C. Law 21-250; D.C. Official Code § 9-1109.11), and the Washington Metrorail Safety Commission Board of Directors Amendment Act of 2018, effective March 29, 2018 (D.C. Law 22-84; 65 DCR 1590), for a term to end February 9, 2024.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee, the Board, and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-470

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To declare as no longer required for public purposes the District-owned real property located at 3999 8th Street, S.E. (also known as 700 Yuma Street, S.E.), commonly known as the Ferebee-Hope School, and known for tax and assessment purposes as Lot 0045 in Square 6124.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Ferebee-Hope School Surplus Declaration and Approval Resolution of 2020".

Sec. 2. Findings.

(a) The District is the owner of the real property, located at 3999 8th Street, S.E. (also known as 700 Yuma Street, S.E.), commonly known as the Ferebee-Hope School, and designated for tax and assessment purposes as Lot 0045 in Square 6124 ("Property"). The land area of the Property consists of approximately 10.27 acres. The Property is improved with a 193,000 square foot facility, a 33,000 square foot recreation center, athletic fields, a playground, athletic courts, and other improvements.

(b) The Property is no longer required for public purposes. The District has not used the Property as a District of Columbia public school since 2013. The most viable option for the use of the Property is its continued use as an educational facility for students in the District. Declaring that the Property is no longer required for public purposes and disposing of it under a long-term ground lease is the most expedient and cost-effective solution to maintain the Property, allow the District to retain fee ownership of the Property, and provide the citizens of the District with outstanding educational services.

(c) The District has satisfied the public hearing requirements of section 1(a-1)(4) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code §10-801(a-1)(4)) ("Act"), by holding a public hearing on July 9, 2019.

Sec. 3. Pursuant to D.C. Official Code §10-801(a-1) of the Act, the Council determines that the Property is no longer required for public purposes.

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-471

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve the disposition of District-owned real property located at 3999 8th Street S.E., also known as 700 Yuma Street S.E., commonly known as the Ferebee-Hope School, and known for tax and assessment purposes as Lot 0045, Square 6124.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Ferebee-Hope School Disposition Approval Resolution of 2020".

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) "Act" means An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*).

(2) "CBE Agreement" means an agreement with the District governing certain obligations of the Lessee of the Property under the Small, Local, and Disadvantaged 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"), including the equity and development participation requirements set forth in section 2349a of the CBE Act (D.C. Official Code § 2-218.49a).

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

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

(5) "Lessee" means KIPP D.C. Public Charter Schools, a District of Columbia nonprofit corporation or its successors or permitted assigns, with a business address of 2600 Virginia Avenue N.W.

(6) "Property" means the real property and improvements located at 3999 8th Street S.E., also known as 700 Yuma Street S.E., commonly known as the Ferebee-Hope School,

and known for tax and assessment purposes as Lot 0045, Square 6124.

Sec. 3. Approval of disposition.

(a) Pursuant to section 1(b) and (b-1) of the Act, the Mayor transmitted to the Council a request for the Council to authorize a lease of the Property to the Lessee for the development of, and use as, a charter school.

(b) The proposed disposition would occur through a negotiated lease for a period of greater than 15 years.

(c) The proposed disposition is expected to include the following terms and conditions, in addition to such other terms and conditions as the Mayor considers necessary or appropriate:

(1) The Lessee shall redevelop the Property in accordance with plans that shall be subject to approval by the District and use the Property primarily as an educational facility.

(2) The Lessee shall enter into a CBE Agreement that will require the Lessee to contract with Certified Business Enterprises for at least 35% of the contract dollar volume of the redevelopment of the Property and, if feasible, require at least 20% development participation of Certified Business Enterprises.

(3) The Lessee will enter into a First Source Agreement.

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

(d) The Council finds that the Property is not required for public purposes.

(e) The Council finds that the Mayor's analysis of economic and other policy factors supporting the disposition of the Property justifies the lease proposed by the Mayor.

(f) All documents submitted with this resolution shall be consistent with the executed term sheet transmitted to the Council pursuant to section 1(b-1)(2) of the Act.

(g) The Council approves the disposition of the Property.

Sec 4. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Office of the Mayor, the Department of General Services, and the Chief Financial Officer.

Sec. 5. Fiscal impact statement.

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

. Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-472

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To declare the existence of an emergency with respect to the need to approve Change Order Nos. 4 and 7 to Contract No. DCAM-17-CS-0049, between the Department of General Services and District Veterans Contracting, increasing the aggregate amount of the Contract by $1,430,812.97 to the lump sum price of $9,297,321.97, and to authorize payment to District Veterans Contracting for services received and to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the "Change Order Nos. 4 and 7 to Contract No. DCAM-17-CS-0049 with District Veterans Contracting Approval and Payment Authorization Emergency Declaration Resolution of 2020".

Sec. 2.(a) There exists an immediate need to approve Change Order Nos. 4 and 7 to Contract No. DCAM-17-CS-0049 ("Contract") between the Department of General Services ("Department") and District Veterans Contracting ("Contractor") and to authorize payment to the Contractor in the increased aggregate amount of $9,297,321.97 for Wilson Building Exterior Restoration Phase 2 services received and to be received under these change orders.

(b) On July 7, 2017, the underlying Contract was deemed approved by the Council as CA22-0214. The underlying Contract, as submitted to Council, included an initial not-to-exceed amount of $4,993,054.

(c) Change Order No. 1, previously submitted to the Council and approved as CA22-0405 on February 26, 2018, increased the Contract's lump sum price from $4,993,054 by $2,873,455 to $7,866,509. Change Order No. 2, in the amount of $0, was executed on June 5, 2018. Change Order No. 3, in the amount of $0, was executed on February 28, 2019. Change Order No. 4 was executed on May 17, 2019, and increased the Contract's lump sum price by $505,812.97. Change Order No. 5, in the amount of $0, was executed on August 1, 2019. Change Order No. 6 in the amount of $0, was executed on January 31, 2020. The aggregate value of Change Order Nos. 2 through 6 is not over $1 million; thus, Council's approval was not required.

(d) Council approval is now required as proposed Change Order No. 7 would increase the Contract's Lump Sum Price by $925,000. If approved, the aggregate increase to the total Contract value, via Change Order No. 4 in the amount of $505,812.97 and proposed Change Order No. 7 in the amount of $925,000, would be $1,430,812.97. Thus, proposed Change Order

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No. 7 would cause the aggregate value of all Change Orders issued since Council's last approval to exceed $1 million. Thus, the Council's approval of Change Order Nos. 4 and 7 is now required 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).

(e) Council approval of Change Order Nos. 4 and 7 is necessary to authorize the continuation of additional work to restore the exterior of the John A. Wilson Building and payment to the Contractor for construction services received and to be received under Change Order Nos. 4 and 7.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Order Nos. 4 and 7 to Contract No. DCAM-17-CS-0049 with District Veterans Contracting Approval and Payment Authorization Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-477

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010A with Audit Services US LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010A, Unclaimed Property Services Approval Resolution of 2020".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), 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 multiyear Contract No. CFOPD-20-C-010A with Audit Services US LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $315,000.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-478

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010B with Kelmar Associates LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010B, Unclaimed Property Services Approval Resolution of 2020".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), 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 multiyear Contract No. CFOPD-20-C-010B with Kelmar Associates LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $492,000.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-479

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010C with Verus Analytics LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010C, Unclaimed Property Services Approval Resolution of 2020".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), 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 multiyear Contract No. CFOPD-20-C-010C with Verus Analytics LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $553,500.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-480

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010D with Discovery Audit Services, LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010D, Unclaimed Property Services Approval Resolution of 2020".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)) 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 multiyear Contract No. CFOPD-20-C-010D with Discovery Audit Services, LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $108,000.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-481

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010E with EECS, LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010E, Unclaimed Property Services Approval Resolution of 2020".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), 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 multiyear Contract No. CFOPD-20-C-010E with EECS, LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $94,500.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-482

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010F with Audit Services US, LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010F, Unclaimed Property Services Approval Resolution of 2020".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), 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 multiyear Contract No. CFOPD-20-C-010F with Audit Services US, LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $135,000.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-483

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010G with Kelmar Associates, LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010G, Unclaimed Property Audit Services Approval Resolution of 2020".

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), 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 multiyear Contract No. CFOPD-20-C-010G with Kelmar Associates, LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $360,000.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-484

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve multiyear Contract No. CFOPD-20-C-010H with Verus Analytics, LLC to provide unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-20-C-010H, Unclaimed Property Audit Services Approval Resolution of 2020".

Sec. 2. (a) Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-0371; D.C. Official Code § 2-352.02), the Council approves multiyear Contract No. CFOPD-20-C-010H with Verus Analytics, LLC for unclaimed property audit services to the Office of the Chief Financial Officer, Office of Financial and Treasury, which has a 3-year base term and two 2-year option periods, in a base-term not-to-exceed amount of $270,000.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-485

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District's Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2020-LRSP-01A with NW One Phase I ADU Owner, LP for program units at Northwest One Apartments, located at 2 L Street, N.W.

RESOLVED, BY THE COUNCILOF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2020-LRSP-01A Approval Resolution 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 the long-term subsidy contract 2020-LRSP-01A with NW One Phase I ADU Owner, LP to provide an operating subsidy in support of 65 affordable housing units in an initial amount not to exceed $2,227,392 annually.

Sec. 3. Transmittal.

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-488

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To declare the existence of an emergency with respect to the need to approve a one-year Capital Funding Agreement with the Washington Metropolitan Area Transit Authority to provide capital funding for a capital improvement program from July 1, 2020, through June 30, 2021.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Washington Metropolitan Area Transit Authority Fiscal Year 2021 Capital Funding Agreement Emergency Declaration Resolution of 2020".

Sec. 2. (a) There exists an immediate need to approve the Capital Funding Agreement with the Washington Metropolitan Area Transit Authority ("WMATA") and the Contributing Jurisdictions consisting of the District, the State of Maryland, Arlington County, Virginia, Fairfax County, Virginia, Loudoun County, Virginia, the City of Alexandria, Virginia, the City of Fairfax, Virginia, and the City of Falls Church, Virginia, and to provide new capital funding for the capital improvement program for the Washington metro system from July 1, 2020, to June 30, 2021.

(b) On July 1, 2010, the Office of Contracting and Procurement ("OCP"), on behalf of the District Department of Transportation ("DDOT"), executed a multiyear Capital Funding Agreement with WMATA to provide capital funding for a capital improvement program from July 1, 2010 through June 30, 2016 in the ceiling amount of $397,314,000.

(c) On July 1, 2016, OCP, on behalf of DDOT, executed a modification to the multiyear Capital Funding Agreement with WMATA to increase the amount for Fiscal Year 2017 by $92,100,000 for a total ceiling amount of $489,414,000.

(d) On July 1, 2017, OCP, on behalf of the DDOT, executed a second modification to the multiyear Capital Funding Agreement with WMATA to increase the amount for Fiscal Year 2018 by $76,100,000 for a total ceiling amount of $565,514,000.

(e) On July 1, 2018, OCP, on behalf of DDOT, executed a third modification to the multiyear Capital Funding Agreement with WMATA to increase the amount for Fiscal Year 2019 by $75,235,000 for a total ceiling amount of $640,749,000.

(f) A one-year Capital Funding Agreement with WMATA to provide $92,700,000 in capital funding for a capital improvement program from July 1, 2019 to June 30, 2020 was executed.

(g) A new one-year Capital Funding Agreement with WMATA to provide $95,116,884 in capital funding for a capital improvement program from July 1, 2020 to June 30, 2021 is now necessary. This capital funding excludes Passenger Rail Investment and Improvement Act funding.

(h) Council approval is necessary since the contract is for more than $ 1 million during a 12-month period.

(i) Approval is necessary to allow the continuation of these vital services. Without this approval, WMATA cannot be paid for services provided in excess of $1 million for the contract period July 1, 2020, through June 30, 2021.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Washington Metropolitan Area Transit Authority Fiscal Year 2021 Capital Funding Agreement Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-489

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To declare the existence of an emergency with respect to the need to approve a one-year Local Capital Funding Agreement with the Washington Metropolitan Area Transit Authority to provide capital funding for a capital improvement program from July 1, 2020, through June 30, 2021.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Washington Metropolitan Area Transit Authority Fiscal Year 2021 Local Capital Funding Agreement Emergency Declaration Resolution of 2020".

Sec. 2. (a) There exists a need to approve the Local Capital Funding Agreement with the Washington Metropolitan Area Transit Authority ("WMATA") to provide capital funding for the capital improvement program for the Washington metro system from July 1, 2020 to June 30, 2021.

(b) On July 1, 2010, the Office of Contracting and Procurement ("OCP"), on behalf of the District Department of Transportation ("DDOT"), executed a multiyear Local Capital Funding Agreement with WMATA to provide capital funding for a capital improvement program from July 1, 2010, through June 30, 2016, in the ceiling amount of $397,314,000.

(c) On July 1, 2016, OCP, on behalf of DDOT, executed a modification to the multiyear Local Capital Funding Agreement with WMATA to increase the amount for Fiscal Year 2017 by $92,100,000 for a total ceiling amount of $489,414,000.

(d) On July 1, 2017, OCP, on behalf of DDOT, executed a second modification to the multiyear Local Capital Funding Agreement with WMATA to increase the amount for Fiscal Year 2018 by $76,100,000 for a total ceiling amount of $565,514,000.

(e) On July 1, 2018, OCP, on behalf of DDOT, executed a third modification to the multiyear Local Capital Funding Agreement with the Washington Metropolitan Area Transit Authority to increase the amount for Fiscal Year 2019 by $75,235,000 for a total ceiling amount of $640,749,000.

(f) A one-year Local Capital Funding Agreement with WMATA to provide $92,700,000 in capital funding for a capital improvement program from July 1, 2019, to June 30, 2020 was executed.

(g) A new one-year Local Capital Funding Agreement with WMATA to provide $95,116,884 in capital funding for a capital improvement program from July 1, 2020, to June 30,

2021 is now necessary. This capital funding excludes Passenger Rail Investment and Improvement Act funding.

(h) Council approval is necessary since the contract is for more than $1 million during a 12-month period.

(i) Approval is necessary to allow the continuation of these vital services. Without this approval, WMATA cannot be paid for services provided in excess of S1 million for the contract period July 1, 2020, through June 30, 2021.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Washington Metropolitan Area Transit Authority Fiscal Year 2021 Local Capital Funding Agreement Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-490

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 21, 2020

To declare the existence of an emergency with respect to the need to approve the development agreement for the construction of a new hospital at St. Elizabeths as a contract in excess of $1 million; to approve the operations agreement for the operation of the hospital as a multiyear contract and contract in excess of $1 million; to authorize the Mayor to dispose of the hospital and the real property on which the hospital will be located to UHS East End Sub, LLC; to establish a special fund as a startup reserve for the hospital; and to amend the Health Services Planning Program Re-Establishment Act of 1996 to establish an uncompensated care requirement for the hospital.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "New Hospital at St. Elizabeths Emergency Declaration Resolution of 2020".

See. 2. (a) The District faces significant disparities in health outcomes among its residents, particularly among residents of Wards 7 and 8.

(b) Mayor Bowser has negotiated agreements with Universal Health Services and its subsidiaries to help transform the District's health-care system and promote equity in care, access, and outcomes through the establishment of a new, state of the art, 136-bed community hospital and ambulatory pavilion on the east campus of St. Elizabeths, in Ward 8.

(c) The new hospital will be integrated with the existing George Washington University Hospital, with physicians, medical students, and research provided by the George Washington Medical Faculty Associates and George Washington University School of Medicine.

(d) To move forward with this project, certain agreements must be approved by the Council and certain legislative provisions must be enacted to implement provisions of the agreements.

(e) Without the Council's immediate approval of legislation approving the agreements and the legislative provisions, construction and operation of the hospital will be unnecessarily delayed, which in turn will delay important improvements to health-care services for District residents.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the New Hospital at St. Elizabeths Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-491

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 23, 2020

To declare the existence of an emergency with respect to the need to adjust certain appropriations in the Fiscal Year 2020 Local Budget Act of 2019.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2020 Revised Local Budget Adjustment Emergency Declaration Resolution of 2020".

Sec. 2. (a) The Council previously approved a balanced budget for Fiscal Year 2020.

(b) Since the time that budget was approved, the Chief Financial Officer issued a revised revenue estimate certifying local fund revenues for Fiscal Year 2020 that are $721.8 million below the previous certified estimate due to the COVID-19 pandemic. In addition, certain budget pressures have arisen since the beginning of Fiscal Year 2020.

(c) Appropriated revenues and budget authority for Fiscal Year 2020 must be adjusted immediately to ensure that a balanced budget is maintained while continuing to meet the needs of District residents.

(d) Also, in conjunction with the proposed Fiscal Year 2021 Budget and Financial Plan, the Mayor identified additional amounts from fund balances and other revenue to increase available resources.

(e) The Fiscal Year 2020 resources resulting from these changes are used to help balance the proposed Fiscal Year 2021 Budget and Financial Plan, align agency budgets with reduced revenue in Fiscal Year 2020, and ensure timely repayment of the Contingency Cash Reserve Fund.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2020 Revised Local Budget Adjustment Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-494

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To confirm the appointment of Mr. John Falcicchio as Deputy Mayor for Planning and Economic Development.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Deputy Mayor for Planning and Economic Development John Falcicchio Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. John Falcicchio
K Street N.W.
Washington, D.C. 20001
(Ward 6)

as the Deputy Mayor for Planning and Economic Development, 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), to serve at the pleasure of the Mayor.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-495

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To confirm the appointment of Mrs. Karima Woods as the Commissioner of the Department of Insurance, Securities, and Banking.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commissioner of the Department of Insurance, Securities, and Banking Karima Woods Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mrs. Karima Woods
Coleman Lane N.E.
Washington, D.C. 20018
(Ward 5)

as the Commissioner of the Department of Insurance, Securities, and Banking, established by section 3 of the Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-102), to serve at the pleasure of the Mayor.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-496

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To confirm the reappointment of Mr. James Short as a member of the Alcohol Beverage Control Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Alcoholic Beverage Control Board James Short Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. James Short
Branch Avenue S.E.
Washington, D.C. 20020
(Ward 7)

as a member of the Alcoholic Beverage Control Board, established by the D.C. Official Code § 25-201, for a term to end May 7, 2024.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-497

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To confirm the appointment of Ms. Rema Wahabzadah as a member of the Alcohol Beverage Control Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Alcoholic Beverage Control Board Rema Wahabzadah Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Rema Wahabzadah
4th Street, N.W.
Washington, D.C. 20001
(Ward 6)

as a member of the Alcoholic Beverage Control Board, established by D.C. Official Code § 25-201, for a term to end May 7, 2024.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-499

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To declare the existence of an emergency to cancel the tax sale during 2020 due to the inability to hold a public auction during Phase 2 of the District's reopening during the COVID-19 pandemic.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Real Property Tax Sale COVID-19 Emergency Declaration Resolution of 2020".

Sec. 2. (a) On March 11, 2020, the Mayor issued Mayor's Orders 2020-045 and 2020-046, declaring a public emergency and a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of COVID-19. That public emergency was extended until October 9, 2020.

(b) On June 19, 2020, the Mayor issued Mayor's Order 2020-075, declaring that the District had entered "Phase 2" of District's Reopening. Mayor's Order 2020-075 will remain in effect for the duration of the public health emergency or until repealed, modified, or superseded.

(c) Mass gatherings that bring together 50 or more people at the same time in a single room or other single confined enclosed space are prohibited during Phase 2. The Phase 2 restrictions remain in place.

(d) The real property tax sale ("tax sale") is by law a public auction conducted by the Office of Tax and Revenue, and it has consistently been attended by more than 50 people and can reach up to 200 people in attendance.

(e) The tax sale requires nearly 3 months to plan in advance. The current restrictions on mass gatherings and uncertainty of future conditions impede the ability to set a tax sale date.

(f) In order to remain in compliance with Mayor's Order 2020-075 and for the safety and health of District residents due to the COVID-19 public health emergency, the tax sale needs to be cancelled.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Real Property Tax Sale COVID-19 Equitable Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-502

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To declare the existence of an emergency with respect to the need to require employers to adopt and implement social distancing policies in adherence to Mayor's Order 2020-080 or subsequent Mayor's Order, to prohibit retaliation against an employee who refuses to work with or serve an individual who refuses to comply with Mayor's Order 2020-080, to prohibit retaliation against an employee because the employee tests positive for or is quarantining because of COVID-19, or is caring for someone who has symptoms of or is quarantining because of COVID-19, and to prohibit retaliation against an employee who attempts to exercise any right or protection under title I or to stop or prevent a violation of the worker safety provisions of title I, to authorize the Mayor and Attorney General to administer and enforce workplace and employee protections in title I, to authorize the Attorney General to bring civil actions in a court of competent jurisdiction, to authorize the Chief Procurement Officer to enter into an indefinite duration/indefinite quantity contract to assist eligible businesses in the purchase of personal protective equipment and other supplies related to the containment of COVID-19, to permit federal laws, polices, and standards or a Mayor's Order that contains stricter personal protective equipment standards, to preempt the terms of title I; and to amend the Small and Certified Business Enterprise Act of 2005 to authorize the Mayor to issue grants for small businesses to purchase or receive reimbursements for the purchase of personal protective equipment for their employees.

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RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Protecting Businesses and Workers from COVID-19 Emergency Declaration Resolution of 2020".

Sec.2. (a) There exists an immediate need to establish workplace safety protections as the District reopens for business following the declaration of the public health emergency in the District by Mayor's Order 2020-045 on March 11, 2020.

(b) COVID-19 has created circumstances in which the most routine parts of daily life, such as going to work, shopping, enjoying a meal out can be deadly. COVID-19 is most often transmitted through the exchange of respiratory droplets through the mouth and nose orifices.

The use of a face covering to cover the nose and mouth while within 6 feet of another person greatly reduces rates of transmission and infection.

(c) After months on pause, many District businesses have begun reopening with new health and safety guidelines in place. To support a successful and sustainable reopening and ensure that customers and employees have peace of mind that it is safe to shop, dine out, and return to workplaces, to prevent transmission of COVID-19, and to ensure the public health, it is necessary to set standards and basic protocols for businesses and workplaces.

(d) Current District law requires employers to provide a safe place of employment for employees and relies on a federal agency, the Occupational Safety and Health Administration, to create mandatory standards and processes, enforce safety regulations, and otherwise respond to new workplace dangers that affect the safety of workers and workplaces. OSHA has abdicated this responsibility during the coronavirus pandemic.

(e) In the absence of OSHA, federal and local authorities have established piecemeal guidelines and recommendations that sometimes conflict or are otherwise ambiguous. Some other jurisdictions that reopened have been forced to shutter businesses for a second time, some permanently, when workplaces became sources of community infection, undoing any economic progress made and causing great strain on healthcare facility capacities.

(f) Workers in the District and elsewhere have perished after contracting COVID-19 at work, and many who have not been working during the public health emergency are afraid to report for work without adequate protections. Consumers are also resistant to engaging in the marketplace due to safety concerns, further delaying a full economic recovery.

(g) The District must establish policies to require employees to report a positive COVID-19 infection to their employers, establish social distancing and face covering policies that apply to customers and workers, provide personal protective equipment to employees, and prohibit retaliation against workers who attempt to exercise their rights.

Sec.3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Protecting Businesses and Workers from COVID-19 Emergency Amendment Act of 2020 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-503

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To declare the existence of an emergency with respect to the need to approve the reprogramming request of Fiscal Year 2020 capital funds in the amount of $8,376,301 from the Paid Family Leave IT Application Project to the Department of General Services Military Road School Modernization/Renovation Project.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Military Road School Modernization/Renovation Project Reprogramming Emergency Declaration Resolution of 2020".

Sec. 2. (a) The Executive submitted this reprogramming to the Council in order to transfer Fiscal Year 2020 capital funds in the amount of $8,376,301from Paid Family Leave IT Application funds (PFL08C) to the Department of General Services Military Road School Modernization/Renovation Project (YY1MLC).

(b) The District government has a significant need to purchase the Military Road School to help solve for the Ward 4 overcrowding problem at nearby schools and expand early childhood offerings.

(c) The funds are available due to revised cost projections for the Paid Family Leave IT Application Project.

(d) Immediate Council approval of this reprogramming is necessary for the Department of General Services to have the available funds to acquire the Military Road School in a timely manner.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Military Road School Modernization/Renovation Project Reprogramming Emergency Approval Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-504

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To declare the existence of an emergency with respect to the need to amend the District of Columbia Election Code of 1955 to require the Board of Elections, for the November 3, 2020, General Election, to operate Vote Centers, operate no fewer than 80 polling places, including one for eligible individuals incarcerated in the Central Detention Facility and Correctional Treatment Facility, mail every registered voter an absentee ballot and postage-paid return envelope, publish and mail a paper voter guide, email registered voters a voter guide and information about the General Election, to require voter registration agencies to promote the Board's plans for the General Election, and to remove the requirement that the Board post a list of qualified electors registered to vote in libraries and public buildings, and for other purposes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "General Election Preparations Emergency Declaration Resolution of 2020".

Sec. 2. (a) The District of Columbia Board of Elections ("Board") is an independent District agency, overseen by a Chairperson and 2 other board members, and is responsible for administering elections in the District.

(b) On June 2, 2020, the District held its Primary Election. The Primary Election was significantly affected by the unprecedented public health crisis of COVID-19, which forced the Board to fundamentally overhaul its operations and implement a hybrid in-person voting and mail-in voting plan on short notice.

(c) The Board experienced significant operational and technical challenges leading up to and during the Primary Election, such as ensuring voters were able to adequately track their mail-in ballot requests, timely and properly sending mail-in ballots, responding to voter inquiries, and outreach and communications to residents. These issues were not resolved by the Board prior to the Primary Election and led to hours-long lines at Vote Centers, an overwhelming number of voters not receiving their requested mail-in ballots, and ultimately, disenfranchisement.

(d) This emergency legislation will better prepare the District for the General Election. During the Primary Election, the Board opened 20 Vote Centers for in-person voting. On

Election Day, many Vote Centers saw hours-long lines of residents who had not received a mail-in ballot or who preferred to vote in-person. Importantly, the emergency legislation increases the number of Vote Centers to no fewer than 80, in order to maximize voter turnout, manage lines, and still maintain social distancing. While mail-in voting should be promoted and prioritized, the District must be able to accommodate voters who prefer or need to vote in person.

(e) The emergency legislation also requires the Board to mail every voter a mail-in ballot and a postage-paid return envelope, publish a paper voter guide, and more proactively deploy its email list to arm voters with information about the General Election.

(f) Lastly, the emergency legislation conforms the COVID-19-related legislative changes made in the spring for the Primary and Special Elections to the General Election, in addition to other changes.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the General Election Preparations Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-505

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 28, 2020

To declare the existence of an emergency with respect to the need to approve the reprogramming request of Fiscal Year 2020 local funds in the amount of $11,384,722 within the Department of Parks and Recreation.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Department of Parks and Recreation Reprogramming Emergency Declaration Resolution of 2020".

Sec. 2. (a) The Executive submitted this reprogramming to the Council in order to transfer Fiscal Year 2020 local funds in the amount of $11,384,722 within the Department of Parks and Recreation ("DPR").

(b) The District government has a significant need to reprogram expenses within various personal and nonpersonal services budget categories within the Department of Parks and Recreation.

(c) The funds are available in part to correct a technical adjustment initiated during the Fiscal Year 2020 budget development. Additionally, funds are available due to reduced expenditures during the public health emergency that has limited DPR to essential and authorized reopening operations.

(d) Immediate Council approval of this reprogramming is necessary for DPR to ensure operating expenditures are properly recorded.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Department of Parks and Recreation Reprogramming Emergency Approval Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-277

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 17, 2020

To recognize and celebrate the life of Reverend Dr. Robert "Bob" Edward Mathieu.

WHEREAS, Reverend Dr. Robert "Bob" Edward Mathieu was born in Altoona, Pennsylvania, and grew up in Baltimore, Maryland, in 1971, he became a proud Ward 8 resident;

WHEREAS, he received the call to preach as a teenager and he began the process to the ministry through the Assemblies of God working with youth groups;

WHEREAS, in his lifetime he earned a Certificate of Ordination, a Ministerial Diploma, and Doctor of Humane Letters;

WHEREAS, Reverend Mathieu preferred the title of Pastor because he loved everyone and particularly loved to minister to his flock, which he considered to be Southeast, Washington DC;

WHEREAS, some of the accomplishments of Pastor Mathieu included the founding and directing of Camp Dynamite, Anacostia Gospel Chapel, and the Anacostia Educational Foundation - as well as the hosting of educational endeavors, community empowerment programs and peacemaking initiatives;

WHEREAS, Pastor Mathieu had a good sense of humor which he used to connect with others;

WHEREAS, he had the ability to imitate voices and often used the voice of Fat Albert to greet children with the classic "Hey, hey, hey!" - leading children in the neighborhood to don him with the name Reverend Fat Albert;

WHEREAS, his life's work included being a mentor and champion of marginalized populations, being the President of the Washington City Bible Society and the Washington, D.C. Citywide PTA, being a board member for Teen Challenge, Project Bridges, and the Stoddard Baptist Nursing Home, and for having held memberships with the National Black Evangelical Association and the Clergy Policy Community Partnership;

WHEREAS, Pastor Mathieu received many awards including the Father of the Year, Seymour House of Howard University Humanitarian Award, and the Linda Moody Community Service Award. Still the award he probably cherished the most was the love of his wife and life partner, Sharon P. Mathieu, who witnessed his last words on this Earth: "love you";

ENROLLED ORIGINAL

WHEREAS, Pastor Mathieu's life was one of love and a desire to share his passion so that more souls could know Christ; the Bible verses in 2 Timothy 4:7 and Matthew 25:21, may say it best, "You have fought the good fight and have finished the course and kept the faith, and now it is time that our heavenly father say to him, "Well done, thou good and faithful servant."

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Reverend Dr. Robert "Bob" Edward Mathieu Ceremonial Resolution of 2020."

Sec. 2. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-278

COUNCIL OF THE DISTRICT OF COLUMBIA

March 17, 2020

To acknowledge the Earned Income Tax Credit as an effective anti-poverty tool, to celebrate the work of organizations such as the United Way of the National Capitol Area, and to declare January 31st in the District of Columbia as "Earned Income Tax Credit Day."

WHEREAS, the Earned lncome Tax Credit (EITC) is among the most effective anti-poverty programs in the nation;

WHEREAS, the District of Columbia's EITC program is among the strongest state-level EITCs in the nation and helps to pay for childcare, housing, food, and transportation to help keep working families economically stable;

WHEREAS, EITC advocacy, outreach, and free tax assistance is supported by local, state, and national partners and their funding, including the United Way NCA, Citi Community Development, the DC Department of Insurance Securities, and Banking, Community Tax Aid, Capital Area Asset Builders, United Planning Organization, Catholic Charities Archdiocese of Washington, and numerous partners in the District of Columbia, Northern Virginia, and suburban Maryland;

WHEREAS, the United Way has found that 13% of residents in the greater Washington metropolitan region receive the EITC, including in the District alone approximately 14,000 residents. About half of the District's EITC recipients are children, whom the EITC helps to lift out of poverty every year. As a result, these children are more likely to do better in school, attend college, and to be better earners as adults;

WHEREAS, the United Way has found that 20% of eligible workers do not claim the EITC, and the United Way of the National Capital Area's (United Way NCA) regional EITC coalition has therefore expanded its capacity to serve diverse residents in the District through collaboration with public, private and nonprofit partners who target these hard-to-reach families;

WHEREAS, low-to-moderate income families, including seniors, persons with a disability, and those with limited English proficiency receive free tax help and are economically empowered through the efforts of trained, IRS-certified volunteers affiliated with the Volunteer Income Tax Assistance (VITA), the Tax Counseling for the Elderly programs, the United Way NCA's tax resources, and MyFreeTaxes.com;

ENROLLED ORIGINAL

WHEREAS, collectively, the United Way NCA coalition tax partners completed 16,073 returns through VITA in 2019, representing savings of an average of $273 per family, and thereby returning $1,103,715 to over 4,200 families through the Earned Income Tax Credit.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Earned Income Tax Credit Day Recognition Resolution of 2020".

Sec. 2. The Council recognizes the Earned Income Tax Credit as a benefit to low- and moderate-income individuals and families and celebrates the many efforts of organizations such as the United Way of the National Capital Area to provide free and accessible tax outreach and advocacy on behalf of District residents.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-279

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 5, 2020

To recognize Darlene T. Allen, the 45th President of the National Association of Parliamentarians.

WHEREAS, Darlene T. Allen is a native of Washington, D.C. and current Ward 7 resident who earned a Bachelor of Science from Xavier University of Louisiana in 1981 and an Associate of Applied Science from Marymount College of Virginia;

WHEREAS, Darlene T. Allen has served as President of the DC Parent Teacher Association (PTA) (2003-2007); member of the National PTA Board of Directors (2006-2007); and member of the Board of Directors, National League of American Pen Women - DC Branch (2017-2020);

WHEREAS, the National Association of Parliamentarians (NAP) is a society dedicated to educating leaders throughout the world in effective meeting management through the use of parliamentary procedure;

WHEREAS, Darlene T. Allen, PRP has served in various leadership positions on the unit, state association, district and national levels of NAP since 1998, including previous major positions such as President of the Sartwell-Tunstall Unit, President of the District of Columbia Association of Parliamentarians (2006-2008), District Two Director (2011-2013), Director-at-Large (2015-2017) and National Vice President (2017-2019);

WHEREAS, Darlene T. Allen, PRP was elected as the 45th President of the National Association of Parliamentarians (NAP) for the 2019-2021 term at the 42nd NAP Biennial Convention, held in Las Vegas, NV on September 5-8, 2019 and is the first African American woman elected to the office of NAP President; and

WHEREAS, under the 2019-2021 term theme of "NAP – The Keepers of the Democratic Process," the goals of Darlene T. Allen's administration are to provide leadership that is transparent and continue supporting the NAP members, partners and potential members by providing efficient educational opportunities, while remaining financially solvent.

ENROLLED ORIGINAL

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Darlene T. Allen Recognition Resolution of 2020".

Sec. 2. The Council of the District of Columbia recognizes Darlene T. Allen, PRP for her years of service, particularly within the National Association of Parliamentarians, and congratulates her on being elected the 45th President of the National Association of Parliamentarians as the first African American woman to be so elected.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-280

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 9, 2020

To recognize Dorothy Salley Davis on her 80th birthday.

WHEREAS, Dorothy Salley Davis was born in Brooklyn, New York in 1940 and made Washington, D.C. her home at an early age;

WHEREAS, Dorothy Salley Davis attended D.C. Public Schools and graduated from Cardozo High School;

WHEREAS, Dorothy Salley Davis went to work for the federal government as a secretary at the U.S. Department of Commerce, where she met and married the late William Davis and had a total of 4 children: Larry, Angela, Cynthia, and James;

WHEREAS, Dorothy Salley Davis made her family a priority and discontinued employment with the federal government to take care of her children, attending every P.T.A. meeting into high school;

WHEREAS, Dorothy Salley Davis's love for children extended beyond her household to Burrville Elementary School where she began to volunteer in the early 1970s where she was instrumental in the planning of a new Burrville Elementary School in the late 1970s;

WHEREAS, Dorothy Salley Davis was well known throughout the Burrville community and started sewing classes for young girls at Burrville Elementary School;

WHEREAS, Dorothy Salley Davis enjoyed doing school-based projects with her children and would not accept anything below an "A" on any project;

WHEREAS, Dorothy Salley Davis was recommended by teachers to provide childcare to parents in need due to her love for children and began her home day care, opening her household to families from early in the morning into the late evening;

WHEREAS, Dorothy Salley Davis eventually returned to work in the private sector for Ogden Allied Services as a supervisor and then returned to her first love of working with children at Aiton Elementary School until her retirement;

ENROLLED ORIGINAL

WHEREAS, Dorothy Salley Davis currently attends church in Ward 7 at Antioch Baptist Church of Deanwood, where she has served as an usher for over 50 years;

WHEREAS, Dorothy Salley Davis, affectionally called "Momma Lovebug," is infatuated with her love for her grandchildren and great-grandchildren;

WHEREAS, Dorothy Salley Davis's love of quilting led her to produce numerous quilts for her children, siblings, grandchildren, great grandchildren, friends, and neighbors, and her love for baking pound cakes led her to similarly share, leaving a satisfying taste in the mouths of everyone of those fortunate to enjoy her pound cake;

WHEREAS, Dorothy Salley Davis has been an inspiration to her family, friends, fellow church members and community; and

WHEREAS, Dorothy Salley Davis celebrates her 80th birthday on June 5, 2020.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Dorothy Salley Davis Recognition Resolution of 2020".

Sec. 2. The Council of the District of Columbia recognizes Dorothy Salley Davis on her 80th birthday and joins with family and friends in saluting her for a life full of love.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-281

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 9, 2020

To recognize and honor the League of Women Voters of the District of Columbia on the occasion of its 100th anniversary and for its service to the citizens of Washington, DC.

WHEREAS, the League of Women Voters of the District of Columbia (the D.C. League), a chapter of the League of Women Voters of the United States, was incorporated in Washington, D.C., on April 22, 1920;

WHEREAS, the D.C. League celebrates its 100th Anniversary on April 22, 2020;

WHEREAS, the D.C. League observes in its conduct the principles of the League of Women Voters of the United States which rest on fundamental beliefs in representative government and that democratic government depends upon informed and active participation of citizens in government;

WHEREAS, the D.C. League is a non-partisan civic organization that neither supports nor opposes any political party or individual candidate but has devoted its programs over decades to informing citizens about matters of public policy and governance of the District;

WHEREAS, the D.C. League has been a leader in the fight for D.C. Home Rule, achieved in 1973, for example, designing a program to gain the support for this goal from other Leagues and citizens around the country and ultimately other organizations;

WHEREAS, the D.C. League's efforts led to formation of a coalition pursuing full, voting representation in Congress gaining, as an interim measure, a non-voting Delegate in the U.S. House of Representatives; and,

WHEREAS, the D.C. League continues to pursue the worthy goal through the current legislative efforts in the U.S. Congress by which the District of Columbia would gain statehood.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the "League of Women Voters of the District of Columbia Recognition Resolution of 2020".

ENROLLED ORIGINAL

Sec. 2. The Council of the District of Columbia recognizes and honors the League of Women Voters of the District of Columbia on its 100th Anniversary and declares April 22, 2020 as League of Women Voters of the District of Columbia Day.

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

ENROLLED ORIGINAL

ACEREMONIAL RESOLUTION

23-282

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 9, 2020

To recognize the week of June 6-14, 2020, as Chesapeake Bay Awareness Week in the District of Columbia.

WHEREAS, the Chesapeake Bay is the largest and most productive estuary in the United States, with its watershed spanning 6 states and the District of Columbia;

WHEREAS, the Chesapeake Bay watershed, covering 64,000 square miles, is an extraordinary and vital natural resource, with some of the nation's most productive farm and forest lands;

WHEREAS, the Chesapeake Bay is fed by 50 major tributaries, including the Potomac, Susquehanna, Rappahannock, York, and James Rivers, and stretches 200 miles from Havre de Grace, Maryland, to Norfolk, Virginia;

WHEREAS, the Chesapeake Bay watershed is home to more than 18 million people, many of whom rely upon the watershed’s natural resources for their livelihood and recreational activities;

WHEREAS, the Chesapeake Bay is an important source of food for the District of Columbia and the east coast of the United States, producing more than 500 million pounds of seafood harvest each year and home to more than 83,000 farms;

WHEREAS, the Chesapeake Bay's tributaries are an important source of drinking water, which is essential for public health and economic growth and a vital resource for future generations;

WHEREAS, the rich history, pivotal economic importance, and astounding beauty of the Chesapeake Bay watershed never cease to amaze residents and visitors alike; and

ENROLLED ORIGINAL

WHEREAS, the District of Columbia is in the Potomac Watershed, which is important to the character and quality of life of the community and ultimately the health of the Chesapeake Bay.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Chesapeake Bay Awareness Week Recognition Resolution of 2020."

Sec. 2. The Council of the District of Columbia recognizes June 6-14, 2020, as Chesapeake Bay Awareness Week to increase awareness of the importance of the Chesapeake Bay watershed in our community.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

23-283

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 9, 2020

To recognize, honor, and declare the month of June 2020, African American Music Appreciation Month.

WHEREAS, in 1979, President Jimmy Carter designated June as Black Music Month but it was not until US-Representative Chaka Fattah sponsored House Resolution 509 during the Clinton Administration that Black Music Month was formally recognized;

WHEREAS, African American Music Appreciation Month recognizes the connection to and cannot deny the birth of music from the Transatlantic Slave Trade, the forced transportation of millions of African people across the Atlantic who were enslaved. We celebrate the known and unknown musically talented persons who created this history;

WHEREAS, African American Music Appreciation Month gives homage to the talented and inspiring African American artists who expressed the full range of human emotions through spirituals, blues, jazz, gospel, rock and roll, hip hop, and every genre and style of music;

WHEREAS, African American Music Appreciation Month adorns African American Spirituals, the authentic voice of enslaved African Americans, who were denied the ability to write down and preserve their thoughts;

WHEREAS, African American Music Appreciation Month salutes the countless contributions of African Americans who connected universal shared emotions and experiences of suffering, joy, passion, pain, faith, injustice, and love into an art that speaks to the heart and spirit of any American;

WHEREAS, African American music has the power to encourage, inspire, and affect social change as proven by artists such as, DC natives Duke Ellington and Marvin Gaye and others such as Gil Scott Heron and Nina Simon;

WHEREAS, African American Music Appreciation Month celebrates the earliest jazz and blues recordings from 1920s. African-American musicians developed related styles such as rhythm and blues in the1940s and had a major influence on white Americans into the 1960s;

ENROLLED ORIGINAL

WHEREAS, African American Music Appreciation Month embraces the variations and themes bringing in swing rhythms with saxophones and trumpets, Jazz swing rhythms were

brought into full scale orchestras, ushering in the Swing Era with the likes of Duke Ellington, Cab Calloway, Dizzy Gillespie, and Count Basie;

WHEREAS, African American Music Appreciation Month recognizes the rise in the popularity of African American music as a cultural and political force, songs such as Billie Holiday's, Strange Fruit and James Brown's, "Say it Loud, I'm Black and I'm Proud" became the soundtracks to the revolution;

WHEREAS, African American Music Appreciation Month recognizes the contributions of rap which became popular during the 1970's and was labeled as street art, especially among African American teenagers; but it wasn't until 1979, when the Sugarhill Gang released their breakaway hit, 'Rapper's Delight" that producers took notice of this emerging musical genre;

WHEREAS, numerous rap acts grew, including Washington DC's own Wale and Shy Glizzy, and Tabi Bonney gained notoriety and popular success;

WHEREAS, African American Music Appreciation Month recognizes Go-Go, a popular music genre originating in Washington, DC and popularized by singer-guitarist Chuck Brown, affectionately known as the God Father of Go-Go;

WHEREAS, several Go-Go bands such as the Young Senators, Rare Essence, Experience Unlimited, and Junkyard Band contributed to the early evolution of the genre, and Backyard Band, the Take Over Boys (TOB), and the Total Control Band (TCB) continue to exemplify the creative spirit of the homegrown genre.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "African-American Music Appreciation Month Resolution of 2020."

Sec. 2. The Council of the District of Columbia recognizes, honors and declares the month of June 2020, African American Music Appreciation Month.

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 INTENT TO ACT ON NEW LEGISLATION

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

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

COUNCIL OF THE DISTRICT OF COLUMBIA PROPOSED LEGISLATION

B23-0872 Public Sector Workers' Compensation Permanent Total Disability Amendment Act of 2020

Intro. 07-27-2020 by Councilmember Todd and referred to the Committee on Government Operations

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B23-0873 Rent Stabilization Program Reform and Expansion Amendment Act of 2020

Intro. 07-27-2020 by Councilmembers T. White, and Nadeau and referred to the Committee on Housing and Neighborhood Revitalization

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PR23-0918 Board of Physical Therapy Timothy Vidale Confirmation Resolution of 2020

Intro. 07-27-2020 by Chairman Mendelson and referred to the Committee on Health

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PR23-0919 Managed Care Organizations Disapproval Resolution of 2020

Intro. 07-29-2020 by Councilmembers McDuffie, R. White, and Chairman Mendelson and referred to the Retained by the Council

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 23-316, Tax Revision Commission Reestablishment Amendment Act of 2019

on

Wednesday, September 30, 2020 at 9:00 a.m.

Live via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 23-316 the "Tax Revision Commission Reestablishment Amendment Act of 2019." The hearing will be held at 9:00 a.m. on Wednesday, September 30, 2020 via a Zoom virtual hearing.

The stated purpose of **Bill 23-316** is to amend Chapter 4 of Title 47 of the District of Columbia Official Code to reestablish the Tax Revision Commission and to require the Commission to submit a report of recommendations once every 10 years to consider revisions to the tax code.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Evan Cash, Committee and Legislative Director, at (202) 724-7002, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, September 28, 2020. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled.

Persons wishing to testify are encouraged, but not required, to email their written testimony to cow@dccouncil.us. If submitted by the close of business on September 28, 2020 the testimony will be distributed to Councilmembers before the hearing. **Witnesses should limit their testimony to three minutes; less time will be allowed if there are a large number of witnesses. The hearing will be limited to three hours.** The Committee may limit the number of witnesses, or adjust testimony times, to ensure consideration of different viewpoints. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on http://lims.dccouncil.us. Hearing materials can be accessed at http://www.chairmanmendelson.com/circulation 24 hours in advance of the hearing, this includes a draft witness list.

If you are unable to testify at the hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite. 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, DC 20004. The record will close at 5:00 p.m. on October 14, 2020.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 23-508, Elaine M. Carter Community Center Designation Act of 2019
Bill 23-532, Dr. Montague Cobb Way Designation Act of 2019
Bill 23-533, Lucy Diggs Slowe Way Designation Act of 2019
Bill 23-538, Elaine M. Carter Way Designation Act of 2019
Bill 23-609, Gail Cobb Way Designation Act of 2020
Bill 23-619, Lafayette-Pointer Park and Lafayette-Pointer Recreation Center Designation Act of 2020
Bill 23-680, Cecelia's Way Designation Act of 2020
Bill 23-787, Black Lives Matter Plaza Designation Act of 2020
Bill 23-839, Earl Wright, Jr. Way Designation Act of 2020
Bill 23-840, Ronald "Ron" Austin Memorial Park Designation Act of 2020

on

Tuesday, September 15, 2020 at 9:00 a.m.

Live via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 23-508, the "Elaine M. Carter Community Center Designation Act of 2019," Bill 23-532, the "Dr. Montague Cobb Way Designation Act of 2019," Bill 23-533, the "Lucy Diggs Slowe Way Designation Act of 2019," Bill 23-538, the "Elaine M. Carter Way Designation Act of 2019," Bill 23-609, the "Gail Cobb Way Designation Act of 2020," Bill 23-619, the "Lafayette-Pointer Park and Lafayette-Pointer Recreation Center Designation Act of 2020," Bill 23-680, the "Cecelia's Way Designation Act of 2020," Bill 23-787, the "Black Lives Matter Plaza Designation Act of 2020," Bill 23-839, the "Earl Wright, Jr. Way Designation Act of 2020," and Bill 23-840, the "Ronald "Ron" Austin Memorial Park Designation Act of 2020." The hearing will be held from **9:00 a.m. to noon** on **Tuesday, September 15, 2020** via a Zoom virtual hearing.

The stated purpose of **Bill 23-508** is to designate the Douglass Community Center, located at 1922 Frederick Douglass Court, S.E as the Elaine M. Carter Community Center. The stated purpose of **Bill 23-532** is to symbolically designate the 600 block of W Street, N.W. as Dr. Montague Cobb Way. The stated purpose of **Bill 23-533** is to symbolically designate the 2400 block of 4th Street, N.W. as Lucy Diggs Slowe Way. The stated purpose of **Bill 23-538** is to symbolically designate the Frederick Douglass Court, SE in Square 5880 as Elaine M. Carter Way. The stated purpose of **Bill 23-609** is to symbolically designate the 300 block of 14th Place, N.E. as Gail Cobb Way. The stated purpose of **Bill 23-619** is to designate Lafayette Park located at 5900

33rd Street and Quesada Street NW as the Lafayette-Pointer Park and designates the Lafayette Recreation Center as the Lafayette-Pointer Recreation Center. The stated purpose of **Bill 23-680** is to symbolically designate Wiltberger Street, N.W., between S Street, N.W., and T Street, N.W. as Cecelia's Way. The stated purpose of **Bill 23-787** is to symbolically designate 16th Street, N.W., between H Street, N.W, and K Street N.W. as Black Lives Matter Plaza (This has already been legislated through temporary legislation). The stated purpose of **Bill 23-839** is to symbolically designate the 3800 block of 10th street NW, between Quincy, Randolph, and 10th Streets, N.W. as Earl Wright, Jr. Way. The stated purpose of **Bill 23-840** is to designate the park located on the 6100 block of North Dakota Avenue bounded by Quackenbos Street, N.W. and 2nd Street, N.W. as the Ronald 'Ron' Austin Memorial Park.

For streets and alleys, a symbolic naming is for ceremonial purposes and shall be in addition to and subordinate to any name that is an official name; an official designation typically involves the designation of postal addresses and enables the placement of the primary entrance to residences or offices on the street or alley. Public spaces other than a street or alley, such as parks or buildings, may also be symbolically or officially named.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Evan Cash, Committee and Legislative Director, at (202) 724-7002, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, September 11, 2020. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled.

Persons wishing to testify are encouraged, but not required, to email their written testimony to cow@dccouncil.us. If submitted by the close of business on September 11, 2020 the testimony will be distributed to Councilmembers before the hearing. **Witnesses should limit their testimony to three minutes; less time will be allowed if there are a large number of witnesses. The hearing will be limited to three hours.** Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on http://lims.dccouncil.us. Hearing materials, including a draft witness list, can be accessed at http://www.chairmanmendelson.com/circulation, 24 hours in advance of the hearing.

If you are unable to testify at the hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite. 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, DC 20004. The record will close at 5:00 p.m. on September 29, 2020.

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 23-98: **FY 2020 Grant Budget Modifications as of July 27, 2020**

RECEIVED: 2-day review begins July 31, 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. 23-119: Request to reprogram $1,300,000 of Fiscal Year 2020 local funds budget authority from the Washington Metropolitan Area Transit Authority (WMATA) to the District Department of Transportation (DDOT) was filed in the Office of the Secretary on July 14, 2020. This reprogramming is to supplement revenue to the circulator program that are impacted by the COVID-19 public Health emergency.

RECEIVED: 14-day review begins July 15, 2020

Reprog. 23-120: Request to reprogram $1,000,000 of Fiscal Year 2020 capital budget from the Department of Employment Services to the Department of General Services was filed in the Office of the Secretary on July 23, 2020. This reprogramming is needed to cover the cost of the 2021 Presidential inauguration reviewing stands.

RECEIVED: 14-day review begins July 24, 2020

Reprog. 23-121: Request to reprogram $8,376,301.00 of Paid and Family Leave It Application Funds (PFL08C) from CFO to the Department of General Services for Military Road School Modernization/Renovation YY1MLC was filed in the Office of the Secretary on July 23, 2020. This reprogramming is needed to purchase the former Military Road School from Lamb Public Charter School located in Ward 4, the school building will help alleviate projected overcrowding in upper Wards 3 and 4.

RECEIVED: 14-day review begins July 24, 2020

Reprog. 23-122: Request to reprogram $11,384,722 of Fiscal Year 2020 0100 Local Fund within the Department of Parks and Recreation was filed in the Office of the Secretary on July 28, 2020. This reprogramming is needed to support the reclassification of Local funds expenses within various personal and nonpersonal services budget categories, which is required because of a projected revenue shortfall in one of DPR's Special Purpose Revenue funds.

RECEIVED: 14-day review begins July 29, 2020

Reprog. 23-123: Request to reprogram $510,815.90 of Fiscal Year 2020 Special Purpose Revenue funds budget authority within the Department of Energy and Environment was filed in the Office of the Secretary on July 17, 2020. This reprogramming is needed to ensure the Department of Energy and Environment can properly align their budget to meet its programs' needs and effectively track expenditures.

RECEIVED: 14-day review begins July 28, 2020

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 7, 2020
Protest Petition Deadline:	October 13, 2020
Roll Call Hearing Date:	October 26, 2020

License No.:	ABRA-091282
Licensee:	Atlas Brew Works, LLC
Trade Name:	Atlas Brew Works
License Class:	Retailer's Class "B" Manufacturer
Address:	2052 West Virginia Avenue, N.E., #102
Contact:	Justin Cox: (202) 642-4606

WARD 5 ANC 5D SMD 5D01

Notice is hereby given that this licensee has requested Substantial Changes to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on October 26, 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 a Class Change from Retailer's Class "B" Manufacturer, to a Retailer's Class "C" Tavern. The Applicant also requests to change hours of operation and to include a Brew Pub Endorsement in the Class C Tavern License.

CURRENT HOURS OF OPERATION, HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION, AND HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES AND FOR THE OUTDOOR SIDEWALK CAFE

Sunday through Saturday 8am – 12am

PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMTION INSIDE OF THE PREMISES

Sunday through Saturday 8am – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 7, 2020
Protest Petition Deadline:	October 13, 2020
Roll Call Hearing Date:	October 26, 2020

License No.:	ABRA-116079
Licensee:	Atlas Half Street, LLC
Trade Name:	Atlas Brew Works
License Class:	Retailer's Class "B" Manufacturer
Address:	1201 Half Street, S.E.
Contact:	Justin Cox: (202) 642-4606

WARD 6 ANC 6D SMD 6D02

Notice is hereby given that this licensee has requested Substantial Changes to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on October 26, 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 a Class Change, from Retailer's Class "B" Manufacturer, to a Retailer's Class "C" Tavern. Licensee is also requesting to add a Sidewalk Café Endorsement with 25 seats, to change hours of operation, and to include a Brew Pub Endorsement in the Class C Tavern License.

CURRENT HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES INSIDE PREMISES

Sunday through Saturday 8am – 12am

CURRENT HOURS OF LIVE ENTERAINMENT INSIDE PREMISES

Sunday through Saturday 11am – 12am

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

Sunday through Saturday 8am – 2am

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

Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 7, 2020
Protest Petition Deadline:	October 13, 2020
Roll Call Hearing Date:	October 26, 2020
License No.:	ABRA-110889
Licensee:	DC Culinary Academy, LLC
Trade Name:	Brine
License Class:	Retailer's Class "C" Tavern
Address:	1357-1359 H Street, N.E.
Contact:	Aaron McGovern: (703) 589-6544

WARD 6 ANC 6A SMD 6A06

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on October 26, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE
Applicant requests to add a Summer Garden endorsement with 38 seats.

CURRENT HOURS OF OPERATION
Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 2:30am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTSIDE SUMMER GARDEN
Sunday through Thursday 11am – 11pm, Friday and Saturday 11am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	August 7, 2020
Protest Petition Deadline:	October 13, 2020
Roll Call Hearing Date:	October 26, 2020
Protest Hearing Date:	January 6, 2021
License No.:	ABRA-117027
Licensee:	Handle 19, Inc.
Trade Name:	Handle 19
License Class:	Retailer's Class "C" Restaurant
Address:	319 Pennsylvania Avenue, S.E.
Contact:	Shane August: (757) 490-7866

WARD 6 ANC 6B SMD 6B01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on October 26, 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 **January 6, 2021 at 4:30 p.m.**

NATURE OF OPERATION

The Establishment will be a restaurant offering traditional American food. Seating Capacity of 60 inside and a Total Occupancy Load of 199. Licensee is also applying to include Sports Wagering in their operations. There will be a total of 8 betting kiosks.

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

Sunday through Thursday 11am – 1am, Friday and Saturday 11am – 2:30am

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

TIME AND PLACE: **Thursday, October 22, 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. 20-13 (Forest City SEFC, LLC - Text Amendment to Subtitle K to Allow Office Uses in the SEFC-3 Zone)

THIS CASE IS OF INTEREST TO ANC 6D

On June 11, 2020, Forest City SEFC, LLC ("Petitioners") filed a petition to the Zoning Commission (the "Commission") proposing the following amendments to the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references herein refer unless otherwise specified):

Subtitle K, Special Purpose Zones
Chapter 2, Southeast Federal Center Zones – SEFC-1 Through SEFC-4
§ 238.3 – to add a new paragraph (k) to add office uses to permitted uses in the SEFC-3 zone

The proposed text amendment would allow office uses in the SEFC-3 zone in order to implement the revisions adopted to the SEFC Master Plan approved by the National Capital Planning Commission. The revised SEFC Master Plan moved the office uses initially allocated to Parcel H to Parcel Q, the only property in the SEFC-3 zone, with the residential uses initially allocated to Parcel Q moved to Parcel H.

The Office of Planning (OP) filed a July 17, 2020 report that supported the proposed text amendment based on OP's analysis that the text amendment is not inconsistent with the Comprehensive Plan, as required by Subtitle X § 1300.2.[2] OP noted that the proposed swap of uses between Parcels H and Q would improve the mix of uses across the SEFC area and potential increase the affordable housing provided, because the new housing in Parcel H would likely be rental, and so subject to IZ, whereas the residential use originally planned for Parcel Q was condos which are not be subject to IZ.

At its July 27, 2020, public meeting, the Commission heard testimony from OP in support of the proposed amendment. At the conclusion of the meeting, the Commission voted to grant Goulston's request to set down the proposed text amendment for a public hearing and authorized flexibility

[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*.)

[2] Although the OP report inadvertently cited the proposed text amendment as revising Subtitle K §§ 241 and 242 in the title and recommendation, its analysis correctly addressed the proposed revision to Subtitle K § 238.3.

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 Setdown Report and transcript of the public hearing, 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

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).

Proposed Amendment to Subtitle K, SPECIAL PURPOSE ZONES

A new paragraph (k) is proposed to be added to § 238.3 of § 238, USE PERMISSIONS (SEFC-2 AND SEFC-3), of Chapter 2, SOUTHEAST FEDERAL CENTER ZONES – SEFC-1 THROUGH SEFC-4, of Subtitle K, SPECIAL PURPOSE ZONES, to read as follows:

238.3 Notwithstanding Subtitle K § 238.1, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in Subtitle K § 142 and procedures specified in Subtitle K § 242:

(a) All buildings and structures that abut the SEFC-4 open space area …[3]

…

(i) Education, college/university; **~~and~~**

(j) Daytime care**; and**

(k) Within the SEFC-3 zone only, office uses, including chanceries.

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

This public hearing will be conducted in accordance with the rulemaking case provisions of Subtitle Z, Chapter 5, as well as the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Commission on May 11, 2020, in Z.C. Case No. 20-11.

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

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

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

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

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

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

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

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።

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

TIME AND PLACE: **Thursday, October 8, 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. 20-17 (Office of Planning - Text Amendment to Subtitle Z to Suspend Certain Types of Conditions of Approved Campus Plans During 2020-2021 Academic Year Due to COVID-19 Pandemic)

THIS CASE IS OF INTEREST TO ALL ANCs

On July 17, 2020, the Office of Planning ("OP") filed a petition to the Zoning Commission (the "Commission") proposing to amend the following amendments to the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references herein refer unless otherwise specified) to avoid potential conflicts between universities' re-opening plans and conditions of approval of campus plans and associated PUDs caused by the ongoing COVID-19 pandemic, as summarized below (specific text at the end of this notice):

The proposed text amendment would provide flexibility from certain types of conditions in approved Campus Plans and associated PUDs during the 2020-2021 academic year due to the COVID-19 pandemic and associated public health emergency, as follows:

Subtitle Z, Zoning Commission Rules of Practice and Procedure
Chapter 7, Approvals and Orders
§ 702.8 – add a new subsection to authorize flexibility as described above

OP requested that the Commission:

- Set the petition down for a public hearing;
- Authorize a 30-day notice period prior to the public hearing by granting a waiver under Subtitle Z § 101.9 from the 40-day requirement of Subtitle Z § 502.1 for good cause due to the COVID-19 pandemic;
- Consider taking emergency action to adopt the text amendment; and
- Authorize an immediate publication of proposed rulemaking for the text amendment.

Emergency & Proposed Action
At its July 27, 2020, public meeting, the Commission heard testimony from OP in favor of the amendment. At the close of the meeting, the Commission voted to grant's OP's request to:

[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*.)

- Take emergency action to adopt the text amendment;
- Set the petition down for a public hearing;
- Authorize a 30-day notice period prior to the public hearing by granting a waiver under Subtitle Z § 101.9 from the 40-day requirement of Subtitle Z § 502.1 for good cause due to the COVID-19 pandemic; and
- Authorize an immediate publication of proposed rulemaking for the text amendment.

The Commission concluded that taking emergency action to adopt the proposed text amendment is necessary for the "immediate preservation of the public … welfare," as authorized by § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968. (82 Stat. 1206; D.C. Official Code § 2-505(c) (2012 Repl.)), in order to implement Mayor's Order 2020-067, which required universities located in the District to prepare reopening campus re-opening plans to safely respond to the ongoing COVID-19 pandemic. The emergency rule is effective as of the Commission's July 27, 2020, vote and will expire on November 24, 2020, which is the one hundred-twentieth (120th) day after the adoption of this rule, or upon publication of a Notice of Final Rulemaking in the *D.C. Register* that supersedes this emergency rule, whichever occurs first.

The complete record in the case, including the OP Setdown Report and transcript of the public hearing, 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

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).

Proposed Amendment to Subtitle Z, GENERAL RULES

Subsection 702.8 of § 702, VALIDITY OF APPROVALS AND IMPEMENTATION, of Chapter 7, APPROVALS AND ORDERS, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is proposed to be revised to read as follows:

702.8 ~~[DELETED]~~ In response to the ongoing public health emergency, the following conditions in orders approving Campus Plans and associated PUDs for universities shall be suspended for the 2020-2021 academic year to accommodate re-opening plans pursuant to Mayor's Order 2020-067:

(a) Requirements to maintain a minimum number of on-campus beds or provide housing for a minimum percentage of students;

(b) Requirements that certain classes of students reside on campus;

(c) Limits on housing for certain classes of students to specific locations; and

(d) Limits on the use of classroom spaces for certain classes of students to specific locations.

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

This public hearing will be conducted in accordance with the rulemaking case provisions of Subtitle Z, Chapter 5, as well as the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the 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 A. SHAPIRO, PETER G. MAY, AND MICHAEL G. TURNBULL -------- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

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

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

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

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

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

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 HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health ("D.C. Health"), pursuant to the authority set forth in Section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code, § 44-504(a) (2012 Repl.)) ("Act"), and in accordance with Mayor's Order 98-137, dated August 20, 1998, hereby gives notice of the adoption of new Chapter 99 (Home Support Agencies) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations ("DCMR").

As a result of investigating complaints and communicating with individuals, providers and relevant associations, the Department has determined there are not enough licensed providers of non-medical personal care services in the District to meet the current need. There are thousands of people in the District who require assistance with activities of daily living, such as dressing, eating, bathing and toileting. Many District residents are receiving these services from individuals and groups that are not licensed or trained to deliver them. In some cases that the Department investigated, the Department discovered that service providers were actually licensed for a different purpose and were not providing safe and healthy services.

The Director has been delegated the authority under Section 2(b) of the Act (D.C. Official Code § 44-501(b)) to determine the need for licensed facilities other than those already defined in the Act. The Director has determined that a new licensure category is required for home support facilities that only provide these non-medical health care services. These rules establish this category of facility and state the process and requirements for licensure. Among other things, the rules require home support agencies to ensure that aides are certified as home health aides, assess clients to determine whether they have needs beyond those that can be addressed by a home support agency, maintain sufficient personnel and supervision to deliver safe services, implement written client service policies to which the clients and the Department will have access, and report complaints to the Department. Also note that simply because someone has a criminal record does not mean that they are disqualified from participating in this program. There are rules that narrow the application to particular convictions at a particular time.

The emergency and proposed rulemaking was published for comment in the *D.C. Register* at 66 DCR 14466 (November 1, 2019). D.C. Health will advise on the comments that were submitted on the proposed regulations, as follows, citing the text of the regulation, the comment and commenter and the response:

1. The rules require that before a licensee takes on a client the licensee shall conduct an assessment by a registered nurse to determine whether the needs of the client are within the scope of the licensee. Five associations commented that the assessment can be conducted within forty-eight (48) hours of first contact. D.C. Health has determined the assessment has to take place before a person becomes a client. Five associations made this comment – Life Matters, Smith Life Homecare. D. C. Coalition on Long Term Care,

Home Care Partners and Maryland National Capital Home Care Association (MNCHCA). 22-B DCMR § 9910.4.

2. Each licensee must staff an office in the District for eight hours a day. MNCHCA, Family & Nursing Care and Life Matters commented that being assessable by phone should suffice. DC Health did not adopt this recommendation because the request would impose a minimum standard that is not reasonable to impose. 22-B DCMR § 9901.

3. Records shall be kept in the office and the government shall have access in two hours or within a longer time if reasonable. Life Matters commented, asking what is a reasonable time. A reasonable time can be worked out between the government and licensee. 22-B DCMR § 9901.5.

4. At least 30 days prior to relocation the licensee shall notify the clients and staff of the change in writing. Life Matters noted that writing should include emails. Our interpretation of "in writing" includes emails. 22-B DCMR § 9901.7(c).

5. A licensee's application for licensure shall include a list of management personnel. Life Matters wants D.C. Health to specify who management personnel is. The licensee should specify and support this information. 22-B DCMR § 9902.3(k).

6. The Department will conduct an on-site visit when deciding whether to license an applicant. Life Matters wants to know the standard for operating. The regulations and its requirements exemplify what the Department expects in operation. 22-B DCMR § 9902.6.

7. Each license shall be for one year. Life Matters commented that a one-year license is too burdensome. Consistent with DOH's other healthcare licenses, the license shall be for one (1) year. 22-B DCMR § 9903.5.

8. The Department will issue only one license for a licensee at one premises and if there is a change in location the licensee must get a license for the new location. In addition, when there is a modification in ownership a new license must be issued. Life Matters commented that this is not clear; however, the needed information will appear on the license. The licensee has the responsibility of proving ownership. In addition, ownership will be confirmed under the laws of corporations or whatever the relevant guidance is. 22-B DCMR §§ 9903.8 and .9.

9. Governing body shall review every complaint and review policies annually. Life Matters suggests a sampling. Family & Nursing Care does not agree that policies should be reviewed annually. The Department chooses to use these as licensing tools. 22-B DCMR §§ 9906.2(c)(2) and .2(e).

10. The Director should be available during the business day. Life Matters believes he or she should be able to delegate authority. The response is the next provision in the regulations allows the Director to delegate. 22-B DCMR § 9907.2.

11. The Client Service Coordinator shall participate in all aspects of services. Life Matters states that this is too much for one person. There can be more than one as long as those persons are qualified. 22-BDCMR § 9907.7(c).

12. A licensee shall maintain accurate personnel records including resumes and certifications of previous employees. Life Matters commented a record of experience should be sufficient. The Department recommends you request the required information and document it and what you might have accepted instead. 22-B DCMR §§ 9909.2 and 2(f).

13. Each employee shall be screened for communicable disease in accordance with the CDC guidelines. Life Matters wants the guideline specified. The Department's answer is Guidelines issued by the federal Centers for Disease Control and Prevention. 22-B DCMR § 9909.7.

14. The home support agency shall notify each individual requesting services from the home support agency of the availability or unavailability of services, and the reason(s) therefor, within forty-eight (48) hours after the referral or request for services. Provider should be able to waive 48 hours. Forty-eight (48) hours should be Standard and consistent among providers. 22-B DCMR § 9910.5.

15. A home support agency shall maintain records on each person requesting services whose request is not accepted. The records shall be maintained for at least one (1) year from the date of non-acceptance and shall include the nature of the request for services and the reasons for not accepting the client. If some of this information is not available, is that sufficient? Yes, but agencies are strongly encouraged to document the regulations requirements. 22-B DCMR § 9910.6.

16. A registered nurse shall develop a service plan on admission based upon the initial assessment of the client and in accordance with Subsection 9917.4. Life Matters and Home Care Partners commented that an assessment by a registered nurse is not necessary in all cases. An assessment is required in order to determine the needs of the client. 22-B DCMR § 9913.2.

17. Department authorities shall have access to home support agency records at all times. Life Matters comments that it would need a written request from the government. The government should have access at all times as required by law, 22-B DCMR § 9915.7.

18. Each home support agency shall develop policies to ensure that each client who receives personal care services, has [the right] [t]o refuse all or part of any service and to be informed of the consequences of refusal. This provision may be interpreted as a client can refuse any requirement commented, Life Matters. clients have the right to refuse a service; however, the agency has to make clear what the requirements are. 22-B DCMR § 9916.2(g).

19. Written policies on client rights and responsibilities shall be made available to the general public. Life Matters wants the statement to only be available to clients. The public should be privy to an agency's policies. 22-B DCMR § 9916.5.

20. The licensee shall respond to each complaint within fourteen days and shall investigate each complaint. Life Matters commented that every complaint should not trigger an investigation. Licensee's policies can explain what its reaction will be to each situation as long as explanations for investigations are reasonable. 22-B DCMR § 9917.5.

21. A home support agency may offer personal care services and shall employ qualified home health aides pursuant to 17 DCMR §§ 9300 *et seq*. to perform those services. Life Matters suggests time be changed to complete training. Rules are enforced by the Board of Nursing. 22-B DCMR § 9918.1.

22. The client record or minutes of case conferences shall establish that effective interchange, reporting, and coordinated client evaluation and planning occurs. Life Matters questions whether licensees are required to have conferences. Include minutes of conferences if you have them. 22-B DCMR § 9919.3.

23. Home health aides shall be supervised by a registered nurse, on-site at least every 90 days. A registered nurse must also evaluate a client's service plan at least every ninety (90) days. Maryland National Capital Home Care Association, Home Care Partners, Family & Nursing Care and D.C. Coalition on Long Term Care believe the client should be able to waive the supervision in addition to it is expensive for providers. In addition, the D.C. Coalition on Long Term Care believes ninety (90) days is too often for an evaluation; it should be a year. Client cannot waive when and how the licensee is regulated. A registered nurse is needed to evaluate a change in condition. The Department believes ninety (90) days is appropriate for an evaluation. 22-B DCMR § 9918.2 and 22-B DCMR § 9913.4.

24. Family & Nursing Care suggests "personal care services" be changed to "home support" wherever it appears so that readers do not assume services are provided by personal care aides. The response is that "personal care services" is defined adequately and clearly.

25. Make sure employees are screened for communicable disease within six months before hire. Family & Nursing Care and the D.C. Coalition for Long Term Care commented that the screening should be done within a year of hiring. The District's rule is that the screening should be done within six months of hire. 22-B DCMR § 9909.6.

26. Licensee shall provide services in accordance with a client service plan. Family & Nursing Care comments that clients should be able to waive parts of the plan. The licensee and the client shall agree to the plan and the licensee shall follow it thereafter. 22-B DCMR § 9911.1(a).

27. Admission data shall include next of kin. Family & Nursing Care commented that next of kin should not be requested if not a contact. Next of kin should be provided if information is applicable. 22-B DCMR § 9914.2.

28. If a client is not satisfied with a provider's response to a complaint, a provider shall respond to the client's dissatisfaction in writing within 30 days. Included in the response should be information on how to contact other relevant agencies to file a complaint. Family & Nursing Care states this is too burdensome. The Department cautions that it is our position to protect clients as much as possible. 22-B DCMR § 9917.6.

29. The home support agency shall report all incidents involving a client occurring in the presence of staff to the Department within forty-eight (48) hours in addition to other reporting requirements prescribed by law. Family & Nursing Care commented that this is too burdensome. Providers must be responsible for reporting incidents. As a licensee the provider should take responsibility for protecting clients and assisting the government in regulating and learning from the processing of incidents. 22-B DCMR § 9917.7.

30. The licensee shall investigate all incidents and forward a written report to the Department within thirty (30) days of the date the licensee became aware of the incident. Family & Nursing Care commented that providers should have more than thirty (30) days. Providers should keep in mind that the timeframe begins to run when an employee becomes aware of the incident. DC Health did not adopt the recommendation because the Department did not determine that there is a need to increase the time. 22-B DCMR § 9917.8.

31. Each home health aide shall be supervised by a registered nurse. On-site supervision of personal care services shall take place at least once every ninety (90) days. Family & Nursing Care states that clients should be allowed to waive the supervision. The Department has concluded that home health aides shall be supervised by a registered nurse on-site at least every ninety (90) days. 22-BDCMR § 9918.2.

32. Each operating office shall have a separate address and license. The Coalition on Long Term Care commented that separate licensing is discouraging to licensees. Licenses are location-specific consistent with 22-B DCMR Chapter 31. 22-B DCMR § 9901.3.

33. Each provider shall keep records of clients and employees. Records shall also include complaint investigations and policies and procedures. Records shall be stored in the operating office in paper or electronic form. D.C. Coalition on Long Term Care commented that the regulations do not specify back up space for electronic storage. The law specifies electronic documentation as an option. 22-B DCMR § 9901.4.

34. You must be a registered nurse in order to be Director of an agency. The D.C. Coalition on Long Term Care stated that you should not have to be a registered nurse in order to be Director. The Department did not accept this recommendation because the next provision states you can be qualified by other experience. 22-B DCMR § 9907.5.

35. If the Director is not a registered nurse the agency shall have a Client Service Coordinator. This requirement is extreme according to D.C. Coalition on Long Term Care. This requirement ensures a responsible, knowledgeable person is responsible. 22-B DCMR § 9907.6

36. At the time of initial hire, employees shall be screened for communicable disease in accordance with guidelines of the CDC. D.C. Coalition on Long Term Care asks what is a communicable disease and which guidelines. This is a transmittable infection by direct contact. Following the guidelines will help you determine what is communicable. 22-B DCMR §§ 9909.7. and 9909.8.

37. Each facility shall develop policies and procedures including matters dealing with medical orders, living wills and durable powers of attorney. Coalition for Long Term Care states the licensee should be able to document the lack of these documents. The Department interprets the regulations to be in agreement with the comment. 22-B DCMR § 9910.1.

38. The regulations require a written or verbal notice of discharge a certain time before discharge and under certain circumstances. The D.C. Coalition on Long Term Care wants an additional provision added that states the provider does not have to give notice of discharge if the client stops paying. The Department does not adopt this comment because a notice of discharge is required whenever the discharge is involuntary on the part of the client. Hearing rights are triggered whether the client pays or not. 22-B DCMR § 9912.2. *Also see* D.C. Law 6-108.

39. The agency should maintain a record of the client's medication list. The D.C. Coalition on Long Term Care states an agency is non-medical and should not have this responsibility. The agency should maintain documentation and should encourage administration. It may be integral to a client's health. 22-B DCMR § 9914.2(j).

40. The agency shall have an adequate number of registered nurses to supervise the implementation of personal care services. The D.C. Coalition on Long Term Care commented that there is a shortage of nurses and they are too costly. The Department supports this rule as essential to the protection of clients. 22-B DCMR § 9918.3.

41. The definitions of Client Service Coordinator and Client service plan include the term registered nurse. The D.C. Coalition on Long Term Care states because an agency is non-medical the use of registered nurses is inappropriate. Nurses, among other things, gauge which situations become medical and supervise others as well. 22-B DCMR § 9999.1.

42. The definition of personal care services - services that are limited to individual assistance with or supervision of activities of daily living, companion services, homemaker services, reporting changes in client's condition, and completing reports. Personal care services do not include skilled services. The Coalition on Long Term Care commented that the definition includes activities that are not personal care services. These regulations define

what personal care services are in relation to home support agencies. 22-B DCMR § 9999.1.

The Department appreciates each responder to the proposed rules. We understand that the public is taking the need for regulation in this area very seriously. D.C. Health, in considering the comments, has determined that the regulations as they appear represent the most appropriate operational approach to home support agencies at this time. They are first and foremost to be applied for persons who need day-to-day care in their homes and to be applied by the persons providing assistance with non-medical day-to-day needs. We are cognizant of the fact that most clients need assistance because they are long term and so too is the reality that we, as the government must monitor the line between non-medical and medical needs.

The Director has determined that a new licensure category is required for home support facilities that only provide these non-medical health care services. These rules establish this category of facility and state the processes and requirements for licensure.

These rules were adopted as final on April 22, 2020, and will become final upon publication in the *D.C. Register.*

Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended by adding a new Chapter 99, HOME SUPPORT AGENCIES, to read as follows:

CHAPTER 99 HOME SUPPORT AGENCIES

Secs.

9900 GENERAL PROVISIONS

9900.1 These regulations are implemented pursuant to Sections 2(b) and 5 of the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 ("Act"), effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501(b) and 44-504(a)).

9900.2 Each home support agency serving one or more clients in the District of Columbia shall be licensed and shall comply with the requirements in this chapter and, except as otherwise provided herein, with the regulations in Chapter 31 (Licensing of Health Care and Community Residence Facilities) of Title 22-B of the District of Columbia Municipal Regulations ("DCMR"), which contains provisions on inspections, licensing and enforcement actions pertaining to facilities authorized under the Act.

9900.3 Each home support agency shall comply with all other applicable federal and District laws and regulations.

9901 OPERATING OFFICE

9901.1 Each home support agency shall maintain an operating office within the District of Columbia. This office shall be staffed at least eight (8) hours per business day.

9901.2 The business hours of the operating office shall be posted publicly so that they are visible from the outside of the office. The home support agency shall maintain a public website that provides, at a minimum, the home support agency's business hours, services provided, ownership information, key personnel, and contact information that includes a phone number and email address.

9901.3 A separate license shall be required for each operating office maintained by a home support agency.

9901.4 Each operating office shall either store at the office in paper form or have immediately available electronically the following records:

(a) Client records for all clients served within the District of Columbia;

(b) Personnel records for all employees;

(c) Home support agency policies and procedures;

(d) Incident reports and investigations; and

(e) Complaint reports and investigations.

9901.5 All other records and documents required under this chapter and other applicable laws and regulations that are not maintained within the operating office shall be produced for inspection within two (2) hours after a request by the Department, or within a shorter time if the Department so specifies.

9901.6 Each home support agency shall post its license in a conspicuous place within the operating office.

9901.7 Prior to any change in office location, a home support agency shall:

(a) Notify the Department in writing at least sixty (60) days prior to the change;

(b) Provide the following documentation to the Department:

(1) The new address;

(2) A copy of the lease agreement for the new office location, if applicable;

(3) A certificate of insurance reflecting the new address;

(4) A certificate of occupancy reflecting the new address;

(5) A Clean hands certificate in accordance with the D.C. Official Code §§ 47-2861 *et seq.*; and

(6) A Certificate of Good Standing for a corporation to be obtained from the Office of the Registrar of Corporations at the Department of Consumer and Regulatory Affairs; and

(c) Notify clients and staff in writing at least thirty (30) days prior to the change.

9901.8 The operating office shall be open to employees, clients, client representatives, and prospective clients and their representatives during business hours.

9902 APPLICATION FOR LICENSURE

9902.1 Applications for licensure shall be processed in accordance with this section and Chapter 31 of Title 22-B DCMR.

9902.2 The submission of an application does not guarantee that the Department will issue a license.

9902.3 Applicants for licensure shall submit the following information to the Department as part of the application:

(a) The names, addresses, and types of all entities owned or managed by the applicant;

(b) A copy of the applicant's operating policies and procedures manual for the home support agency;

(c) The identity of each officer and director of the corporation, if the entity is organized as a corporation, including name, address, phone number, and email;

(d) A copy of the Articles of Incorporation and Bylaws, if the entity is organized as a corporation;

(e) A copy of the Partnership Agreement and the identity of each partner if the entity is organized as a partnership, including name, address, phone, number, and email;

(f) A copy of the Articles of Formation and Operating Agreement, if the entity is organized as a limited liability company;

(g) The identity of the members of the governing body, including name, address, phone number, and email;

(h) The identity of any officers, directors, partners, managing members or members of the governing body who have a financial interest of five percent (5%) or more in an applicant's operation or related businesses, including name, address, phone number, and email;

(i) Disclosure of whether any officer, director, partner, employee, or member of the governing body has a felony criminal record;

(j) The name of the Director who is responsible for the management of the home support agency and the name of the Client Service Coordinator, if applicable;

(k) A list of management personnel, including their credentials; and

(l) Any other information required by the Department.

9902.4 Each applicant shall be responsible for submitting a complete application, including all information required pursuant to § 9902.3. The Department reserves the right to return an incomplete application to the applicant: The return of an

incomplete application to the applicant shall not be considered a denial of the application.

9902.5 If the Department returns the application with identified deficiencies:

(a) The applicant shall have thirty (30) days to correct the identified deficiencies and return the application to the Department; and

(b) If the applicant resubmits the application to the Department and has not corrected all the deficiencies, the application shall be deemed incomplete and returned the applicant. The applicant shall have the option of filing a new application along with a new processing fee.

9902.6 As part of its review of a home support agency's application, the Department shall conduct an on-site walk through of the business location to verify that the office is capable of operating.

9903 LICENSURE

9903.1 At the beginning of a home support agency's license year, the Department shall issue a provisional license for a period of ninety (90) days to each home support agency that has completed the application process consistent with these regulations, has passed the on-site walk through by the Department, and whose policies and procedures demonstrate compliance with the rules and regulations pertaining to home support agency licensure.

9903.2 A provisional license shall permit a home support agency to hire staff and establish a client caseload;

9903.3 To be eligible for a permanent license, the home support agency shall:

(a) Obtain and demonstrate that the home support agency has a client census equal to or greater than five (5) clients by the end of the ninety (90) day provisional license period;

(b) Notify the Department that is has a client census of at least five (5) clients;

(c) Complete an on-site survey during the provisional license period, provided they have a demonstrated client census of five (5) or more clients; and

(d) Demonstrate during the on-site survey, that it meets the definition of a home support agency in these regulations, complies with these regulations, and is in operation and caring for clients.

9903.4 The Department may, at its discretion, renew a provisional license for up to an additional ninety (90) days in order for the licensee to meet the definition of a

home support agency, have a demonstrated client census of five (5) or more clients, and come into substantial compliance with these regulations:

(a) The Department shall designate the conditions and the time period for the renewal of a provisional license;

(b) An initial provisional license issued to a home support agency that is not in substantial compliance with these regulations following an on-site survey by the Department shall not be renewed unless the Department approves a corrective action plan for the home support agency; and

(c) If a home support agency is not in substantial compliance with these regulations after two (2) provisional license periods, the home support agency shall be denied a permanent license.

9903.5 The Department shall grant a permanent license for a period of twelve (12) months, including the provisional license period, to a home support agency that the Department has determined meets the definition of a home support agency, complies with these regulations, and has a demonstrated client census of five (5) or more clients.

9903.6 An existing licensed home support agency shall apply for renewal of its license at least ninety (90) days prior to its expiration.

9903.7 A renewal license shall not be issued to a home support agency that at the time of renewal:

(a) Does not meet the definition of a home support agency as contained within these regulations;

(b) Is not in substantial compliance with these regulations as determined by the Department;

(c) Does not have a demonstrated client census of five (5) or more clients; or

(d) Has one or more deficient practice which presents an immediate threat to the health and safety of its clients.

9903.8 A home support agency that undergoes a modification of ownership or control is required to re-apply for licensure as a new home support agency.

9903.9 The Department shall issue each license only for the premises and the person or persons named as applicant(s) in the license application. The license shall not be valid for use by any other person or at any place other than that designated in the license. Any transfer of the home support agency to a new person or place without

the approval of the Department shall result in the immediate forfeiture of the license.

9903.10 A home support agency licensed pursuant to this chapter shall not use the word "health" in its title.

9904 LICENSE FEES

9904.1 License fees for home support agencies shall be based upon a census of clients served in the District of Columbia at the time of applying for the issuance or renewal of a license. The fees shall be as follows:

(a)	Initial Application Processing Fee	$1200
(b)	License Fee	$400
(c)	1 – 50 Clients Annual Renewal Processing Fee	$800
(d)	51 – 150 Clients Annual Renewal Processing Fee	$1400
(e)	151 – 350 Clients Annual Renewal Processing Fee	$2200
(f)	351 or more Clients Annual Renewal Processing Fee	$2600
(g)	Duplicate of License	$100
(h)	Late Fee for Renewal Application	$100

9905 INSURANCE

9905.1 Each home support agency shall maintain the following minimum amounts of insurance coverage:

(a) Blanket malpractice insurance for all professional employees in the amount of at least one million dollars ($1,000,000) per incident; and

(b) Comprehensive general liability insurance covering personal property damages, bodily injury, libel and slander in the amount of at least one million dollars ($1,000,000) per incident or occurrence and two million dollars ($2,000,000) aggregate.

9906 GOVERNING BODY

9906.1 Each home support agency shall have a governing body that shall be responsible for the operation of the home support agency.

9906.2 The governing body shall:

(a) Establish and adopt by-laws, policies, and procedures governing the operation of the home support agency;

(b) Designate a full-time Director who is qualified in accordance with Section 9907 of this chapter;

(c) Review and evaluate, on an annual basis, all policies and procedures governing the operation of the home support agency to ensure that services promote client care that is appropriate, adequate, effective and efficient. This review and evaluation shall include the following:

(1) A review of feedback from a representative sample consisting of either ten percent (10%) of total District of Columbia clients or forty (40) District of Columbia clients, whichever is less, regarding services provided to those clients; and

(2) A review of all complaints and incidents involving the home support agency, including the nature of each complaint or incident, the home support agency's response, and the resolution;

(d) A written report of the results of the evaluation shall be prepared and shall include recommendations for modifications of the home support agency's overall policies or practices, if appropriate; and

(e) The evaluation report shall be acted upon by the governing body at least annually. The results of the action taken by the governing body shall be documented, maintained, and available for review by the Department.

9907 DIRECTOR

9907.1 The Director shall be responsible for managing and directing the home support agency's operations, serving as a liaison between the governing body and staff, employing qualified personnel, and ensuring that staff members are adequately and appropriately trained.

9907.2 The Director shall be available at all times during the business hours of the home support agency.

9907.3 The Director shall designate, in writing, a similarly qualified person to act in the absence of the Director.

9907.4 The home support agency shall advise the Department in writing within fifteen (15) days following any change in the designation of the Director.

9907.5 The Director shall:

(a) Be a registered nurse licensed in the District of Columbia; or

(b) Have training and experience in health services administration, including at least one (1) year of supervisory or administrative experience in health services or related health programs.

9907.6 If the Director is not a registered nurse, the home support agency shall also have a full-time Client Service Coordinator appointed by the Director who is a registered nurse licensed in the District of Columbia.

9907.7 The Client Service Coordinator, or the Director if the Director is a registered nurse, shall:

(a) Be responsible for implementing, coordinating and assuring the quality of client services;

(b) Be available at all times during the business hours of the home support agency;

(c) Participate in all aspects of services provided, including the development of clients' service plans and the assignment of qualified personnel; and

(d) Provide general supervision and direction of the services offered by the home support agency.

9907.8 The Director, Client Service Coordinator, or an individual designated by the Director in writing, must be on-call outside of the home support agency's business hours.

9908 POLICIES AND PROCEDURES

9908.1 Each home support agency shall develop and implement written operational policies and procedures that govern the day-to-day operations of the home support agency. These policies and procedures shall be approved by the governing body and shall be available for review by the Department.

9908.2 The home support agency's written policies and procedures shall govern the following topics, at a minimum:

(a) Personnel;

(b) Admission and denials of admission;

(c) Discharges and referrals;

(d) Coordination of services;

(e) Records retention and disposal;

(f) Client rights and responsibilities;

(g) Complaint process;

(h) Each service offered;

(i) Billing for services;

(j) Supervision of services;

(k) Infection control; and

(l) Management of incidents.

9908.3 Staff shall be oriented towards the written policies and procedures. The written policies and procedures shall be readily available for use by staff at all times.

9908.4 Written policies and procedures shall be available to clients, prospective clients, and client representatives, upon request.

9909 PERSONNEL

9909.1 Each home support agency shall have written personnel policies that shall be available to each staff member and shall include the following:

(a) The terms and conditions of employment, including but not limited to wage scales, hours of work, personal and medical leave, insurance, and benefits;

(b) Provisions for an annual evaluation of each employee's performance by appropriate supervisors;

(c) Provisions pertaining to probationary periods, promotions, disciplinary actions, termination and grievance procedures;

(d) A position description for each category of employee; and

(e) Provisions for orientation, periodic training or continuing education, and periodic competency evaluation.

9909.2 Each home support agency shall maintain accurate personnel records, which shall include the following information for each employee:

(a) Name, address and social security number;

(b) Current professional license, registration, or certification, if any;

(c) Resume of education, training certificates, skills checklist, and prior employment, and evidence of attendance at orientation and in-service training, workshops or seminars;

(d) Documentation of current CPR certification, if required;

(e) Health certification as required by Subsection 9909.7 of this chapter;

(f) Verification of previous employment;

(g) Documentation of reference checks;

(h) Copies of completed annual evaluations;

(i) Documentation of any required criminal background check;

(j) Documentation of all personnel actions;

(k) A position description signed by the employee;

(l) Results of any competency testing;

(m) Documentation of acceptance or declination of the Hepatitis Vaccine; and

(n) Documentation of insurance, if applicable.

9909.3 Each home support agency shall comply with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code §§ 44-551 *et seq*.), for its employees who are not licensed, certified or registered in accordance with the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*.) ("HORA"), and shall ensure that employees who are licensed, registered, or certified in accordance

with the HORA are in compliance with the criminal background check requirements of D.C. Official Code § 3-1205.22.

9909.4 Each home support agency shall maintain its personnel records for all personnel serving clients within the District of Columbia in its operating office in paper form or have these records immediately available electronically.

9909.5 Each employee shall have a right to review his or her personnel records.

9909.6 At the time of initial employment, the home support agency shall verify that the employee, within the six months immediately preceding the date of hire, has been screened for and is free of all communicable diseases.

9909.7 Each employee shall be screened for communicable diseases according to the guidelines issued by the federal Centers for Disease Control and Prevention, and shall be certified free of communicable diseases.

9909.8 No employee may provide personal care services, and no home support agency may knowingly permit an employee to provide personal care services, if an employee:

(a) Is under the influence of alcohol, any mind-altering drug or combination thereof; or

(b) Has a communicable disease which poses a confirmed health risk to clients.

9909.9 Each employee who is required to be licensed, certified or registered to provide services in the District of Columbia shall be licensed, certified or registered under the laws and rules of the District of Columbia.

9909.10 Each home support agency shall document the professional qualifications of each employee to ensure that the applicable licenses, certifications, accreditations or registrations are valid.

9909.11 Each home support agency shall ensure that each employee presents a valid home support agency identification prior to entering the home of a client.

9910 ADMISSIONS

9910.1 Each home support agency shall develop and implement written policies on admissions, which shall include, at a minimum, the following:

(a) Admission criteria and procedures;

(b) A description of the services provided;

(c) The amount charged for each service;

(d) Policies governing fees, payments and refunds;

(e) Execution and location of client advance directives (living will and durable power of attorney for health care), as applicable;

(f) Execution and location of client Medical Orders for Scope of Treatment ("MOST"), as applicable;

(g) Communication with the client representative, if applicable;

(h) Client service agreements; and

(i) Client consent for interagency sharing of information.

9910.2 A written summary of the home support agency's admissions policies, including all of the items specified at Subsection 9909.1 of this chapter, shall be made available to each prospective client upon request, and shall be given to each client upon admission.

9910.3 The home support agency shall only admit those individuals whose needs can be met by the home support agency.

9910.4 Each home support agency shall conduct an initial assessment by a registered nurse to ensure that the client does not require services outside of the scope of personal care services. The assessment shall include a home visit and a review of information provided by the prospective client or the client representative and any other pertinent data and shall take place prior to the time that personal care services are initially provided to the client. The assessment must determine whether the home support agency has the ability to provide the necessary services in a safe and consistent manner.

9910.5 The home support agency shall notify each individual requesting services from the home support agency of the availability or unavailability of service, and the reason(s) therefor, within forty-eight (48) hours after the referral or request for services.

9910.6 A home support agency shall maintain records on each person requesting services whose request is not accepted. The records shall be maintained for at least one (1) year from the date of non-acceptance and shall include the nature of the request for services and the reasons for not accepting the client.

9911 CLIENT SERVICE AGREEMENT

9911.1 There shall be a written service agreement between each client and the home support agency. The agreement shall:

(a) Specify the services to be provided by the home support agency, including but not limited to:

(1) Frequency of visits including scheduled days and hours;

(2) Accompaniment and/or transportation agreements as appropriate;

(3) Procedures for emergency medical response; and

(4) Conditions for discharge and appeal;

(b) Specify the procedure to be followed when the home support agency is not able to keep a scheduled client visit;

(c) Specify financial arrangements, which shall minimally include:

(1) A description of services purchased and the associated cost;

(2) An acceptable method of payment(s) for services;

(3) An outline of the billing procedures, including any required deposits, if applicable;

(4) A requirement that all payments by the client for services rendered shall be made directly to the home support agency or its billing representative and no payments shall be made to or in the name of individual employees of the home support agency; and

(5) The home support agency's policies for non-payment;

(d) Identify the client representative, if applicable;

(e) Specify the home support agency's emergency contact information during both business and non-business hours;

(f) Specify the number for the Department of Health's Complaint Hotline;

(g) Be signed by the client or client representative, if applicable, and the representative of the home support agency prior to the initiation of services;

(h) Be given to the client or client representative, if applicable, and a copy shall be kept in the client record; and

(i) Be reviewed and updated as necessary to reflect any change in the services or the financial arrangements.

9912 DISCHARGES, TRANSFERS, AND REFERRALS

9912.1 Each home support agency shall develop and implement written policies that describe discharge, transfer, and referral criteria and procedures, including timeframe for discharge, transfer, or referral if a need for services beyond personal care services is identified.

9912.2 Each client shall receive written notice of discharge or referral no less than seven (7) days prior to the action. The seven (7) day written notice shall not be required, and oral notice may be given at any time, if the transfer, referral or discharge is the result of:

(a) A medical or social emergency;

(b) A physician's order to admit the client to an in-patient facility;

(c) A determination by the home support agency that the referral or discharge is necessary to protect the health, safety, or welfare of the home support agency’s staff; or

(d) The refusal of further services by the client or the client representative.

9912.3 Each home support agency shall document activities related to discharge, transfer, or referral planning for each client in the client's record.

9913 CLIENT SERVICE PLAN

9913.1 The home support agency shall provide services in accordance with a written client service plan in agreement with the client or client representative, if applicable.

9913.2 A registered nurse shall develop a service plan on admission based upon the initial assessment of the client and in accordance with Subsection 9917.4.

9913.3 The service plan shall include at least the following:

(a) The scope and types of services, frequency and duration of services to be provided, including any diet, equipment, and transportation required;

(b) Parameters related to services provided pursuant to Subsections 9917.4(e)-(f) of this chapter;

(c) Functional limitations of the client;

(d) Activities permitted; and

(e) Safety measures required to protect the client from injury.

9913.4 A registered nurse shall review and evaluate the service plan at least every ninety (90) days.

9913.5 A copy of the service plan shall be available to the client or client representative upon request.

9913.6 The personnel assigned to each client shall be oriented to the service plan.

9914 CLIENT RECORDS

9914.1 Each home support agency shall establish and maintain a complete and accurate client record of the services provided to each client in accordance with this chapter and accepted professional standards and practices.

9914.2 Each client record shall include the following information related to the client:

(a) Admission data, including name, address, date of service inquiry, date of birth, sex, next of kin, name and contact information of the client representative (if applicable), date accepted by the home support agency to receive services, and source of payment;

(b) Source of referral;

(c) Initial assessment and on-going evaluation;

(d) Signed client services agreement;

(e) Advance directives (living will and durable power of attorney for health care), if applicable;

(f) General Power of Attorney or Guardianship, if applicable;

(g) MOST, if applicable;

(h) Service plan;

(i) History of sensitivities and allergies;

(j) Medication list;

(k) Service delivery notes signed and dated as appropriate by staff;

(l) Documentation of supervision of personal care services;

(m) Documentation of discharge planning, if appropriate;

(n) Discharge summary, including the reason for termination of services and the effective date of discharge;

(o) Documentation of coordination of services, if applicable;

(p) Communications between the home support agency and all health care professionals involved in the client's care; and

(q) Documentation of training and education given to the client and the client's caregivers.

9915 RECORDS RETENTION AND DISPOSAL

9915.1 Each home support agency shall maintain a records system that shall include the following:

(a) Written policies that provide for the protection, confidentiality, retention, storage, and maintenance of home support agency records; and

(b) Written procedures that address the transfer or disposition of home support agency records in the event of dissolution of the home support agency.

9915.2 If a home support agency is dissolved and there is no identified new owner, the home support agency records shall be retained either electronically or in paper form so as to be retrievable upon request by the client or the client representative for a period of five (5) years following the date of dissolution. The records shall be produced to the client or client representative within thirty (30) days of receipt of a request and at no cost to the client or the client representative.

9915.3 Each home support agency shall inform the Department and each client in writing, within thirty (30) days of dissolution of the home support agency, of the location of the client records and how each client may obtain his or her records.

9915.4 A home support agency shall maintain client records for at least five (5) years after the date of discharge of the client.

9915.5 A home support agency shall maintain records of complaints and incidents for a minimum of five (5) years.

9915.6 A home support agency shall maintain the personnel records of each staff member for at least five (5) years after the date of termination or separation.

9915.7 Department authorities shall have access to home support agency records at all times.

9916 CLIENT RIGHTS AND RESPONSIBILITIES

9916.1 Each home support agency shall develop a written statement of client rights and responsibilities that shall be given, upon admission, to each client who receives personal care services or the client representative, if applicable.

9916.2 Each home support agency shall develop policies to ensure that each client who receives personal care services has the following rights:

(a) To be treated with courtesy, dignity, and respect;

(b) To control his or her own household and life style;

(c) To be informed orally and in writing of the following:

(1) Services to be provided by the home support agency, including any limits on service availability;

(2) The amount charged for each service, and procedures for billing and non-payment;

(3) Prompt notification of acceptance, denial or reduction of services;

(4) Complaint process; and

(5) The telephone number of the Complaint Hotline maintained by the Department;

(d) To receive services consistent with the service agreement and with the client's service plan;

(e) To participate in the planning and implementation of his or her personal care services;

(f) To receive services by competent personnel who can communicate with the client;

(g) To refuse all or part of any service and to be informed of the consequences of refusal;

(h) To be free from mental and physical abuse, neglect, and exploitation by home support agency employees;

(i) To be assured confidential handling of client records as provided by law;

(j) To be educated about and trained in matters related to the services to be provided;

(k) To voice a complaint or other feedback to the Department or the home support agency in confidence and without fear of reprisal from the home support agency or any home support agency personnel, in writing or orally, including an in-person conference if desired, and to receive a timely response to a complaint as provided in these rules; and

(l) To have access to his or her own client records.

9916.3 Each home support agency shall inform all clients that they have the right to make complaints and to provide feedback concerning the services rendered by the home support agency to the Department, in confidence and without fear of reprisal from the home support agency or any home support agency personnel, in writing or orally, including an in person conference if desired.

9916.4 Each home support agency shall develop a statement of client responsibilities regarding the following:

(a) Treating home support agency personnel with respect and dignity;

(b) Providing accurate information when requested;

(c) Informing the home support agency when instructions are not understood or cannot be followed;

(d) Cooperating in making a safe environment for care within the home; and

(e) Providing prompt payment for services.

9916.5 Written policies on client rights and responsibilities shall be made available to the general public.

9916.6 The home support agency shall take appropriate steps to ensure that all information is conveyed, pursuant to these rules, to any client who cannot read or who otherwise needs accommodations in an alternative language or communication method. The home support agency shall document in the client's

records the steps taken to ensure that the client has been provided effectively with all required information.

9917 MANAGEMENT OF COMPLAINTS AND INCIDENTS

9917.1 Each home support agency shall develop and implement policies and procedures for receiving, processing, documenting, and investigating complaints and incidents.

9917.2 A complaint may be presented to the home support agency orally or in writing.

9917.3 A written summary of the complaint process shall be given to the client or client representative upon acceptance or denial of services.

9917.4 The telephone number of the Complaint Hotline maintained by the Department shall be posted in the home support agency's operating office in a place where it is visible to all staff and visitors.

9917.5 Each home support agency shall respond to each complaint received by it within fourteen (14) days of receipt, shall investigate the complaint as soon as reasonably possible, and shall, upon completion of the investigation, provide the complainant with the results of the investigation.

9917.6 If the client indicates that he or she is not satisfied with the response, the home support agency shall respond in writing within thirty (30) days from the client's expression of dissatisfaction. The response shall include the telephone number and address of all District government agencies with which a complaint may be filed and the telephone number of the Complaint Hotline maintained by the Department.

9917.7 The home support agency shall report all incidents involving a client occurring in the presence of staff to the Department within forty-eight (48) hours in addition to other reporting requirements prescribed by law.

9917.8 The home support agency shall investigate all incidents. The home support agency shall forward a complete investigation report to the Department within thirty (30) days of the occurrence or of the date that the home support agency first became aware of the incident.

9917.9 Each home support agency shall develop and implement a system of documenting complaints and incidents, which shall reflect all complaint, incident, and investigative activity for each year, and which shall include, for each complaint or incident:

(a) The name, address and phone number of the complainant or client involved in the incident, if known;

(b) If the complaint is anonymous, a statement so indicating;

(c) The date on which the complaint is received or the incident occurred;

(d) A description of the complaint or incident, including the names of any staff involved;

(e) The date on which the investigation is completed;

(f) Whether the complaint is substantiated; and

(g) Any subsequent action taken as a result of the complaint or incident, and the date on which the action was taken.

9917.10 Each home support agency shall report any action taken by, or any condition affecting the fitness to practice of, a registered nurse or home health aide that might be grounds for enforcement or disciplinary action under HORA or Home Health Aide Regulations of Chapter 93 of Title 17 DCMR to the Department within five (5) business days of the home support agency's receipt of the relevant information.

9917.11 The Department may receive and investigate a complaint alleging violation of any provision of this chapter and may investigate any incident.

9917.12 Based on a licensee's or applicant's violation of any provision of this chapter, the Department may initiate an enforcement action which may include license denial, license suspension, license summary suspension, or license revocation.

9917.13 As an alternative to denial, suspension, or revocation of a license when a home support agency has numerous deficiencies or a serious single deficiency with respect to the standards established under this chapter, the Director may:

(a) Issue a provisional license if the home support agency is taking appropriate ameliorative action in accordance with a mutually agreed upon timetable; or

(b) Issue a restricted license that prohibits the home support agency from accepting new clients or delivering certain specified services that it would otherwise be authorized to deliver, if appropriate ameliorative action is not forthcoming.

9917.14 A provisional or restricted issued under this section may be granted for a period not exceeding ninety (90) days, and may be renewed no more than once.

9917.15 When a provisional or restricted license has expired the Department may choose to initiate enforcement action in accordance with this section.

9918 PERSONAL CARE SERVICES

9918.1 A home support agency may offer personal care services and shall employ qualified home health aides pursuant to 17 DCMR §§ 9300 *et seq.* to perform those services.

9918.2 Each home health aide shall be supervised by a registered nurse. On-site supervision of personal care services shall take place at least once every ninety (90) days.

9918.3 The home support agency shall have an adequate number of registered nurses to supervise the implementation of personal care services.

9918.4 Personal care services may include the following:

(a) Basic personal care including bathing, grooming, dressing, and assistance with toileting;

(b) Assisting with incontinence, including bed pan use, changing urinary drainage bags, protective underwear, and monitoring urine input and output;

(c) Assisting the client with transfer, ambulation, and exercise as prescribed;

(d) Assisting the client with self-administration of medication;

(e) Reading and recording temperature, pulse, and respiration;

(f) Measuring and recording blood pressure, height, and weight;

(g) Observing, recording, and reporting the client's physical condition, behavior, or appearance;

(h) Meal preparation in accordance with dietary guidelines, and assistance with eating;

(i) Implementation of universal precautions to ensure infection control;

(j) Tasks related to keeping the client’s living area in a condition that promotes the client's health and comfort;

(k) Accompanying or transporting the client to medical and medically-related appointments, to the client's place of employment, and to recreational activities;

(l) Assisting the client at his or her place of employment;

(m) Shopping for items related to promoting the client's nutritional status and other health needs; and

(n) Providing companion services.

9919 COORDINATION OF SERVICES

9919.1 A home support agency shall develop and implement policies and procedures relating to:

(a) The delineation of services provided by the home support agency when the home support agency coordinates services within the home support agency or with another provider; and

(b) Notification to the client or client representative of the home support agency's responsibilities to coordinate services when appropriate.

9919.2 Personnel providing services shall communicate with each other to assure their efforts effectively complement one another and support the objectives outlined in the client service plan.

9919.3 The client record or minutes of case conferences shall establish that effective interchange, reporting, and coordinated client evaluation and planning occurs.

9999 DEFINITIONS

9999.1 For the purposes of this chapter, the following terms shall have the meanings ascribed below:

Admission - A home support agency's acceptance of client to provide personal care services.

Business day - Monday through Friday between the hours of 8:00 am and 6:00 pm, excluding public holidays.

Business hours - The hours during the day in which business operations are commonly conducted in the operating office by the licensee.

Client - The individual receiving home support agency services as defined in this chapter.

Client record - A written account of all services provided to a client by the home support agency, as well as other pertinent information necessary to provide care.

Client representative - A person designated in writing by the client in the service agreement or a person acting in a representative capacity under a durable power of attorney, durable power of attorney for health care, or guardianship pursuant to District law, or other legal representative arrangement.

Client Service Coordinator - A registered nurse who is sufficiently qualified to provide general supervision and direction of the services offered by the home support agency and who has at least one (1) year administrative or supervisory experience in personal care, home health care, or related health programs.

Client service plan - A written plan developed by the registered nurse in agreement with the client or client representative, if applicable, that specifies the tasks that are to be performed by the aide primarily in the client's residence. The written plan specifies scope, frequency, and duration of services.

Companion services - Non-healthcare related services, such as cooking, housekeeping, errands, and social interaction.

Complaint - Any occurrence or grievance reported by a client or client representative related to the nature of the services provided by the home support agency.

Department - The District of Columbia Department of Health.

Director - The individual appointed by the governing body to act on its behalf in the overall management of the home support agency.

Full-time - Employment period by the home support agency, at minimum, during each of the home support agency's established business days.

Governing body - The individual, partnership, group, or corporation designated to assume full legal responsibility for the policy determination, management, operation, and financial liability of the home support agency.

Home health aide - A person who performs home health and personal care services, and who is qualified to perform such services pursuant to

Chapter 93 (Home Health Aides) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations.

Home support agency - An entity licensed in accordance with this chapter that employs home health aides to provide personal care services to clients.

HORA – Health Occupations Revision Act.

Incident - Any occurrence that results in significant harm, or the potential for significant harm, to a client's health, welfare, or well-being. Incidents include an accident resulting in significant injury to a client, death, misappropriation of a client's property or funds, or an occurrence requiring or resulting in intervention from law enforcement or emergency response personnel.

License - Formal permission granted by the Department to act as a home support agency in accordance with law.

Licensee - The individual or entity to whom the Department has granted formal permission to act as a home support agency in accordance with law.

Modification of ownership and control - The sale, purchase, transfer or re-organization of ownership rights.

Medical Orders for Scope of Treatment (MOST) Form - A set of portable, medical orders on a form issued by the Department that results from a client's or a client representative's informed decision-making with a health care professional pursuant to D.C Official Code §§ 21-2221 *et seq*.

Operating Office - The physical location at which the business of the home support agency is conducted and at which the records of personnel, clients, incidents, and complaints of the home support agency are stored either electronically or physically.

Personal care services - Services that are limited to individual assistance with or supervision of activities of daily living, companion services, homemaker services, reporting changes in client's condition, and completing reports. Personal care services do not include skilled services.

Registered nurse - An individual who is currently licensed to practice nursing under the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*.)

Service delivery notes - Documentation of the duties or tasks completed per shift by a home health aide, nursing supervision, and any other pertinent information related to the provision of services.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the District of Columbia Department of Health ("Department"), pursuant to and in accordance with Section 1093(a) of the Workplace Wellness Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-541.02(a) (2016 Repl.)) ("Act") and Mayor's Order 2016-178, dated November 10, 2016, hereby gives notice of the adoption of a new Chapter 111 Nutrition Standards for District Agencies) to Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations ("DCMR").

The Act established a requirement that the District government adopt policies and regulations to establish minimum health and nutrition standards for food and beverage items sold through automated vending operations located in District government facilities or purchased for use by District agencies at meetings and events organized or sponsored by District agencies held at District government facilities. The proposed rules would establish these requirements. As mandated by the Act, these regulations shall apply both to subordinate and independent District agencies. These regulations shall not apply to District of Columbia boards and commissions, Advisory Neighborhood Commissions, the Council of the District of Columbia, or the District of Columbia Courts. These regulations shall also not apply to food served by the Departments of Corrections and Behavioral Health to persons residing at their institutions or in their direct custody, or served to children in schools.

This rulemaking was published in the *D.C. Register* on July 26, 2019 at 66 DCR 008773. No comments were received during the allotted thirty (30) daytime period. No changes have been made to the document. These final rules were adopted on October 1, 2019 and will be effective upon publication of this notice in the *D.C. Register*.

Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended by adding a new Chapter 111 to read as follows:

CHAPTER 111 NUTRITION STANDARDS FOR DISTRICT AGENCIES

11100 AUTOMATED VENDING OPERATIONS NUTRITION STANDARDS

11100.1 Each Automated Vending Operation operator authorized to install an Automated Vending Operation in a District of Columbia Facility shall provide a sign in close proximity to each installed Automated Vending Operation that discloses nutritional information for all items or potential items for sale that complies with the standards for nutritional labeling set forth at 21 Code of Federal Regulations Part 101.

Alternatively, the sign can provide a web link that provides the same information for each item.

11100.2 Each Automated Vending Operation operator authorized to install an Automated Vending Operation in a District of Columbia Facility shall provide DC Health-approved signage in close proximity to each installed Automated Vending Operation that educates and assists consumers in the selection of Healthy Food Items and Healthy Beverage Items.

11100.3 Healthy Food Items and Healthy Beverage Items shall be displayed in a way that they are distinguishable from non-healthy food and beverage items and shall be stocked in a manner that provides line of sight priority for Healthy Food Items and Healthy Beverage Items.

11100.4 At least fifty percent (50%) of all food and beverage items shall meet the following standards:

(a) Have less than 0.5 milligrams of trans fats per serving;

(b) Have less than 200 milligrams sodium per serving; and

(c) For refrigerated or non-refrigerated entrée-type vended food items, contain less than 480 milligrams sodium per serving.

11100.5 The Automated Vending Operation operator should ensure that at least fifty percent (50%) of all packaged food and beverage choices are Healthy Food Items or Healthy Beverage Items as guided by the General Services Administration document "Health and Sustainability Guidelines for Federal Concessions and Vending Operations".

11100.6 The standards in this section shall not apply to District of Columbia boards and commissions, Advisory Neighborhood Commissions, the Council of the District of Columbia, or the District of Columbia Courts.

11101 STANDARDS FOR FOOD AND BEVERAGES PROVIDED AT MEETINGS AND EVENTS

11101.1 All food and beverage items purchased for meetings and events held at a District of Columbia Facility must be labeled with calories per serving as sold (or calories per measure provided for salad bar-type service). The organizer of the meeting or event should ensure that at least fifty percent (50%) of all food and beverage choices are Healthy Food Items or Healthy Beverage Items as guided by the General Services Administration document "Health and Sustainability Guidelines for Federal Concessions and Vending Operations." Calorie labeling must be displayed on each item or on signs adjacent to each food and beverage item.

11101.2 Fruits, other than fresh unprocessed fruits, must be packaged in one-hundred percent (100%) water or unsweetened juice, with no added sugars.

11101.3 Vegetables, other than raw unprocessed fresh vegetables or salad-type vegetables, shall be steamed, baked, or grilled, utilizing little or no added fats or oils and must contain no more than 230 milligrams sodium, as served.

11101.4 The following protein food items shall meet the following standards:

(a) Fresh meat or seafood protein foods shall be lean and shall be steamed, baked, or grilled utilizing little or no added fats or oils;

(b) Vegetarian entrée offerings shall be low fat and contain less than 480 milligrams sodium per serving; and

(c) Canned or frozen tuna, seafood, and salmon must contain less than 290 milligrams sodium per serving and canned meat less than 480 milligrams sodium per serving.

11101.5 Cereals and Grains shall meet the following standard:

(a) When grains are offered (*e.g.*, rice, bread, pasta), then a one-hundred percent (100%) whole grain option must be offered for that item as the standard choice. When there are more than two cereal grain options, at least one must contain no less than three (3) grams of dietary fiber;

(b) All cereal grains offered (*e.g.*, rice, bread, pasta), must contain no more than 230 milligrams sodium per serving; and

(c) At least fifty percent (50%) of breakfast cereals offered must contain at least three (3) grams of dietary fiber and no more than ten (10) grams of total sugars per serving.

11101.6 Dairy (yogurt/cheese/fluid milk) shall meet the following standards:

(a) Only two percent (2%), one percent (1%), and fat-free fluid milk shall be offered;

(b) Only low fat (two percent (2%) or less) or fat-free cottage cheese items shall be offered;

(c) Only two percent (2%), one percent (1%) or fat-free yogurt with no added sugars or yogurts labeled as reduced or less sugar according to United States Food and Drug Administration labeling standards shall be offered; and

(d) Processed cheeses must contain no more than 230 mg sodium per serving.

11101.7 Beverages offerings shall meet the following standards:

(a) At least fifty percent (50%) of available beverage choices (other than 100% juice and unsweetened milk) must contain no more than 40 kcal/serving;

(b) Juices must be one-hundred percent (100%) juice with no added sugars;

(c) Vegetable juices must contain no more than 230 milligrams sodium per serving; and

(d) Drinking water must be offered at no charge at all meetings and events.

11101.8 A prominently displayed statement regarding the availability of additional nutritional information available upon request must be placed where the food is served.

11101.9 Vegetable oils, shortenings, or margarines used for frying, pan-frying (sautéing), grilling, baking, or as a spread (or for deep frying cake batter and yeast dough) shall not be used unless the label or other documentation for the oil indicates zero (0) grams trans fat per serving. Oils and fats used in food preparation and as spreads must also be low (1 gram or less) in saturated fats.

11101.10 All individual food items must contain no more than 480 milligrams sodium per serving, unless otherwise designated.

11101.11 All meals must contain no more than 900 milligrams sodium.

11101.12 Deep-fried food options should be limited to no more than one choice per day.

11101.13 These standards in this section shall not apply to District of Columbia boards and commissions, Advisory Neighborhood Commissions, the Council of the District of Columbia, or the District of Columbia Courts, or to food served by the Departments of Corrections and Behavioral Health to persons residing at their institutions or in their direct custody, or served to children in schools.

11102 PHYSICAL ACTIVITY BREAKS

11102.1 In order to promote physical activity, physical activity breaks may be offered during meetings. Halfway through meetings lasting more than one (1) hour, meeting leaders can choose to hold a five (5)- to ten (10)-minute physical activity break, featuring dancing, stretching, walking, etc. Additionally, periodic physical activity breaks may be included in the agendas for all day events.

11199 DEFINITIONS

11199.1 When used in this section, the following terms shall have the meanings ascribed:

Added Sugars - Sugars that are either added during the processing of foods, or are packaged as such, and include sugars (free, mono- and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of one hundred percent (100%) fruit or vegetable juice of the same type.

Automated Vending Operation - A fully automated self-service vending operation offered for public use that displays pre-packaged food and/or beverages that may be purchased upon completion of an automated payment method. The operation may include one or more automated vending machines that dispense servings of food or beverages in bulk or in packages, or prepared by the machine, without the necessity of replenishing the device between each vended operation.

Baked - A food preparation method in which food is cooked in an oven, utilizing dry heat.

Cheese - A food consisting of the coagulated, compressed, and usually ripened curd of milk separated from the whey.

Cholesterol - A necessary nutrient from animal-based foods that is carried in the bloodstream.

Deep Fried - A food preparation method in which food is cooked by submerging it in hot oil.

Dietary Fiber - A type of carbohydrate that cannot be digested by the body's digestive enzymes.

District of Columbia Facility – A building or any part thereof that is owned, leased or otherwise controlled by the District of Columbia or any subordinate or independent District agency.

Entrée-type Vended Food Item – A vended main course or meal up to 350 calories per package or item.

Grams - A metric unit of mass equivalent to one thousandth of a kilogram.

Grill - A food preparation method in which food is cooked on a rack directly over a heat source.

GSA Guidelines – United States General Services Administration Health and Sustainability Guidelines for Federal Concessions and Vending Operations,

available at https://www.gsa.gov/real-estate/facilities-management/tenant-services/concessions-and-cafeterias-healthy-food-in-the-federal-workplace.

Healthy Beverage Item – In addition to bottled water, a beverage that contains fewer than forty (40) calories per serving or one of the following: (1) fat-free or 1% low fat dairy milk; (2) calcium or vitamin D fortified soy milk with less than 200 calories per container; or (3) a container with twelve (12) ounces or less of (i) 100% fruit juice; (ii) vegetable juice that contains less than 230 milligrams of sodium per serving; or (iii) fruit juice combined with water with no added sugars and no more than 200 milligrams of sodium.

Healthy Food Item - An item that contains: (1) no more than 200 calories per package; (2) less than thirty-five percent (35%) of total calories from fat, except for foods containing one hundred percent (100%) nuts or seeds with no added fats; (3) less than ten percent (10%) of calories from saturated fat; and (4) no more than thirty-five percent (35%) of calories from total sugars, except for 1%, 2%, or non-fat dairy products, non-dairy milk products, fruits, and vegetables.

Juice - The liquid obtained from or present in fruit or vegetables.

Lean - A term used to describe an individual food as packaged when it contains less than ten (10) grams of fat, four point five (4.5) grams or less of saturated fat, and less than 95 milligrams of cholesterol per reference amount and per 100 grams.

Low Fat – A serving that contains no more than three (3) grams of fat.

Margarine - A butter-like product made of refined vegetable oils, sometimes blended with animal fats, and emulsified, usually with water or milk.

Meal - The combination of foods eaten at regular occasions, such as breakfast, lunch, dinner, or supper; a meal usually includes two or more food items.

Milligram - A metric unit of mass equivalent to one thousandth of a gram.

Nutrition Facts Label - A statement placed on packaged food items listing nutrients by serving size.

Packaged - Bottled, canned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant.

Partially Hydrogenated Vegetable Oils - Oils that contain trans fatty acids, or trans fats, through a chemical process where liquid vegetable oil is turned into solid fat.

Processed cheese - A food product made from cheese (and sometimes other, unfermented, dairy by-product ingredients), plus emulsifiers, saturated vegetable oils, extra salt, food colorings, whey or sugar. Also known as prepared cheese, cheese product, plastic cheese, or cheese singles.

Protein - A nutrient found in foods such as meat, dairy products, nuts, and certain grains and beans, used to build and maintain bones, muscles, and skin.

Saturated Fat - A fat that is saturated with hydrogen molecules and mainly found in animal sources such as meat and dairy. It is typically solid at room temperature.

Sauté - A food preparation method in which food is cooked quickly in a small amount of oil or liquid over direct heat.

Serving – A standardized amount of a food, such as a cup or an ounce, used in providing information about a food within a food group, such as in dietary guidance. Serving size on the Nutrition Facts label is determined based on the Reference Amounts Customarily Consumed (RACC) for foods that have similar dietary usage, product characteristics, and customarily consumed amounts for consumers to make "like product" comparisons. Recommended servings for different foods and beverages are found in the U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015–2020 Dietary Guidelines for Americans. 8th Edition. December 2015. Available at: http://health.gov/dietaryguidelines/2015/guidelines.

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Shortening - A fat made that is solid at room temperature. Butter, lard and vegetable oils which have been hydrogenated to create a solid are examples of shortening.

Spread - A food that is spread onto products such as bread and crackers to enhance the flavor or texture of food.

Total Calories - A measure of the amount of energy in a serving of food.

Total Calories from Fat - The number of total calories in a food that come from fat.

Total Sugar - The total number of grams of sugars in a serving.

Trans Fat - A type of fat that is created through a chemical process in which hydrogen is added to vegetable oil, converting it from a liquid into solid fat at room temperature. Trans fat has no nutritional value.

Vegetarian - food that does not include meat and animal tissue products but may contain eggs and dairy products such as milk and cheese.

DEPARTMENT OF MOTOR VEHICLES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles ("Director"), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2014 Repl.)), Sections 6, 7 and 8a of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121, 1125; D.C. Official Code §§ 50-2201.03, 50-1401.01 and 50-1401.03 (2014 Repl.)), and Mayor's Order 2016-077, dated May 2, 2016, hereby gives notice of the adoption of the following rulemaking that amends Chapter 1 (Issuance of Learner Permits, Provisional Permits, or Driver Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations ("DCMR").

The rulemaking clarifies the REAL ID requirements for issuance of a driver license or identification card.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 20**,** 2019 at 66 DCR 016443**.** No comments were received. No changes were made to the text of the proposed rules. The rules will become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 1, ISSUANCE OF LEARNER PERMITS, PROVISIONAL PERMITS, OR DRIVER LICENSES, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 103, APPLICATION FOR A DRIVER LICENSE, LEARNER PERMIT OR PROVISIONAL PERMIT, is amended as follows:

Subsection 103.4(a) is amended to read as follows:

(a) To establish identity, date of birth, social security, and lawful status the applicant shall present documents in compliance with 6 CFR §§ 37.11(c), (d), (e), and (g), which are incorporated herein by reference as though fully set forth at this place.

Subsection 103.4(b) is repealed.

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING
Z.C. Case No. 20-07[1]
(Text Amendment – Subtitles Y and Z of Title 11 DCMR)
(Six-Month Extension of Validity Period of Approvals)
July 27, 2020

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), and pursuant to § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its amendment of the following provisions of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [Zoning Regulations], to which all references are made unless otherwise specified):

Subtitle Y, Board of Zoning Adjustment Rules of Practice and Procedure
Chapter 7, Approvals and Orders
§§ 702.1 and 702.2 – six-month extension of orders scheduled to expire between April 27 and December 31, 2020

Subtitle Z, Zoning Commission Rules of Practice and Procedure
Chapter 7, Approvals and Orders
§§ 702.1, 702.2, and 702.3 – six-month extension of orders scheduled to expire between April 27 and December 31, 2020

Setdown
On January 17, 2020, the Office of Zoning ("OZ") filed a petition to the Commission proposing these amendments to extend the validity of any order scheduled to expire between April 27 and December 31, 2020 by six months on account of the ongoing COVID-19 pandemic and resulting modifications of District government operations. OZ requested that the Commission:

- Set the petition down for a public hearing;
- Authorize a thirty (30)-day notice period prior to the public hearing by granting a waiver under Subtitle Z § 101.9 from the forty (40)-day requirement of Subtitle Z § 502.1 for good cause due to the COVID-19 pandemic;
- Consider taking emergency action to adopt the text amendment; and
- Authorize an immediate publication of proposed rulemaking for the text amendment.

On April 15, 2020, the Office of Planning (OP) filed its pre-hearing report concluding that the proposed text amendment would not be inconsistent with the Comprehensive Plan and recommending approval.

Holland & Knight filed a response in support of the proposed text amendment but proposed that the automatic extension apply not only to Commission and Board orders expiring between April

[1] For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 20-07.

27 and December 31, 2020 but be extended to apply to all orders expiring through August 31, 2021.

Cozen and O'Connor, on behalf of the University of the District of Columbia, filed a response in support of the proposed text amendment.

Emergency & Proposed Action – Initial Petition
At its April 27, 2020 public meeting, the Commission concluded that taking emergency action to adopt the proposed text amendment is necessary for the "immediate preservation of the public … welfare," as authorized by § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968. (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), in order to avoid potential expiration of orders and approvals of the Commission and Board caused by the administrative disruptions due to the ongoing COVID-19 pandemic, with the attendant risk to the District's economic condition. The Commission therefore voted to grant's OZ's request (without Holland & Knight's proposed further extension to August 31, 2021) to:

- Take emergency action to adopt the text amendment;
- Set the petition down for a public hearing;
- Authorize a thirty (30)-day notice period prior to the public hearing by granting a waiver under Subtitle Z § 101.9 from the forty (40)-day requirement of Subtitle Z § 502.1 for good cause due to the COVID-19 pandemic; and
- Authorize an immediate publication of proposed rulemaking for the text amendment.

VOTE (April 27, 2020): **5-0-0** Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

OZ published a Notice of Emergency and Proposed Rulemaking (NOEPR) in the May 15, 2020, *D.C. Register* at 67 DCR 5166.

On May 29, 2020, OZ submitted a memo proposing revisions to the text amendment to clarify that the automatic six (6)-month extension does not restart the date for any subsequent time extension, which would commence from the original expiration date not including the automatic six (6)-month extension. OZ requested that the Commission:

- Adopt the revised text amendment as a new emergency text amendment replacing the initial emergency rulemaking; and
- Authorize the publication of new proposed rulemaking replacing the initial proposed rulemaking.

On June 5, 2020, Goulston & Storrs filed a response to the NOEPR in support but proposing revisions the text amendment to confirm that the automatic six(6)-month extension applied to campus plans expiring within the April 27-December 31, 2020 time period.

Emergency & Proposed Action – Revised Petition

At its June 8, 2020, public meeting, the Commission concluded that taking emergency action to adopt the proposed text amendment is necessary for the "immediate preservation of the public … welfare," as authorized by § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968. (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), in order to avoid potential expiration of orders and approvals of the Commission and Board caused by the administrative disruptions due to the ongoing COVID-19 pandemic, with the attendant risk to the District's economic condition. The Commission voted to grant's OZ's request to:

- Take emergency action to adopt the text amendment, as revised to include both OZ's and Goulston's proposed changes, and
- Authorize an immediate publication of proposed rulemaking for the text amendment, as revised to include both OZ's and Goulston's proposed changes.

VOTE (June 8, 2020): **5-0-0** Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

The Commission published the proposed amendment, as revised to include both OZ's and Goulston's proposed changes, as a Notice of Second Emergency and Proposed Rulemaking (2nd NOEPR) in the *D.C. Register* on June 19, 2020 at 67 DCR 7792.

No comments on the 2nd NOEPR were received in the thirty (30)-day period required by § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2016 Repl.)).

Public Hearing
OP filed a June 9, 2020, report that reiterated its support for the proposed text amendment, as revised by the 2nd NOEPR.

The Commission held a public hearing on the proposed text amendment on June 18, 2020. OZ presented the text amendment. No witnesses appeared to testify.

"Great Weight" to the Recommendations of OP
The Commission must give "great weight" to the recommendations 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 Z § 405.8. *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)

The Commission finds OP's recommendation that the Commission take final action to adopt the text amendment, as revised persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANCs
The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2016 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the

reasons why an affected ANC does or does not offer persuasive advice under the circumstances. *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016). The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." *Wheeler v. District of Columbia Board of Zoning Adjustment,* 395 A.2d 85, 91 n.10 (1978) (citation omitted).

Since no ANC filed a response to either the original and 2nd Notice of Emergency and Proposed Rulemaking, the Commission has nothing to which it may give great weight.

Final Action
At the close of its July 27, 2020, public meeting, the Commission voted to take **FINAL ACTION** and to authorize the publication of a Notice of Final Rulemaking:

VOTE (July 27, 2020): **5-0-0** Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

The complete record in the case, including the OZ petition, comments, and the transcripts of the Commission's public hearing and meetings, can be viewed online at the OZ website, through the Interactive Zoning Information System (IZIS), at: https://app.dcoz.dc.gov/Content/Search/Search.aspx.

The following amendments to the text of the Zoning Regulations are hereby adopted:

I. Amendments to Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE

Subsections 702.1 and 702.2 of § 702, VALIDITY OF APPROVALS AND IMPLEMENTATION, of Chapter 7, APPROVALS AND ORDERS, of Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, are amended to read as follows:

702.1 An order granting a special exception or variance where the establishment of the use is dependent upon the erection or alteration of a structure shall be valid for a period of two (2) years, or one (1) year for an Electronic Equipment Facility, within which time an application shall be filed for a building permit for the erection or alteration approved. If the erection or alteration of more than one (1) structure is approved, a building permit application shall be filed for all such structures within this two (2) year period; provided that any order scheduled to expire between April 27, 2020, and December 31, 2020, shall remain valid for a period of six (6) months from the date of expiration of the order although this six (6)-month extension shall run concurrently with any subsequent time extension and shall not be cumulative to that subsequent time extension.

702.2 An order granting a special exception or variance where the establishment of the use is not dependent upon the erection or alteration of a structure shall be valid for a period of six (6) months, within which time an application shall be filed for an

certificate of occupancy for the use approved; provided that any order scheduled to expire between April 27, 2020, and December 31, 2020 (including any private school or other use approved by special exception), shall remain valid for a period of six (6) months from the date of expiration of the order although this six (6)-month extension shall run concurrently with any subsequent time extension and shall not be cumulative to that subsequent time extension.

II. Amendments to Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE

Subsections 702.1 through 702.3 of § 702, VALIDITY OF APPROVALS AND IMPLEMENTATION, of Chapter 7, APPROVALS AND ORDERS, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, are amended to read as follows:

702.1 A first-stage approval of a planned unit development (PUD) by the Commission shall be valid for a period of one (1) year, unless a longer period is established by the Commission at that time of approval; provided that any approval scheduled to expire between April 27, 2020, and December 31, 2020, shall remain valid for a period of six (6) months from the date of expiration of the approval although this six (6) month extension shall run concurrently with any subsequent time extension and shall not be cumulative to that subsequent time extension.

702.2 A contested case approval by the Commission shall be valid for a period of two (2) years from the effective date of the order granting the application, unless a longer period is established by the Commission at the time of approval, within which time an application shall be filed for a building permit; provided that any approval scheduled to expire between April 27, 2020, and December 31, 2020 (including any campus plan approval, whether approved under the BZA or Zoning Commission rules of procedure), shall remain valid for six (6) months from the date of expiration of the approval although this six (6) month extension shall run concurrently with any subsequent time extension and shall not be cumulative to that subsequent time extension.

702.3 Construction shall start within three (3) years after the effective date of the order granting the application, unless a longer period is established by the Commission at the time of approval; provided that this three (3) year period shall be extended by six (6) months for any construction deadline scheduled to expire between April 27, 2020, and December 31, 2020, although this six (6) month extension shall run concurrently with any subsequent time extension and shall not be cumulative to that subsequent time extension.

In accordance with the provisions of Subtitle Z § 604.9, this Notice of Final Rulemaking shall become final and effective upon publication in the D.C. Register; that is, on August 7, 2020.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs ("Department"), pursuant to paragraph 7 of the General Expenses title of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1910, and for other purposes, approved March 3, 1909 (35 Stat. 689; Pub. L. 60-303; D.C. Official Code § 6-661.01(a) (2018 Repl.)) and Mayor's Order 2013-23, dated January 29, 2013, hereby gives notice of the adoption of the following amendment to Chapter 1 (DCRA Permits Division Schedule of Fees) of Title 12 (Construction Codes Supplement of 2017), Subtitle M (Fees), of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking is necessary to establish program fees and costs related to the expansion of the Accelerated Review Program also referred to as "Velocity". Velocity program has been a great success in promoting economic development in the District. Since its inception, the Department has issued over four hundred (400) permits through Velocity and collected over $9.8 million in program and permit fees. Historically, Velocity was only available to those who could afford to pay more than $50,000 to $75,000. More recently, along with Velocity, DCRA has been running an accelerated stage plan review pilot program which is a lower cost option based on a tiered fee system. This pilot program was developed in direct response to the expressed needs and desires of individual homeowners and those with small residential projects and is a much more affordable option that fits the needs of these customers. Based on what has been learned from the successful implementation of the pilot program, the Department is proposing to modify Velocity, by setting up a four-tiered system, in which the fee is capped and is based on the size of the project and the number of plan reviews. This modification of Velocity expands the accessibility of accelerated or expedited plan reviews by making it a more attractive option for individuals and smaller residential projects.

As an example, under current regulations for Velocity, a homeowner working on a small one- or two- family dwelling of under 10,000 square feet who wanted to participate in the program would be required to pay over $50,000. Under this proposed rulemaking, the fee for this same project as is currently charged in the pilot program would be $2,500 for first plan review meeting. This means that this homeowner can now take advantage of an accelerated plan review program for $2,500. The fee for any additional plan review meetings would be capped at $2,500 for each meeting, which is also far lower than the fees charged under Velocity, currently. Additionally, the fee for any project under 10,000 square feet, regardless of building use, would be capped at $12,000 versus the $50,000 that would be charged under Velocity, currently.

The Director hereby gives notice of the intent to take final rulemaking action to adopt these rules as final in not less than thirty (30) days after the publication of this notice in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 1, DCRA PERMITS DIVISION SCHEDULE OF FEES, of Title 12-M DCMR, FEES, is amended as follows:

Section 101, BUILDING PERMIT FEES, is amended as follows:

Subsection 101.1(b), is amended by deleting the Accelerated Permit Review and Accelerated Stage Plan Review subsections and replacing them with the following language to the end of the subsection:

PROGRAM FEES:

Expedited Reviews **Fees for Tier I through IV Expedited Reviews are maximized as listed in the table below. The actual fee amount is established in administrative program guidance.**				
TIER I	**10,000 Square Feet and Under**			**Any Revisions for Tier I after permit issuance** **(Anything above a Level 2 alteration cannot be accepted as a revision)**
1st Plan Review Meeting 100% Drawing Set	$12,500.00			$2,500.00
Any Subsequent Review after the First Meeting	$2,500.00			$2,500.00
TIER II	**10,001- 20,000 Square Feet**	**20,001 – 30,000 Square Feet**	**30,001-40,000 Square Feet**	**Revisions for TIER II after permit issuance** **(Anything above a Level 2 alteration cannot be accepted as a revision)**
1st Plan Review Meeting 100% Drawing Set	$17,500.00	$22,500.00	$25,000.00	$5,000.00
2nd Plan Review Meeting	$10,000.00	$10,000.00	$10,000.00	$5,000.00
Any Subsequent Review after the 2nd Meeting	$5,000.00	$5,000.00	$5,000.00	$5,000.00
TIER III	**40,001-50,000 Square Feet**	**50,001-100,000 Square Feet**	**100,001-200,000 Square Feet**	**Revisions for TIER III after permit issuance (Anything above a Level 2**

				alteration cannot be accepted as a revision)	
1st Plan Review Meeting 100% Drawing Set	$50,000.00	$65,000.00	$75,000.00	$5,000.00	
2nd Plan Review Meeting	$10,000.00	$10,000.00	$10,000.00	$5,000.00	
Any Subsequent Review after the 2nd Meeting	$5,000.00	$5,000.00	$5,000.00	$5,000.00	
TIER IV	**200,0001 – 300,000 Square Feet**			**300,001 + Square Feet**	**Revisions for TIER IV after permit issuance (Anything above a Level 2 alteration cannot be accepted as a revision)**
1st Plan Review Meeting 100% Drawing Set	$90,000.00			$100,000.00 + $.10 per additional square foot	$10,000.00
2nd Plan Review Meeting	$10,000.00			$10,000.00	$10,000.00
Any Subsequent Review after the 2nd Meeting	$10,000.00			$10,000.00	$10,000.00

All persons desiring to comment on these proposed regulations should submit comments in writing to Jonathan Kuhl, Chief of External Affairs, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., 5th Floor, Washington, D.C. 20024 or via e-mail at Jonathan.Kuhl1@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 Proposed Rulemaking should call (202) 442-8945. Copies of the proposed rules can be obtained at www.dcregs.dc.gov, or from the address listed above.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health ("Director"), pursuant to the authority set forth in 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 (2018 Repl.)), and Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of her intent to adopt final rules for the following amendments to Chapters 2 (Communicable and Reportable Diseases) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register.*

The rules would add reporting requirements and procedures for reporting of Severe Maternal Morbidity (defined at 22-B DCMR § 299 as "unexpected outcomes of labor and delivery that result in significant short-term consequences or long-term consequences to a woman's health that include at least one (1) of the following twenty-one (21) specific morbidity indicators specified by the U.S. Centers for Disease Control and Prevention").

This rulemaking will support efforts to reduce Severe Maternal Morbidities by providing better and more-timely data to Department of Health officials responsible for reducing all maternal morbidities.

The final rules will become effective upon publication of a Notice of Final Rulemaking in the *D.C. Register.*

Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:

Chapter 2, COMMUNICABLE AND REPORTABLE DISEASES, is amended by adding a new Section 220 to read as follows:

220 SEVERE MATERNAL MORBIDITY

220.1 Each health care facility shall report to the Department each severe maternal morbidity, as defined in § 299.

220.2 Each health care facility shall report each severe maternal morbidity in writing within five (5) days of the end of each event causing that maternal morbidity.

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

DEPARTMENT OF MOTOR VEHICLES

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles ("Director"), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2014 Repl.)), Sections 6 and 7 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 and 50-1401.01 (2014 Repl.)), Section 2 of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Official Code § 50–1501.02 (2014 Repl.)), and Section 107 of the Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104, D.C. Official Code § 50-2301.07 (2014 Repl.)) hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 30 (Adjudication and Enforcement) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations ("DCMR").

The proposed rules update and clarify the pre-hearing process by eliminating the reference to using the back of the Notice of Infraction as a form for answering the alleged violation as well as update the regulations to conform with applicable statutes.

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

Chapter 30, ADJUDICATION AND ENFORCEMENT, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 3002, ISSUANCE OF PARKING VIOLATIONS ONLY, is amended as follows:

Subsection 3002.5 is repealed.

Section 3006, ANSWERS TO NOTICES OF INFRACTION, is amended as follows:

Subsection 3006.4 is repealed.

Section 3008, REQUESTS FOR HEARINGS, is amended as follows:

Subsection 3008.1 is repealed.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, with David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024, dmvpubliccomments@dc.gov, or online at www.dcregs.dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposed rulemaking may be obtained, at cost, by writing to the above address.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code §§ 47-874 and 47-1335 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub. L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 3 (Real Property Taxes), of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendments to Section 370 provide authority to the Office of Tax and Revenue to require solely electronic filing of various forms and attachments thereto. Paper filing will no longer be accepted for those forms on or after December 7, 2020. The remaining amendments to Sections 316, 322, 324, 327, 328 and 329 are to make conforming amendments in furtherance of the electronic filing requirement under Section 370.

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

Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 316, REAL PROPERTY TAX SALE REDEMPTION AND TAX DEED ISSUANCE RULES, Subsection 316.6(a), is amended to read as follows:

316.6

(a) The tax sale purchaser shall electronically submit a request to pay subsequent real property taxes on MyTax.DC.gov. The tax sale purchaser may then pay the Tax Sale Purchaser's Bill at the Cashier's Office of the DC Treasurer. Once payment has been remitted, the tax sale purchaser shall immediately provide OTR with a copy of the paid receipt issued by the Cashier's Office of the DC Treasurer and retain a copy of the receipt for the tax sale purchaser's record.

Section 316, REAL PROPERTY TAX SALE REDEMPTION AND TAX DEED ISSUANCE RULES, Subsection 316.7(e), is amended to read as follows:

The existing paragraph (e) is designated as subparagraph (e)(1).

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

316.7

…

(e)
…

(2) Notwithstanding paragraph (1) of this subsection, and pursuant to Section 370, the tax sale purchaser shall electronically notify OTR and the Real Property Tax Ombudsman of a filing of the Complaint to Foreclose the Right of Redemption within thirty (30) days of the filing as instructed on MyTax.DC.gov. The electronic submission shall contain as attachments copies of the complaint and certificate of sale.

Section 322, EXEMPTION FROM REAL PROPERTY TAXATION, Subsection 322.4, is amended to read as follows:

322.4 Except as provided in § 322.5, each application for an exemption from real property taxation under this section shall be completed on the FP-300 form, and such form shall be filed with the Office of Tax and Revenue, Real Property Tax Administration, Standards and Exemption Unit, provided that, the form and attachments shall be filed electronically as prescribed by Section 370.

Section 324, ANNUAL REPORT ON EXEMPT REAL PROPERTY OR EXEMPT INTEREST IN OR USE OF REAL PROPERTY, is amended to read as follows:

In Subsection 324.1, a new sentence is added at the end thereof to read as follows:

The form shall be filed electronically as prescribed by Section 370.

Section 324.2 is amended to read as follows:

324.2 Annually, on or before March 1st, a notice of the reporting requirement shall be sent to an owner of exempt property either by mail or electronically, at the discretion of the Deputy Chief Financial Officer.

Section 327, TAXATION OF MIXED-USE PROPERTY, Subsection 327.3, is amended to read as follows:

327.3 If any mixed use form is not submitted to the Deputy Chief Financial Officer on or before September 1st of the year in which such forms are mailed or provided electronically, in the discretion of the Deputy Chief Financial Officer, to affected taxpayers, or within the time extended by the Deputy Chief Financial Officer, or any mixed use form is timely submitted on or before September 1st, but is either inaccurate or incomplete and, after written or electronic notice from the Deputy Chief Financial Officer and, in the opinion of the Deputy Chief Financial Officer, remains inaccurate or incomplete, the Deputy Chief Financial Officer shall classify the affected taxpayer's real property as Class 2 Property for the next taxable year (October 1st-September 30th), subject to the property being

classified as Class 3 or Class 4.

Section 328, APPLICATION FOR MIXED-USE CLASSIFICATION, is amended to read as follows:

Subsection 328.1 is amended to read as follows:

328.1 The mixed-use form shall be mailed or provided electronically, in the discretion of the Deputy Chief Financial Officer, by the Deputy Chief Financial Officer to all owners of income producing properties in the District. The form shall also be available, upon request, electronically from the Real Property Tax Administration.

Subsection 328.4 is amended to read as follows:

328.4 In addition to the information required in § 328.3, the Deputy Chief Financial Officer may, in his or her discretion, by written or electronic notice to the affected taxpayer, require the taxpayer to provide those records and documents that will assist in determining or substantiating the mixed use classes within the property.

Subsection 328.5 is amended to read as follows:

328.5 In the absence of any extension of time for good cause as determined and granted by the Deputy Chief Financial Officer, all records and documents requested under § 328.4 shall be filed with the Office within thirty (30) days from the transmission date of the written or electronic notice to the affected taxpayer, or as otherwise specified.

Section 329, TIME LIMITATIONS AND EXTENSIONS OF TIME, is amended in its entirety to read as follows:

329.1 As prescribed by Section 370, the information required to be accurately completed on the mixed use form must be electronically submitted to the Deputy Chief Financial Officer not later than September 1st of the year in which the forms are mailed or made available electronically, in the discretion of the Deputy Chief Financial Officer, to affected taxpayers.

329.2 Mixed use forms will be mailed or made available electronically, in the discretion of the Deputy Chief Financial Officer, to affected taxpayers approximately thirty (30) days prior to the due date provided for in § 329.1.

329.3 In computing any period of time prescribed or allowed, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which case the period shall run until the end of the next day

which is not a Saturday, Sunday, or legal holiday.

329.4 An extension of time to submit the forms may be granted, in the discretion of the Deputy Chief Financial Officer, for good cause.

329.5 A request for an extension of time to file shall be submitted electronically to the Deputy Chief Financial Officer not later than August 20th of the year in which the forms are mailed or made available electronically, in the discretion of the Deputy Chief Financial Officer, to affected taxpayers. Requests for extensions delivered after that date will not be granted.

329.6 If, in the opinion of the Deputy Chief Financial Officer, a mixed use form submitted prior to the deadline set forth in this section has not been accurately completed (that is, it is either inaccurate or incomplete), the Deputy Chief Financial Officer may so inform the affected taxpayer (or the taxpayer's agent), and request that the form be accurately completed. In no instance shall the Deputy Chief Financial Officer be accountable for the accuracy or correctness of the mixed-use form supplied and certified to by the affected taxpayer or agent of the taxpayer.

329.7 The mixed-use form shall be filed annually on or before the date provided for in § 329.1, as prescribed in Section 370.

329.8 Failure of the Deputy Chief Financial Officer to mail or make available electronically, in the discretion of the Deputy Chief Financial Officer, a mixed use form to an affected taxpayer shall in no manner diminish the obligation of the taxpayer to secure and file in a timely manner a mixed use form.

A new Section 370, ELECTRONIC FORMS, is added to read as follows:

370.1 Effective December 7, 2020, all requests, information, applications, forms and documents required by this section to be electronically submitted to OTR shall be electronically transmitted as instructed by the Deputy Chief Financial Officer on or before 11:59 PM of the due date, if applicable. The effective date of December 7, 2020 may be extended by Emergency Rulemaking or by Notice by the Deputy Chief Financial Officer.

370.2 The requirement to electronically submit all requests, information, applications, forms and documents shall apply to:

(a) BID Billing Adjustment;
(b) BID Billing File Submission;
(c) BID Certification of Tax Lien Debt;
(d) BID Account Maintenance Requests;
(e) BID Tax Adjustment and Penalty and Interest Waiver;
(f) Combination of A&T Lots;

(g) Combination of Condominium Lots;
(h) Cooperative Unit Homestead Application & Reconfirmation;
(i) Cooperative Unit Senior/Disabled Application & Reconfirmation;
(j) Division of A&T Lots;
(k) Division of Condominium Lots;
(l) Exempt Property Use Report;
(m) Exemption from Real Property Tax Application;
(n) Homeowner's Association (HOA) Trash Credit Benefit;
(o) Limited Equity Cooperative Tax Fairness Application;
(p) Mixed Use Application Form;
(q) PACE Account Closure Request;
(r) PACE Adjustment Request;
(s) PACE Property Add;
(t) PACE Property Remove;
(u) Payment Plan Request;
(v) Possessory Interest Account Closure Request;
(w) Property Key Payer Maintenance;
(x) Property Key Payer Payment Distribution;
(y) Property Key Payer Registration;
(z) Property Mailing Address Change;
(aa) Real Property Tax Penalty and Interest Waiver;
(bb) Real Property Tax Rebate Public Charter Schools/Lessees Other Than Public Schools;
(cc) Real Property Tax Refund Requests;
(dd) Restricted Resale Assessment;
(ee) Requests for Certificate of Taxes;
(ff) Requests for Cancellation of Certificate of Taxes;
(gg) Requests for Tax Deed Bills;
(hh) Tax Map Requests;
(ii) Tax Sale Assignees Compliance Certification;
(jj) Requests for Tax Sale Certificates of Redemption;
(kk) Tax Sale Foreclosure Complaint Notification;
(ll) Tax Sale Purchaser Change of Address;
(mm) Tax Sale Purchaser Registration;
(nn) Tax Sale Seminar Registration;
(oo) Tax Sale Subsequent Assignment; or
(pp) Tax Sale Subsequent Payment Request.

Comments on this proposed rulemaking should be submitted to Sonia Kamboh, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Sonia Kamboh may be contacted by: telephone at (202) 579-0741; or, email at sonia.kamboh@dc.gov. Copies of this rule and related information may be obtained by contacting Sonia Kamboh as stated herein.

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING
Z.C. CASE NO. 19-13
(Text Amendment – Subtitles B-G, I, J, & U of Title 11 DCMR regarding Alley Lots)

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [Zoning Regulations], to which all references are made unless otherwise specified).

The proposed text amendment clarifies the application of the requirements for alley lots, as follows:

- Subtitle B (Definitions, Rules of Measurement, and Use Categories) - §§ 100, 307, & 308
- Subtitle C (General Rules) - §§ 302, 303, & 306
- Subtitle D (Residential House (R) Zones) – Chapter 51
- Subtitle E (Residential Flat (RF) Zones) – Chapter 51
- Subtitle F (Residential Apartment (RA) Zones) – Chapter 51
- Subtitle G (Mixed-Use (MU) Zones) – Chapter 11
- Subtitle I (Downtown (D) Zones) – § 210
- Subtitle J (Production, Distribution, and Repair (PDR) Zones) – Chapter 3
- Subtitle U (Use Permissions) - §§ 600 & 601

Setdown
On June 28, 2019, the Office of Planning (OP) filed a petition proposing these changes that would clarify the regulations governing alley lots - including the minimum alley centerline setback, the process for converting alley tax lots to alley record lots, and the ability to hold limited performances or art shows in alley artist studios - and ensure consistent language across different subtitles. The OP setdown report included a graphic illustration of the existing alley tax lots that would be affected by the proposed text amendment.

At its July 8, 2019, public meeting, the Commission voted to grant OP's request to set down the proposed text amendment for a public hearing.

OP submitted a July 6, 2020, hearing report (the "OP Hearing Report") that responded to the Commission's questions at its setdown meeting, specifically:

- The impact of the proposed text amendment on previous cases before the Board of Zoning Adjustment;
- An analysis of the turning radii for vehicles and garage entry based on input from the District Department of Transportation as well as an architect and transportation consultant experienced in designing and analyzing alley garages that confirmed that a fifteen foot (15 ft.)-alley width

created by the seven and one-half foot (7.5 ft.) minimum alley centerline setback was adequate and sufficient for garage access; and
- An explanation of the proposed limited artist performances.

The OP Hearing Report provided a breakdown of the existing alley lots that would be impacted by the proposed text amendment and proposed updated text that made minor changes to clarify the intent of the proposed text amendment.

ANC Reports

Advisory Neighborhood Commission (ANC) 6B submitted a June 22, 2020, report that supported the proposed text amendment because it would support the Mayor's Housing Equity Framework to add 3200 units to the Capitol Hill Planning Area by 2025 by:
- Increasing residential use on alleys;
- Aligning historic record lots and historic tax lots under the Zoning Regulations; and
- Allow artist studios to include limited performances.

ANC 6C submitted a July 13, 2020, report that supported the proposed text amendment but proposed the following revisions:
- The proposed seven and one-half foot (7.5 ft.)-alley centerline setback for alley lots be extended to cover garages and accessory structures on non-alley lots (currently twelve feet [12 ft.]); and
- Including specific criteria, including traffic and parking for special exception relief for alley lot subdivisions in addition to reports from relevant agencies.

The Commission received public comments both opposed to and supporting the proposed text amendment, with several comments in support recommending changes that would reduce the current limitations on development of alley lots.

Public Hearing

At its July 13, 2020, public hearing, the Commission heard from:
- OP, which testified in support of the proposed text amendment and responded to the written comments in the record and to the Commission's questions;
- ANCs 6B and 6C, which testified in support, repeating the substance of their respective reports; and
- Members of the public, who testified in support of the proposed text amendment but proposing changes that would reduce the current limitations on development of alley lots.

The Commission noted that it favored consideration of many of the suggested revisions proposed by public comments and testimony but did not want to delay the proposed text amendment by incorporating these revisions which the Commission believed would require further analysis by OP. The Commission did agree with OP to incorporate ANC 6C's request to incorporate specific special exception criteria for traffic and parking and with this proposed revision.

Great Weight" to the Recommendations of OP

The Commission must give "great weight" to the recommendations 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 Z § 405.8. *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)

The Commission finds OP's recommendation that the Commission take proposed action to adopt the proposed text amendment persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANCs

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting 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 Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016). The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." *Wheeler v. District of Columbia Board of Zoning Adjustment,* 395 A.2d 85, 91 n.10 (1978) (citation omitted).

The Commission finds ANC 6B's report persuasive in its support for the text amendment as supporting expanded residential opportunities in the District and concurs in that judgment.

The Commission finds ANC 6C's report persuasive in its support for the text amendment as well as its suggestion to retain specific special exception criteria and concurs in that judgment. The Commission does not find persuasive ANC 6C's proposal to extend the seven and one-half foot (7.5 ft.)-alley centerline setback for alley lots to accessory buildings on non-alley lots because that is outside of the proposed text amendment's focus on alley lots and more appropriate to a future text amendment on accessory buildings.

At the close of the public hearing, the Commission voted to take **PROPOSED ACTION** to adopt the text advertised in the public hearing notice, as modified by the revisions proposed by the OP Hearing Report and the specific special exception criteria proposed by ANC 6C, and to authorize the publication of a Notice of Proposed Rulemaking:

VOTE (July 13, 2020): **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, Michael G. Turnbull to **APPROVE**)

The complete record in the case, including the OP reports and transcript of the public meeting and hearing, 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.

PROPOSED TEXT AMENDMENT

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

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

Subsection 100.2, of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by revising the definitions of "Alley" and "Lot, Alley" and by adding a new definition of "Lot Line, Alley," to read as follows:

…[1]

Alley: A public way**, whether named or unnamed,** designated as an alley in the records of the Surveyor of the District of Columbia. An alley is not a street for the purposes of this title.
…

Lot, Alley: ~~**Is either a**~~ **A** lot ~~**that is recorded on the records of the Surveyor, District of Columbia,**~~ that **(i)** faces or abuts an alley**; (ii)** does not face or abut a street at any point**, and (iii) is recorded either on the records of the D.C. Surveyor** (**an alley record lot**) or ~~**a lot that is recorded**~~ on the records of the D.C Office of Tax and Revenue~~**, on or before November 1, 1957, that faces or abuts an alley that does not face or abut a street at any point (alley tax lot)**~~ **(an alley tax lot)**.

…

Lot Line, Alley: A lot line that abuts an alley.

…

Section 307, RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by revising § 307.1 and adding a new § 307.8, to read as follows:

307.1 In other than residential zones, as defined in Subtitle A § 101.9, and except ~~**alley lots**~~ as permitted elsewhere in this section and the regulations, the building height measuring point (BHMP) shall be established at the ~~**at the**~~ level of the curb, opposite the middle of the front of the building, and the building height shall be the vertical distance measured from the BHMP to the highest point of the roof or parapet or **to** a point designated by a specific zone district**; except that alley lots shall be regulated by Subtitle B § 307.8**.

…

307.8 For alley lots, the BHMP shall be established at grade at the mid-point of the alley lot line or, where an alley lot abuts more than one alley, the mid-point of

[1] The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the text at issue does not signify an intent to repeal those other provisions.

the alley lot line that would result in the BHMP with the highest elevation. Building height for alley lots shall be the vertical distance measured from the BHMP to the highest point of the roof or parapet or to a point designated by the rules provided in the applicable zone district, with any conflict resolved in favor of the lowest maximum height.

Section 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by revising §§ 308.1 and 308.2 and by adding a new § 308.9, to read as follows:

308.1 The height of buildings, not including a penthouse, in residential zones, as defined in Subtitle A § 101.9, shall be measured in accordance with the rules provided in this section**; except that the height of buildings on alley lots shall be regulated by Subtitle B § 308.9.** If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.

308.2 The building height measuring point (BHMP) shall be established at the adjacent natural or finished grade, whichever is the lower in elevation, at the mid-point of the building façade of the principal building that is closest to a street lot line. For any excavations projecting from the building's façade other than an exception to grade as defined at ~~**11-B DCMR**~~ **Subtitle B** § 100.2 the elevation of the midpoint of a building façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way.

…

308.9 For alley lots, the BHMP shall be established at grade at the mid-point of the alley lot line or, where an alley lot abuts more than one alley, the mid-point of the alley lot line that would result in the BHMP with the highest elevation. Building height for alley lots shall be measured in accordance with Subtitle B §§ 308.2 through 308.4 and the rules provided in the applicable zone district, with any conflict resolved in favor of the lowest maximum height.

II. Proposed amendments to Subtitle C, GENERAL RULES

Subsection 302.1 of § 302, SUBDIVISION REGULATIONS, of Chapter 3, SUBDIVISION, of Subtitle C, GENERAL RULES, is proposed to be amended as follows:

302.1 Where a lot is divided, the division shall be effected in a manner that will not violate the provision of this title for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created**; except that:**

(a) A non-alley lot recorded as a tax lot with the Office of Tax and Revenue prior to May 12, 1958, which shared an underlying record lot with an alley tax lot that has been converted to an alley record lot under Subtitle C § 306.3, may be converted to a record lot without complying with these development standards; and

(b) A non-alley lot recorded as a tax lot with the Office of Tax and Revenue prior to September 6, 2016, which shared an underlying record lot with an alley tax lot that has been converted to an alley record lot under Subtitle C § 306.4, may be converted to a record lot if granted by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9.

Section 303, LOT FRONTAGE, of Chapter 3, SUBDIVISION, of Subtitle C, GENERAL RULES, is proposed to be amended by revising § 303.1 and by deleting § 303.3 and renumbering current §§ 303.4 and 303.5 as new §§ 303.3 and 303.4, to read as follows:

303.1 **~~Except for alley lots, all~~ All** new record lots shall have at least one (1) street lot line on a public street or a public access easement approved by the District Department of Transportation**, except that new alley record lots shall instead comply with the rules of Subtitle C § 306**.

303.2 Where a minimum lot width is required …

~~**303.3 New alley record lots shall comply with the following:**~~

~~**(a) Have frontage along a public alley with a minimum alley width of twenty-four feet (24 ft.) and have from the alley access to a street through an alley or alleys not less than twenty-four feet (24 ft.) in width;**~~

~~**(b) Meet the lot area standards applicable under the title of the respective zone and, if no minimum lot area standard is provided, the alley lot shall be a minimum of eighteen hundred square feet (1,800 sq. ft.) of lot area; and**~~

~~**(c) Where existing abutting alley record lots or alley tax lots created on or before May 12, 1958 are combined into a larger alley record lot, the subdivision need not comply with paragraphs (a) and (b) of this subsection.**~~

~~**303.4**~~ **303.3** Each new lot being created to be used and occupied by a single dwelling …

~~**303.5**~~ **303.4** Each new lot being created to be used and occupied by an apartment house …

A new § 306, NEW ALLEY RECORD LOTS, is proposed to be added to Chapter 3, SUBDIVISION, of Subtitle C, GENERAL RULES, as follows:

306 NEW ALLEY RECORD LOTS

306.1 A new alley record lot shall:

(a) Have frontage along a public alley with a minimum alley width of twenty-four feet (24 ft.), with the alley frontage no less than fourteen feet (14 ft);

(b) Have access to a public street through a public alley or alleys with an alley width of not less than twenty-four feet (24 ft.) at any point between the new alley record lot and the street;

(c) Meet the lot area standards applicable for non-alley lots in the same zone; if no minimum lot area standard is provided, the alley record lot shall be a minimum of eighteen hundred square feet (1,800 sq. ft.) of lot area; and

(d) Not be created by subdividing an existing record lot unless the subdivision application includes a statement, supported by a plat depicting the proposed alley record lot and its existing record lot, that establishes to the Zoning Administrator's satisfaction that the remainder of that existing record lot and the new alley record lot each comply with Subtitle C § 302 in addition to all other applicable requirements.

306.2 An alley record lot may be combined with an abutting alley record lot to create a larger alley record lot without meeting the requirements of Subtitle C §§ 306.1.

306.3 An alley tax lot recorded with the Office of Tax and Revenue prior to May 12, 1958, may be converted into an alley record lot without meeting the requirements of Subtitle C § 306.1, if the alley tax lot:

(a) Has a minimum square footage of four hundred and fifty square feet (450 sq. ft.); or

(b) Is combined with an abutting alley tax lot created before May 12, 1958, or with an abutting alley record lot, to create a larger alley record lot.

306.4 An alley tax lot not meeting the requirements of Subtitle C §§ 306.1 through 306.3 that was recorded with the Office of Tax and Revenue prior to September 6, 2016, may be converted to an alley record lot if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, and subject to the following requirements:

(a) The alley tax lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety, and infrastructure availability; and

(b) The Office of Zoning shall refer the application to the following agencies for their review and recommendation, if filed to the case record within the forty (40) day period established by Subtitle A § 211:

(1) Department of Transportation (DDOT);

(2) Department of Public Works (DPW);

(3) Metropolitan Police Department (MPD);

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

(5) DC Water (WASA); and

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

Subsection 711.7 of § 711, ACCESS REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is revised to read as follows:

711.7 ~~When~~ **Except for alley lots, when** parking spaces are provided within a building or structure, all vehicular entrances or exits shall be setback at least twelve feet (12 ft.) from the center line of any adjacent alley for a minimum height of ten feet (10 ft.).

III. Proposed amendments to Subtitle D, RESIDENTIAL HOUSE (R) ZONES

The title of Chapter 51, ALLEY LOT REGULATIONS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended as follows:

CHAPTER 51, ALLEY LOT REGULATIONS (R) ~~FOR R ZONES~~

Chapter 51, ALLEY LOT REGULATIONS (R), of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended by revising § 5100, GENERAL PROVISIONS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, and by deleting §§ 5101 through 5107[2], to read as follows:

5100 GENERAL PROVISIONS

~~**5100.1 All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.**~~

[2] Former § 5108 of Subtitle D was deleted effective with the July 3, 2020 publication in the *D.C. Register* of a Notice of Final rulemaking in Z.C. Case No. 19-14.

~~5100.2 New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~

5100.1 The following development standards shall apply to buildings on alley record lots in the R zones:

TABLE D § 5100.1: ALLEY LOT DEVELOPMENT STANDARDS (R)

(a) Maximum Height	20 ft. and 2 stories, including the penthouse
(b) Maximum Lot Occupancy	
Less than 1,800 sq. ft. of lot area	N/A
Between 1,800 and 2,000 sq. ft. of lot area	90%
Over 2,000 sq. ft. of lot area	80%
(c) Minimum Rear Yard	5 ft. from any lot line of all abutting non-Alley Lots
(d) Minimum Side Yard	5 ft. from any lot line of all abutting non-Alley Lots
(e) Minimum Alley Centerline Setback	7.5 ft. from the centerline of all abutting alleys
(f) Minimum Pervious Surface	10%

5100.2 Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.

~~5101 DEVELOPMENT STANDARDS~~

~~5101.1 The development standards in Subtitle D §§ 5102 through 5107 shall apply to buildings on alley lots in R zones.~~

~~5102 HEIGHT~~

~~5102.1 The maximum height and stories of buildings on alley lots in R zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

~~5103 LOT OCCUPANCY~~

~~5103.1 A building or structure shall not occupy an alley lot in excess of the maximum lot occupancy as set forth in the following table:~~

~~TABLE D § 5103.1: MAXIMUM LOT DEVELOPMENT STANDARDS (R)~~

~~Alley Lot Size~~	~~Maximum Lot Occupancy~~
~~Less than 1,800 sq. ft. of lot area~~	~~N/A~~
~~Between 1,800 sq. ft. and 2,000 sq. ft.~~	~~90%~~
~~Larger than 2,000 sq. ft.~~	~~80%~~

~~5104 REAR YARD~~

~~5104.1 A minimum rear yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

~~5105 SIDE YARD~~

~~5105.1 A minimum side yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

~~5106 ALLEY CENTERLINE SETBACK~~

~~5106.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

~~5107 PERVIOUS SURFACE~~

~~5107.1 The minimum percentage of pervious surface requirement of an alley lot in an R zone shall be ten percent (10%).~~

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

The title of Chapter 51, ALLEY LOT REGULATIONS, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended as follows:

CHAPTER 51, ALLEY LOT REGULATIONS (RF)

Chapter 51, ALLEY LOT REGULATIONS (RF), of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended by revising § 5100, GENERAL PROVISIONS, and by deleting §§ 5101 through 5107[3], to read as follows:

5100 GENERAL PROVISIONS

5100.1 ~~All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.~~**The following development standards shall apply to buildings on alley record lots in the RF zones:**

TABLE E § 5100.1: ALLEY LOT DEVELOPMENT STANDARDS (RF)

(a) Maximum Height	20 ft. and 2 stories, including the penthouse
(b) Maximum Lot Occupancy	
Less than 1,800 sq. ft. of lot area	N/A
Between 1,800 and 2,000 sq. ft. of lot area	90%
Over 2,000 sq. ft. of lot area	80%
(c) Minimum Rear Yard	5 ft. from any lot line of all abutting non-alley lots
(d) Minimum Side Yard	5 ft. from any lot line of all abutting non-alley lots
(e) Minimum Alley Centerline Setback	7.5 ft. from the centerline of all abutting alleys
(f) Minimum Pervious Surface	10%

5100.2 ~~New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~**Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.**

[3] Former § 5108 of Subtitle E was deleted effective with the July 3, 2020, publication in the *D.C. Register* of a Notice of Final Rulemaking in Z.C. Case No. 19-14.

~~5101 DEVELOPMENT STANDARDS~~

~~5101.1 The bulk of accessory buildings in the RF zones shall be controlled through the development standards in Subtitle E §§ 5102 through 5108.~~

~~5102 HEIGHT~~

~~5102.1 The maximum height and stories of buildings on alley lots in RF zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

~~5103 LOT OCCUPANCY~~

~~5103.1 A building or structure shall not occupy an alley lot in excess of the maximum lot occupancy as set forth in the following table:~~

~~TABLE E § 5103.1: MAXIMUM LOT DEVELOPMENT STANDARDS (RF)~~

~~Alley Lot Size~~	~~Maximum Lot Occupancy~~
~~Less than 1,800 sq. ft. of lot area~~	~~N/A~~
~~Between 1,800 sq. ft. and 2,000 sq. ft.~~	~~90%~~
~~Larger than 2,000 sq. ft.~~	~~80%~~

~~5104 REAR YARD~~

~~5104.1 A minimum rear yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

~~5105 SIDE YARD~~

~~5105.1 A minimum side yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.~~

~~5106 ALLEY CENTERLINE SETBACK~~

~~5106.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

~~5107 PERVIOUS SURFACE~~

~~5107.1 The minimum percentage of pervious surface requirement shall be ten percent (10%).~~

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

Chapter 51, ALLEY LOT REGULATIONS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended by revising § 5100, GENERAL PROVISIONS, and by deleting §§ 5101 through 5106[4], to read as follows:

5100 GENERAL PROVISIONS

[4] Former § 5107 of Subtitle F was deleted effective with the July 3, 2020, publication in the *D.C. Register* of a Notice of Final Rulemaking in Z.C. Case No. 19-14.

5100.1 ~~All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.~~ The following development standards shall apply to buildings on alley record lots in RA zones:

TABLE F § 5100.1: ALLEY LOT DEVELOPMENT STANDARDS (RA)

(a) Maximum Height	20 ft. and 2 stories, including the penthouse
(b) Minimum Rear Yard	5 ft. from any lot line of all abutting non-alley lots
(c) Minimum Side Yard	5 ft. from any lot line of all abutting non-alley lots
(d) Minimum Alley Centerline Setback	7.5 ft. from the centerline of all abutting alleys
(e) Minimum Pervious Surface	10%

5100.2 ~~New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.

~~5101 DEVELOPMENT STANDARDS~~

~~5101.1 The development standards of this chapter shall apply to buildings on alley lot in RA zones.~~

~~5102 HEIGHT~~

~~5102.1 The maximum height and stories of buildings on alley lots in RA zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

~~5103 REAR YARD~~

~~5103.1 A required rear yard shall be provided with a minimum depth of five feet (5 ft.) along any lot line of all abutting non-alley lots.~~

~~5104 SIDE YARD~~

~~5104.1 A required side yard shall be provided with a minimum depth of five feet (5 ft.) along any lot line of all abutting non-alley lots.~~

~~5105 ALLEY CENTERLINE SETBACK~~

~~5105.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

~~5106 PERVIOUS SURFACE~~

~~5106.1 The minimum required pervious surface shall be not less than ten percent (10%).~~

VI. Proposed amendments to Subtitle G, MIXED-USE (MU) ZONES

The title of Chapter 11, ALLEY LOT REGULATIONS FOR MU ZONES, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended as follows:

CHAPTER 11 ALLEY LOT REGULATIONS ~~FOR MU ZONES~~ (MU)

Chapter 11, ALLEY LOT REGULATIONS FOR MU ZONES, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended by revising § 1100, GENERAL PROVISIONS, and by deleting §§ 1101 through 1106, to read as follows:

1100 GENERAL PROVISIONS

1100.1 ~~All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.~~The following development standards shall apply to buildings on alley record lots in MU zones:

TABLE G § 1100.1: ALLEY LOT DEVELOPMENT STANDARDS (MU)

(a) Maximum Height	
MU-6. MU-8, MU-9, MU-10, MU-19, MU-20, MU-22, MU-29, and MU-30 zones	**30 ft. and 3 stories, including the penthouse**
All other MU zones	**20 ft. and 2 stories, including the penthouse**
(b) Minimum Rear Yard	**5 ft. from any lot line of all abutting non-alley lots**
(c) Minimum Side Yard	**5 ft. from any lot line of all abutting non-alley lots**
(d) Minimum Alley Centerline Setback	**7.5 ft. from the centerline of all abutting alleys**
(e) Minimum Green Area Ratio (GAR)	**As required by zone**

1100.2 ~~New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~Uses on alley lots shall be as permitted in Subtitle U, Chapter 6.

~~1101 DEVELOPMENT STANDARDS~~

~~1101.1 The development standards in Subtitle G §§ 1101 through 1106 shall apply to buildings on alley lot in MU zones.~~

~~1102 HEIGHT~~

~~1102.1 The maximum height and stories of the building in MU-6, MU-8, MU-10, MU-19, MU-20, MU-21, MU-22, and MU-29 zones shall be thirty feet (30 ft.) and three (3) stories, including the penthouse.~~

~~1102.2 The maximum height and stories of the building in all other MU zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.~~

~~1103 REAR YARD~~

~~1103.1 A minimum rear yard of five feet (5 ft.) shall be provided from any lot line of all abutting non-alley lots.~~

~~1104 SIDE YARD~~

~~1104.1 A minimum side yard of five feet (5 ft.) shall be provided from any lot line of all abutting non-alley lots.~~

~~1105 ALLEY CENTERLINE SETBACK~~

~~1105.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.~~

~~1106 GREEN AREA RATIO~~

~~1106.1 The minimum required GAR shall be as required by the zone.~~

VII. Proposed amendments to Subtitle I, DOWNTOWN (D) ZONES

Subsection 210.3 of § 210, ALLEY LOTS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended as follows:

210.3 Residential use is permitted, subject to the following conditions:

(a) A building may not be constructed or converted to a single or multiple dwelling unit unless **the lot is an alley record lot and** there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area per unit; and

(b) The alley lot has access to an improved public street as follows:

(1) Through an improved **public** alley or alleys **with an alley width of not less than** twenty-four feet (24 ft.) ~~**or more in width**~~ **at any point between the alley lot and the street**; or

(2) ~~**On**~~ **The public street is within three hundred (300) linear feet of the alley lot as measured along** an improved **public** alley ~~**no**~~ **or alleys with an alley width of not** less than fifteen feet (15 ft.) ~~**in width**~~ **at any point** ~~**and within three hundred (300) linear feet of a public street, as measured along the aforementioned fifteen-foot (15 ft.) wide alley**~~.

VIII. Proposed amendments to Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES

The title of Chapter 3, ALLEY LOTS REGULATIONS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended as follows:

CHAPTER 3 ALLEY LOT REGULATIONS (PDR)

Chapter 3, ALLEY LOT REGULATIONS (PDR), of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended by revising § 300, GENERAL PROVISIONS, and by deleting § 301, DEVELOPMENT REGULATIONS FOR BUILDINGS ON ALLEY LOTS, to read as follows:

300.1 ~~All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia, as a record lot.~~The following development standards shall apply to buildings on alley record lots in PDR zones:

TABLE J § 300.1: ALLEY LOT DEVELOPMENT STANDARDS (PDR)

(a) Maximum Height	
If the alley lot is located in a square with R or RF zoned properties	20 ft., including the penthouse
All other alley lots	30 ft., including the penthouse
(b) Minimum Rear Yard	5 ft. from any lot line of all abutting non-alley lots
(c) Minimum Side Yard	5 ft. from any lot line of all abutting non-alley lots
(d) Minimum Alley Centerline Setback	7.5 ft. from the centerline of all abutting alleys

~~300.2 New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.~~

~~301 DEVELOPMENT REGULATIONS FOR BUILDINGS ON ALLEY LOTS~~

~~301.1 The bulk of buildings on alley lots in a PDR zone shall be controlled through the specified development standards of this chapter.~~

~~301.2 The following development standards shall apply to buildings on alley lots in PDR zones:~~

~~TABLE J § 301.2: ALLEY LOT DEVELOPMENT STANDARDS~~

~~Maximum Lot Occupancy~~	~~GAR~~	~~Rear Yard Min.~~	~~Side Yard Min.~~	~~Alley Centerline Yard Min.~~
~~N/A~~	~~As required by applicable zone~~	~~5 ft. from any lot line of all non-alley lots~~		~~12 ft. from the centerline of all alleys to which the alley lot abuts~~

~~301.3 The maximum height of a building on an alley lot shall be determined as follows:~~

~~(a) If the alley lot is located in a square that contains R or RF zone properties, the height shall be limited to twenty feet (20 ft.), including the penthouse;~~

~~(b) If the alley lot is located in a square that does not contain R or RF zoned properties, the height shall be limited to thirty feet (30 ft.), including the penthouse.~~

IX. Proposed amendments to Subtitle U, USE PERMISSIONS

The title of Chapter 6, USE PERMISSIONS FOR ALLEY LOT, of Subtitle U, USE PERMISSIONS, is proposed to be amended as follows:

CHAPTER 6 USE PERMISSIONS FOR ALLEY LOTS

Subsection 600.1 of § 600, MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOTS, of Subtitle U, USE PERMISSIONS, is proposed to be amended by revising paragraphs (b), (e), and (f), to read as follows:

600.1 The following uses shall be permitted as a matter-of-right on an alley lot in the R, RF, and RA zones subject to any applicable conditions:

(a) Agricultural, both residential and large;

(b) Artist studio **inside a building,** subject to the following conditions:

(1) An artist may teach one (1) or more apprentices;

~~(1)~~ **(2)** ~~Occupancy~~ **Regular occupancy** of the building shall be limited to one (1) artist and one (1) apprentice for each four hundred and fifty square feet (450 sq. ft.) of gross floor area ~~of a building on an alley lot~~;

~~(2)~~ **(3)** All operations and storage of materials shall occur inside the building;

~~(3)~~ **(4)** Incidental sales of ~~art work~~ **artwork** produced by the occupants of the studio shall be permitted within the studio; ~~and~~

~~(4) The artist may teach one (1) or more apprentices.~~

(5) Noise volume shall be governed by the regulations of Title 20 DCMR (Environment);

(6) Rehearsals for performing arts may be undertaken in the artist studio; and

(7) A maximum of five (5) art shows or performances open to the public are permitted per calendar year, and occupancy for the art show or performance shall be governed by the regulations of Title 12-H (Fire Code).

(c) Camping by the owner …

(d) Community solar facility …

(e) Parking**,** subject to the following conditions:

(1) Surface parking spaces for use by residents of the square;

(2) Not more than two (2) car-sharing spaces **shall be permitted on any one (1) alley lot**; and

(3) Parking garage on a**n alley** lot not containing another use shall meet the following conditions:

(A) No more than two (2) motor vehicles may be housed on the **alley** lot;

(B) The building may not exceed four hundred fifty square feet (450 sq. ft.); and

(C) The ~~**building**~~ **garage door** shall open directly onto an alley; and

(f) Residential ~~**dwelling** **use**~~, ~~**provided that the use shall be limited to one (1) dwelling unit on an alley lot,**~~ subject to the following ~~**limitations**~~ **conditions**:

(1) The alley lot is **not wholly or partially within the R-1-A, R-1-B, R-2, R-6 through R-12, R-14 through R-16, or R-19 through R-21 zones** ~~**an R-3, R-13, or R-17; zone, an RF zone, or an RA zone**~~;

(2) A ~~**residential dwelling**~~ **building** may not be constructed **as** or ~~**other building**~~ converted ~~**for**~~ **to** a dwelling unit unless the lot is an ~~**A**~~**a**lley ~~**R**~~**record** ~~**L**~~**l**ot and there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area;

(3) The use shall be limited to one (1) dwelling unit per lot; accessory apartments are not permitted;

~~**(3)**~~ **(4)** The alley lot has access to an improved public street as follows:

(A) Through an improved **public** alley or alleys **with an alley width of not less than** twenty-four feet (24 ft.) ~~**or more in width**~~ **at any point between the lot and the public street**; or

(B) ~~**Through**~~**The public street is within three hundred (300) linear feet of the alley lot as measured along** an improved **public** alley ~~**no**~~ **or alleys with an alley width of not** less than fifteen feet (15 ft.) ~~**in width**~~ **at any point** ~~**and within**~~

~~three hundred (300) linear feet of an improved public street~~; **and**

~~**(4) The residential dwelling shall meet all building code requirements for a permanent residential structure; and**~~

~~**(5) If the Zoning Administrator or other authorized building official determines that the access from a proposed dwelling on an alley lot is insufficient to provide the intended public safety, hygiene, or other building code requirement, the application for the residential dwelling shall be referred to the Board of Zoning Adjustment**~~.

(5) The dwelling unit may also contain a parking garage for use by residents of the dwelling.

…

Subsection 601.1 of § 601, SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOTS, of Subtitle U, USE PERMISSIONS, is proposed to be amended by adding new paragraphs (a) and (b) and renumbering current paragraphs (a) to (e) as new paragraphs (c) to (g), and by revising new paragraphs (e), (f), and (g), to read as follows:

601.1 The following uses shall be permitted on an alley lot in the R, RF, and RA zones, as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any specific provisions of each section:

(a) [RESERVED]

(b) Artist studio not meeting the criteria of Subtitle U § 600.1(b), subject to the following conditions:

(1) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees or visitors; and

(2) The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to other properties in the square;

~~**(a)**~~ **(c)** No camp or any temporary place …

~~**(b)**~~ **(d)** Community solar facility …

~~**(c)**~~ **(e)** Parking uses not meeting the ~~**matter-of-right standards, provided that a publicly operating parking area use shall be**~~ **criteria of Subtitle U § 600.1(e),** subject to the following conditions:

(1) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees or visitors; and

(2) The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to persons residing around the perimeter of the square in which the use is located;

~~(d)~~ **(f)** Residential use ~~dwelling~~ not meeting the ~~matter-of-right requirements~~ **criteria** of Subtitle U § 600.1(f), ~~provided that the use shall be limited to one (1) dwelling unit on an alley lot,~~ subject to the following conditions:

(1) The alley lot is not wholly or partially within the R-1-A, R-1-B, or R-2 zones;

(2) A building may not be constructed or converted for a dwelling unit unless the lot is an Alley Record Lot and there is a minimum of four hundred and fifty ~~(450)~~ square feet **(450 sq. ft.)** of lot area;

(3) The use shall be limited to one (1) dwelling unit per lot; accessory apartments are not permitted;

~~(3)~~ **(4)** The alley lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety~~,~~ and infrastructure availability; ~~and~~

(5) The Office of Zoning shall refer to the following agencies for their review and recommendation, if filed to the case record within the forty (40) day period established by Subtitle A § 211:

(A) Department of Transportation (DDOT);

(B) Department of Public Works (DPW);

(C) Metropolitan Police Department (MPD);

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

(E) DC Water (WASA); and

(F) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO); and

~~(4)~~ **(6)** The Board of Zoning Adjustment shall consider relevant agency comments concerning:

(A) Public safety~~, including any comments from the Fire and Emergency Medical Services Department and Metropolitan Police Department~~;

(B) Water and sewer services~~, including any comments from the Water and Sewer Authority, especially the Department of Permit Operations)~~;

(C) Waste management~~, including any comments from the Department of Public Works~~; and

(D) Traffic and parking~~, including any comments from the District Department of Transportation~~; and

(E) Historic preservation; and

~~(5) An applicant shall submit or arrange for the submission of agency comments to the official case record. If no agency submission occurs, an applicant shall instead describe any communications with relevant agencies; and~~

~~(e)~~ **(g)** Storage of wares or goods …

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by e-mail at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

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

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06) (2016 Repl.)) (Act), hereby gives notice of the adoption of the following emergency and proposed amendments to Chapter 16 (Procurement by Competitive Sealed Proposals), of Title 27 (Contracts and Procurement), of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to amend the payments that the Department of Human Services shall make to the District of Columbia's providers of employment services in support of the District's Temporary Assistance to Needy Families (TANF) Employment Program effective on October 1, 2020.

Emergency rulemaking action, pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), is necessary to ensure continuity of the District's federally mandated services that assist TANF customers in enhancing their education and skill levels and in preparing for, finding, and retaining unsubsidized employment in order to ultimately earn family-sustaining incomes. Emergency rulemaking will assure that these rules are in effect when the contracts are submitted to Council for approval.

This emergency rule will remain in effect for up to one hundred twenty (120) days from July 17, 2020, the date of its adoption, and expire on November 14, 2020 or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

Chapter 16, PROCUREMENT BY COMPETITIVE SEALED PROPOSALS, of Title 27 DCMR, CONTRACTS AND PROCUREMENT, is amended as follows:

Section 1610, PRICES FOR SERVICES PROVIDED UNDER THE DISTRICT'S TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) PROGRAM, is amended to read as follows:

1610 PRICES FOR SERVICES PROVIDED UNDER THE DISTRICT'S TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) PROGRAM

1610.1 Notwithstanding the requirements of § 1612.1 of this chapter, effective on October 1, 2020, the Director sets the following prices to be paid to providers of services provided under the District's Temporary Assistance to Needy Families (TANF) Program, implementing the Self-sufficiency Promotion Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-205.54):

(a) **Educational and Occupational Training Services**

(1) **Base compensation** – The District shall make the monthly base payments set out in the table below depending on the provider's number of not-enrolled Point-In-Time (PIT) caseload:

Not-enrolled PIT	Monthly Base Compensation
150	$ 99,617
300	$ 154,035
450	$ 208,525
600	$ 268,788

(2) **Outcome-based compensation –** The District shall pay the outcome-based compensation set out in the following table based on the provider's achievement of specific outcomes for which the provider can provide documentation:

Outcome	Performance Standard	Incentive
Outcome # 1: Education and Occupational Training Enrollment Payment	The provider is rewarded for ensuring that customers enroll in education and occupational training (EOT) program(s) leading to an industry-recognized credential. The provider can receive a maximum of one (1) approved EOT enrollment payment per customer per EOT enrollment. The provider can receive a maximum of five (5) approved EOT enrollment payments per customer per twelve (12)-month period The provider can receive a maximum of two (2) approved EOT enrollment payments of the same category per customer per twelve (12)-month period If a customer is enrolled in multiple EOT programs running concurrently, the provider can receive a maximum of two (2) approved EOT enrollment payments based on which enrollments started first.	The District shall pay the provider the following for each customer who meets the enrollment requirements as specified in the performance standard, depending on the duration of the program: Category 1 | $ 500/7–11 months Category 2 | $ 400/4–6 months Category 3 | $ 300/1–3 months Category 4 | $ 200/30 days Category 5 | $ 50/1 day

Outcome #2: Education and Training Maintenance Payment	The provider is rewarded for ensuring that customers enrolled in EOT program(s) remain enrolled and participating, meeting their hours requirements. The customer must meet the required work participation hours in a given month. Fifty percent (50 %) of these work participation hours must derive from EOT program(s) and the remaining fifty percent (50%) may be any combination of core and non-core hours. Fifty percent (50%) of hours referenced above must be sourced from one (1) or more of the following EOT skills development activities: • Vocational educational training • Job skills training directly related to employment • Education directly related to employment • Satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence.	**Two hundred dollars ($200)** per month per customer who maintains enrollment in EOT until successful completion.

Outcome #3: EOT Program Completion Payment	Customer completes the EOT program(s) specified in the customer's Individual Responsibility Plan (IRP). Upon verification of the successful completion of the EOT program(s), the provider deems the customer employable and eligible to receive Job Placement Services. The provider can receive a maximum of <u>one (1)</u> approved EOT completion payment per customer per EOT enrollment. The provider can receive a maximum of <u>five (5)</u> approved EOT completion payments per customer per twelve (12)-month period. The provider can receive a maximum of <u>two (2)</u> approved EOT completion payments of the same category per customer per twelve (12)-month period.	The District shall pay the provider the following for each customer who completes the performance standard of outcome #3, based upon the duration of the program. Category 1 | $ 1,000/7–11 months Category 2 | $ 600/4–6 months Category 3 | $ 400/1–3 months Category 4 | $ 200/30 days Category 5 | $ 50/1 day The District shall pay the provider a maximum of <u>one (1)</u> EOT program completion payment per customer who meets the performance standard per twelve (12)-month period.

(3) **Reimbursable costs** – The District shall reimburse the provider the following amounts for allowable incentives, stipends, and discrete work-related expenses for which the provider provides appropriate documentation:

(A) **Completion of a Category 1 Level Course: One thousand dollars ($1,000)** per customer who completes a Category 1 level course which has a duration of between seven (7) and eleven (11) months;

(B) **Completion of a Category 2 Level Course: Six hundred dollars ($600)** per customer who completes a Category 2 level course which has a duration of between four (4) and six (6) months;

(C) **Completion of a Category 3 Level Course: Four hundred dollars ($400)** per customer who completes a

Category 3 level course which has a duration of between one (1) and three (3) months;

(D) **Completion of a Category 4 Level Course: Two hundred ($200)** per customer who completes a Category 4 level course which has a duration of thirty (30) days;

(E) **Completion of a Category 5 Level Course: Fifty dollars ($50)** per customer who completes a Category 5 level course which can be competed in one (1) day;

(F) **Stipends: Fifteen dollars ($15)** per day per customer who participates in approved core and non-core TANF activities for at least four (4) hours per day. Stipends shall not be reimbursed for customers once he or she enters unsubsidized employment and has received his or her first paycheck; and

(G) **Discrete work-related expenses:** No more than **two hundred fifty ($250)** per customer for actual allowable costs to enable the customer to defray significant, discrete customer work-related expenses such as obtaining a medical test not covered by Medicaid or purchasing uniforms for customers who have a firm job offer. The total discrete work-related expense shall not exceed two hundred fifty dollars ($250) per customer per twelve (12)-month calendar period, unless pre-approved in writing by the Department of Human Services (DHS).

(b) **Job and Placement Services**

(1) **Base compensation** – The District shall make the monthly base payments set out in the table below depending on the provider's not-employed PIT:

Not-employed PIT	Monthly Base Compensation
150	$ 75,297
300	$ 95,134
450	$ 115,138
600	$ 141,253

(2) **Outcome-based compensation –** The District shall pay the outcome-based compensation set out in following table based on the provider's achievement of specific outcomes for which the provider can provide documentation:

Outcomes	Performance Standard	Incentive
Outcome #1: Participation payment	A not-employed customer meets his or her full monthly participation requirements, through a combination of approved core and non-core TANF activities. Hours of participation will be reported by the provider through the Customer Assessment, Tracking and Case History (CATCH) system.	**Two hundred dollars ($200)** per month per customer who meets the performance standard for outcome #1.
Outcome #2: Work placement payment	The provider places a customer in unsubsidized employment. Payment shall be made to the provider when the customer successfully completes two weeks of work and has fully met work participation requirements solely through unsubsidized employment. Participation weeks do not have to be consecutive. Participation hours must be sourced from a single (Primary) employment slot.	**Three hundred dollars ($300)** per customer who meets the performance standard. The provider can receive a maximum of <u>two (2)</u> work placement payments per customer per twelve (12)-month calendar period.
Outcome #3: Job Promotion Payment	Promotion on the job is defined as movement from one position to another that has a higher base salary range and a higher job title or higher-level job responsibilities.	Limit two (2) Promotion payments per Customer per twelve (12)-month period. The District shall pay the Provider a job promotion payment of five hundred dollars ($500).
Outcome #4: Higher wage payment	The provider places a customer in unsubsidized employment, where the customer's wages equal or exceed the current Living Wage rate and the customer successfully completes two (2) weeks of work and has	**Four hundred dollars ($400)** per customer who meets the performance standard for outcome # 4. The District shall pay the

	fully met work participation requirements. Participation weeks need not be consecutive.	provider a maximum of two (2) higher wage payments per customer per twelve (12)-month calendar period.
Outcome #5: Case closure due to earnings	A customer's case is closed in the District of Columbia's Access System (DCAS) due to earnings and the customer has not reapplied for or been approved for TANF.	**One thousand dollars ($1,000)** per customer who meets performance standard for *Outcome #5*. The District shall pay the provider a maximum of one case closure payment per customer.
Outcome #6: Employment retention payment (months 1–12)	A customer who is placed in unsubsidized employment by the provider is employed continuously and meeting his or her monthly required participation hours solely through unsubsidized employment. Participation hours may be sourced through multiple part time and fulltime employment slots. (Seasonal and temporary employment do not count towards employment retention incentives). Participation months do not have to be consecutive. Employment retention payments follow the customer, *i.e.*, if a customer is assigned to another provider during this period, each provider will receive its proportionate share of the incentive based on the time the customer is assigned to it during this period. If a provider receives a Month twelve (12) payment for a customer, and the customer remains on TANF (Open Case), the employment retention sequence restarts at Month 1 (The first eleven (11) months at two	**Two hundred dollars ($200)** per month up to a maximum of eleven (11) payments per customer who meets the performance standard. **Five hundred dollars ($500)** per customer who meets the performance standard for month twelve (12). The District shall pay the provider a maximum of two (2) employment retention payments per customer per twelve (12)-month period.

	hundred dollars ($200.00) and the twelfth (12th) month at five hundred dollars ($500.00)).	

(3) **Reimbursable costs** – The District shall reimburse the provider the following amounts for allowable incentives, stipends, and discrete work-related expenses for which the provider can provide documentation:

(A) **Employment retention incentives:** The District shall reimburse the provider for employment retention incentive payments made to customers for which the provider can document that the customer achieved the incentive points described below. The provider shall pay each customer who enters an unsubsidized employment, and retains the unsubsidized job for twelve (12) months, the employment retention incentives calculated as follows:

(i) Two (2)-week employment retention incentive: **one hundred fifty dollars ($150)** when the customer enters an unsubsidized job and works for at least two (2) weeks and has met his or her full work participation requirements over these two (2) weeks. Participation weeks do not have to be consecutive;

(ii) One (1)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for one (1) month;

(iii) Two (2)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for two (2) months. Participation months do not have to be consecutive;

(iv) Three (3)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for three (3) months. Participation months do not have to be consecutive;

(v) Four (4)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for four (4) months. Participation months do not have to be consecutive;

(vi) Five (5)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for five (5) months. Participation months do not have to be consecutive;

(vii) Six (6)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for six (6) months. Participation months do not have to be consecutive;

(viii) Seven (7)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for seven (7) months. Participation months do not have to be consecutive;

(ix) Eight (8)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for eight (8) months. Participation months do not have to be consecutive;

(x) Nine (9)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for nine (9) months. Participation months do not have to be consecutive;

(xi) Ten (10)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met

his or her full work participation requirements for ten (10) months. Participation months do not have to be consecutive;

(xii) Eleven (11)-month employment retention incentive: **one hundred fifty dollars ($150)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for eleven (11) months. Participation months do not have to be consecutive; and

(xiii) Twelve (12)-month employment retention incentive: **five hundred dollars ($500)** when the customer retains the unsubsidized job and has met his or her full work participation requirements for twelve (12) months. Participation months do not have to be consecutive.

(B) **Stipends: fifteen dollars ($15)** per day per customer who participates in approved core and non-core TANF activities for at least four (4) hours per day. Stipends shall not be reimbursed for customers once he or she enters unsubsidized employment and has received his or her first paycheck.

(C) **Discrete work-related expenses:** No more than **two hundred fifty ($250)** per customer for actual allowable costs to enable the customer to defray significant, discrete customer work-related expenses such as obtaining a medical test not covered by Medicaid or purchasing uniforms for customers who have a firm job offer. The total discrete work-related expense shall not exceed two hundred fifty dollars ($250) per customer per twelve (12)-month calendar period, unless pre-approved in writing by DHS.

(D) **Job Promotion Incentive**: Job Promotion Incentive of four hundred dollars ($400) to the Customer after Customer submits proof of successful Promotion to the Provider (limited to two (2) payments per Customer per twelve (12)-month period).

(E) **TANF Case Closure Due to Earnings Incentive**: TANF Case Closure Due to Earnings Incentive of five hundred dollars ($500) to the Customer for a successful case closure and for remaining off the TANF rolls for a minimum of four (4) months.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments to the Chief Procurement Officer, 441 4th Street, 330 South, Washington, D.C. 20001. Comments may be sent by email to OCPRulemaking@dc.gov, by postal mail or hand delivery to the address above, or by calling (202) 727-0252. Comments must be received no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be requested at the same address, e-mail, or telephone number as above.

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING
Z.C. Case No. 20-17
(Text Amendment – Subtitle Z of Title 11 DCMR)
(Suspension of Certain Types of Conditions of Approved Campus Plans During 2020-2021 Academic Year Due to COVID-19 Pandemic)
July 27, 2020

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), and pursuant to § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its amendment on an emergency basis, as well as its intent to amend on a permanent basis, the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified) as summarized below (specific text at end of this notice):

Subtitle Z, Zoning Commission Rules of Practice and Procedure
Chapter 7, Approvals and Orders
§ 702.8 - to suspend certain types of conditions of approved Campus Plans and associated PUDs during the 2020-2021 academic year due to the COVID-19 pandemic and associated public health emergency

On July 17, 2020, the Office of Planning (OP) filed a petition to the Commission) proposing these amendments to avoid potential conflicts between universities' re-opening plans and conditions of approval of the campus plans and associated PUDs caused by disruptions due to the ongoing COVID-19 pandemic. OP requested that the Commission:

- Set the petition down for a public hearing;
- Authorize a thirty (30)-day notice period prior to the public hearing by granting a waiver under Subtitle Z § 101.9 from the forty (40)-day requirement of Subtitle Z § 502.1 for good cause due to accommodate the safe re-opening of universities during the COVID-19 pandemic;
- Consider taking emergency action to adopt the text amendment; and
- Authorize an immediate publication of proposed rulemaking for the text amendment.

Emergency & Proposed Action
At its July 27, 2020, public meeting, the Commission heard testimony from OP in favor of the amendment. At the close of the meeting, the Commission voted to grant's OP's request to:

- Take emergency action to adopt the text amendment;
- Set the petition down for a public hearing;
- Authorize a thirty (30)-day notice period prior to the public hearing by granting a waiver under Subtitle Z § 101.9 from the forty (40)-day requirement of Subtitle Z § 502.1 for good

cause due to accommodate the safe re-opening of universities during the COVID-19 pandemic; and

- Authorize an immediate publication of proposed rulemaking for the text amendment.

The Commission concludes that taking emergency action to adopt the proposed text amendment is necessary for the "immediate preservation of the public … welfare," as authorized by § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968. (82 Stat. 1206; D.C. Official Code § 2-505(c) (2012 Repl.)), in order to implement Mayor's Order 2020-067, which required universities located in the District to prepare reopening campus re-opening plans to safely respond to the ongoing COVID-19 pandemic.

VOTE (July 27, 2020): **5-0-0** Peter G. May, Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to **APPROVE**)

Emergency Action

The emergency rule is effective as of the Commission's July 27, 2020 vote and will expire on November 24, 2020, which is the one hundred-twentieth (120th) day after the adoption of this rule, or upon publication of a Notice of Final Rulemaking in the *D.C. Register* that supersedes this emergency rule, whichever occurs first.

Proposed Action

The Commission hereby also gives notice of its intent to adopt on a permanent basis the following text amendment to the Zoning Regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The complete record in the case, including the OP report and the 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.

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

Proposed Amendment to Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE

Subsection 702.8 of § 702, VALIDITY OF APPROVALS AND IMPEMENTATION, of Chapter 7, APPROVALS AND ORDERS, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is proposed to be revised to read as follows:

702.8 ~~**[DELETED]**~~ **In response to the ongoing public health emergency, the following conditions in orders approving Campus Plans and associated PUDs for universities shall be suspended for the 2020-2021 academic year to accommodate re-opening plans pursuant to Mayor's Order 2020-067:**

(a) Requirements to maintain a minimum number of on-campus beds or provide housing for a minimum percentage of students;

(b) Requirements that certain classes of students reside on campus;

(c) Limits on housing for certain classes of students to specific locations; and

(d) Limits on the use of classroom spaces for certain classes of students to specific locations.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-084
July 30, 2020

SUBJECT: Appointment — Deputy Mayor for Planning and Economic Development

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 (2016 Repl. and 2019 Supp.), it is hereby **ORDERED** that:

1. **JOHN FALCICCHIO**, pursuant to the Deputy Mayor for Planning and Economic Development John Falcicchio Confirmation Resolution of 2020, effective July 28, 2020, PR23-0685, is appointed as Deputy Mayor for Planning and Economic Development, to serve at the pleasure of the Mayor.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 28, 2020.

MURIEL BOWSER
MAYOR

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

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
CHANGE IN DCTAG APPLICATION DEADLINE
Administrative Notice:

Effective Date: August 7, 2020

I. Purpose

The purpose of this notice is to announce that the Office of State Superintendent of Education ("OSSE") is removing the existing District of Columbia Tuition Assistance Grant ("DCTAG") application deadline date and setting a new application deadline of November 13th for the 2020-2021 school year and each subsequent year until further notice.

II. Background

DCTAG was created by the U.S. Congress in 1999 through the District of Columbia College Access Act of 1999 (P.L. 106-98) and amended by the DC College Access Improvement Act 2002 (P.L. 107-157) and DC College Improvement Act 2007 (P.L. 110-97). OSSE is responsible for administering the federally-funded DCTAG program that provides DC residents with up to $10,000 per year toward the difference between in-state and out-of-state tuition at public colleges and universities nationwide. The program also provides up to $2,500 toward tuition at private nonprofit colleges and universities in the Washington, DC area and private Historically Black Colleges and Universities (HBCUs) nationwide.

In-state public institutions provide more affordable access to postsecondary education for residents of that jurisdiction. Given the limited number of public postsecondary education options within the District of Columbia, DCTAG expands postsecondary education options for DC residents by enabling greater access to institutions of higher education. DCTAG provides critical financial assistance awards to District residents to attend eligible out-of-state institutions of higher education. Without access to DCTAG funding, many District students' opportunities to enroll in a post-secondary educational path to complete a two- or four-year degree will be significantly reduced or denied.

Due to COVID-19, colleges and universities are contemplating different program options for students in the next school year, including learning in-person, online or a hybrid model. This lack of clarity regarding format and structure has made residents unsure as to whether they will attend school in the fall and/or in the spring. Consequently, many residents may not apply to institutions of higher education or to scholarship programs such as DCTAG on traditional timelines. Previously, DCTAG applicants were required to submit an application by June 30, 2020 for the 2020-2021 school year. To respond to the aforementioned lack of clarity around post-secondary program options, OSSE has twice extended the DCTAG application deadline in 2020. First, on May 29th, OSSE extended the application deadline from June 30th to July 23rd. OSSE then extended the deadline to September 7, 2020.

III. Authority

Sections 3(f)(2) and 5(e)(2) of the District of Columbia College Access Act of 1999, approved November 12, 1999, (Pub. L. 106-98, D.C. Official Code §§ 38-2702(f)(2) and 38-2704(e)(4) (2012 Repl.)); Section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(11)) (2012 Repl. and 2014 Supp.)); Section 402(b) of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001, (D.C. Law 14-28); 29 DCMR § 7000.4; Mayor's Order 2000-138, dated September 7, 2000.

IV. Procedures

With this administrative issuance, OSSE is extending the DCTAG application deadline to November 13th. This deadline will remain for this and future award years until OSSE issues a new administrative issuance through publication in the DC Register and on its website.

SO ORDERED:

Hanseul Kang
State Superintendent
Office of the State Superintendent of Education

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 a permit (No. 6970-R1) to LHREV Washington M Street, LLC to operate one Generac SD 350 350 kWe diesel-fired emergency generator set with a 525 bhp engine located at 100 M Street SE Washington, 20003. The contact person for the facility is Sam Hott, Engineering Manager, phone number: (202) 777-0155.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Engine Serial No.	Permit No.
On the office Building	100 M Street SE Washington, DC 20003	350 kWe (525hp)	DC9-455992	6970-R1

The proposed emission limits are as follows:

a. Except as specified in Condition II(b), emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E for NMHC, NOx, and CO and 40 CFR 89.112(c) for PM [40 CFR 60.4205(a), 40 CFR 60.4210(a), 40 CFR 60, Subpart IIII, Table 1, and 40 CFR 89.112(a)-(c)]:

Pollutant Emission Limits (g/HP-hr)			
HC	NO_x	CO	PM
1.0	6.9	8.5	0.40

b. In lieu of documenting compliance with the requirements of Condition II(a), the Permittee may comply with the standards in the following table by the methods specified in Condition IV(f) [40 CFR 60.4205(e), 40 CFR 60.4211(b)(5), and 40 CFR 60.4212(d)]

Pollutant Not-To-Exceed (NTE)[1] Emission Limits (g/HP-hr)			
HC	NO_x	CO	PM
1.3	8.6	10.6	0.50

[1] The NTE Standard is derived by applying the multiplier 1.25 to the applicable emission standards of Table 1 of Subpart IIII of 40 CFR 60, rounded to the same number of decimal places as the standard pursuant to 40 CFR 60.4212(d).

c. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, 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].

d. 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 estimated emissions from the generator engine are as follows:

Pollutant	**Maximum Annual Emissions (tons/yr)**
Carbon Monoxide (CO)	0.32
Oxides of Nitrogen (NO_x)	2
Total Particulate Matter (PM Total)	0.1
Volatile Organic Compounds (VOCs)	0.04
Sulfur Dioxide (SO_x)	0.28

The application to operate the generator engine 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 permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No comments or hearing requests submitted after September 8, 2020 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FILING OF A REQUEST FOR A VOLUNTARY CLEANUP CERTIFICATE OF COMPLETION

132-136 U Street NE
Case No. VCP2018-056

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000, D.C. Law 13-312, D.C. Official Code § 8-631 *et seq.*, as amended April 8, 2011, D.C. Law 18-369 (herein referred to as the "Act"), the Voluntary Cleanup Program (VCP) in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch (LRDB), is informing the public that it has received a Site Completion Report and a request for a Certificate of Completion to support a Voluntary Cleanup Program (VCP) project at real property addressed as 132-136 U Street NE, Washington, DC 20002, is 134 U St NE, LLC, 12150 Annapolis Road, Suite 111, Glenn Dale, Maryland 20769.

The application identified low levels of chlorinated solvents in the soil and groundwater. The applicant proposed to redevelop the subject property into a four unit condominium building. A revised Cleanup Action Plan (CAP) for this site was approved by the Program on January 19, 2019. Based on the cleanup oversight and review of the Site Completion Report, the Voluntary Cleanup Program may issue a Certificate of Completion.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-5E) for the area in which the property is located. The Site Completion Report is available for public review at the following location:

Voluntary Cleanup Program
Department of Energy and Environment (DOEE)
1200 First Street NE, Fifth Floor
Washington, DC 20002

Interested parties may also request a copy of the Site Completion Report and related documents for a charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address, calling (202) 535-2600, or by e-mailing kokeb.tarekegn@dc.gov.

Written comments on the proposed issuance of a Certificate of Completion must be received by the VCP at the address listed above within fourteen (14) days from the date of this publication. DOEE is required to consider all public comments it receives before acting on request for a Certificate of Completion.

Please refer to Case No. VCP2018-056 in any correspondence related to this notice

FRIENDSHIP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Friendship Public Charter School is seeking bids from prospective vendors to provide:

- Replacement parts for laptops, Chromebooks and cell phones. Be knowledgeable of parts needed when given Laptop/Chromebook/Cell Phone make and model.

The competitive Request for Proposal can be found on FPCS website at http://www.friendshipschools.org/procurement. Proposals are due no later than 4:00 P.M., EST, Friday, August 28, 2020. No proposals will be accepted after the deadline. Questions can be addressed to ProcurementInquiry@friendshipschools.org.

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF PUBLIC MEETING

Homeland Security Commission

August 13, 2020

3:00 p.m. to 5:00 p.m.

Virtual Meeting via WebEx: 1-650-479-3208; access code: 160 559 4190

On August 13, 2020 at 3:00 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.

MUNDO VERDE PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Various Services

1. **Nursing/Health Care Provider Services.** MVPCS is seeking proposals for additional or substitute nursing and health care professionals for SY21 and possible yearly extensions. Services may change throughout the year due to needs of students.

2. **Plumbing Services and Maintenance.** MVPCS is seeking proposals for general plumbing services, upgrades, and maintenance for SY21 and possible yearly extensions.

3. **Pest Removal and Remediation.**

4. **Wood Floor Restoration and Repair.**

Please contact Elle Carne at ecarne@mundoverdepcs.org for full RFP details. **All bids are due via email on August 17 at 3pm.** Note that the contract may not be effective until reviewed and approved by the District of Columbia Public Charter School Board.

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

FY20 Great Streets Small Business Resiliency Administration Grant

Request for Application (RFA) Release Date: Friday, August 14, 2020

The Office of the Deputy Mayor for Planning and Economic Development (DMPED) is soliciting grant applications from qualified Community Development Financial Institutions (CDFIs) and/or Community Based nonprofit organizations to provide grant administration, including application development and review, provision of subgrants to eligible small businesses, funds disbursement, and grant management for the Great Streets Small Business Resiliency Grant.

Pursuant to the "Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Amendment Act 2016", effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 1-328.04), the FY20 Great Streets Small Business Resiliency Administration Grant Program would offer grants to CDFIs and/or Community Based nonprofit organizations to develop and implement the Great Streets Small Business Resiliency Grant and award up to $12,000 each (pending funding availability) to small, local businesses located in a Great Streets corridor to help continue operations and recover from the COVID-19 Emergency, assist with small business retention and attraction programs, mitigate blight and vacant property growth, and support the pivoting of business operations into the digital market, and layoff aversion.

Eligibility: The FY20 Great Streets Resiliency Administration Grant has identified the following funding priorities.

1. Applicant must have its office headquartered in the District of Columbia and have as a primary focus of its activities the provision of financial services for small businesses in the District, including:

    a) Track record and volume of small business lending in the District of Columbia and, more specifically, designated Great Streets corridors.

    b) Successful performance under previous program grants

    c) Institutional capacity

2. Applicant would directly handle all back-office responsibilities, including developing and administering the application process, application review, provision of subgrants to eligible small businesses, and funds disbursement.

3. Applicant will have an existing infrastructure, including staff capacity, existing policies and procedures, and software and systems, necessary to administer the Great Streets Small Business Resiliency Grant program.

The application deadline is Thursday, August 20, 2020 at 12:00p.m. DST.

Purpose: The purpose of the Great Streets Initiative is to transform certain designated emerging commercial corridors into thriving, walkable, shoppable and inviting neighborhood experiences. The Great Streets Initiative does this by supporting existing businesses, attracting new businesses, increasing the District's tax base, and creating new job opportunities for District residents.

The Great Streets Small Business Resiliency Grant program seeks to meet the existing and future COVID-19 related needs for the District's small businesses located in Great Streets corridors and serve as an economic intervention and stabilization effort.

Background Information: The Office of the Deputy Mayor for Planning and Economic Development (DMPED), pursuant to the "Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Amendment Act 2016", effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 1-328.04), invites the submission of applications for Great Streets Retail Small Business Grants. As part of this process, DMPED will first select Grantee(s) to administer the Great Streets Small Business Resiliency Grant program and, thereafter, Grantee(s) will create the application process, review applications, and disburse grant funds to selected applicants of the Great Streets Small Business Resiliency Grant program.

Available Funding: Based on the external and internal review panel recommendations, the Mayor's budget priorities, the resources available, the goal of achieving a balance as to communities served, and the goals of the program, DMPED will make the final funding decision. DMPED will award up to $2,200,000.00 in grant funds to support the application process and disbursment of grant funds to successful applicants of the Great Streets Small Business Resiliency Grant.

List of the Great Street Corridors:

7th Street/Georgia Ave NW
Connecticut Avenue NW
Georgia Avenue NW
H Street – Bladensburg Road NE
Minnesota/Benning Road NE
Martin Luther King Jr. Avenue SE/
South Capitol Street SE/SW
New York Avenue NE
North Capitol Street NW/NE
Pennsylvania Avenue SE
Wisconsin Avenue NW
Nannie Helen Burroughs Avenue NE
Rhode Island Avenue NE
U Street/14th Street NW (Adams Morgan/Mt. Pleasant/Columbia Heights)

For additional eligibility requirements and exclusions, please review the Request for Application (RFA) which will be posted at http://greatstreets.dc.gov by Friday, August 14, 2020.

Award Period: Effective date of grant agreement – Wednesday, September 30, 2020.

Contact Name: DMPED Grants Team Phone: 202-727-6365 Email: dmped.grants@dc.gov

Deadline for Electronic Submission: Applicants must submit a completed online application to DMPED via the Gifts Online system no later than 12:00 PM DST on *Thursday, August 20, 2020*

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
District of Columbia Metropolitan Police Department	
Petitioner	PERB Case No. 20-A-06
v.	Opinion No. 1754
Fraternal Order of Police/ Metropolitan Police Department Labor Committee	
Respondent	

DECISION AND ORDER

I. Statement of the Case

On March 23, 2020, the District of Columbia Metropolitan Police Department (MPD) filed this Arbitration Review Request (Request) pursuant to the Comprehensive Merit Personnel Act (CMPA), D.C. Official Code § 1-605.02(6), seeking review of an arbitration award (Award), dated March 2, 2020. The Award sustained the grievance filed by the Fraternal Order of Police/Metropolitan Police Department Labor Committee (Union) on behalf of an employee (Grievant) who had been removed from service. The Arbitrator ordered MPD to rescind the Grievant's official reprimand, to reinstate the Grievant, and to make the Grievant whole. The issue before the Board is whether the Arbitrator exceeded her jurisdiction.

Upon consideration of the Arbitrator's conclusions, applicable law, and record presented by the parties, the Board concludes that the Arbitrator did not exceed her jurisdiction. Therefore, the Board denies MPD's Request.

II. Arbitration Award

A. Background

At the time of Grievant's termination, she had worked for the MPD for approximately twenty-two years.[1] According to the Arbitrator, the Grievant was involved in an abusive relationship.[2] On April 7, 2009, the Grievant's significant other made two non-emergency calls to

[1] Award at 1.
[2] Award at 3.

MPD.[3] In the first call, the significant other alleged that the Grievant stopped him from driving, punched him, and snatched his phone.[4] MPD dispatched two officers to the location of the significant other. The significant other told the officers that the Grievant punched him in the face and took his cell phone.[5] Later, two additional officers, a sergeant, and a lieutenant responded to the scene.[6] The officers completed a robbery report.[7] At the scene, the significant other changed his report of the incident twice. The significant other reported that he had not been punched by the Grievant, but the Grievant took his phone. Finally, the significant other reported that the Grievant neither punched him nor took his phone.[8]

Fifteen hours later, April 7, 2009, the significant other met with the Internal Affairs Division (IAD).[9] During the interview with IAD, the significant other again denied that the Grievant assaulted him or snatched his phone.[10] On June 30, 2009, the significant other was interviewed by IAD a second time.[11] The significant other provided details of his interactions with the Grievant on April 7, 2009, but ultimately denied that the Grievant assaulted him or took his phone.[12]

Subsequently, IAD interviewed the Grievant. The Grievant provided different details regarding the interactions with her significant other on April 7, 2009.[13] The Grievant denied assaulting or snatching the phone of her significant other.[14]

On September 9, 2009, MPD served the Grievant with a Notice of Proposed Adverse Action (NPAA).[15] The NPAA contained four charges. Charge No. 1 alleged conduct unbecoming an officer. Charge No. 1, Specification-1 alleged that on April 7, 2009, the significant other placed an emergency call to the police and reported that the Grievant punched him, took his cell phone, and left the scene.[16] Charge No. 2, alleged involvement in the commission of an act that constitutes a crime. Charge No. 2, Specification-1 alleged that the Grievant was named as the suspect in the April 7, 2009, robbery report made by MPD officers reporting to the scene. Charge No. 3 alleged untruthful statements.[17] Charge No. 3, Specification-1 alleged that the Grievant was untruthful on June 9, 2009, during her interview with IAD in that she stated that she neither struck her significant other nor took his cell phone.[18] Charge No. 4 alleged a failure to obey directives. Charge No. 4,

[3] Award at 3.
[4] Award at 3.
[5] Award at 3.
[6] Award at 4.
[7] Award at 4.
[8] Award at 4.
[9] Award at 5.
[10] Award at 5.
[11] Award at 5.
[12] Award at 5-6.
[13] Award at 6-7.
[14] Award at 7.
[15] Award at 1.
[16] Award at 1.
[17] Award at 2.
[18] Award at 2.

Specification-1 alleged that the Grievant admitted to failing to report several domestic incidents with her significant other.[19] MPD proposed termination for Charges Nos. 1-3 and an official reprimand for Charge No. 4.[20]

On February 5, 2010, MPD held an Adverse Action Panel Hearing (Panel). The Panel found the Grievant guilty on all four charges. On March 19, 2020, MPD served the Grievant with a notice of termination. On April 2, 2010, the Grievant appealed to the Chief of Police, who denied the appeal. Thereafter, the Union invoked arbitration.[21]

B. Arbitrator's Findings

Although the parties did not submit a joint statement of the issues, both parties' briefs before the arbitrator included the statement of issues presented by the Union.[22] The issues were:

1. Whether [MPD] violated [the Grievant's] right to due process by relying on unreliable hearsay evidence and making an improper allegation of witness tampering when that allegation was clearly absent from the [NPAA]…?
2. Whether the evidence presented by [MPD] was sufficient to support the alleged charges of conduct unbecoming [an officer], commission of a crime, and untruthful statements concerning the original accusations made by [the Grievant's significant other] which were later retracted. . . .?
3. Whether the evidence presented by [MPD] was sufficient to support the alleged charge that [the Grievant] failed to report to her officials that she had been assaulted by her significant other in the past?
4. Whether termination was an appropriate penalty?[23]

The Arbitrator found that the standard of review required a finding that MPD's actions were supported by substantial evidence and relied on PERB's case law for the position that, by submitting the matter to arbitration, the parties agreed to be bound by the evidentiary findings and conclusions of the arbitrator.[24]

The Arbitrator also determined that MPD violated the Grievant's due process rights.[25] The Arbitrator found that a guilty finding based entirely on hearsay evidence would constitute capricious action and an abuse of discretion.[26] The Arbitrator held that it was incumbent on MPD to produce the significant other as a witness.[27] Because the statements of the significant other were

[19] Award at 2.
[20] Award at 2.
[21] Award at 3.
[22] Award at 13.
[23] Award at 13-14.
[24] Award at 34 (citing *MPD v. NAGE, Local R3-5 ex rel. Burrell*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2012)).
[25] Award at 36.
[26] Award at 35.
[27] Award at 36.

unreliable, those statements could not form the basis of a decision against the Grievant.[28] The Arbitrator found that MPD violated the Grievant's due process rights by asking the Panel to admonish the Grievant for witness tampering.[29] The Arbitrator found that, although MPD requested the Panel to drop the issue, MPD continued to repeat the facts related to tampering and the Panel included the issue in its finding of facts.[30] The Arbitrator held that MPD violated the Grievant's rights by not including the allegation of tampering in the NPAA to permit the Union to defend the allegations. The Arbitrator found that the Panel further violated the Grievant's due process right by including the tampering allegation in its finding of facts, which prejudiced the Grievant on appeal.[31] Finally, the Arbitrator found that MPD violated the Grievant's due process rights by including a discussion of the *Douglas* factors in the NPAA because the *Douglas* factors are considered only after a finding of guilt is made.[32]

The Arbitrator found that the cumulative testimony of the parties involved in the April 7, 2009, incident supported a finding that the Grievant did not assault and take the phone of her significant other. Thus, the Arbitrator held that MPD failed to meet its burden of proof by substantial evidence for Charges 1-3.[33]

The Arbitrator held that the official reprimand was not appropriate. The Arbitrator found that the Department knew of the long history of domestic violence against the Grievant.[34] The Grievant reported being the victim of past assaults by her significant other and her supervisor sent her to the Employee Assistance Program. The Arbitrator found that, although the failure to report all incidents may give rise to a reprimand, it was not appropriate in this case.[35]

The Arbitrator concluded that MPD violated the Grievant's due process rights and failed to prove its case by substantial evidence. Although the Arbitrator found that MPD did not carry its burden of proof, she also provided an analysis that found the Panel inappropriately applied the *Douglas* factors.[36] Additionally, the Arbitrator found that the history of severe domestic abuse against the Grievant made the official reprimand inappropriate. The Arbitrator rescinded the reprimand and the termination and ordered the Grievant put back to work with backpay.[37]

III. Discussion

Section 1-605.02(6) of the D.C. Official Code permits the Board to modify, set aside, or remand a grievance arbitration award in only three narrow circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public

[28] Award at 35.
[29] Award at 37.
[30] Award at 37.
[31] Award at 37.
[32] Award at 37.
[33] Award at 41-42.
[34] Award at 42.
[35] Award at 42.
[36] Award at 43.
[37] Award at 44.

policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.[38] MPD requests review on the grounds that the Arbitrator exceeded her jurisdiction.

The Board has limited authority to review an arbitration award. In determining whether the arbitrator has exceeded her authority, the Board looks to whether the Award draws it essence from the collective bargaining agreement. The relevant questions in this examination are:

1. Did the arbitrator act outside of her authority by resolving a dispute not committed to arbitration; and
2. In resolving legal and factual disputes was the arbitrator arguably construing or applying the contract?[39]

The Board has held that, by submitting a grievance to arbitration, parties agree to be bound by the arbitrator's interpretation of their contract, rules, and regulations; and agree to accept the arbitrator's evidentiary findings and conclusions.[40]

A. The Arbitrator did not exceed her jurisdiction based on her evidentiary findings.

MPD argues that the Arbitrator exceeded her jurisdiction by ignoring relevant evidence supporting the Grievant's termination. MPD argues that there is ample evidence to support the charges.[41] MPD argues that the Arbitrator was not a fact finder and could not properly assess the credibility of the police officers' testimony.[42] MPD asserts that the Arbitrator exceeded her jurisdiction by concluding that the Grievant's due process rights were violated.[43] Finally, MPD argues that the arbitrator exceeded her jurisdiction by finding that the inclusion of the Douglas factors in the NPAA violated the due process rights of the Grievant.[44]

MPD disagrees with the Arbitrator's weighing of the evidence. In support of its argument, MPD argues that the Arbitrator should have deferred to the Panel's factual and credibility determinations and applied a deferential standard used by courts to review decisions of administrative agencies.[45] This is the same standard that the Board has repeatedly eschewed in reviewing the decisions of arbitrators because the authority of an arbitrator arises from the parties'

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[38] D.C. Official Code § 1-605.02(6).
[39] *Mich. Family Resources, Inc. v. Serv. Emp' Int'l Union, Local 517M*, 475 F.3d 746, 753 (2007), quoted in *F.O.P./Dep't of Corrs. Labor Comm. v. D.C. Dep't of Corrs.*, 59 D.C. Reg. 9798, Slip Op. No. 1271 at 7, PERB Case No. 10-A-20 (2012), and *D.C. Fire & Emergency Med. Servs. v. AFGE Local 3721*, 59 D.C. Reg. 9757, Slip Op. No. 1258 at 4, PERB Case No. 10-A-09 (2012).
[40] *MPD v. FOP/MPD Labor Committee ex rel. Sims*, Slip Op. 633 at 3, PERB Case No. 00-A-04 (2000).
[41] Request at 11. MPD cites to the Record for the proposition that the Grievant made an outgoing call on the significant other's cellphone on the night of April 7, 2009. The Arbitrator found that the phone records indicate that the call was placed during a time when the Grievant and significant other were together earlier before the altercation. See Award at 27.
[42] Request at 12.
[43] Request at 13.
[44] Request at 16.
[45] Request at 11(citing *Cruz v. District of Columbia Dep't of Employment Serv.*, 633 A.2d 66, 70 (D.C.1993)).

collective bargaining agreement and not statute.[46] The Board has held that "disputes over credibility determinations" and "assessing what weight and significance such evidence should be afforded" is within the jurisdictional authority of the Arbitrator.[47] The Board will not substitute its judgment for that of the Arbitrator.[48]

Furthermore, MPD admits that the Arbitrator was empowered to review the Panel's decision to determine whether there was substantial evidence to support the Panel's findings.[49] Here, the Arbitrator found that MPD failed to meet its burden of proof by substantial evidence for Charges 1-3.[50] Therefore, the Board finds that the Arbitrator did not exceed her jurisdiction when she determined that MPD did not meet its burden of proof by substantial evidence.

B. The Arbitrator did not exceed her authority in finding a due process violation and issuing the remedy.

MPD disagrees with the Arbitrator's finding that the Grievant's due process rights were violated.[51] Here, both parties explicitly submitted the question of whether the Grievant's due process rights were violated.[52] By submitting a grievance to arbitration, the parties agree to be bound by the arbitrator's interpretation of their contract, rules, and regulations; and agree to accept the arbitrator's evidentiary findings and conclusions.[53] Thus, no statutory basis for reviewing the Award exists where, as here, there is only a disagreement with the Arbitrator's evaluation of the facts and the conclusions drawn.[54]

Likewise, the Arbitrator found that an official reprimand was not the appropriate penalty for Charge 4. The parties explicitly submitted the question of appropriate penalty to the Arbitrator. The Board has held that an arbitrator is not required to explain the reason for a decision, and that the failure to do so does not render the decision unenforceable.[55] The Arbitrator's decision in this case was based on the precise issues of the sufficiency of the evidence and the appropriateness of

[46] *E.g., MPD v. NAGE, Local R3-5 ex rel. Burrell*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2012).
[47] *Id.* (citing *AFSCME, District Council 20 v. District of Columbia Gen. Hosp.*, 37 D.C. Reg. 6172, Slip Op. No. 253 at 2, PERB Case No. 90-A-04 (1990)).
[48] *MPD v. NAGE, Local R3-5 ex rel. Burrell*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2012).
[49] Request at 10.
[50] Award at 41-42.
[51] In *FOP/MPD Labor Comm. ex rel. Harper v. MPD*, 62 D.C. Reg. 12586, Slip Op. No. 1531 at 4, PERB Case No. 15-A-10 (2015), the Board held that including the *Douglas* factors in the NPAA is not contrary to law and public policy. MPD has not presented this question for review under the law and public policy standard. In this case, the Arbitrator's decision amounts to harmless error because (1) the *Douglas* analysis was irrelevant to the outcome of the case because the Arbitrator properly found that MPD failed to meet its burden of proof by substantial evidence and (2) the Arbitrator provided a statement that the Panel improperly weighed the *Douglas* factors, which would cause the Arbitrator to implement a different disciplinary decision even if MPD met its burden of proof.
[52] Award at 13.
[53] *MPD v. FOP/MPD Labor Committee ex rel. Sims*, Slip Op. 633 at 3, PERB Case No. 00-A-04 (2000).
[54] *AFSCME District Council 20 AFL-CIO v. D.C. General Hospital*, 37 D.C. Reg. 6172, Slip Op. 253 at 3, PERB Case No. 90-A-04 (1990).
[55] *FOP/MPD Labor Committee (on behalf Harris) v. MPD*, 59 D.C. Reg. 11329, Slip Op. 1295 at 9, PERB Case No. 9-A-11 (2012).

the termination. Therefore, the Board will not substitute its own interpretation for that of the duly designated Arbitrator.[56]

IV. Conclusion

The Board rejects the MPD's arguments and finds no cause to set aside, modify, or remand the Arbitrator's Award. Accordingly, MPD's request is denied and the award is enforceable as written.

ORDER

IT IS HEREBY ORDERED THAT:

1. MPD's Arbitration Review Request is hereby denied; and,

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of the Board Chairperson Douglas Warshof, Members Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler.

June 18, 2020

Washington, D.C.

[56] *MPD v. NAGE, Local R3-5 ex rel. Burrell*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2012).

CERTIFICATE OF SERVICE

I hereby certify that the attached Decision and Order, Slip Op.1754, in PERB Case No. 20-A-06 served electronically via File & ServeXpress to the following parties on this the day of July 2, 2020:

Stephen Milak
Office of the Attorney General
441 4th Street, NW
Suite 1145 South
Washington, DC 20001

Daniel J. McCartin
Conti Fenn LLC
36 South Charles Street, Suite 2501
Baltimore, Maryland 21201

/s/ Royale Simms
Royale Simms
Attorney Advisor
Public Employee Relations Board

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 3,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to D.C. Code § 34-802 and in accordance with D.C. Code § 2-505,[1] of its final action taken in the above-captioned proceeding.[2]

2. On May 21, 2020, pursuant to D.C. Code § 10-1141.06,[3] Washington Gas Light Company (WGL) filed a Surcharge Update to revise the Rights-of-Way (ROW) Fee Surcharge.[4] The ROW Fee Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. In this Surcharge Update, WGL seeks to revise the ROW Reconciliation Factor.[5] Here, WGL sets forth the process to be used to recover from its customers the D.C. ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3
Section 22
3rd Revised Page 56

3. WGL's Surcharge Update indicates the ROW Current Factor is 0.0327 with the ROW Reconciliation Factor of 0.0025 for the period of June 2020 through May 2021, which yields a Net Factor of 0.0352.[6] In addition, WGL expresses its intent to collect the ROW fee surcharge beginning with the June 2020 billing cycle.[7]

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

2 *Gas Tariff 00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3* (*GT00-2*), Rights-of-Way Fee Surcharge Filing of Washington Gas Light Company (Surcharge Update), filed May 21, 2020.

3 D.C. Code § 10-1141.06 (2001 Ed.) states that "[e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

4 *GT00-2*, Surcharge Update at 1.

5 *GT00-2*, Surcharge Update at 1.

6 *GT00-2*, Surcharge Update at 1.

7 *GT00-2*, Surcharge Update at 1.

4. A Notice of Proposed Tariff (NOPT) regarding this ROW Surcharge Update was published in the *D.C. Register* on June 26, 2020.[8] In the NOPT, the Commission stated that WGL has a statutory right to implement its filed surcharges, but if the Commission were to discover any inaccuracies in the calculation of the proposed surcharge, WGL would be subject to reconciliation of the surcharges. No comments were filed in response to the NOPT. Based on the Commission's review of the tariff filing, the Commission finds that WGL's calculations for the ROW Current Factor, revision of the ROW Reconciliation Factor, and the ROW Surcharge Update comply with the General Services Tariff, P.S.C.-D.C. No. 3, Section 22, 3rd Revised Page No. 56 and with D.C. Code § 10-1141.06.

5. The Commission at its regularly scheduled Open Meeting held on July 29, 2020, took final action approving WGL's ROW Surcharge Update tariff filing. WGL's ROW Surcharge Update tariff shall become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

[8] 67 *D.C. Reg.* 007978-007979 (June 26, 2020).

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT
NOTICE OF FUNDING AVAILABILITY

Dream Grants for
Ward 7 & 8 Microbusinesses
Updated July 29, 2020

The Department of Small and Local Business Development (DSLBD) is excited to announce that we will be soliciting applications for the 2021 **Ward 7 and 8 Microbusiness Dream Grants starting August 15, 2020.**

The grants are to provide business development support for the growth of microbusinesses in Wards 7 and 8. These microbusinesses must be appropriately licensed, have fewer than five (5) full-time employees, the business must be located in Ward 7 or 8, and Ward 7 or 8 residents must have ownership of 50% or more of the of the business.

DSLBD intends to award between 20 and 25 grants, of up $10,000 each, from the $200,000 in total available funding for 2021.

How do I apply?
Full guidance and instructions will be available in the Request for Applications (RFA) that will be released on or before August 15, 2020, on the DSLBD website: https://dslbd.dc.gov under current grant opportunities https://bit.ly/dslbdgrantopportunities.

Deadline
The deadline to apply online is **September 30, 2020 at 2:00 p.m.** Applications will only be accepted through the online application system.

Who can apply?
Appropriately licensed microbusinesses with fewer than five (5) full-time employees located in Ward 7 or 8 for which residents of the Wards comprise 50% or more of the ownership of the business are eligible. Applicants will be asked to verify Ward 7 or 8 residency and that the business is located in Ward 7 or 8. See the Request for Applications for additional eligibility requirements.

NOTICE OF FUNDING AVAILABILITY (Page 2)
Dream Grants *for* Ward 7 & 8 Microbusiness

How can the funds be used?
The grant funds can be used for business sustainability or expansion efforts for expenses made by the business between the dates of October 1, 2020 through August 30, 2021. Additional allowed uses and restrictions will be outlined in the RFA.

How will awardees be selected?
Grant recipients will be selected through a competitive application process. All applications from eligible applicants received on or before the deadline will be forwarded to an independent review panel to be evaluated.

A program team will review the recommendations. The Director of DLSBD will make the final determination of grant awards. Grantees will be selected by October 30, 2020.

Questions?
We encourage interested applicants to attend a *Dream Grant Information Session* and will offer one or more *Grant Paperwork Bootcamps*. Please refer to the DSLBD Eventbrite at http://bit.ly/dslbd_events for the most accurate information about the date, time, and location of these meetings.

Questions may be sent to the Innovation & Equitable Development Team at the Department of Small and Local Business Development at Inno.ED@dc.gov. All questions must be submitted in writing.

Reservations
DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of this Notice of Funding Availability (NOFA) or RFA, or to rescind the NOFA or RFA at any time.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

CLEAN TEAM GRANTS / Round 2

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Clean Team Program** in two (2) Service Areas (listed below). **The application submission deadline is Thursday, September 17th, 12:00 PM.**

Through this grant, DSLBD will fund clean teams, which will achieve the following objectives.

- Improve commercial district appearance to help increase foot traffic, and consequently, the opportunity for customer sales.
- Provide jobs for DC residents.
- Reduce litter, graffiti, and posters, which contribute to the perception of an unsafe commercial area.
- Maintain a healthy tree canopy, including landscaping, along the corridor.
- Support Sustainable DC goals by recycling, mulching street trees, using eco-friendly supplies, and reducing stormwater pollution generated by DC's commercial districts.

Eligible applicants are nonprofit organizations which are incorporated in the District of Columbia and businesses which are Certified Business Enterprises. All applicants must be current on all DC business licenses and permits.

DSLBD will **award** one grant for **each** of the following **service areas** (i.e., a total of two grants). The size of the grant is noted for each district.

Eastern Market	$130,870.00
Ivy City	$130,870.00

The **grant performance period** to deliver clean team services is November 1, 2020 through September 30, 2021. Grants may be renewed for a second performance period of October 1, 2021 through September 30, 2022.

The **Request for Applications** (RFA) includes a detailed description of clean team services, service area boundaries, and selection criteria. DSLBD will post the RFA on **Monday, August 17th, 2020** at www.dslbd.dc.gov . Click on the *Our Divisions* tab, then *Commercial Revitalization*, and then *Solicitations and Opportunities* on the left navigation column.

The online application will open on **Monday, August 17th, 2020.** To open an application, applicants must complete and submit an **Expression of Interest** via the website address included

in the Request for Applications. DSLBD will activate their online access within two business days and notify them via email.

DSLBD will hold an online **pre-application informational meeting on Thursday, August 27, 2020 at 1:00 PM** and will hold a second **pre-application meeting on Tuesday, September 1, 2020 at 10:00 a.m.** Anyone interested in attending the meetings should send an email to Donnell Davis at (donnell.davis@dc.gov).

Application Process: Interested applicants must complete an online application on or before **Thursday, September 17th, 2020, 12:00 PM.**

DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be forwarded to the review panel.**

Selection Criteria for applications will include the following criteria.

- Applicant Organization's demonstrated capacity to provide clean team or related services, and managing grant funds.
- Application Organization's prior experience with providing job training and social support services.
- Proposed service delivery plan for basic clean team services.
- Proposed service delivery plan for additional clean team services.

Selection Process: DSLBD will select grant recipients through a competitive application process that will assess the Applicant's eligibility, experience, capacity, service delivery plan, and, budget. Applicants may apply for one or more service areas by noting the number of service areas for which the applicant would like to be considered. DSLBD will determine grant award selection and notify all applicants of their status via email on or before **Thursday, October 8th, 2020.**

Schedule of Key Dates: Applicants should consider the Schedule of Key Dates when applying for an FY 2021 Clean Team Grant**.**

Scheduled Activities	Key Dates
DSLBD posted the RFA	Monday, **August 17th, 2020**,
Pre-Application Meetings	Thursday, August 27th at 1:00 PM and Tuesday, September 1st, 2020 at 10:00 a.m.
Application Submission Deadline	**Thursday, September 17th, 2020, 12:00 PM.**
DSLBD will determine grant award selection and notify all applicants of their status via email on or before	Thursday, October 8th, 2020

Funding for this award is contingent upon funding availability from the DC Council. The NOFA does not commit the DSLBD to make an award. DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

The DSLBD reserves the right to accept or deny any or all applications if DSLBD determines it is in the best interest of DSLBD to do so. The Agency shall notify the applicant if it rejects that applicant's proposal. DLSBD may suspend or terminate an outstanding NOFA pursuant to its own grant-making rule(s) or any applicable federal regulation or requirement.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the RFA, or to rescind the NOFA.

DSLBD shall not be liable for any costs incurred in the preparation of applications in response to the NOFA. Applicant agrees that all costs incurred in developing the application are the applicant's sole responsibility.

DSLBD may conduct pre-award on-site visits to verify information submitted in the application and to determine if the applicant's facilities are appropriate for the services intended.

DSLBD may enter into negotiations with an applicant and adopt a firm funding amount or other revision of the applicant's proposal that may result from negotiations.

All applicants must attest to executing a DSLBD grant agreement as issued (sample document will be provided in the online application) and to starting services on November 1, 2020.

Questions must be sent to Donnell Davis at the Department of Small and Local Business Development at donnell.davis@dc.gov. All questions must be submitted in writing before September 16th, 2020 at 5:00 pm.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

FY2021 DC MAIN STREETS
(Chevy Chase and Pennsylvania Avenue East)

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to operate a DC Main Streets program in the service areas listed below. **The submission deadline is Tuesday, September 8, 2020 at 12:00 PM.**

The purpose of this grant is to designate and fund DC Main Streets Programs, which will assist business districts with the retention, expansion, and attraction of neighborhood-serving retail stores. It also will help unify and strengthen the commercial corridor.

DSLBD will award **one grant of $175,000, separately for each service area**:

- Chevy Chase
- Pennsylvania Avenue East

Eligible Applicants: Eligible applicants are DC-based nonprofit organizations which are up-to-date on their requisite taxes, licenses, and permits.

The DC Main Streets Grant Award is a recurring grant, which can be renewed annually as long as the grantee continues to meet the standards for accreditation by the National Main Street Center. The FY2021 grant performance period is October 1, 2020 through September 30, 2021.

Application Process: Interested applicants must complete an online application on, or before, **September 8, 2020 at 12:00 PM**. Instructions for the application can be found in the Request for Applications (RFA), which will be posted by August 10, 2020 at https://dslbd.dc.gov/service/current-solicitations-opportunities. DSLBD will not accept applications submitted via hand delivery, mail, or courier service. Late submissions and incomplete applications will not be forwarded to the review panel.

Selection Process: DSLBD will select grant recipients through a competitive application process. All applications from eligible applicants received before the deadline will be forwarded to a review panel to be evaluated and scored based on the selection criteria. The Director of DSLBD will make the final determination of grant awards. Grantees will be selected by September 30, 2020 (but this date is subject to change).

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

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

All applicants must attest to executing the DSLBD grant agreement as issued (see sample document with the online application) and to starting services by October 15, 2020.

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

Questions may be sent to Elizabeth Anderson, DC Main Streets Grants Manager, Department of Small and Local Business Development, at elizabeth.anderson1@dc.gov. All questions must be submitted in writing.

OFFICE OF VICTIM SERVICES

FISCAL YEAR 2021 SEXUAL ASSAULT VICTIMS' RIGHTS AMENDMENT ACT OF 2019 (SAVRAA)

Implementation Request for Application

Announcement Notice for the Funding Alert

Office of Victim Services and Justice Grants
Executive Office of the Mayor
Government of the District of Columbia
http://opgs.dc.gov and DC Register

Notice of Funding Availability

Victim Services FY 2021 Sexual Assault Victims' Rights Amendment Act of 2019 (SAVRAA) Implementation

The Office of Victim Services and Justice Grants announces the availability of grant funds under the Fiscal Year 2021 local funds to implement crisis intervention services for victims of sexual violence pursuant to the Sexual Assault Victims Rights' Amendment Act of 2019 (SAVRAA).

Purpose

On March 3, 2020, the Sexual Assault Victims' Rights Amendment Act (SAVRAA) of 2019 took effect. Introduced by Mayor Muriel Bowser, SAVRAA enhances the District's response to sexual violence in many areas including expanding the right to an advocate for victims/survivors, ensures that teen victims/survivors of sexual assault are granted the same rights as adult victims/survivors, and prescribes minimum training for sexual assault counselors, advocates, and youth advocates.

The purpose of this RFA is to provide funding to ensure that a well-trained, coordinated, and reliable pool of advocates and youth advocates are available 24/7, year-round to provide crisis intervention and advocacy services to all victims/survivors entitled to a confidential, community-based advocate under SAVRAA as defined under DC Code §23-1907. Advocacy services under this RFA are to be provided to youth and adult victims/survivors of sexual violence during medical forensic (SANE) examinations related to the sexual assault, including any point in the hospital visit, and interviews conducted by the Metropolitan Police Department (MPD) or other District agencies.

To serve as a sexual assault advocate or youth advocate, an individual is required to complete training as defined under DC Code §23-1907. Training standards for each role will be posted at https://ovsjg.dc.gov/service/sexual-assault-victims-rights-act. Additionally, individuals currently providing services to sexual assault victims/survivors can submit an application to verify their existing training in relation to the training standards.

Eligible Applicants

Eligible applicants are established community-based organizations that can provide direct advocacy services to youth (defined as 13-17) or adult sexual assault victims/survivors *and* can demonstrate membership or eligibility for membership in the District of Columbia Sexual

Assault Response Team (SART). Eligibility for SART membership as an organization providing advocacy services under DC Code §23-1909 is defined as:

A community-based organization that can provide direct sexual assault victim services for youth and/or adults and:
• Be able to demonstrate provision of or a plan for providing trauma-informed, victim-centered services;
• Be able to demonstrate adequate infrastructure to support and supervise the advocacy services for which they have applied;
• Participate in information sharing and data reporting in coordination with the SART for purposes of system coordination and quality assurance; and
• Adhere to and participate in the SART-governed protocols and policies for the dispatch and provision of acute response advocacy services.

Eligible Activities
This RFA is intended to fund the specific activities listed below.
Crisis Intervention/Advocacy:
For the purpose of this RFA, crisis intervention/advocacy means:
Provision of in-person and virtual accessible, culturally competent, trauma informed, supportive victims/survivors advocacy services during the ***acute response that*** are intended to facilitate the victims/survivors' decision making in the immediacy of the crime by:
• Informing victims/survivors of their rights
• Advocating on behalf of victims/survivors to ensure rights are observed
• Providing trauma informed, emotional/psychological support to primary and secondary victims/survivors
• Providing information and options for:
- medical forensic exams
- reporting to law enforcement
- interviews with law enforcement and other District agencies, and
- participating in the criminal and civil justice processes

• Coordinating access to other necessary services and supports

The **acute response** is defined as responding to requests for immediate advocacy services on a 24-hour, year-round basis pursuant to DC Code §23-1908 and 23-1909.

The Request for Applications (RFA) will be available electronically beginning **Monday, August 3, 2020** at http://ovsjg.dc.gov and https://zoomgrants.com/gprop.asp?donorid=2121&limited=1902. The deadline for applications is **11:59 p.m. on Friday, September 4, 2020**. For more information, contact *Cheryl Bozarth, Deputy Director of Victim Services*, Office of Victim Services and Justice Grants at *202-374-6109 or Cheryl.Bozarth@dc.gov.*

OFFICE OF VICTIM SERVICES

FISCAL YEAR 2021 TRAUMA RESPONSE AND COMMUNITY ENGAGEMENT PROGRAM (TRCEP)

Request for Applications (RFA)

Announcement Notice for the Funding Alert

Office of Victim Services and Justice Grants
Executive Office of the Mayor
Government of the District of Columbia
http://opgs.dc.gov and DC Register

Request for Applications

Fiscal Year 2021 (FY21) Trauma Response Community Engagement Program Funding

The Office of Victim Services and Justice Grants (OVSJG) announces availability of FY 2021 grant funds for development of two Place-Based Trauma Response Community Engagement Program (TRCEP) centers. The purpose of this RFA is to implement TRCEP centers at two sites located in Wards 7 and 8.

Request for Application (RFA) **Release Date: Monday, August 3, 2020**

Period of Award: Fiscal Year 2021 (October 1, 2020 – September 30, 2021)

Available Funding: OVSJG will award one or more grants. Eligible Applicants: Any public or private, community-based non-profit agency, organization or institution located in the District of Columbia is eligible to apply. For profit organizations are eligible but may not include profit in their grant application. For-profit organizations may also participate as subcontractors to eligible agencies.

Application Submission Deadline: Monday September 4, 2020. The Request for Applications (RFA) will be available electronically beginning Monday, August 3, 2020 at http://ovsjg.dc.govand https://zoomgrants.com/gprop.asp?donorid=2121&limited=2998.

All applications are to be submitted via ZoomGrants™. For additional information regarding this grant competition, please email ovsjg@dc.gov with the subject line reference “FY 2021 TRCEP Program Funding”.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17996-C of The Beauvoir School, the National Cathedral Elementary School, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to the conditions of BZA Order No. 17996-B, to decrease the minimum parking requirements and to permit the installation of temporary classroom space on the schools property, in the R-1-B Zone at premises 3500 Woodley Road, N.W. (Square 1944, Lot 25).

HEARING DATE (17996):	November 24, 2009
DECISION DATE (17996):	November 24, 2009
ORDER ISSUANCE DATE (17996):	December 22, 2009
ORDER ISSUANCE DATE (17996-A)[1]:	December 22, 2009
MOTION FOR RECONSIDERATION	
DECISION DATE (17996-B):	February 2, 2010
ORDER ISSUANCE DATE (17996-B):	February 5, 2010
MODIFICATION OF CONSEQUENCE	
DECISION DATE (17996-C):	July 29, 2020

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

Original Application. In Application No. 17996, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by Protestant Episcopal Cathedral Foundation of the District of Columbia for a special exception under § 206 to modify an existing private school use to increase the number of faculty and staff at the National Cathedral Elementary School (Beauvoir) to 109, in the R-1-B District. The Board issued Order No. 17996 on December 22, 2009. On December 30, 2009, the Applicant filed a timely motion for reconsideration of Condition No. 3 of the final summary order in Application No. 17996. The Board granted the motion for reconsideration to remove Condition No. 3 from BZA Order No. 17996. BZA Order No. 17996-B was issued on February 5, 2010. (Exhibit 3.) The approval was subject to four conditions:

1. The number of students at Beauvoir School shall not exceed 400.
2. The number of faculty and staff at Beauvoir School shall not exceed 109.

[1] BZA Application No. 17996 was filed in 2009 for a special exception to increase the number of faculty and staff at the Beauvoir School and to establish as a principal use a child development center. That application was subsequently amended and bifurcated to reflect the two separate requests. The establishment of the child development center was approved pursuant to BZA Order No. 17996-A. The increase in faculty and staff for the Beauvoir School became the subject of BZA Order No. 17996, as corrected by BZA Order No. 17996-B.

3. The Applicant shall provide 126 parking spaces, 73 of which shall be designated for Beauvoir School and 48 of which shall be shared between Beauvoir School and the child development center (CDC) at the same location and shall comply with the submitted parking plan.
4. On an annual basis, starting in October, 2010, the Applicant shall submit a report to ANC 3C showing the location of all the parking spaces on the entire PECF Close together with any changes to the 126 parking spaces that constitute the parking "bank" of Beauvoir School and the CDC.

Proposed Modification. On July 14, 2020, The Beauvoir School, the National Cathedral Elementary School, the owner of the property, submitted a request for modification of consequence to Order No. 17996-B. (Exhibits 1-2.) The Applicant proposes to allow the installation of four learning cottages to serve as classroom and accessory space for the 2020-21 academic calendar year and to modify Condition No. 3 to temporarily reduce the number of parking spaces provided on the Site as follows:

> **Condition No. 3:** The Applicant shall provide 126 parking spaces, 73 which shall be designated for Beauvoir School and 48 of which shall be shared between Beauvoir School and the child development center (CDC) at the same location, and shall comply with the submitted parking plan. **For the 2020-2021 academic calendar year, the Applicant may reduce the overall number of parking spaces to 104 spaces, 51 of which shall be designated for Beauvoir School and 48 of which shall be shared between Beauvoir School and the CDC.**

Notice of the Request for Modification. Pursuant to Subtitle Y §§ 703.8-703.9 of Title 11 of the DCMR (Zoning Regulations of 2016, the "Zoning Regulations" to which all references are made unless otherwise specified), the Applicant provided proper and timely notice of the request for modification of consequence. (Exhibit 2.)

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 3C.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on July 20, 2020, at which a quorum was present, the ANC voted to support the request subject to four conditions, listed below. (Exhibit 5.)

1. The generator shall operate only during the school day until the weather necessitates otherwise;
2. There shall be no safety lighting or lighting from the trailers at night;
3. A traffic facilitator shall manage drop-off and pick-up operations during the hours specified for those operations, and shall be aware that drivers with destinations other than Beauvoir are using Woodley Road and 35th Street;

4. Beauvoir shall require parents or anyone that ordinarily drives to the school to pick-up or drop-off a student to park on the Close and not on neighborhood streets during the specified pick-up and drop-off hours.

The Applicant agreed to the ANC's proposed conditions. (Exhibit 7.)

OP Report. Office of Planning submitted a report recommending approval of the proposed modification of consequence. (Exhibit 4.)

DDOT Report. The District Department of Transportation did not submit a written report regarding the modification request.

Request for Modification of Consequence

The Applicant seeks a modification of consequence to the conditions of BZA Order No. 17996-B, to decrease the minimum parking requirements and to permit the installation of temporary classroom space on the school's property, in the R-1-B Zone.

The Board determines that the Applicant's request complies with Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Based upon the record, the Board concludes that in seeking a modification of consequence, the Applicant has met its burden of proof under Subtitle Y § 703.4.

"Great Weight" to the Recommendations of OP
The Board is required to give "great weight" to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8). The Board finds OP's recommendation that the Board approve the application persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANC
The Board must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Y § 406.2) The Board was persuaded by the issues raised in the ANC's Report and adopted the four proposed conditions as part of this modification. Accordingly, the Board finds the ANC's recommendation to approve the application with conditions persuasive and concurs in the judgment.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of consequence of BZA Order No. 17996-C is hereby **GRANTED**, subject to the following conditions, which shall replace and supersede the conditions of BZA Order No. 17996-B:

1. The number of students at Beauvoir School shall not exceed 400.

2. The number of faculty and staff at Beauvoir School shall not exceed 109.

3. The Applicant shall provide 126 parking spaces, 73 of which shall be designated for Beauvoir School and 48 of which shall be shared between Beauvoir School and the child development center (CDC) at the same location and shall comply with the submitted parking plan. For the 2020-2021 academic calendar year, the Applicant may reduce the overall number of parking spaces to 104 spaces, 51 of which shall be designated for Beauvoir School and 48 of which shall be shared between Beauvoir School and the CDC.

4. On an annual basis, starting in October, 2010, the Applicant shall submit a report to ANC 3C showing the location of all the parking spaces on the entire PECF Close together with any changes to the 126 parking spaces that constitute the parking "bank" of Beauvoir School and the CDC.

5. For the 2020 – 2021 academic school year, the Applicant may install four (4) temporary learning cottages to serve as temporary classrooms and accessory space as shown on the site plan and exhibits identified as Exhibit 2, provided:

    a. The generator shall operate only during the school day until the weather necessitates otherwise.

    b. There shall be no safety lighting or lighting from the trailers at night.

    c. A traffic facilitator shall manage drop-off and pick-up operations during the hours specified for those operations and shall be aware that drivers with destinations other than Beauvoir are using Woodley Road and 35th Street.

    d. The Applicant shall require parents or anyone that ordinarily drives to the school to pick-up or drop-off a student to park on the Close and not on neighborhood streets during the specified pick-up and drop-off hours.

In all other respects, Order No. 17996-B remains unchanged.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Robert E. Miller 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: July 30, 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. 18701-D of 1247 ESE LLC, pursuant to 11 DCMR Subtitle Y, § 705.1, for a two year time extension of BZA Order No. 18701-A approving a variance from the use provisions to operate a restaurant in the first floor space within an existing apartment house under § 330.5 in the R-4 (now RF-1) District at premises 1247 E Street, S.E. (Square 1019, Lot 43).

HEARING DATES (18701):	February 4, 2014
DECISION DATES (18701):	February 25, 2014
FINAL DATE OF ORDER (18701 & 18701-A):	February 27, 2014
FIRST TIME EXTENSION DECISION (18701-B):	March 8, 2016
SECOND TIME EXTENSION DECISION (18701-C):	April 18, 2018
THIRD TIME EXTENSION DECISION (18701-D):	July 22, 2020

SUMMARY ORDER ON THIRD REQUEST FOR TWO-YEAR TIME EXTENSION

Original Application. In Application No. 18701, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by 1247 ESE LLC (the "Applicant") for relief pursuant to 11 DCMR § 3103.2, for a variance from the use provisions to operate a restaurant in the first floor space within an existing apartment house under § 330.5 in the R-4 District under the Zoning Regulations of 1958. The Board issued Order No. 18701 on February 27, 2020. Subsequently, the Board issued a corrected order – Order No. 18701-A. (Exhibit 3.) 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.

First Request for Two-Year Time Extension. The Board granted the Applicant's first request for a two-year time extension in Order No. 18701-B, noting that the Order would be valid until February 27, 2018.

Second Request for Two-Year Time Extension. The Board granted the Applicant's second request for a two-year time extension in Order No. 18701-C, noting that the Order would be valid until February 27, 2020.

Third Request for Two-Year Time Extension. On February 25, 2020, the Applicant submitted a third request that the Board grant a two-year extension of Order No. 18701-A. (Exhibits 1-8.)

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") 6B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 10, 2020, at which a quorum was present, the ANC voted to support the request. (Exhibit 10.)

OP Report. Office of Planning submitted a report recommending approval of the time extension. (Exhibit 13.)

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 the third request for two-year time extension to the validity of the Board's approval in Order No. 18701-A is hereby **GRANTED**, and the Order shall be valid until **February 27, 2022**.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, Michael G. Turnbull 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: July 27, 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

Appeal No. 20226 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 eight-unit apartment house in the RA-1 zone at premises 1214 Madison Street, N.W. (Square 2934, Lot 35).

HEARING DATE: June 10, 2020[1]
DECISION DATE: July 1, 2020

ORDER REVERSING THE ZONING ADMINISTRATOR'S DETERMINATION

This appeal was submitted on January 3, 2020 on behalf of Michael Yates (the "**Appellant**"), the owner of property abutting the property that is the subject of this appeal. Following a public hearing, the Board voted to reverse the determination of the Zoning Administrator ("**ZA**"), at the Department of Consumer and Regulatory Affairs ("**DCRA**") in this matter.

PRELIMINARY MATTERS

Notice of Appeal and Notice of Hearing. By memoranda and letters dated February 3, 2020, the Office of Zoning provided notice of the appeal and of the public hearing to the Appellant; the Zoning Administrator; the owner of the property that is the subject of the appeal, Madison Heights LLC ("**Property Owner**"); the Office of Planning; Advisory Neighborhood Commission ("**ANC**") 4C, the ANC in which the subject property is located, and Single Member District ANC 4C01; the Office of Advisory Neighborhood Commissions; the Chairman and the four at-large members of the D.C. Council; and the Councilmember for Ward 4, the ward in which the subject property is located. Notice was published in the *D.C. Register* on January 24, 2020. (67 DCR 633.)

Party Status. In accordance with Subtitle Y § 501.1, the following automatically had party status in this proceeding: The Appellant, DCRA, the Property Owner, and the affected ANC, in this case Advisory Neighborhood Commission 4C. There were no requests for party status.

[1] This appeal was originally scheduled for public hearing on March 18, 2020 but was rescheduled for a virtual public hearing on June 10, 2020 based on the closures and postponements related to the public health emergency declared on March 11, 2020.

Appellant's Case. The Appellant challenged the issuance of a building permit allowing enlargement of a detached principal dwelling and its conversion to an eight-unit apartment house (the "**Project**") on the grounds that: (a) the Project did not comply with special exception standards for the use conversion, (b) the Project entailed the extension of a nonconforming side yard that did not comply with zoning requirements, (c) the permit was issued pursuant to a guidance statement devised by DCRA that did not apply to the conversion project, and (d) the conversion of the property into an apartment house violated covenants recorded on the property. (Exhibit 2.)

DCRA. The Department of Consumer and Regulatory Affairs asked the Board to deny the appeal because the planned multi-family use of the former principal dwelling was a conversion permitted as a matter of right. (Exhibit 26.)

Property Owner. The Property Owner was represented by Mark Mlakar, the owner of Madison Heights LLC, and Michael Cross, the project architect. The Property Owner expressed agreement with the position of DCRA, contending that the building permit was properly issued for a project permitted as a matter of right.

FINDINGS OF FACT

1. The property that is the subject of this appeal is known as 1214 Madison Street, N.W. (Square 2934, Lot 35). The property has a lot area of approximately 5,712 square feet.

2. The property was improved with a two-story building used as a principal dwelling.

3. The Property Owner purchased the property and undertook a project to convert the building to use as a multi-family building with eight apartments.[2] As part of the project, the Property Owner began enlarging the building with a new third floor and a three-story rear addition.

4. DCRA issued Building Permit No. B1804458 (the "**Building Permit**") on November 6, 2019. The Building Permit contained the following description of work: "Alteration and addition to existing 2-story building from single family to 8-unit multi-family. Structural addition above and to rear of existing building with full mechanical, electrical and plumbing scope. Underpinning included." The existing number of dwelling units was shown on the permit as one, while the proposed number of dwelling units was eight. The existing use was described as single-family dwelling, while the proposed use was "apartment house." (Exhibit 3.)

5. The subject property is located in the RA-1 zone.

[2] The parties referred to the Project at issue as the conversion of a principal dwelling to an apartment house with either seven or eight units. The Board considered the Project as the development of an apartment house with eight dwelling units, consistent with the Building Permit challenged in this appeal. The discrepancy in the number of planned units, whether seven or eight, had no bearing on the Board's decision in this case.

6. The Residential Apartment (RA) zones permit urban residential development and compatible institutional and semi-public buildings. (Subtitle F § 100.1.) The RA zones are designed to be mapped in areas identified as moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses. (Subtitle F § 100.2.) The provisions of the RA zones are intended to: (a) provide for the orderly development and use of land and structures in areas characterized by predominantly moderate- to high-density residential uses; (b) permit flexibility by allowing all types of residential development; (c) promote stable residential areas while permitting a variety of types of urban residential neighborhoods; (d) promote a walkable living environment; (e) allow limited non-residential uses that are compatible with adjoining residential uses; (f) encourage compatibility between the location of new buildings or construction and the existing neighborhood; and (g) ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces. (Subtitle F § 100.3.)

7. The purposes of the RA-1 zone are to: (a) permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and (b) permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. (Subtitle F § 300.1.) The RA-1 zone provides for areas predominantly developed with low- to moderate-density development, including detached dwellings, rowhouses, and low-rise apartments. (Subtitle F § 300.2.)

8. The uses permitted as a matter of right in RA zones are set forth in Subtitle U § 401.1. These include, except in the RA-1 and RA-6 zones, multiple dwellings provided that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one month. (Subtitle U § 401.1(d).)

9. Subtitle U § 421.1 states that "In the RA-1 and RA-6 zones, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under Subtitle X, in accordance with the standards and requirements in this section."

10. The original version of what eventually became Subtitle U § 421.1 was adopted in Zoning Commission Order No. 19 (November 17, 1970).[3] The text changes approved in that order were intended "to provide for improved site planning and mix of housing types

[3] The predecessor provision adopted in Z.C. Order No. 19, the then new subparagraph 3105.42, read as follows: "In R-5-A Districts all new residential developments, except those comprising all one-family detached and semidetached dwellings, shall be reviewed by the Board in accordance with the standards and requirements of Section 3307" and certain other requirements similar to those now set forth in Subtitle U § 421 relating to the referral of applications for comment and recommendation from specified District Government agencies and the National Capital Planning Commission.

commensurate with adequate community facilities and encourage homeownership in the R-5-A Districts."[4]

11. The Zoning Administrator issued an Interpretation of Zoning Regulations Guidance Document entitled "'All New Residential Developments' in RA-1 & RA-6 Zones" (the "**Guidance Statement**") with reference to Subtitle U § 421. The Guidance Statement was designated 2019-001, with an effective date of January 1, 2019. (Exhibit 26A.)

12. The Guidance Statement noted, with added emphasis, that under Subtitle U § 421.1, "all new residential developments, except those comprising all one-family detached and semi-detached dwellings," require review by the Board and approval as special exceptions. (The Guidance Statement added the underline above.)

13. The Guidance Statement stated that "applications to construct new attached and multiple dwelling buildings in the RA-1 and RA-6 zones must seek special exception relief pursuant to U-421" before DCRA would issue a building permit for those projects.

14. Next, the Guidance Statement recognized that projects "involving the expansion of existing residential buildings into larger multiple dwelling buildings have presented the following question – at what point would an expansion of an existing building effectively constitute 'new residential development' and therefore prompt special exception relief pursuant to U-421?"

15. According to the Guidance Statement, "The zoning rules are silent on the treatment of building expansions, as is the original source legislative record for Zoning Commission Order No. 19 (November 17, 1970.) Nonetheless, Order No. 19 intended that 'Proposed text changes to provide for improved site planning and mix of housing types commensurate with adequate community facilities and encourage homeownership in the R-5-A Districts.'"

16. The Guidance Statement explained that the Zoning Administrator determined, in furtherance of those policy goals, "that there is a threshold at which a development's increased intensity prompts the need for further BZA evaluation" in the case of conversions. "Consequently, the ZA now clarifies that, for expansions of an existing

[4] The R-5-A zone was a type of Residence Zone designated in the 1958 Zoning Regulations. Pursuant to § 350.1 of the 1958 Zoning Regulations, "The R-5 Districts are General Residence Districts designed to permit flexibility of design by permitting in a single district, except as provided in §§ 350 through 361, all types of urban residential development if they conform to [applicable] height, density, and area requirements…." Pursuant to § 350.4(f) of the 1958 Zoning Regulations, uses permitted as a matter of right in an R-5 District included "Multiple dwellings, subject to the requirements of § 353; provided, that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one (1) month." The exception to § 350.4(f), stated in § 353.1, was essentially identical to Subtitle U § 421.1 of the 2016 Zoning Regulations: "In R-5-A Districts, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under § 3104 in accordance with the standards and requirements in this section."

building, U-421 special exception relief will be triggered in the following circumstances: **Where a building permit application proposes either a 100% or greater increase in both the number of dwelling units and the new gross floor area (GFA) compared to the existing building, or increases the number of dwelling units by 10 or more units**." (emphasis in original.)

17. The Guidance Statement indicated that the Zoning Administrator would "apply this standard collectively to all building permit applications for a development for a single building on a single record lot occurring within a three (3) year period, starting with the first building permit application." However, the Guidance Statement did "not address multi-building developments on a single lot of record or expansions of existing developments previously authorized by Zoning Commission or Board of Zoning Adjustment (BZA) Orders."

18. As an example of a building addition triggering the need for a special exception under Subtitle U § 421, the Guidance Statement provided the following: "Existing 4 dwelling unit and 3,000 square foot GFA multiple dwelling building" where the proposed expansion would add "4 dwelling units (or more) and 3,000 square foot GFA (or more)."

19. As an example of a building addition not triggering the need for a special exception under Subtitle U § 421, the Guidance Statement provided the following: "Existing 4 dwelling unit and 3,000 square foot GFA multiple dwelling building" where the proposed expansion would add "3 dwelling units or less and/or 2,999 square feet GFA (or less)."

20. The Guidance Statement concluded with a proviso: "This Guidance reflects the ZA's current interpretation of the Zoning Regulations in effect at the date of the posting of this document on the DCRA website and is subject to change due to revisions of the Zoning Regulations, decisions of the Board of Zoning Adjustment or Zoning Commission, or experience in reviewing and enforcing the Zoning Regulations. This Guidance only applies to zoning."

CONCLUSIONS OF LAW AND OPINION

The Board is authorized by § 8 of the Zoning Act to "hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal" made by any administrative officer in the administration or enforcement of the Zoning Regulations. (D.C. Official Code § 6-641.07(g)(1) (2008 Repl.).) Appeals to the Board of Zoning Adjustment "may be taken by any person aggrieved, or organization authorized to represent that person, … affected by any decision of an administrative officer … granting or withholding a certificate of occupancy … based in whole or part upon any zoning regulations or map" adopted pursuant to the Zoning Act. (D.C. Official Code § 6-641.07(f) (2008 Repl.); *see also* Subtitle X § 1100.2, Subtitle Y § 302.1.)

The Appellant challenged issuance of the Building Permit on several grounds, arguing especially that the Property Owner should have been required to obtain special exception approval for the project under Subtitle U §§ 320.2 and 420.1(a). According to the Appellant, the proposed apartment house use was not permitted as a matter of right at the subject property since Subtitle U § 401.1(d)(1) specifically excludes multi-family buildings in the RA-1 zone from the category of uses generally permitted as a matter of right in the RA zones. The Appellant asserted that the project should have been subject to special exception approval under the conditions set forth in Subtitle U § 320.2 because the uses permitted by special exception in the Residential Flat (RF) zones under that provision are "carried forward" into the RA zones by operation of Subtitle U § 420.1(a).[5] The Appellant argued that, by operation of the carryover provision, the apartment house project at the subject property, in the RA zone, was subject to special exception approval pursuant to Subtitle U § 420.1(a) under the same conditions applicable in the RF zone under Subtitle U § 320.2.

The Appellant also argued that Subtitle U § 421 and the Guidance Statement were both inapplicable to the Property Owner's project. According to the Appellant, Subtitle U § 421 cannot be read to provide a different outcome than would result under Subtitle U § 420.1(a), and the Guidance Statement should be confined to its intended use; that is, to provide an operative rule for deciding the point at which a building expansion (an expansion only, without a conversion of use) constitutes "new residential development" as that term is used in Subtitle U § 421.

DCRA argued that Subtitle U § 320.2 was inapplicable to the Project because the property at issue is zoned RA-1 and Subtitle U § 320.2 is a special exception provision applicable in certain RF zones. DCRA asserted that the Zoning Regulations contemplated the construction of apartments in RA zones, and that, in furtherance of the purpose and intent of the zoning provisions governing the RA zones, the Property Owner's project was permitted as a matter of right pursuant to Subtitle U § 421. According to DCRA, the project was not an "all new residential development" since the property is presently improved with a principal dwelling that would be expanded into an apartment house. DCRA cited the Guidance Statement as the means to determine whether a project is an "all new residential development," and concluded that the Property Owner's project "is not an 'all new residential development' under Subtitle U § 421.1 because it does not meet the criteria set forth in Z.A. Guidance Document 2019-001," despite the addition of seven new dwelling units, since the project would increase the gross floor area of the building by 55% – "far below the 100% set [by the Guidance Statement]." "As both prongs (dwelling units and GFA) have not been met," DCRA concluded that the project did not constitute an "all new residential development" and was permitted as a matter of right, without requiring special exception approval. (Exhibit 32.)

The Board agrees with the Appellant that an apartment house use is not permitted as a matter of right at the subject property, because Subtitle U § 401.1(d)(1) specifically excludes the RA-1

[5] The "carryover" provision, Subtitle U § 420.1, specifies the uses permitted in the RA zones if approved by the Board as a special exception. These uses include "[a]ny use or structure permitted [by special exception in the RF zones] under Subtitle U § 320 except as modified by this section." (Subtitle U § 420.1(a).)

zone from the provision that otherwise permits multi-family buildings as a matter of right in the RA zones. The exception created in Subtitle U § 401.1(d)(1) does not distinguish between an apartment house created by new construction and one created by the conversion of an existing building. Subtitle U § 401.1(d)(1) plainly states that a multi-family building is not permitted as a matter of right in the RA-1 zone. This prohibition applies to all new apartment house uses created in the RA-1 zone.

However, the Board was not persuaded by the Appellant's argument that Subtitle U § 320.2 should apply to the Property Owner's project. The "carryover" provision, Subtitle U § 420.1, which otherwise would have made uses permitted by special exception in the more restrictive RF zone also permitted by special exception in the less restrictive RA zones, does not apply when the regulations applicable in the less restrictive RA zone include specific provisions governing an application to allow an apartment house use in the RA-1 zone. *See, e.g., Sanker v. United States*, 374 A.2d 304, 309 (D.C. 1977) ("It is a well-recognized rule of statutory interpretation that specific statutes normally override general ones.") Subtitle U § 401.1(d)(1) and Subtitle U § 421 are the provisions specifically applicable to the development of new dwelling units in the RA-1 zone. The Board finds that the conversion provision of Subtitle U § 320.2, a provision adopted for application in the RF zones, should not be carried over to the RA-1 zone by operation of Subtitle U § 420.1. Instead, the more specific provisions adopted for the RA-1 zone, Subtitle U § 401.1(d)(1) and Subtitle U § 421, apply to applications for new residential developments, including a proposed apartment house use, in the RA-1 zone.

The Board does not agree with DCRA's assertion, made in the Guidance Statement, that the "zoning rules are silent on the treatment of building expansions." By its terms, Subtitle U § 421 applies to <u>all</u> new residential developments, excepting only those projects comprising the development only of one-family detached and semi-detached dwellings. "All new residential developments" must encompass a new apartment house use created through the conversion of an existing building, because the Zoning Commission did not specifically exclude that type of development from the requirement for special exception review under Subtitle U § 421 or its predecessors. With respect to the applicability of Subtitle U § 421, the Board finds no reason to differentiate between types of "new residential development" based on whether that development is entirely new construction or occurs in the course of the conversion of an existing building to a new or different residential use that increases the number of dwelling units at the property. The only distinction necessary for purposes of Subtitle U § 421 is whether a given new residential development will comprise all one-family detached and semi-detached dwellings, which is not subject to special exception review, or some other form of residential use that is subject to review by the Board consistent with the requirements set forth in Subtitle U §§ 421.2 – 421.4.

The Board was not persuaded by DCRA's contention that Subtitle U § 421, the provision applicable to residential development in the RA-1 zone, should be interpreted as meaning that the creation of new dwelling units constitutes "new residential development" requiring special exception approval only when the development is entirely new construction, excluding those projects undertaken in the course of the conversion of an existing building to use as a multi-family dwelling. The Board finds no distinction between the creation of new dwelling units as

the result of the conversion of an existing building and the construction of new dwelling units "from the ground up" that warrants a different result with respect to whether a multi-family project in RA-1 should be required to obtain special exception approval.

The words "development" and "develop" are not defined in the Zoning Regulations. The definitions of "develop" in the Merriam-Webster Dictionary[6] include "to make suitable for commercial or residential purposes," while "development" is defined as "the act, process, or result of developing," "the state of being developed," or "a tract of land that has been made available or usable." The Zoning Regulations are applied so that "words in the singular number shall include the plural number, and words in the plural number shall include the singular number." (Subtitle B 100.1(b).)

The Board concludes that "all new residential developments," as that term is used in Subtitle U § 421.1, encompasses *every development of new dwelling units*, including those created as part of the conversion of an existing building (but excluding those projects comprising the development exclusively of one-family detached or semi-detached dwellings). The term "all new residential developments" is not restricted exclusively to "all-new" developments that result only from new construction.

The Board notes that the current special exception requirement, Subtitle U § 421.1, is substantially similar to the provision adopted by the Zoning Commission in 1970 with the intention of providing for improved site planning and mix of housing types commensurate with adequate community facilities. Nothing in the 1970 Zoning Commission order supports a conclusion that new dwelling units created in the course of the conversion of an existing one-family building to an apartment house should be excluded from the Board review that the Commission found necessary to promote improved site planning and a mix of housing types commensurate with adequate community facilities.

The Board recognizes that the RA-1 zone is intended for the development of multi-family buildings, among other housing types, but concludes that the Zoning Regulations require review and approval, as a special exception in accordance with the requirements of Subtitle U § 421, whenever an application proposes the development of new dwelling units, except those comprising all one-family detached and semi-detached dwellings.[7] This result is consistent with the specific exclusion, in Subtitle U § 401.1(d)(1), of multi-family buildings in the RA-1 zone from the category of uses generally permitted as a matter of right in the RA zones. It is also consistent with the intent of the RA zones, as stated in Subtitle F § 100.3, to provide for the orderly development and use of land and structures in areas characterized by predominantly

[6] Pursuant to Subtitle B § 100.1(g), words not defined in the Zoning Regulations shall have the meanings given in Webster's Unabridged Dictionary.

[7] The Board notes another example, albeit not in an RA zone, of a requirement created by the Zoning Regulations for BZA review of projects involving the creation of new dwelling units, not dependent on whether a given project would entail any new construction. In some RF zones, the Zoning Regulations require BZA review and approval, as a special exception, of any project involving the conversion of an existing building to an apartment house use (i.e. at least three dwelling units at a property) even when the project would satisfy all applicable development standards. (*See* Subtitle U § 320.2.)

moderate- to high-density residential uses, permit flexibility by allowing all types of residential development, promote stable residential areas while permitting a variety of types of urban residential neighborhoods, and encourage compatibility between the location of new buildings or construction and the existing neighborhood.

The Board finds no merit in the Appellant's other claims of error, concerning the side yard and a covenant allegedly recorded against the subject property. According to the Appellant, the building at the subject property had a nonconforming side yard of two feet, eight inches on one side (next to the Appellant's dwelling), as well as a conforming side yard of 11 feet on the other. According to the Appellant, two side yards of at least eight feet were required *for a principal dwelling* in the RA-1 zone (emphasis added), and the Building Permit at issue in the appeal would allow a rear addition that would impermissibly extend the nonconforming side yard in violation of Subtitle C § 202.2. DCRA asserted that the Building Permit was consistent with applicable side yard requirements, noting that, in the RA-1 zone, only one side yard is required unless the building is a multiple dwelling containing three or more dwelling units per floor, which would not be the case in the Property Owner's project. The one required side yard must have a minimum distance equal to three inches per foot of building height but not less than eight feet. (*See* Subtitle F § 306.2.) In this case, DCRA stated the side yard requirement as one side yard of 9.75 feet (3 inches per foot of building height, at a height of 39 feet, 6 inches). The Appellant acknowledged that the project would provide one side yard of 11 feet, which the Board concludes would satisfy the zoning requirement for a multiple dwelling with fewer than three dwelling units per floor.

The Appellant stated that a memorandum of the Office of Planning, dated October 24, 2019, indicated that a covenant recorded against the subject property prohibited construction of "more than one house" on the property. The Appellant contended that the Building Permit should not have been issued because the Property Owner did not demonstrate that the restriction is not currently applicable. DCRA disputed the relevance of the purported covenant and noted that the "Appellant does not state what, if any zoning regulations are at issue or how the Zoning Administrator erred in issuing the Permit." The Board agrees, because the Appellant did not claim any error in the administration of the Zoning Regulations in connection with the alleged covenant.

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)).) The affected ANC in this case, ANC 4C, did not submit a report or otherwise participate in this proceeding. Accordingly, the ANC did not state any issues or concerns to which the Board can give great weight in this case.

Based on the findings of fact and conclusion of law, the Board concludes that the determination of the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit No. B1804458, to permit the alteration and addition to an existing two-story principal dwelling unit for conversion into an eight-unit apartment house in the RA-1 zone at 1214

Madison Street, N.W. (Square 2934, Lot 35), was not consistent with the Zoning Regulations. Accordingly, it is therefore **ORDERED** that the Zoning Administrator's determination is **REVERSED.**

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Michael G. Turnbull voting to **GRANT** the appeal; 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: July 24, 2020

PURSUANT TO SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-28V
Z.C. Case No. 05-28V
Lano Parcel 12, LLC
(Two-Year Time Extension for PUD @ Square 5055, Lot 26)
December 9, 2019

Pursuant to notice, at its November 18, 2019 and December 9, 2019 public meetings, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Lano Parcel 12, LLC (the "Applicant") concerning Lot 26 in Square 5055 (the "Property") for: a two-year time extension, pursuant to Subtitle Z § 705.2 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified), of the deadline to file applications for the remaining second-stage applications for the planned unit development ("PUD") approved by Z.C. Order No. 05-28 (the "Original Order"), as extended by Z.C. Order Nos. 05-28H, 05-28L, 05-28O, and 05-28U, with a waiver of Subtitle Z § 705.5's maximum of two time extensions for a PUD to grant a fifth time extension.

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Original Order, effective April 13, 2007 (the "Original Order Effective Date"), the Commission approved a first-stage PUD, together with a related Zoning Map amendment rezoning from the R-5-A and C-2-B to the C-3-A and CR Zone Districts, to construct approximately 3.1 million square feet of mixed-use development (the "First-Stage PUD") on the 15 vacant acres east of the Anacostia River in Ward 7 (the "First-Stage PUD Site").

2. Condition No. 13 of the Original Order required the Applicant to file a second-stage PUD application under the First-Stage PUD within one year of the Original Order Effective Date, with all remaining second-stage PUD applications required to be filed within three years of the effective date of the order approving the first second-stage PUD application.

3. The Applicant timely filed its first second-stage application in Z.C. Case No. 05-28A on November 16, 2007, within the one-year deadline imposed by Condition No. 13 of the Original Order.

4. Pursuant to Z.C. Order No. 05-28A, effective October 3, 2008, the Commission approved the first second-stage PUD application, thereby establishing the deadline for the Applicant

to file all remaining second-stage PUD applications under the First-Stage PUD, including the Property, as October 3, 2011.

5. Pursuant to Z.C. Order No. 05-28H,[1] effective February 3, 2012, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including the Property, until October 3, 2013.

6. Pursuant to Z.C. Order No. 05-28L,[2] effective February 7, 2014, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including the Property, until October 3, 2015.

7. Pursuant to Z.C. Order No. 05-28O,[3] effective February 12, 2016, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including the Property, until October 3, 2017.

8. Pursuant to Z.C. Order No. 05-28U,[4] effective January 29, 2018, the Commission approved a two-year time extension to file all remaining second-stage PUD applications, including the Property, until October 3, 2019.

PARTIES AND NOTICE

9. In addition to the Applicant, the only parties to Z.C. Case No. 05-28 were Advisory Neighborhood Commissions ("ANC") 7D and 7F, the "affected" ANCs pursuant to Subtitle Z § 101.8,[5] and Parkside Townhomes Condominium, Inc. ("PTC").

10. On May 18, 2020, as attested by the Certificate of Service submitted with the Application, the Applicant served the Application on: (Exhibit ["Ex."] 2, 3.)
    - ANCs 7D and 7F;
    - the Office of Planning ("OP"); and
    - PTC.

II. THE APPLICATION

11. On October 2, 2019, the Applicant timely filed the Application requesting a two-year time extension of the October 3, 2019 deadline established by Z.C. Order No. 05-28U to file the remaining second-stage PUD applications.

12. The Application stated that second-stage PUD applications had been filed for the First-Stage PUD Site except for:

[1] Pursuant to Z.C. Order Nos. 05-28B through 05-28G, the Commission approved second-stage PUDs (B, C, and F), denied a time extension request as premature (D), and approved modifications of the First-Stage PUD (E) and of a second-stage PUD (G).
[2] Pursuant to Z.C. Order Nos. 05-28I through 05-28K, the Commission approved second-stage PUDs.
[3] Pursuant to Z.C. Order Nos. 05-28M and 05-28N, the Commission approved modifications to second-stage PUDs.
[4] Pursuant to Z.C. Order Nos. 05-28P through 05-28T, the Commission approved second-stage PUDs.
[5] ANC 7F is an "affected ANC" per Subtitle Z § 101.8 as it is located directly across the street from the Property.

- Block G, for which the Original Order approved approximately 500,000 square feet of residential development;
- A portion of Block H, for which the Original Order approved approximately 135,000 square feet of office development; and
- A portion of Block I, for which the Original Order approved approximately 260,000 square feet of educational development. (Ex. 2.)

13. The Application asserted that it met the requirements for the proposed two-year time extension and waiver from the maximum of two time extensions because:
- There has been no substantial change in any material facts upon which the Commission based its approval of the Original Order; and
- Good cause justifies the Commission's granting the time extension because the PUD has been affected by events that have slowed the development timetable, including:
  - The state of residential, retail, and office market east of the Anacostia River;
  - The timing of construction of previously approved projects; and
  - Challenges in obtaining financing for mixed-income and mixed-use development.

14. OP submitted a November 8, 2019 report (the "OP Report") concluding that although the Commission had anticipated in its First-Stage PUD that substantial new development would occur near the Property, the Commission had not anticipated the following substantial changes to the material facts on which the Commission had based its approval of the First-Stage PUD: (Ex. 5.)
- The updated environmental provisions of the Comprehensive Plan and Zoning Regulations (Green Area Ratio, "GAR"); and
- The updated affordable housing provisions of the Zoning Regulations (Inclusionary Zoning, "IZ") standards.

The OP Report therefore recommended approval of the Application, including the waiver to allow the fourth time extension, but with the condition that all remaining second-stage PUD applications under the First-Stage PUD be subject to all environmental and housing regulations in effect at the time of application.

15. Although ANC 7D did not file a response prior to the Commission's initial approval of the Application at its November 18, 2019, public meeting, the ANC filed a request to reopen the record to include the ANC's December 5, 2019, written report (the "ANC 7D Report") in support of the Application, citing the productive ongoing discussions with the Applicant that had improved the Applicant's proffered public benefits for second-stage applications and willingness to discuss plans for this parcel and connecting parcels. (Ex. 5.)

16. Neither ANC 7F nor PTC filed a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated

satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.

2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.

3. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served the Application on all parties to the Original Order – ANCs 7D and 7F and PTC – and that all were given 30 days to respond from the October 2, 2019, date of service.

4. The Commission grants ANC 7D's request to reopen the record pursuant to Subtitle Z § 602.6 to include the ANC Report because:
   - The ANC demonstrated good cause as it had not understood it could not testify as to the ANC's response to the Application at the November 18, 2019, public meeting; and
   - No prejudice would occur to the parties because ANC 7F and PTC did not file any responses, and because the ANC Report supported the Application.

5. Subtitle Z § 705.5 requires that "[a]n applicant with an approved PUD may request no more than two (2) extensions."

6. Subtitle Z § 101.9 authorizes the Commission to waive any of the provisions of Subtitle Z if, in the judgment of the Commission, the Applicant demonstrates good cause for the waiver and the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

7. The Commission concludes that good cause exists for the Applicant's request for a waiver from the provisions of Subtitle Z § 705.5 to allow for a fifth time extension because of:
   - The size and scope of the Original Order;
   - The Applicant's ongoing efforts to complete the second-stage projects; and
   - The support from the community for an extension. (Ex. 6.)

8. The Commission concludes that no party will be prejudiced by the granting of this waiver, as the ANC 7D Report supported the Application and neither ANC 7F nor PTC filed any response to the Application.

9. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.

10. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) because the only substantial change in material facts upon which the Commission based its approval of the First-Stage PUD – the updated environmental and affordable housing standards (GAR and IZ) – will be addressed by the conditions proposed by OP and agreed to by the Applicant.

11. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:

(1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;

(2) An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process 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 that renders the applicant unable to comply with the time limits of the order.

12. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(1) because the Applicant has demonstrated that it has diligently pursued the financing of the development of the Property and has not been able to move forward due to market conditions outside of its control, including challenges obtaining financing for mixed use development east of the Anacostia River and the potential oversaturation of residential and commercial market without phasing the delivery of the remaining parcels in the First-Stage PUD.

"Great Weight" to the Recommendations of OP

13. The Commission must 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 Z § 405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

14. The Commission finds persuasive OP's recommendation that the Commission approve the Application, subject to the conditions pertaining to affordable housing and environmental impact described below, and therefore concurs in that judgment.

"Great Weight" to the Written Report of the ANC

15. The Commission must give "great weight" to the issues and concerns of the affected ANC expressed in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public 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 Z § 406.2. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase

"issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

16. The Commission finds the ANC 7D Report's support for the Application persuasive and concurs with that judgment.

17. Since ANC 7F did not file any response to the Application, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a two-year time extension (with a waiver of Subtitle Z § 705.5) of Z.C. Order No. 05-28, as extended by Z.C. Order Nos. 05-28H, 05-28L, 05-28O, and 05-28U, until **October 3, 2021**, within which time any outstanding second-stage PUD application under the First-Stage PUD approved by Z.C. Order No. 05-28 must be filed, subject to the following conditions and provisions:

1. All remaining second-stage PUD applications shall comply with the environmental regulations in effect at the time of filing of the second-stage PUD application.

2. The residential building proposed by the first-stage approval on Block G shall include a minimum of 480 units, including 311 market-rate units (approximately 65%) and 169 workforce units. Units constructed on Block G1 in excess of 480 shall be required to be affordable for a period of 30 years, pursuant to the first-stage approval, after which 8% of the additional units in excess of 480 units shall be required to be reserved as affordable in perpetuity, pursuant to the IZ provisions.

The conditions in Z.C. Order No. 05-28 remain unchanged and in effect.

VOTE (December 9, 2019[6]): 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on August 7, 2020.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT

[6] The Commission initially voted to approve the Application at its November 18, 2019, public meeting before ANC 7D filed its request to reopen the record for the ANC Report; and after granting the request, reaffirmed its vote as herein recorded at its December 9, 2019, public meeting.

DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-28W
Z.C. Case No. 05-28W
Parkside Residential, LLC
(Two-Year Time Extension for Second-Stage PUD @ Square 5056, Lots 865-869)
April 27, 2020

Pursuant to notice, at its November 18, 2019 and December 9, 2019 public meetings, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Parkside Residential, LLC (the "Applicant") concerning Lots 865-869 in Square 5056[1] ("Parcel 9") for a two-year time extension, pursuant to Subtitle Z § 705.2 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified), of the validity of the second-stage PUD (the "Second-Stage PUD") approved by Z.C. Order No. 05-28Q (the "Second-Stage Order"), pursuant to the first-stage PUD (the "First-Stage PUD") approved by Z.C. Order No. 05-28.

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Original Order, effective, April 13, 2007 (the "Original Order Effective Date"), the Commission approved a first-stage PUD, together with a related Zoning Map amendment rezoning from the R-5-A and C-2-B to the C-3-A and CR Zone Districts, to construct approximately 3.1 million square feet of mixed-use development (the "First-Stage PUD") on the 15 vacant acres east of the Anacostia River in Ward 7 (the "First-Stage PUD Site").

2. Condition No. 13 of the Original Order required the Applicant to file a second-stage PUD application under the First-Stage PUD within one year of the Original Order Effective Date, with all remaining second-stage PUD applications required to be filed within three years of the effective date of the order approving the first second-stage PUD application.

[1] The second-stage Order covered Lot 806 in Square 5041 and Lots 809 and 813 in Square 5056, both lots created for assessment and taxation purposes ("A&T Lots"). These two A&T Lots were consolidated into Record Lot 43 in Square 5056 by the plat recorded on September 24, 2018, in Subdivision Book 214, Page 129; in turn subdivided into A&T Lots 835-863 by the plat recorded on January 23, 2019, in A&T Book 3880-W; with A&T Lot 850 subdivided into A&T Lots 864-870 on August 6, 2019, in A&T Book 3882-U; all references to the records of the D.C. Office of the Surveyor.

3. The Applicant timely filed its first second-stage application in Z.C. Case No. 05-28A on November 16, 2007, within the one-year deadline imposed by Condition No. 13 of the Original Order.

4. Pursuant to Z.C. Order No. 05-28A, effective October 3, 2008, the Commission approved the first second-stage PUD application, thereby establishing the deadline for the Applicant to file all remaining second-stage PUD applications under the First-Stage PUD, including Parcel 9, as October 3, 2011.

5. Pursuant to Z.C. Order No. 05-28H,[2] effective February 3, 2012, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including Parcel 9, to October 3, 2013.

6. Pursuant to Z.C. Order No. 05-28L,[3] effective February 7, 2014, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including Parcel 9, until October 3, 2015.

7. Pursuant to Z.C. Order No. 05-28O,[4] effective February 12, 2016, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including Parcel 9, to October 3, 2017.

8. Pursuant to the Second-Stage Order,[5] effective March 23, 2018, the Commission approved the Second-Stage PUD, with a modification of the First-Stage PUD, for Parcel 9, with requirements to file a building permit application to construct the Second-Stage PUD within two years of the Second-Stage Order's effective date and to start construction within three years of that effective date.

9. Pursuant to Z.C. Order Nos. 05-28R through 05-28V,[6] the Commission approved applications that did not apply to Parcel 9.

PARTIES AND NOTICE

10. In addition to the Applicant, the only parties to Z.C. Case No. 05-28Q were Advisory Neighborhood Commissions ("ANC") 7D and 7F, the "affected" ANCs pursuant to Subtitle Z § 101.8.[7]

[2] Pursuant to Z.C. Order Nos. 05-28B through 05-28G, the Commission approved second-stage PUDs (B, C, and F), denied a time extension request as premature (D), and approved modifications of the First-Stage PUD (E) and of a second-stage PUD (G).
[3] Pursuant to Z.C. Order Nos. 05-28I through 05-28K, the Commission approved second-stage PUDs.
[4] Pursuant to Z.C. Order Nos. 05-28M and 05-28N, the Commission approved modifications to second-stage PUDs.
[5] Pursuant to Z.C. Order No. 05-28P, the Commission approved a second-stage PUD.
[6] Pursuant to Z.C. Order Nos. 05-28R through 05-28V, the Commission approved second-stage PUDs (R through T) and additional extensions of the deadline to file all remaining second-stage PUD applications under the First-Stage PUD (U and V).
[7] ANC 7F is an "affected ANC" per Subtitle Z § 101.8 as it is located directly across the street from Parcel 9.

11. On May 20, 2020, as attested by the Certificate of Service submitted with the Application, the Applicant served the Application on:
    - ANCs 7D and 7F; and
    - The Office of Planning ("OP"). (Exhibit ["Ex."] 2.)

II. THE APPLICATION

12. On March 20, 2020, the Applicant timely filed the Application requesting a two-year time extension of the validity of the Second-Stage Order, specifically the deadlines:
    - To file a building permit application to construct the Second-Stage PUD by March 23, 2020; and
    - To start construction of the Second-Stage PUD by March 23, 2021.

13. The Application asserted that it met the requirements for the proposed two-year time extension because:
    - There has been no substantial change in any material facts upon which the Commission based its approval of the Original Order, although beneficial improvements affecting the area around Parcel 9 and the Second-Stage PUD have occurred, including the inclusion of the First-Stage PUD Site in the District's Central Employment Area and in an Opportunity Zone, and the Applicant has completed many of the community benefits required as part of the First-Stage PUD and associated second-stage PUDs; and
    - Good cause justifies the Commission's granting the time extension because the PUD has been affected by events that have slowed the development timetable, including:
        - The state of residential, retail, and office market east of the Anacostia River;
        - The timing of construction of previously approved projects; and
        - Challenges in obtaining financing and tenants for office development.

14. OP submitted an April 15, 2020, report (the "OP Report") concluding that no substantial changes to the material facts on which the Commission had based its approval of the Second-Stage PUD, and therefore recommended approval of the Application. (Ex. 4.)

15. Neither ANC 7D nor ANC 7F filed a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.

2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.

3. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served the Application on all parties to the Second-Stage Order

– ANCs 7D and 7F – and that all were given 30 days to respond from the October 2, 2019, date of service.

4. Subtitle Z § 705.2(b) requires that the Commission find that no substantial changes had occurred to any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.

5. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) because no substantial changes had occurred in material facts upon which the Commission based its approval of the Second-Stage PUD.

6. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:

(1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;

(2) An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process 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 that renders the applicant unable to comply with the time limits of the order.

7. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(1) because the Applicant has demonstrated that it has diligently pursued the financing of the development of Parcel 9 and has not been able to move forward due to market conditions outside of its control, including challenges obtaining financing for mixed use development east of the Anacostia River and the potential oversaturation of residential and office market without phasing the delivery of the remaining parcels in the First-Stage PUD.

"Great Weight" to the Recommendations of OP

8. The Commission must 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 Z § 405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

9. The Commission finds persuasive OP's recommendation that the Commission approve the Application and therefore concurs in that judgment.

"Great Weight" to the Written Report of the ANC

10. The Commission must give "great weight" to the issues and concerns of the affected ANC expressed in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public 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 Z § 406.2. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

11. Since ANCs 7D and 7F did not file any responses to the Application, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a two-year time extension of Z.C. Order No. 05-28Q, with the requirement that the Applicant:

- File a building permit application to construct the Second-Stage PUD approved by Z.C. Order No. 05-28Q by **March 23, 2022**; and
- Begin construction of the Second-Stage PUD approved by Z.C. Order No. 05-28Q by **March 23, 2023**.

The conditions in Z.C. Order No. 05-28, as modified by Z.C. Order No. 05-28Q, remain unchanged and in effect.

VOTE (April 27, 2020): **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on August 7, 2020.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR

PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-28X
Z.C. Case No. 05-28X
Lano Parcel, LLC
(Two-Year Time Extension for Second-Stage PUD @ Square 5055, Portion of Lot 26)
April 27, 2020

Pursuant to notice, at its December 9, 2019 public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Lano Parcel 12, LLC (the "Applicant") concerning a portion of Lot 26 in Square 5055 (the "Property") for a two-year time extension, pursuant to Subtitle Z § 705.2 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified), of the validity of the second-stage PUD (the "Second-Stage PUD") approved by Z.C. Order No. 05-28T (the "Second-Stage Order") pursuant to the first-stage PUD (the "First-Stage PUD") approved by Z.C. Order No. 05-28.

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Original Order, effective April 13, 2007 (the "Original Order Effective Date"), the Commission approved a first-stage PUD, together with a related Zoning Map amendment rezoning from the R-5-A and C-2-B to the C-3-A and CR Zone Districts, to construct approximately 3.1 million square feet of mixed-use development (the "First-Stage PUD") on the 15 vacant acres east of the Anacostia River in Ward 7 (the "First-Stage PUD Site").

2. Condition No. 13 of the Original Order required the Applicant to file a second-stage PUD application under the First-Stage PUD within one year of the Original Order Effective Date, with all remaining second-stage PUD applications required to be filed within three years of the effective date of the order approving the first second-stage PUD application.

3. The Applicant timely filed its first second-stage application in Z.C. Case No. 05-28A on November 16, 2007, within the one-year deadline imposed by Condition No. 13 of the Original Order.

4. Pursuant to Z.C. Order No. 05-28A, effective October 3, 2008, the Commission approved the first second-stage PUD application, thereby establishing the deadline for the Applicant to file all remaining second-stage PUD applications under the First-Stage PUD, including the Property, as October 3, 2011.

5. Pursuant to Z.C. Order No. 05-28H,[1] effective February 3, 2012, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including the Property, to October 3, 2013.

6. Pursuant to Z.C. Order No. 05-28L,[2] effective February 7, 2014, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including the Property, until October 3, 2015.

7. Pursuant to Z.C. Order No. 05-28O,[3] effective February 12, 2016, the Commission approved a two-year time extension of this deadline to file all remaining second-stage PUD applications, including the Property, to October 3, 2017.

8. Pursuant to the Second-Stage Order,[4] effective March 23, 2018, the Commission approved the Second-Stage PUD, with a modification of the First-Stage PUD, for the Property, with requirements to file a building permit application to construct the Second-Stage PUD within two years of the Second-Stage Order's effective date and to start construction within three years of that effective date.

9. Pursuant to Z.C. Order Nos. 05-28U through 05-28W[5] the Commission approved applications that did not apply to the Property.

PARTIES AND NOTICE

10. In addition to the Applicant, the only parties to Z.C. Case No. 05-28T were Advisory Neighborhood Commissions ("ANC") 7D and 7F, the "affected" ANCs pursuant to Subtitle Z § 101.8.[6]

11. On May 20, 2020, as attested by the Certificate of Service submitted with the Application, the Applicant served the Application on:
    - ANCs 7D and 7F; and
    - The Office of Planning ("OP"); (Exhibit ["Ex."] 2.)

II. THE APPLICATION

12. On March 20, 2020, the Applicant timely filed the Application requesting a two-year time extension of the validity of the Second-Stage Order, specifically the deadlines:

[1] Pursuant to Z.C. Order Nos. 05-28B through 05-28G, the Commission approved second-stage PUDs (B, C, and F), denied a time extension request as premature (D), and approved modifications of the First-Stage PUD (E) and of a second-stage PUD (G).
[2] Pursuant to Z.C. Order Nos. 05-28I through 05-28K, the Commission approved second-stage PUDs.
[3] Pursuant to Z.C. Order Nos. 05-28M and 05-28N, the Commission approved modifications to second-stage PUDs.
[4] Pursuant to Z.C. Order No. 05-28P through 05-28S, the Commission approved a second-stage PUDs.
[5] Pursuant to Z.C. Order Nos. 05-28U through 05-28W, the Commission approved additional extensions of the deadline to file all remaining second-stage PUD applications under the First-Stage PUD (U and V) and an extension of a second-stage PUD (W).
[6] ANC 7F is an "affected ANC" per Subtitle Z § 101.8 as it is located directly across the street from the Property.

- To file a building permit application to construct the Second-Stage PUD by March 23, 2020; and
- To start construction of the Second-Stage PUD by March 23, 2021.

13. The Application asserted that it met the requirements for the proposed two-year time extension because:
    - There has been no substantial change in any material facts upon which the Commission based its approval of the Original Order, although beneficial improvements affecting the area around the Property and the Second-Stage PUD have occurred, including the inclusion of the First-Stage PUD Site in the District's Central Employment Area and in an Opportunity Zone, and the Applicant has completed many of the community benefits required as part of the First-Stage PUD and associated second-stage PUDs; and
    - Good cause justifies the Commission's granting the time extension because the PUD has been affected by events that have slowed the development timetable, including:
        - The state of residential, retail, and office market east of the Anacostia River;
        - The timing of construction of previously approved projects; and
        - Challenges in obtaining financing and tenants for office development.

14. OP submitted an April 15, 2020, report (the "OP Report") concluding that no substantial changes to the material facts on which the Commission had based its approval of the Second-Stage PUD, and therefore recommended approval of the Application. (Ex. 4.)

15. Neither ANC 7D nor ANC 7F filed a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.

2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.

3. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served the Application on all parties to the Second-Stage Order – ANCs 7D and 7F – and that all were given 30 days to respond from the October 2, 2019, date of service.

4. Subtitle Z § 705.2(b) requires that the Commission find that no substantial change had occurred to any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.

5. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) because no substantial changes had occurred to the material facts upon which the Commission based its approval of the Second-Stage PUD.

6. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:

(1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;

(2) An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process 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 that renders the applicant unable to comply with the time limits of the order.

7. The Commission concludes that the Application met the standards of Subtitle Z § 705.2(c)(1) because the Applicant has demonstrated that it has diligently pursued the financing of the development of the Second-Stage PUD and has not been able to move forward due to market conditions outside of its control, including challenges obtaining financing for mixed use development east of the Anacostia River and the potential oversaturation of residential and office market without phasing the delivery of the remaining parcels in the First-Stage PUD.

"Great Weight" to the Recommendations of OP

8. The Commission must 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 Z § 405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

9. The Commission finds persuasive OP's recommendation that the Commission approve the Application and therefore concurs in that judgment.

"Great Weight" to the Written Report of the ANC

10. The Commission must give "great weight" to the issues and concerns of the affected ANC expressed in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public 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 Z § 406.2. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the

circumstances. The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

11. Since ANCs 7D and 7F did not file any responses to the Application, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a two-year time extension of Z.C. Order No. 05-28T, with the requirement that the Applicant:

- File a building permit application to construct the Second-Stage PUD approved by Z.C. Order No. 05-28T by **March 23, 2022**; and
- Begin construction of the Second-Stage PUD approved by Z.C. Order No. 05-28T by **March 23, 2023**.

The conditions in Z.C. Order No. 05-28, as modified by Z.C. Order No. 05-28T, remain unchanged and in effect.

VOTE (April 27, 2020): **5-0-0** (Peter G. May, Robert E. Miller, Anthony J. Hood, Peter A. Shapiro, and Michael G. Turnbull to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on August 7, 2020.