

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council passes Law Act 23-127, Comprehensive Plan Framework Amendment Act of 2019
- D.C. Council schedules a public oversight hearing on “Distance Learning in DC Public and Public Charter Schools”
- D.C. Council schedules a public roundtable to discuss WMATA operations including safety measures for riders and District students
- Office of the Chief Financial Officer releases Statutory and Special Real Property Tax Rates for Tax Year 2021 and the most recent Federal data on median family income by household size for the District
- Office of the State Superintendent of Education announces funding for the Fiscal Year 2021 Community Schools Incentive Initiative Grant
- D.C. Board of Elections establishes the deadline for the receipt of absentee ballots and modifies the ballot access signature requirements for the November 3, 2020 General Election
- Department of Health Care Finance announces funding for the Telemedicine Innovations in Medication Assisted Therapy (“TeleMAT”) Grant
- Department of Health announces funding for the Perinatal Health Coordinated Care Integration Program
- D.C. Public Service Commission schedules a public hearing to discuss Washington Gas Light Company’s application to increase rates and charges for natural gas service in the District

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

All documents published in the *District of Columbia Register* (*Register*) must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *Register* include (1) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the D.C. government (6) Notices, Opinions, and Orders of D.C. Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

Deadlines for Submission of Documents for Publication

The Office of Documents and Administrative Issuances accepts electronic documents for publication using a Web-based portal. To submit documents for publication, agency heads, or their representatives, may obtain a username and password by email at dcdocuments@dc.gov. For guidelines on how to format and submit documents for publication, email dcdocuments@dc.gov.

The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THURSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at dcdocuments@dc.gov to request the *District of Columbia Register* publication schedule.

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Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act*. The Administrator of the Office of Documents and Administrative Issuances hereby certifies that this issue of the *Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act*.

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 L23-0127

"Comprehensive Plan Framework Amendment Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-0001 on First Reading and Final Reading, on July 9, 2019, and October 8, 2019, respectively, pursuant to Section 404(e) of the Charter, the bill became Act A23-0217 and was published in the edition of the D.C. Register (Vol. 67, page 1360). Act A23-0217 was transmitted to Congress on July 16, 2020 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act A23-0217 is now D.C. Law L23-0127, effective August 27, 2020.


Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
July	16,17,20,21,22,23,24,27,28,29,30,31
August	3,4,5,6,7,10,11,12,13,14,17,18,19,20,21,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW L23-0128

"Medical Marijuana Program Patient Employment Protection 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 23-0756 on First Reading and Final Reading, on May 19, 2020, and June 9, 2020, respectively, pursuant to Section 404(e) of the Charter, the bill became Act A23-0333 and was published in the edition of the D.C. Register (Vol. 67, page 8619). Act A23-0333 was transmitted to Congress on July 16, 2020 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act A23-0333 is now D.C. Law L23-0128, effective August 27, 2020.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
July	16,17,20,21,22,23,24,27,28,29,30,31
August	3,4,5,6,7,10,11,12,13,14,17,18,19,20,21,24,25,26

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE ON EDUCATION
NOTICE OF JOINT PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
&
COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION

ANNOUNCES A JOINT PUBLIC HEARING

on

Bill 23-515, Statewide Educational Data Warehouse Amendment Act of 2019

on

Friday, October 23, 2020 at 9:00am (until Noon)

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

Council Chairman Phil Mendelson and Councilmember David Grosso announces a joint public hearing of the Committee of the Whole and the Committee on Education on Bill 23-515, the “Statewide Educational Data Warehouse Amendment Act of 2019.” The joint hearing will be held at **9:00 a.m.** on **Friday, October 23, 2020** via Zoom virtual hearing.

The stated purpose of Bill 23-515 is to amend the State Education Office Establishment Act of 2000 to authorize the Office of the State Superintendent of Education (OSSE) to expand the Statewide Educational Data Warehouse to include additional information on teachers, and publicly report data relevant to understanding teacher retention and attrition and provide an annual report of their findings.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or email LeKisha Jordan, Legislative Policy Advisor, at ljordan@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by Noon (12pm ET) on Wednesday, October 21, 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 a copy of their written testimony to cow@dccouncil.us. If submitted by the close of business on October 21, 2020 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. 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, Ste. 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, DC 20004. The record will close at 5:00 p.m. on November 6, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT
ROBERT C. WHITE, JR., CHAIR

NOTICE OF PUBLIC HEARING

on

B23-0545, the “Small Business Procurement Reform Omnibus Amendment Act of 2019”

and

Contract CW75765 with Sagitec Solutions, LLC

Tuesday, September 29, 2020, 12:00 PM

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

On Tuesday, September 29, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement will hold a Public Hearing on B23-0545, the “Small Business Procurement Reform Omnibus Amendment Act of 2019” and on Contract CW75765 with Sagitec Solutions, LLC. The public hearing will take place via the Zoom web conferencing platform at 12:00 PM. Members of the public will be able to view the public hearing on cable television on Council Channel 13 or online at: <https://dccouncil.us/council-videos/> or at: entertainment.dc.gov.

B23-0545, the “Small Business Procurement Reform Omnibus Amendment Act of 2019” was introduced on November 19, 2019 by Councilmembers Robert C. White Jr., McDuffie, Nadeau, T. White, Cheh, Bonds, and Todd. The bill was referred to the Committee on Facilities and Procurement and the Committee on Business and Economic Development. The stated purpose of the legislation is to provide remediation for subcontractors in the event of non-payment by contractors or higher-tier subcontractors, to ensure that small businesses receive contracts set aside for small businesses that are subsequently issued on the open market. The legislation is also intended to clarify definitions within the Certified Business Enterprise program, standardize program compliance verification with a site visit schedule, create an anonymous violation reporting mechanism, incentivize small business subcontracting, and close loopholes to prevent program abuse and manipulation.

The Committee also intends to conduct continuing oversight of Contract CW75765 with Sagitec Solutions, LLC. A disapproval resolution was filed, and ultimately withdrawn on this resolution, with the express intent of following up on the issues identified with the procurement in a subsequent hearing. The concerns raised include allegations of bias by a District contracting officer, manipulation of bidder scores, the use of a letter contract to initiate a procurement of

over \$1 million dollars, the extension of that letter contract twice without Council approval, and the use of emergency powers to avoid Council review of a project impacting the unemployment tax system.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at facilities@dccouncil.us or by phone at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **the close of business on Friday, September 25, 2020**. Witnesses are encouraged, but not required, to submit their testimony in writing electronically in advance to facilities@dccouncil.us. Public witnesses will participate remotely and using audio only. The Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of four minutes to testify, while Advisory Neighborhood Commissioners will be permitted five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced due to schedule constraints.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted by e-mail to facilities@dccouncil.us. **The record for this public hearing will close at the close of business on Tuesday, October 13, 2020.**

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT
ROBERT C. WHITE, JR., CHAIR

NOTICE OF PUBLIC HEARING

on

B23-0571, the “Health Benefit Exchange Authority Independent Procurement Authority Amendment Act of 2019”

Thursday, October 29, 2020, 12:00 PM

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

On Thursday, October 29, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement will hold a Public Hearing on B23-0571, the “Health Benefit Exchange Authority Independent Procurement Authority Amendment Act of 2019”. The public hearing will take place via the Zoom web conferencing platform at 12:00 PM. Members of the public will be able to view the public roundtable on cable television on Council Channel 13 or online at: <https://dccouncil.us/council-videos/> or at: entertainment.dc.gov.

B23-0571, the “Health Benefit Exchange Authority Independent Procurement Authority Amendment Act of 2019” was introduced on December 3, 2019 by Councilmembers Vincent C. Gray, Cheh, Bonds, Grosso, and Nadeau. The resolution was referred to the Committee on Health and the Committee on Facilities and Procurement. The stated purpose of the legislation is to make the independent procurement authority for the Health Benefit Exchange Authority permanent.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at facilities@dccouncil.us or by phone at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **the close of business on Tuesday, October 27, 2020**. Witnesses are encouraged, but not required, to submit their testimony in writing electronically in advance to facilities@dccouncil.us. Public witnesses will participate remotely and using audio only. The Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of four minutes to testify, while Advisory Neighborhood Commissioners will be permitted five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced due to schedule constraints.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted by e-mail to facilities@dccouncil.us.
The record for this public hearing will close at the close of business on Thursday, November 12, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT
ROBERT C. WHITE, JR., CHAIR

NOTICE OF PUBLIC HEARING

on

B23-0665, the “Public Facilities Environmental Safety Amendment Act of 2020”

and

B23-0661, the “Surplus Green Space Retention Amendment Act of 2020”

Wednesday, September 30, 2020, 12:00 PM

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

On Wednesday, September 30, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement will hold a Public Hearing on B23-0665, the “Public Facilities Environmental Safety Amendment Act of 2020” and B23-0661, the “Surplus Green Space Retention Amendment Act of 2020”. The public hearing will take place via the Zoom web conferencing platform at 12:00 PM. Members of the public will be able to view the public hearing on cable television on Council Channel 13 or online at: <https://dccouncil.us/council-videos/> or at: entertainment.dc.gov.

B23-0665, the “Public Facilities Environmental Safety Amendment Act of 2020”, was introduced on February 18, 2020 by Councilmembers Robert C. White Jr., Nadeau, Gray, Cheh, Bonds, and Allen. The bill was referred to the Committee on Facilities and Procurement with comments from the Committee on Transportation and the Environment and the Committee on Recreation and Youth Affairs. The stated purpose of the legislation is to conduct assessments of environmental conditions, to identify and mitigate environmental hazards that impact human health in all District-owned buildings that are occupied during demolition, excavation, substantial renovation, and construction activities, to require the Department of General Services to develop publicly-available protocols for these assessments, and to require the Department to publish plans for remediation where an environmental hazard is identified and conduct community engagement. The legislation is also intended to require the Department to conduct community engagement and outreach regarding synthetic material removal and replacement, to test all District-owned and maintained playground surfaces for lead, and to conduct a thorough analysis of all playground surface materials currently or potentially available to ensure their safety and durability.

B23-0661, the “Surplus Green Space Retention Amendment Act of 2020”, was introduced by Councilmember Mary M. Cheh on February 13, 2020. The bill was referred to the Committee on Facilities and Procurement on February 18, 2020. The stated purpose of the legislation is to require the Department of General Services to provide the Council with an annual account of green space owned or leased by the District, and to require DGS to include the square footage of green space at a real property in surplus resolutions transmitted to the Council.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at facilities@dccouncil.us or by phone at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **the close of business on Monday, September 28, 2020**. Witnesses are encouraged, but not required, to submit their testimony in writing electronically in advance to facilities@dccouncil.us. Public witnesses will participate remotely and using audio only. The Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of four minutes to testify, while Advisory Neighborhood Commissioners will be permitted five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced due to schedule constraints.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted by e-mail to facilities@dccouncil.us. **The record for this public hearing will close at the close of business on Wednesday, October 14, 2020.**

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE ON EDUCATION
NOTICE OF JOINT PUBLIC OVERSIGHT HEARING**
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
&
COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCE A JOINT PUBLIC OVERSIGHT HEARING**

on

Distance Learning in DC Public and Public Charter Schools

on

Friday, October 2, 2020 at 9:00 a.m.
Live via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)
Office of Cable Television Website (entertainment.dc.gov)

Chairman Phil Mendelson and Councilmember David Grosso announce the scheduling of a joint public oversight hearing of the Committee of the Whole and the Committee on Education Distance Learning in DC Public and Public Charter Schools. The hearing will be held on Friday, October 2, 2020 at 9:00 a.m. Live via Zoom Video Conference Broadcast.

The purpose of this hearing is to hear from community stakeholders and government agencies about the roll out of distance learning during the ongoing public health emergency. The Committees are especially interested in hearing about digital access, the quality of learning, and understanding how schools are ensuring student attendance and engagement.

Those who wish to testify may sign-up online at bit.do/EducationHearings or call the Committee on Education at (202) 724-8061 by 5:00 p.m. on Tuesday, September 29 and include your name, organization affiliation (if any), and title. The Committees will hear public witnesses from 9am until noon, then proceed to government witnesses. Persons wishing to testify are encouraged to submit a copy of their testimony via email. Witnesses should limit their testimony to four minutes. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements should be submitted by email to astrange@dccouncil.us. The record will close at 5:00 p.m. on Friday, October 16, 2020.

Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform Education Committee of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled, and alternatives may be offered.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT
ROBERT C. WHITE, JR., CHAIR

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE

on the

**Department of General Services Sustainability and Energy Management
Division**

Friday, November 20, 2020, 12:00 PM

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

On Friday, November 20, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement will hold a Public Oversight Roundtable on the Department of General Services Sustainability and Energy Management Division. The public oversight roundtable will take place via the Zoom web conferencing platform at 12:00 PM. Members of the public will be able to view the public roundtable on cable television on Council Channel 13 or online at: <https://dccouncil.us/council-videos/> or at: entertainment.dc.gov.

The Committee intends to continue its targeted series of oversight roundtables on the Department of General Services operations by examining the work of the Department's Sustainability and Energy Management Division. The Division is responsible for transforming the District's utilities and building footprint, through energy and sustainability efforts while saving taxpayer dollars and creating local jobs. The Division has three core objectives: limit portfolio resource consumption and environmental impacts, increase digital control and system knowledge of the building portfolio, and deliver cost savings to District taxpayers and agencies.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at facilities@dccouncil.us or by phone at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **the close of business on Wednesday, November 18, 2020**. Witnesses are encouraged, but not required, to submit their testimony in writing electronically in advance to facilities@dccouncil.us. Public witnesses will participate remotely and using audio only. The Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of four minutes to testify, while Advisory Neighborhood Commissioners will be permitted five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced due to schedule constraints.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement of the need

as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted by e-mail to facilities@dccouncil.us. **The record for this public oversight roundtable will close at the close of business on Friday, December 4, 2020.**

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT
ROBERT C. WHITE, JR., CHAIR

NOTICE OF PUBLIC ROUNDTABLE

on

PR23-0704, the “Sense of the Council in Support of Enhanced Metro Transit Police Department Oversight Resolution of 2020”

and

WMATA Operations

Wednesday, October 21, 2020, 12:00 PM

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

On Wednesday, October 21, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement will hold a Public Roundtable on PR23-0704, the “Sense of the Council in Support of Enhanced Metro Transit Police Department Oversight Resolution of 2020” and on WMATA Operations. The public hearing will take place via the Zoom web conferencing platform at 12:00 PM. Members of the public will be able to view the public roundtable on cable television on Council Channel 13 or online at: <https://dccouncil.us/council-videos/> or at: entertainment.dc.gov.

PR23-0704, the “Sense of the Council in Support of Enhanced Metro Transit Police Department Oversight Resolution of 2020” was introduced on February 20, 2020 by Councilmembers Charles Allen, Cheh, Grosso, Silverman, Robert C. White, Jr., Bonds, Gray, and Nadeau. The resolution was referred to the Committee on Facilities and Procurement on March 3, 2020. The stated purpose of the legislation is to declare the sense of the Council in support of enhanced Metro Transit Police Department oversight by the Washington Metropolitan Area Transit Authority, including through the creation of an independent civilian complaint review board.

The Committee also intends to conduct continuing oversight of WMATA operations in the wake of the impact of the coronavirus pandemic. Among the topics to be covered will be the quality of services, the measures taken to ensure the safety of riders, the expansion of bus lanes, and strategies for implementing Safe Passage for District students.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at facilities@dccouncil.us or by phone at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **the close of business on Monday,**

October 19, 2020. Witnesses are encouraged, but not required, to submit their testimony in writing electronically in advance to facilities@dccouncil.us. Public witnesses will participate remotely and using audio only. The Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of four minutes to testify, while Advisory Neighborhood Commissioners will be permitted five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced due to schedule constraints.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted by e-mail to facilities@dccouncil.us. **The record for this public roundtable will close at the close of business on Wednesday, November 4, 2020.**

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC ROUNDTABLE**
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

University of the District of Columbia Board of Trustees

on

Thursday, October 8, 2020 at 10:00 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 roundtable before the Committee of the Whole on the University of the District of Columbia Board of Trustees. The roundtable will be held at 10:00 a.m. on Thursday, October 8, 2020 via a Zoom virtual roundtable.

The purpose of this roundtable is to receive testimony on the efficacy and functioning of the University of the District of Columbia (UDC) Board of Trustees. According to D.C. Official Code §38-1202.01, UDC is governed by a Board of Trustees (Board), comprised of fifteen members. Of the fifteen, eleven are appointed by the Mayor with the advice and consent of the Council, three are alumni from either the University or one of its predecessor institutions, and one is a full-time student elected by the UDC student body. Each trustee, except for the student trustee, serves a five-year term. This roundtable will serve as a opportunity for the Committee to hear from constituents, students, faculty, and others with regard to the performance of Board of Trustees.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Christina Setlow, Deputy Committee Director, at (202) 724-4865, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, October 6, 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 October 6, 2020 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. The roundtable will be limited to two 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>. Roundtable materials, including a draft witness list, can be accessed at <http://www.chairmanmendelson.com/circulation>, 24 hours in advance of the roundtable.

If you are unable to testify at the roundtable, 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 19, 2020.

<p style="text-align: center;">COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE APPOINTMENTS AS OF AUGUST 31, 2020</p>

NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Pryor, Lamonte'	Office Manager	4	Excepted Service - Reg Appt
Hawkins-Plummer, Tori	Special Assistant	5	Excepted Service - Reg Appt
Uppuluri, Ram	Committee Director	7	Excepted Service - Reg Appt
Romanowski, Brian	Sr. Research Analyst	4	Excepted Service - Reg Appt

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING
LICENSE AND PERMIT CATEGORIES

10:30 A.M., WEDNESDAY, SEPTEMBER 23, 2020
ALCOHOLIC BEVERAGE CONTROL BOARD HEARING ROOM
2000 14TH ST., N.W., SUITE 400 SOUTH, 4TH FLOOR
WASHINGTON, D.C. 20009

The Alcoholic Beverage Control Board (Board) will hold a hearing on Wednesday, September 23, 2020, from 10:30 a.m. to 11:00 a.m. to receive public comment on its proposed rulemaking that would make changes to Chapter 2 (License and Permit Categories) of Title 23 of the District of Columbia Municipal Regulations. The proposed rulemaking was published in the *D.C. Register* on August 21, 2020, at 67 DCR 9986 and is available at www.dcregs.dc.gov.

Due to the public health emergency for Washington, D.C., the Board will conduct the hearing via video conferencing through the Cisco Webex meetings (Webex) platform. Internet access is required.

WHEN: 10:30 a.m. on Wednesday, September 23, 2020

WHERE: Webex

- Call-in Number: 1-650-479-3208
- Local Call-in Number: 1-202-860-2110
- Access code: 172 526 2710

Members of the public may register to provide comments on the proposed rulemaking at the time of the Board's hearing, or in the alternative, the public is welcome to submit written comments.

Individuals and representatives of organizations who want to testify in person at the hearing should contact Alcoholic Beverage Regulation Administration (ABRA) General Counsel Martha Jenkins via email at martha.jenkins@dc.gov by no later than **5:00 p.m. on Friday, September 18, 2020**. Please include your full name, title, organization and your phone number. Once you have submitted your contact information to ABRA, you will be provided information regarding how the Board intends to conduct the hearing, and what your participation in the hearing requires.

Members of the public who are unable to testify or who do not desire to testify in person may provide written comments which will be included as part of the Board's official record. Copies of written statements should be submitted to ABRA General Counsel Martha Jenkins no later than **5:00 p.m. on Monday, September 21, 2020**.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
9/11/2020

Notice is hereby given that:

License Number: ABRA-025169

License Class/Type: B / Retail - Grocery

Applicant: Wen De Zhang & Yang You Feng

Trade Name: China House

ANC: 6A07

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

1601 BENNING RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
11/16/2020

A HEARING WILL BE HELD ON:
11/30/2020

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11am - 1 am	11 am - 10 pm
Monday:	11am - 1 am	11 am - 10 pm
Tuesday:	11am - 1 am	11 am - 10 pm
Wednesday:	11am - 1 am	11 am - 10 pm
Thursday:	11am - 1 am	11 am - 10 pm
Friday:	11am - 2 am	11 am - 10 pm
Saturday:	11am - 2 am	11 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: September 4, 2020
 Protest Petition Deadline: November 9, 2020
 Roll Call Hearing Date: November 23, 2020
 Protest Hearing Date: February 3, 2021

License No.: ABRA-117072
 Licensee: Union Rooftop, LLC
 Trade Name: Hi-Lawn
 License Class: Retailer’s Class “C” Tavern
 Address: 1309 5th Street, **N.E.
 Contact: Paul Carlson: (703) 624-3809

WARD **5 ANC **5D SMD **5D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on November 23, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **February 3, 2021 at 4:30 p.m.**

NATURE OF OPERATION

A new all-outdoor, rooftop, class C Tavern with a Seating Capacity of 99, Total Occupancy Load of 1040 and a Summer Garden with 99 Seats. The License will include Entertainment, Dancing and Cover Charge.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

HOURS OF LIVE ENTERTAINMENT OUTDOORS

Sunday through Saturday 10pm – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**RESCIND

Placard Posting Date: September 4, 2020
Protest Petition Deadline: November 9, 2020
Roll Call Hearing Date: November 23, 2020
Protest Hearing Date: February 3, 2021

License No.: ABRA-117072
Licensee: Union Rooftop, LLC
Trade Name: Hi-Lawn
License Class: Retailer's Class "C" Tavern
Address: 1309 5th Street, **N.W.
Contact: Paul Carlson: (703) 624-3809

WARD **6 ANC **6E SMD **6E04

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 November 23, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on February 3, 2021 at 4:30 p.m.

NATURE OF OPERATION

A new all-outdoor, rooftop, class C Tavern with a Seating Capacity of 99, Total Occupancy Load of 1040 and a Summer Garden with 99 Seats. The License will include Entertainment, Dancing and Cover Charge.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 8am - 2am, Friday and Saturday 8am - 3am

HOURS OF LIVE ENTERTAINMENT OUTDOORS

Sunday through Saturday 10pm - 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING
TECHNICAL AMENDMENT

11:00 A.M., WEDNESDAY, SEPTEMBER 23, 2020
ALCOHOLIC BEVERAGE CONTROL BOARD HEARING ROOM
2000 14TH ST., N.W., SUITE 400 SOUTH, 4TH FLOOR
WASHINGTON, D.C. 20009

The Alcoholic Beverage Control Board (Board) will hold a hearing from 11:00 a.m. to 11:30 a.m. on Wednesday, September 23, 2020, to receive public comment on its proposed rulemaking that would make changes to several chapters of Title 23 of the District of Columbia Municipal Regulations. The Technical Amendment Notice of Proposed Rulemaking was published in the D.C. Register on August 21, 2020, at 67 DCR 9975 and is available at www.dcregs.dc.gov.

Due to the public health emergency for Washington, D.C., the Board will conduct the hearing via video conferencing through the Cisco Webex meetings (Webex) platform. Internet access is required.

WHEN: 11:00 a.m. on Wednesday, September 23, 2020

WHERE: Webex

- Call-in Number: 1-650-479-3208
- Local Call-in Number: 1-202-860-2110
- Access code: 172 526 2710

Members of the public may register to provide comments on the proposed rulemaking at the time of the Board's hearing, or in the alternative, the public is welcome to submit written comments.

Individuals and representatives of organizations who want to testify in person at the hearing should contact Alcoholic Beverage Regulation Administration (ABRA) General Counsel Martha Jenkins via email at martha.jenkins@dc.gov by no later than **5:00 p.m. on Friday, September 18, 2020**. Please include your full name, title, organization and your phone number. Once you have submitted your contact information to ABRA, you will be provided information regarding how the Board intends to conduct the hearing, and what your participation in the hearing requires.

Members of the public who are unable to testify or who do not desire to testify in person may provide written comments which will be included as part of the Board's official record. Copies of written statements should be submitted to ABRA General Counsel Martha Jenkins no later than **5:00 p.m. on Monday, September 21, 2020**.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICE OF VIRTUAL COMMUNITY HEARING

FORMAL CASE NO. 1162, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO INCREASE EXISTING RATES AND CHARGES FOR GAS SERVICE,

1. Through this Public Notice, the Public Service Commission of the District of Columbia (Commission) schedules a virtual community hearing to discuss Washington Gas Light Company's (WGL or Company) Application requesting authority to increase existing rates and charges for natural gas service in the District of Columbia.¹ The virtual community hearing is scheduled for October 20, 2020, at 2:00 p.m.

2. On January 13, 2020, WGL filed an Application requesting authority to increase existing rates and charges for natural gas service in the District of Columbia. WGL indicates that the requested rates are designed to collect approximately \$200.4 million in total annual revenues, which represents an increase in the Company's weather-normalized annual revenues of no more than \$35.2 million and would result in an overall increase of approximately 14.7% in revenue collection over and above that collected through current bills. This revenue increase includes \$9.1 million associated with natural gas system upgrades currently paid by customers through a monthly PROJECTpipes 1 surcharge. The Company also proposes a Revenue Normalization Adjustment in its proposed rate structure. By Order No. 20338,² as amended by Order Nos. 20369,³ 20384,⁴ and 20385,⁵ the Commission set forth the procedural schedule in this matter. The rate case evidentiary hearings will be conducted virtually on October 6 through 9, 2020.

3. Those who wish to testify at the virtual community hearing should contact the Commission Secretary by the close of business on October 13, 2020, by sending an email to PSC-CommissionSecretary@dc.gov. Representatives of organizations shall be permitted a maximum of five (5) minutes for oral presentations. Individuals shall be permitted a maximum of three (3) minutes for oral presentations. If an organization or an individual is unable to offer comments at the virtual community hearing, written statements may be submitted by email to PSC-CommissionSecretary@dc.gov, or through the Commission's eDocket system at https://edocket.dcpsec.org/public/public_comments until October 23, 2020, referencing the *Formal Case No. 1162* docket. Additional instructions will be provided before the hearing to persons who have provided notice of their intent to participate.

¹ *Formal Case No. 1162, , In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service ("Formal Case No. 1162")* Washington Gas Light Company's Application for Authority to Increase Existing Rates and Charges for Gas Service, filed January 13, 2020.

² *Formal Case No. 1162*, Order No. 20338, ¶ 13, rel. April 29, 2020.

³ *Formal Case No. 1162*, Order No. 20369, rel. June 17, 2020.

⁴ *Formal Case No. 1162*, Order No. 20384, Attachment A, rel. July 30, 2020.

⁵ *Formal Case No. 1162*, Order No. 20385, Attachment A, rel. July 30, 2020.

4. Any person who is deaf or hard-of-hearing, who cannot readily understand or communicate in spoken English, or persons with disabilities who need special accommodations in order to participate in the hearing, must contact the Commission Secretary by the close of business on October 13, 2020. Persons who wish to testify in Spanish, Chinese, Amharic, French, Vietnamese, or Korean must also contact the Commission Secretary by close of business on October 13, 2020. **The number to call to request special accommodations and interpretation services is (202) 626-5150.**

5. Copies of the WGL Application may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket System" tab, click on "Search Current Dockets" and input "FC 1162" as the case number and "1" as the item number. Copies of any comments filed on the Application may be obtained by opening the "eDocket System" tab, clicking on "Search Current Dockets" and inputting "FC 1162" as the case number.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, SEPTEMBER 30, 2020
441 4TH STREET, N.W.
Virtual Hearing via WebEx**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

TIME: 9:30 A.M.

WARD FIVE

20203
ANC 5C **Application of Congressional 1018 Bryant LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the new residential development provisions of Subtitle U § 421.1, to construct a new 9-unit apartment house in the RA-1 Zone at premises 1018 Bryant Street N.E. (Square 3870, Lot 42).

WARD FIVE

20267
ANC 5A **Application of Frank Jackson**, pursuant to 11 DCMR Subtitle X, Chapters 9, for a special exception under Subtitle D § 5201 from the side yard requirements of Subtitle D § 206.3, and pursuant to Subtitle X, Chapter 10, for a variance from the lot occupancy requirements of Subtitle D § 304.1, to replace the rear deck addition to an existing attached principal dwelling unit in the R-2 Zone at premises 736 Delafield Street, N.E. (Square 3788, Lot 51).

WARD TWO

20279
ANC 2A **Application of HJB Properties LLC**, pursuant to 11 DCMR Subtitle X, Chapter for a special exception under the RF-use requirements of Subtitle U § 320.2, to construct a third story addition and a three-story rear addition and convert an existing attached principal dwelling unit into a three-unit apartment house in the RF-1 Zone at premises 1121 Morse Street N.E. (Square 4070, Lot 138).

BZA PUBLIC HEARING NOTICE
SEPTEMBER 30, 2020
PAGE NO. 2

WARD FIVE

20182
ANC 5E

Appeal of Nancy Stanley, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on August 22, 2019 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue building permit B1909479, to permit the construction of a 3-story addition, an alteration and repair of an existing cellar, and the construction of a new accessory dwelling unit in the R-1-B Zone at premises 5039 Reno Road N.W. (Square 1877, Lot 18).

PLEASE NOTE:

This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date.

The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11, including the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

Individuals and organizations interested in any application may testify at the public hearing via WebEx or by phone and are strongly encouraged to sign up to testify 24 hours prior to the start of the hearing on OZ’s website at <https://dcoz.dc.gov/> or by calling Robert Reid at 202-727-5471. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board may impose time limits on the testimony of all individuals and organizations.

Individuals and organization may also submit written comments to the Board by uploading submissions via IZIS or by email to bzasubmissions@dc.gov. Submissions are strongly encouraged to be sent at least 24 hours prior to the start of the hearing.

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

Do you need assistance to participate?

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

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

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

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

Chinese

BZA PUBLIC HEARING NOTICE
SEPTEMBER 30, 2020
PAGE NO. 3

您需要有人帮助参加活动吗？

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

French

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

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿Necesita ayuda para participar?

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

Vietnamese

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

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

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

**FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, VICE-CHAIRPERSON
VACANT, MEMBER
CHRISHAUN SMITH, MEMBER,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in the District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of final rulemaking action to adopt amendments to Chapter 7 (Election Procedures) and Chapter 16, (Candidate Nomination: Delegate to the U.S. House of Representatives, Mayor, Chairman and Members of the Council of the District of Columbia, Attorney General, U.S. Senator, U.S. Representative, Members of the State Board of Education, and Advisory Neighborhood Commissioner) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

A Notice of Emergency and Proposed Rulemaking with respect to the Chapter 7 rulemaking was published in the *D.C. Register* on June 26, 2020, at 67 DCR 007942, and a Notice of Emergency and Proposed Rulemaking with respect to the Chapter 16 rulemaking was published in the *D.C. Register* on June 5, 2020, at 67 DCR 006977-006978. No written comments on the proposed rules were received during the public comment period, and no substantive changes have been made to the regulations as proposed.

The Board adopted these rules as final at a regular meeting on Wednesday, September 2, 2020. These final rules will become effective immediately upon publication of this notice in the *D.C. Register*.

Chapter 7, ELECTION PROCEDURES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Subsection 720.14 of Section 720, ABSENTEE VOTING, is amended to read as follows:

720.14 Electronically transmitted voted ballots sent by qualified uniformed services or overseas voters must be received no later than 8:00 p.m. on the day of the election. Mailed voted ballots must be postmarked or otherwise demonstrated to have been sent on or before the day of the election, and must be received no later than the tenth (10th) day after the election.

Chapter 16, CANDIDATE NOMINATION: DELEGATE TO THE U.S. HOUSE OF REPRESENTATIVES, MAYOR, CHAIRMAN AND MEMBERS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, ATTORNEY GENERAL, U.S. SENATOR, U.S. REPRESENTATIVE, MEMBERS OF THE STATE BOARD OF EDUCATION, AND ADVISORY NEIGHBORHOOD COMMISSIONER, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

A new Subsection 1603.9 of Section 1603, SIGNATURE REQUIREMENTS, is added to read as follows:

1603.9 Notwithstanding the signature requirements specified in subsections 1603.3 through 1603.7 of this section, to obtain ballot access for the November 3, 2020 General Election:

- (a) A candidate for the office of Delegate, At-Large Member of the Council, U.S. Senator, or U.S. Representative shall submit a nominating petition that contains the valid signatures of at least two hundred fifty (250) registered qualified electors in the District;
- (b) A candidate for the office of Member of the Council elected by ward shall submit a nominating petition that contains the valid signatures of at least one hundred fifty (150) registered qualified electors who are registered in the same ward as the candidate;
- (c) A candidate for the office of Member of the State Board of Education elected at-large shall submit a nominating petition that contains the valid signatures of at least one hundred fifty (150) registered qualified electors in the District;
- (d) A candidate for the office of Member of the State Board of Education elected from a ward shall submit a nominating petition that contains the valid signatures of at least fifty (50) registered qualified electors who are registered in the same ward as the candidate; and
- (e) A candidate for the office of Advisory Neighborhood Commissioner shall submit a nominating petition that contains the valid signatures of at least ten (10) registered qualified electors who are registered in the same single-member district from which the candidate seeks election.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF FINAL RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to the authority established in [Mayor's Order 2008-92](#), dated June 26, 2008; [Mayor's Order 2019-081](#), dated September 13, 2019; and Section 404(a) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 ("CMPA"), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.04(a) (2016 Repl.)), hereby gives notice of the adoption of the following amendments to Chapter 4 (Suitability) of Title 6 (Personnel), Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR).

These final rules amend relevant provisions to align with Mayor's Order 2019-081 for the application and enforcement of the District of Columbia's general suitability and drug screening program as it relates to cannabis use. Section 407 is amended to require vacancy announcements for safety sensitive positions to state that appointees may be disqualified for testing positive for cannabis regardless of whether they possess a medical marijuana card. Section 409 is amended to bar agencies from automatically designating all positions as safety, protection, or security sensitive, establish an agency annual review of their designated positions, and provide an appeal remedy for employees. Section 410 is amended to add an additional category to the examples of types of positions that may be designated as safety sensitive and make minor revisions to the identifying factors that determine if a position should be designated as safety sensitive. Section 411 is amended to reflect the fact that pre-employment drug testing for protection sensitive employees will no longer require disqualification for a positive cannabis test. Section 425 is amended to include minor typographical changes. Section 426 is amended to provide notification requirements regarding random drug testing to include the testing of cannabis. Section 427 is amended to include minor clarifications. Section 428 is amended to highlight certain exceptions to positive cannabis test result consequences. A new section 429 is added to provide specific guidelines for positive test results for cannabis for employees. Subsequent sections are renumbered. Section 429 (renumbered to 430) is amended to allow agencies to defer drug testing to a later date if an appointee discloses previous cannabis use, to provide a possible second test opportunity after a positive cannabis result, and to state that protection-sensitive appointees will not be disqualified based on positive results for cannabis in pre-employment tests. Section 430 (renumbered to 431) is amended to include minor typographical changes. Section 431 (renumbered to 432) is amended to add that enrollment in a medical marijuana program shall not be a basis for reasonable suspicion. Section 432 (renumbered to 433) is amended to add that reasonable suspicion observations shall be conducted after an accident or incident, when feasible. Sections 433 (renumbered to 434) and 434 (renumbered to 435) are amended to include minor typographical changes. Section 435 (renumbered to 436) is amended to explicitly prohibit agencies from deeming an employee unsuitable based solely on their possession of a medical marijuana card or equivalent from a reciprocal jurisdiction. Subsequent sections in the Chapter are also renumbered to accommodate the new section 429. Additional minor edits are made throughout the chapter to replace "Section" and "Subsection" with the "§" symbol.

A Notice of Proposed and Emergency Rulemaking was published in the *D.C. Register* on May 22, 2020, at 67 DCR 005406. On or about June 2, 2020, the D.C. Department of Human Resources

received comments from the American Federation of Government Employees District 14, AFL-CIO (AFGE).

1. AFGE raised concerns regarding § 426.6(c) and (d). AFGE reads this rule to authorize an agency to discipline a safety sensitive employee for a positive drug or alcohol test result without first having received notice that their position is subject to random drug testing. AFGE misreads the rule. Section 426.6 states: “Employees subject to random drug and alcohol testing **shall** be provided notice stating their position is safety sensitive.” (emphasis added). Paragraphs (a) through (d) exclusively concern annual re-notification of coverage. Paragraph (a) requires that safety sensitive employees receive notice of coverage annually. Paragraph (c) provides that if an agency fails to provide the annual notice, it may proceed with discipline provided “the employee had actual, prior notice[.]” Paragraph (d) provides that the personnel authority may waive the annual notification requirement, but this does not discharge the agency’s obligation to provide the employee “actual notice” before randomly testing the employee. Contrary to AFGE’s concerns, agencies may not discipline safety sensitive employees based on a random drug test unless the employee first received actual notice of their coverage.
2. AFGE comments that § 429.2 “is contrary to the Mayor’s Order to ease restrictions on employee cannabis usage” because it provides for “an automatic presumption of impairment.” Therefore, AFGE recommends removing the presumption of impairment provision. However, the Mayor’s Order at Section IV(F)(7) provides that “safety sensitive employees who test positive for cannabis will be presumed to be in violation of relevant District and/or federal laws and policies regarding employment[.]” In other words, any positive test result for cannabis by a safety sensitive employee may constitute misconduct. However, subparagraph (7) goes on to state that employees facing discipline for a positive marijuana result can provide “clear and convincing evidence” relevant to determining appropriate discipline. The opportunity to provide evidence to the relevant deciding official for consideration to demonstrate that the employee was not impaired appears in § 429.4.
3. AFGE urges DCHR to reconsider the guideline penalties for a safety sensitive employee’s positive cannabis drug test result (see § 429.2(a) and (b)). AFGE recommends a progressive disciplinary model that includes a reprimand, suspension, reassignment and, only if reassignment is not possible, removal. DCHR considered these options. However, given the nature of safety sensitive duties and agency needs to demonstrate safe operations, these employees must always be at peak performance as any lapse in attention can have dire consequences (see § 409.1(a)), and agencies must be able to demonstrate safe working practices. Prior to any removal, employees will have received notice of this policy through at least three different mechanisms: (1) initial notice of coverage; (2) first-offense suspension; and (3) re-notification after the first offense. The illustrative penalties are appropriate given current testing technologies and agency operational needs.
4. AFGE raises concerns that § 429.5, which authorizes summary action against safety sensitive employees who test positive for cannabis, unlawfully “usurp[s] Agency authority” over discipline. Section 429.5 makes no changes to disciplinary authority or process other than authorizing discipline on a summary basis. Under existing regulations,

DCHR serves as the program administrator for subordinate agencies and those to whom DCHR provides compliance services. DCHR will continue to process disciplinary actions for agencies as it has done under existing rules. Moreover, DCHR serves as the personnel authority for most subordinate agencies and is additionally authorized to issue discipline pursuant to agreements with agencies for compliance services. While these agencies have delegated disciplinary authority, this delegation does not divest the Mayor or DCHR from carrying out discipline directly.

5. AFGE raises concerns that DCHR updated § 432.3 by removing the requirement that “to proceed with reasonable suspicion testing, a trained manager’s [suspicion] of impairment must generally be certified by another manager.” This provision appeared at § 431.3 in the previous rules. We did not remove this requirement. We renumbered the provision to § 432.3 without any changes to the text. The section reads: “A reasonable suspicion referral shall be confirmed through a second opinion rendered by another trained supervisor or manager, if available.” Under this rule, a reasonable suspicion must be confirmed by a second manager if another manager is available. Therefore, there has been no change to this requirement.
6. AFGE objects to summary removal, as provided by §§ 429.5 and 436.9, asserting that there is “no legitimate basis for summary removal.” As noted in § 429.5, “cannabis use by a safety sensitive employee threatens the integrity of District government operations and the public health, safety and welfare.” As such, summary action is appropriate.
7. AFGE recommends eliminating § 434.3, which requires safety sensitive employees to undergo drug testing when returning from leave of thirty (30) days or more. We understand AFGE’s concerns. However, given the safety sensitive nature of the jobs, return-work-testing is a prudent precautionary measure to ensure the safety of co-workers and the public.
8. AFGE asserts that these rules “fail to account for employees who have a valid medical diagnosis and are part of an approved medicinal cannabis program.” We disagree. The Mayor’s Order, and the implementing rules, seek to strike the best balance between employees’ lawful use of cannabis and public safety. For example, protection sensitive employees are no longer disqualified from employment due to a positive pre-employment cannabis test result. All protection sensitive, security sensitive, and non-designated employees may fully participate in a medicinal cannabis program provided they do not perform their duties while impaired by cannabis. Candidates for safety sensitive positions are given several options to either delay or re-test on pre-employment drug screens so they have time to seek alternatives to cannabis. For random drug testing, we are adding additional notifications and employing a progressive discipline model.
9. AFGE asks for a “directive to District Agencies regarding the application of collective bargaining agreements.” The addition of this language, however, is not necessary, because collective bargaining agreements supersede the District Personnel Manual to the extent that there is a conflict, and unions can request impact and effects bargaining for these regulations.

Except for the comments received from AFGE, no additional public comments were received in response to the Notice of Proposed Rulemaking, and no changes have been made to the text of the rules as proposed.

The rules will become final upon publication of this notice in the *D.C. Register*.

Section 407, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

407 ENHANCED SUITABILITY SCREENING – RECRUITMENT REQUIREMENTS

- 407.1 In the case of competitive recruitment for a position requiring an enhanced suitability screening, the vacancy announcement and subsequent offer letter to the appointee shall state that:
- (a) The position for which he or she is applying has been identified and designated as requiring enhanced suitability screening;
 - (b) If tentatively selected for the position, a criminal background check, traffic record check, consumer credit check, and mandatory drug and alcohol testing, as appropriate, will be conducted; and
 - (c) An appointee’s offer of employment shall be contingent upon receipt of a satisfactory enhanced suitability screening.
- 407.2 For safety sensitive positions, in addition to the requirements in § 407.1, each vacancy announcement shall state that the position is subject to pre-employment drug testing, which includes testing for cannabis, and that failing the drug test may result in disqualification even if the applicant participates in a medical marijuana program.
- 407.3 In the case of non-competitive recruitment for a position requiring enhanced suitability screening, the offer letter to the individual being considered for employment shall be provided and contain the information outlined in this section.
- 407.4 An appointee’s offer of employment shall be contingent upon receipt of a satisfactory enhanced suitability screening. No appointee shall work in an unsupervised setting, prior to receiving the results of the screening, or prior to the program administrator deciding that the appointee meets the requirements of this chapter.

Section 409, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

409 POSITIONS SUBJECT TO ENHANCED SUITABILITY SCREENING

409.1 The types of positions that are subject to enhanced suitability screenings for appointees, volunteers, and employees are positions with duties and responsibilities that shall be categorized as follows:

- (a) Safety sensitive, which are positions with duties or responsibilities 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;
- (b) Protection sensitive, which are positions that are not safety sensitive positions, but that include duties or responsibilities that involve caring for patients or other vulnerable persons; and
- (c) Security sensitive, which are positions of special trust that may reasonably be expected to affect the access to or control of activities, systems, or resources that are subject to misappropriation, malicious mischief, damage, or loss or impairment of communications or control.

409.2 Each agency head (or his or her designee), with the concurrence of the program administrator, shall determine and designate which positions in the agency are subject to enhanced suitability screenings.

- (a) The agency head (or his or her designee) shall establish a roster of the designated positions, which shall be approved by the agency's head of human resources, general counsel, and director.
- (b) No later than September 30 of each year, agencies shall provide the roster of designated position to the program administrator for final approval.
- (c) The designation of a position as safety, protection, or security sensitive is not subject to the grievance procedures outlined in Chapter 16. However, an impacted employee may appeal such a designation pursuant to § 409.4.
- (d) An agency shall not automatically designate every position in the agency as safety, protection, or security sensitive. The agency must consider individually each position according to the relevant factors.
- (e) Each agency shall annually review position sensitivity designations to ensure that they are consistent with the position's actual duties and responsibilities.

- 409.3 An employee who is detailed, temporarily promoted, or temporarily reassigned from a non-covered position to a covered position shall affirmatively agree to an enhanced suitability screening upon the effective date of the personnel action, and to periodic criminal background and traffic record checks, as appropriate, while detailed, temporarily promoted, or temporarily reassigned to the covered position.
- 409.4 An employee may appeal the designation of his or her position as safety, protection, or security sensitive. Any such appeal must be in writing and filed with the program administrator.
- (a) The program administrator must issue a decision in response to an appeal within thirty (30) days after the date the employee filed the appeal.
 - (b) The decision issued by the program administrator shall be final and not subject to further administrative review.
 - (c) A pending appeal shall not impact any drug testing requirements to which the employee is subject in his or her position as then currently designated.

Section 410, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

410 SAFETY SENSITIVE POSITIONS – GENERAL PROVISIONS

- 410.1 In addition to the general suitability screening, individuals applying for or occupying safety sensitive positions are subject to the following checks and tests:
- (a) Criminal background check;
 - (b) Traffic record check (as applicable);
 - (c) Pre-employment drug and alcohol test;
 - (d) Reasonable suspicion drug and alcohol test;
 - (e) Post-accident or incident drug and alcohol test;
 - (f) Random drug and alcohol test; and
 - (g) Return-to-duty or follow-up drug and alcohol test.
- 410.2 Subject to the requirements of § 409.1(a), examples of safety sensitive duties and responsibilities include, but are not limited to:
- (a) Operating large trucks, heavy or power machinery, or mass transit vehicles, tools, or equipment;

- (b) Handling hazardous quantities of chemical, biological or nuclear materials;
- (c) Maintaining the safety of patrons in and around a pool or aquatic area;
- (d) Engaging in duties directly related to the public safety, including, but not limited to, responding or coordinating responses to emergency events;
- (e) Carrying a firearm; and
- (f) Direct care and custody of children, youth, or other vulnerable persons, which may affect their health, welfare, or safety.

Section 411, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

411 PROTECTION SENSITIVE POSITIONS – GENERAL PROVISIONS

411.1 In addition to the general suitability screening, individuals applying for or occupying protection sensitive positions are subject to the following checks and tests:

- (a) Criminal background check;
- (b) Traffic record check (as applicable);
- (c) Pre-employment drug and alcohol test, subject to the limitations described in § 430.3;
- (d) Reasonable suspicion drug and alcohol test;
- (e) Post-accident or incident drug and alcohol test; and
- (f) Return-to-duty and follow-up drug and alcohol test.

411.2 Examples of protection sensitive duties and responsibilities include, but are not limited to:

- (a) Coordinating, developing, or supporting recreational activities;
- (b) Managing, planning, directing, or coordinating educational activities; and
- (c) Performing tasks involving individual or group counseling.

Section 425, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

425 DRUG AND ALCOHOL TESTING – GENERAL PROVISIONS

- 425.1 Each program administrator with safety or protection sensitive positions shall contract with a professional testing vendor(s) to conduct required drug and alcohol testing. The vendor(s) shall ensure quality control, chain-of-custody for samples, reliable collection and testing procedures, and any other safeguards needed to guarantee accurate and fair testing. Notwithstanding 49 CFR § 40.1, vendors shall follow all procedures stated in 49 CFR Part 40 and District government procedures, as applicable, for all drug and alcohol testing for appointees and employees.
- 425.2 The vendor(s) selected to conduct the testing shall ensure that any laboratory used is certified by the United States Department of Health and Human Services (HHS) to perform job-related drug and alcohol forensic testing.
- 425.3 The Director of the DCHR shall develop operating policies and procedures for implementing the drug and alcohol program under this chapter for agencies subordinate to the Mayor that have safety, protection, or security sensitive positions.

Section 426, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

426 DRUG AND ALCOHOL TESTING – NOTIFICATION REQUIREMENTS

- 426.1 Each appointee or employee in a covered position shall be provided a copy of the District's drug and alcohol policy, and any additional requirements imposed by his or her respective agency. The policy shall state at a minimum the following:
- (a) The circumstances under which an appointee or employee will be tested;
 - (b) The basic methodology to be used for testing; and
 - (c) The consequences of a positive test result.
- 426.2 Each appointee or employee in a covered position shall sign an acknowledgement that he or she received the written policy as specified in § 426.1. A legal guardian's signature is needed if the appointee or employee is under eighteen (18) years of age.
- 426.3 As a condition of employment, each appointee or employee in a safety sensitive position subject to random drug and alcohol testing shall execute consent to the testing required by this chapter or face immediate separation from the District government.

- 426.4 Whenever an employee occupies a position that becomes designated as safety sensitive, he or she may self-report any existing drug or alcohol usage to his or her agency within thirty (30) days of the change in designation. The employee shall:
- (a) Be permitted to engage in any needed counseling or rehabilitation program(s), without being subject to adverse or other administrative actions;
 - (b) Be detailed, as agency operational needs permit, to a position that is not safety or protection sensitive while undergoing the treatment; and
 - (c) Be returned to a safety or protection sensitive position upon successful completion of treatment, a negative test result, and fitness for duty examination, as applicable.
- 426.5 Volunteers are subject to reasonable suspicion, post-accident, and post-incident drug and alcohol screenings. Volunteers are not subject to pre-employment or random drug and alcohol testing, unless such testing is otherwise required by federal law.
- 426.6 Employees subject to random drug and alcohol testing shall be provided a notice stating that their position is safety sensitive and that they are subject to random drug and alcohol testing, including for the presence of cannabis.
- (a) Agencies shall provide the notice to each safety sensitive employee at least once a year.
 - (b) Employees shall acknowledge receipt of each notice.
 - (c) Failure on the part of an agency to provide the annual notice required by paragraph (a) shall not (i) invalidate a positive drug or alcohol test result if the agency can establish that the employee had actual, prior notice of the applicable drug and alcohol testing policy, or (ii) preclude an agency from taking any action required under federal law after a positive drug or alcohol test result.
 - (d) The personnel authority may waive the annual notification requirement for an agency based on a supported showing of significant operational hardship.

Section 427, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

- 427 DRUG AND ALCOHOL TESTING – TESTING METHODOLOGY**
- 427.1 The vendor(s) selected to conduct the testing shall conduct the alcohol and drug testing at a location designated by the program administrator for such purposes.
- 427.2 In general, testing for drugs shall be conducted by urine sample from the individual being tested.
- 427.3 Testing for alcohol shall be conducted using an evidentiary breath-testing device or EBT, commonly referred to as a “breathalyzer.”
- 427.4 In the case of drug testing, the vendor(s) shall split each sample and ensure that the laboratory performs an enzyme-multiplied-immunoassay technique (EMIT) test on one (1) sample and store the split of that sample. A positive EMIT test shall be confirmed by the vendor(s) using the gas chromatography/mass spectrometry (GCMS) methodology.
- 427.5 The personnel authority shall notify, in writing, any appointee or employee found to have a confirmed positive drug test result. The appointee or employee may then authorize that the stored sample be sent to another HHS-certified laboratory of his or her choice, at his or her expense, for a confirmation using the GCMS testing methodology.
- 427.6 All drug and alcohol testing shall follow the same procedures set forth in this section. In the case of a reasonable suspicion referral or a post-accident and incident test, the agency shall escort the employee to the designated test site for specimen collection as needed.
- 427.7 In the event that an individual requires medical care following an accident or incident, medical care shall not be delayed for the purpose of testing. In such cases, drug and alcohol testing may be conducted by a blood test.
- 427.8 A blood, breath, or urine test for alcohol conducted in accordance with this section shall be deemed positive if the test yields a result that the appointee’s or employee’s alcohol content was either .04 grams or more per 210 liters of breath, .04 grams or more per 100 milliliters of blood, or .05 grams or more per 100 milliliters of urine.
- 427.9 Except as may otherwise be required by law following an accident or incident, the personnel authority may not require blood tests for drug or alcohol tests.

Section 428, Chapter 4, SUITABILITY, of Title 6-B DCMR GOVERNMENT PERSONNEL, is amended to read as follows:

428 POSITIVE DRUG OR ALCOHOL TEST RESULTS

428.1 Unless otherwise required by law, and notwithstanding § 400.4, an employee shall be deemed unsuitable and there shall be cause to separate an employee from a covered position as described in §§ 436.9 and 440.3 for:

- (a) A positive drug or alcohol test result (except as otherwise provided in § 429);
- (b) A failure to submit to or otherwise cooperate with drug or alcohol testing; or
- (c) In the case of an employee who acknowledged a drug or alcohol problem as specified in § 426.4, failure to complete a counseling or rehabilitation program(s) or failing a return-to-duty drug or alcohol test.

428.2 The program administrator shall rescind a conditional offer or decline to make a final offer of employment to an appointee subject to pre-employment testing if he or she:

- (a) Fails or otherwise refuses to submit to a required drug or alcohol test;
- (b) Fails or otherwise refuses to follow instructions given during a required drug or alcohol test; or
- (c) Except as otherwise provided in § 430, has a positive drug or alcohol test result.

Section 429, Chapter 4, SUITABILITY, of Title 6-B DCMR GOVERNMENT PERSONNEL, is added to read as follows:

429 POSITIVE TEST RESULTS FOR CANNABIS (EMPLOYEES)

429.1 Employees who test positive for cannabis following a reasonable suspicion or post-accident or incident drug test pursuant to §§ 432 or 433 shall be presumed impaired by cannabis, regardless of their participation in any medical marijuana program.

429.2 For employees in safety sensitive positions, a random positive drug test result for cannabis with no additional evidence of impairment shall be cause for corrective or adverse action, regardless of whether the employee is a medical marijuana program participant. Notwithstanding § 1607, a safety sensitive employee who randomly tests positive for cannabis with no additional evidence of impairment will generally be subject to the following:

- (a) First offense: the employee shall be summarily subject to a five (5) day suspension without pay, shall re-acknowledge the applicable drug and alcohol policy, and shall undergo a follow-up drug test immediately upon returning from the suspension; however, the employee may elect and shall be granted up to 40 hours of annual leave, compensatory time, or leave without pay to delay the follow-up drug test; and
- (b) Second offense: the employee shall be deemed unsuitable for continued employment in a safety sensitive position for at least one (1) year and shall be demoted, reassigned, or transferred to a non-safety sensitive position, or summarily separated from employment.

429.3 The illustrative actions specified in §§ 429.2(a) and 429.2(b) are not exhaustive and shall only be used as a guide to assist agencies in determining the appropriate action. Balancing the totality of the relevant factors established in § 1606.2 can justify an action that deviates from the penalties outlined in this section.

429.4 When a corrective or adverse action has been proposed due to a positive drug test result, and except as may be required by federal or other law, an employee may provide a written response with supporting evidence challenging that action, consistent with § 1621. Evidence supplied by an employee to rebut a presumption of cannabis impairment must be clear and convincing.

429.5 Cannabis use by a safety sensitive employee threatens the integrity of District government operations and the public health, safety, and welfare. When a safety sensitive employee is subject to suspension or removal pursuant to § 429.2, the personnel authority may take such action on a summary basis consistent with § 1616. Notwithstanding § 1616.3, the personnel authority may take such summary actions without written approval of the agency head.

429.6 Nothing in this chapter shall be construed as permitting the unlawful use of cannabis, and employees in violation of District of Columbia cannabis laws may be found unsuitable.

429.7 Individuals under the age of 21 who test positive for cannabis and who are not enrolled in a medical marijuana program and who do not have a prescription for medications that contain THC shall be deemed unsuitable and are not subject to the provisions of § 429.2.

Section 429, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to Section 430 and is amended to read as follows:

430 PRE-EMPLOYMENT DRUG AND ALCOHOL TESTING

- 430.1 As a condition of employment, appointees to safety and protection sensitive positions shall be required to pass a pre-employment drug test in accordance with this section. In addition, the program administrator may require a pre-employment alcohol test.
- 430.2 Pre-employment drug and alcohol testing shall be conducted after a conditional offer of employment is made, but before the appointee's effective date of appointment.
- 430.3 Appointees to protection sensitive positions may not be disqualified based on a positive pre-employment drug test result showing the presence of cannabis unless the candidate was in possession of or was under the influence of cannabis at the time of testing, consistent with § 432.5.
- 430.4 Appointees to safety sensitive positions who test positive for cannabis may be disqualified from employment consideration, subject to the following:
- (a) If an appointee discloses recent cannabis use, an agency may postpone any pre-employment drug test for up to thirty (30) days.
 - (b) When a safety sensitive appointee initially tests positive only for cannabis as part of a pre-employment drug test, and unless the candidate was in possession of or was under the influence of cannabis at the time of testing, the program administrator shall advise the appointee of the positive test result and give him or her an opportunity to take a second drug test at least two (2) weeks after the initial test. The candidate shall be responsible for the cost of the second drug test.
 - (c) A safety sensitive appointee who undergoes a second drug test pursuant to paragraph (b) and tests positive for cannabis shall be disqualified from employment in a safety sensitive position for one (1) year from the date of the second drug test, and the program administrator shall rescind any conditional offer or decline to make a final offer of employment.
- 430.5 The program administrator may waive the requirement for a second drug test under § 430.4(b) allowing for the immediate disqualification of appointee consistent with § 430.4(c) when required to fulfill an immediate recruitment need or when a reasonable suspicion observation found that the appointee was demonstrably impaired at the time of testing. Except when necessitated by extraordinary or unforeseeable circumstances, such a waiver must be issued by the program administrator prior to posting the applicable job vacancy.

- 430.6 Pre-employment drug and alcohol testing shall be carried out pursuant to §§ 425 through 427.
- 430.7 Nothing in this chapter shall be construed as permitting the unlawful use of cannabis, and appointees in violation of cannabis laws may be found unsuitable. Individuals under the age of 21 who test positive for cannabis and who are not enrolled in a medical marijuana program and who do not have a prescription for medications that contain THC shall be deemed unsuitable and are not subject to the provisions of § 430.4.

Section 430, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to Section 431 and is amended to read as follows:

431 RANDOM DRUG AND ALCOHOL TESTING

- 431.1 Employees in safety sensitive positions shall be subject to random drug and alcohol testing. Such employees shall be placed in a random drug and alcohol testing pool.
- 431.2 Each year, the program administrator shall conduct a number of random drug tests that shall be at least equal to fifty percent (50%) of the total drug and alcohol testing pool.
- 431.3 Similarly, each year, the program administrator shall conduct a number of alcohol tests that shall be at least equal to ten percent (10%) of the total drug and alcohol testing pool.
- 431.4 Employees in the drug and alcohol pool shall be randomly selected in a manner consistent with accepted industry practice.
- 431.5 Random drug and alcohol testing shall be conducted in accordance with §§ 425 through 427.

Section 431, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to section 432, and is amended to read as follows:

432 REASONABLE SUSPICION DRUG AND ALCOHOL TESTING

- 432.1 All District employees, including employees in independent agencies, are subject to, and shall be referred by a trained supervisor or manager for, drug and alcohol testing when there is a reasonable suspicion that the employee, while on duty, is impaired or otherwise under the influence of a drug or alcohol.

- 432.2 Prior to contacting the appropriate personnel authority to make a referral under this section, the trained supervisor or manager shall:
- (a) Have reasonable suspicion that the employee is under the influence of drugs, alcohol, or other substances to the extent that the employee's ability to perform his or her job is impaired; and
 - (b) Gather all information and facts to support this reasonable suspicion.
- 432.3 A reasonable suspicion referral shall be confirmed through a second opinion rendered by another trained supervisor or manager, if available.
- 432.4 A reasonable suspicion referral may be based on direct observation of drug use or possession, physical symptoms of being under the influence of drugs, symptoms suggesting alcohol intoxication, a pattern of erratic behavior, or any other reliable indicators.
- 432.5 Reasonable suspicion may be established if:
- (a) The employee is witnessed or admits to using a drug or alcohol while on duty;
 - (b) The employee displays physical symptoms consistent with drug or alcohol usage;
 - (c) The employee engages in erratic or atypical behavior of a type that is consistent with drug or alcohol usage; or
 - (d) There are other articulable circumstances that would lead a reasonable person to believe that the employee is under the influence of a drug or alcohol.
- 432.6 Lawful enrollment in a medical marijuana program shall not be a basis for reasonable suspicion.
- 432.7 Only a trained supervisor or manager shall refer an employee for drug or alcohol testing.
- 432.8 Prior to making a referral, the trained supervisor or manager shall gather all information and facts that support the reasonable suspicion determination.
- 432.9 Reasonable suspicion referral testing shall be conducted in accordance with §§ 425 through 427.

Section 432, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to section 433, and is amended to read as follows:

433 POST-ACCIDENT AND INCIDENT DRUG AND ALCOHOL TESTING

433.1 All District employees shall be subject to post-accident and incident drug and alcohol testing when they are involved in accidents or incidents under the following conditions:

- (a) The employee is involved in an on-the-job accident or incident that results in injury or loss of human life;
- (b) One (1) or more motor vehicle(s) (either District government or private) incurs disabling damage, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle;
- (c) Anyone receives bodily injury which requires immediate medical attention away from the scene;
- (d) The employee operating a government vehicle or equipment receives a citation under District of Columbia or another law for a moving traffic violation arising from the incident;
- (e) There are reasonable grounds to believe the employee has been operating or in physical control of a motor vehicle within the District of Columbia while that employee's breath has an alcohol content above the limits described in §427.8, or while under the influence of an intoxicating liquor or any drug or combination thereof;
- (f) The actions of the employee cannot reasonably be discounted as a contributing factor, using the best information available at the time of the decision; or
- (g) The employee is involved in an on-the-job accident or incident that seriously damages machinery, equipment, or other property.

433.2 Following an accident or incident that requires drug and alcohol testing pursuant to § 433.1, if feasible, at least one (1) supervisor trained in reasonable suspicion observations shall conduct an observation to evaluate whether there is evidence suggesting that the employee is impaired or otherwise under the influence of a drug or alcohol. If there is no evidence that the employee is impaired or under the influence, the supervisor shall report that there is an absence of such evidence and the report may be used by the employee as evidence to rebut a claim the employee was impaired.

433.3 Post-accident and incident drug and alcohol tests shall be conducted consistent with §§ 425 through 427.

Section 433, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to Section 434 and is amended to read as follows:

434 RETURN-TO-DUTY AND FOLLOW-UP DRUG AND ALCOHOL TESTING

- 434.1 Employees in safety sensitive positions who acknowledge a drug or alcohol problem and complete a counseling or rehabilitation program, as provided in § 426.4, shall be subject to return-to-duty and follow-up tests, except when the employee has been separated from the safety-sensitive position.
- 434.2 Employees in safety sensitive positions who test positive for cannabis, and for whom a corrective or adverse action is imposed, shall be subject to a return-to-duty or follow-up drug and alcohol test, except when the employee has been separated from the safety-sensitive position.
- 434.3 Employees in safety sensitive positions who have been in a leave status for thirty (30) or more days shall be subject to a return-to-duty drug and alcohol test.
- 434.4 Return-to-duty and follow-up tests shall be conducted as set forth in §§ 425 and 427.

Section 434, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to Section 435 and is amended to read as follows:

435 DRUG AND ALCOHOL RELATED TRAINING

- 435.1 Agencies shall be responsible for providing training in drug abuse detection and recognition, documentation, intervention, and any other appropriate topics, for supervisors and managers in agencies with covered employees.

Section 435, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to section 436 and is amended to read as follows:

436 SUITABILITY DETERMINATIONS

- 436.1 The information contained in this section shall only apply to enhanced suitability screenings.
- 436.2 The program administrator shall establish and maintain written suitability assessment determinations for enhanced suitability screenings.
- 436.3 The program administrator shall make a suitability determination within fifteen (15) days after receiving all enhanced suitability screening information necessary to make the determination.

- 436.4 The final suitability determination shall establish:
- (a) For appointees, if a conditional offer of employment should be withdrawn;
 - (b) For volunteers, if the individual is suitable to provide voluntary services; and
 - (c) For employees, if the individual may be retained in their position of record.
- 436.5 For appointees to and employees in safety sensitive positions at a covered child or youth services provider, as defined by D.C. Official Code § 4-1501.02(3) (2019 Repl.), the final suitability determination shall establish whether the appointee or employee presents a present danger to children or youth.
- 436.6 Except as otherwise provided in §§ 429 and 430, and in accordance with § 428, a positive drug or alcohol test shall render an individual unsuitable for District employment and constitute cause under Chapter 16 for corrective and adverse action.
- 436.7 The program administrator shall notify the employing agency of the final suitability determination.
- 436.8 If an appointee is deemed unsuitable based on an enhanced suitability screening, any conditional employment offer shall be withdrawn and he or she shall be notified of the final suitability determination.
- 436.9 If an employee is deemed unsuitable, the personnel authority may terminate his or her employment pursuant to the appropriate adverse action procedure as specified in this subtitle or any applicable collective bargaining agreement. Instead of terminating the employee, the personnel authority may reassign the employee to a position for which he or she is qualified and suitable.
- (a) Termination actions taken pursuant to this subsection may be taken on a summary basis pursuant to § 1616.
 - (b) For purposes of this subsection, and notwithstanding § 1616.3, the personnel authority may approve summary removals.
- 436.10 If a volunteer is deemed unsuitable for voluntary service, the voluntary service process shall be terminated and he or she shall be notified of the suitability determination.
- 436.11 Post-accident and incident drug or alcohol testing results shall be provided to the Chief Risk Officer, Office of Risk Management, for purposes of the Public Sector Workers' Compensation Program, upon request.

436.12 Neither an agency nor the program administrator shall deem an appointee or employee unsuitable solely due to his or her participation in a medical cannabis program pursuant to a state or local law(s).

Sections 436, 437, 438, 439, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, are renumbered to 437, 438, 439, and 440 respectively.

Section 440, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is renumbered to section 441 and is amended to read as follows:

441 REPORTING AND AGENCY POLICIES

441.1 Each program administrator for agencies covered by this chapter shall prepare and submit compliance reports to the Mayor every six (6) months following the effective date of this chapter.

441.2 Each report shall be submitted to the Mayor and include statistical information showing:

- (a) Total number of positions within the agency;
- (b) Total number of new hires;
- (c) Total number of positions identified agency-wide as safety, protection and security sensitive;
- (d) Any changes in the numbers reported in § 441.2(c) since the last report;
- (e) Total number of general suitability screening checks conducted and compliance with Section 403;
- (f) Total number of consumer credit checks conducted, including the number of derogatory results received, and types of actions taken, (if any);
- (g) Total number of criminal background checks conducted, the number of derogatory results, and types of actions taken, (if any);
- (h) Total number and type of drug tests conducted, types of drugs detected, and types of actions taken, (if any);
- (i) Total number and type of alcohol tests conducted, positive results, and types of actions taken, (if any); and
- (j) Total number of traffic record checks conducted, types of derogatory results, and types of actions taken, (if any).

441.3 Each agency under the administrative authority of the Mayor is authorized to develop an agency-level drug and alcohol policy to supplement the policy set forth in this chapter. Any such policy developed after January 1, 2020, must be submitted and approved by the Director of the DCHR prior to implementation. No such policy may be in conflict with the provisions of this chapter.

441.4 Each agency under the administrative authority of the Mayor that has developed an agency-level drug and alcohol policy shall transmit a copy of the policy to DCHR no later than September 30 each year. DCHR shall review each policy to ensure it is consistent with the provisions of this chapter.

441.5 Every year, no later than December 31, the DCHR shall transmit a report to the City Administrator, identifying each agency that has submitted a policy pursuant to this section and whether that policy is consistent with this chapter.

Sections 441, 442, and 443, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, are renumbered to 442, 443, and 444 respectively.

Subsection 499.1, Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

A definition shall be added after “Appointee” and before “Child” of the following term:

Cannabis - a substance, also known as “marijuana,” derived from the cannabis plant and consumed for recreational or medicinal purposes and containing more than 0.03% of the psychoactive chemical delta-9-tetrahydrocannabinol (THC).

The definition of “Drug” shall be amended to read as follows:

Drug - a drug for which tests are required under 49 C.F.R. part 40, such as cannabis, cocaine, amphetamines, phencyclidine (PCP), and opiates.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PROPOSED RULEMAKING**Electronics Stewardship Regulation Amendments**

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl. & 2019 Supp.)); the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code §§ 8-1041.01 *et seq.* (2019 Supp.)); and Mayor's Order 2015-250, dated December 8, 2015, hereby gives notice of the intent to amend Chapter 41 (Electronics Stewardship) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

In response to the required three-year review of the District's electronics stewardship program, the Department has proposed a series of amendments to the existing regulations. Specifically, the Department proposes to increase the registration fees for manufacturers of electronic equipment and establish a procedure for inflation adjustment pursuant to D.C. Official Code § 8-1041.04, which grants the Mayor the authority to "increase the fees and modify the fee structures." The Department also proposes to amend the registration fee structure for partnerships and representative organizations, which assist manufacturers in working together to meet collection shares or provide collection services.

Currently, the registration fees do not cover the costs to administer the District's electronics stewardship program. The District proposes to increase registration fees for manufacturers to be more consistent with other state electronics product stewardship program registration fees, which do cover the costs of their respective electronics stewardship programs. The Department also is proposing changes to the partnership and representative organization registration fee structure. The ceiling on the partnership registration fee has been removed. However, manufacturers opting into a partnership receive a reduced fee as compared to registering as an individual manufacturer. In addition to the base fee for any manufacturer registering as a representative organization, an incremental fee has been added to each additional manufacturer that joins. A new section has been added on how to modify an application. New requirements on representative organizations have also been added to measure and maximize the impact of convenience of the electronics stewardship program for District residents.

DOEE is taking comments on the proposed rule amendments for a period of thirty (30) days. Directions for submitting comments may be found at the end of this notice.

Chapter 41, ELECTRONICS STEWARDSHIP, of Title 20 DCMR, ENVIRONMENT, is amended to read as follows:

Section 4102, REGISTRATION AND SHORTFALL FEES, is amended as follows:

By amending Subsection 4102.1 to read:

4102.1 Manufacturers, representative organizations, and partnership organizations shall include the following registration fee when submitting an annual registration application:

- (a) For an individual manufacturer that sold at least one hundred (100) units but less than two hundred and fifty (250) units of covered electronic equipment in the District in the previous calendar year, the individual manufacturer's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of seven hundred and fifty dollars (\$750);
- (b) For an individual manufacturer that sold two hundred and fifty (250) or more units of covered electronic equipment in the District in the previous calendar year, the individual manufacturer's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of two thousand six hundred and fifty dollars (\$2,650);
- (c) A representative organization's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a base registration fee of fifteen thousand dollars (\$15,000) for the first registrant and an additional two thousand two hundred dollars (\$2,200) for each additional manufacturer in the representative organization.
- (d) A partnership's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of two thousand four hundred and fifty dollars (\$2,450) for every manufacturer that sold two hundred and fifty or more units of covered electronic equipment in the District in the previous calendar year and seven hundred dollars (\$700) for every manufacturer that sold at least one hundred (100) units but less than two hundred and fifty (250) units of covered electronic equipment in the District in the previous calendar year.

By amending Subsection 4102.3 to read:

4102.3 The Department shall adjust the fees in this section for inflation annually, using the Urban Consumer Price Index published by the United States Bureau of Labor Statistics. To perform this adjustment, the Department shall increase each fee by the percentage, if any, by which the Urban Consumer Price Index for October of the calendar year exceeds the Urban Consumer Price Index for October of the

previous calendar year. Each inflation adjustment shall be posted to the Department's website.

By adding Subsection 4102.5 to read:

- 4102.5 Representative organizations meeting the convenient collection service for District residents, small nonprofit organizations, and small businesses shall:
- (a) Submit collection data to the Department, including weight of covered electronic equipment collected and the number of participating residents in permanent publicly accessible collection sites and collection events.
 - (b) Conduct public outreach and awareness activities, in keeping with each representative organization's implementation plan, for District residents to ensure that District residents are aware of the availability and location of collection sites and events.
 - (c) Follow the Department's operating guidelines for permanent drop-off sites.

Section 4105, MODIFICATIONS TO APPLICATIONS, is added to read as follows:

4105 MODIFICATION OF REGISTRATION APPLICATIONS

- 4105.1 A manufacturer or its partnership or representative organization may request a modification in an approved application.
- 4105.2 A request to modify an approved application shall be submitted by mail or electronic mail.
- 4105.3 The Department shall approve or disapprove the application modification following the procedures and timeline set forth in D.C. Official Code § 8-1041.03(d)(1). In determining whether to approve or disapprove the application modification, the Department shall consider the factors listed in D.C. Official Code § 8-1041.03(d)(2).

Section 4199, DEFINITIONS, Subsection 4199.1, is amended as follows:

Minimum collection shares - the amount, in pounds, to be met or exceeded, of covered electronic equipment, as calculated under section D.C. Official Code § 8-1041.05(b)(1), that a manufacturer shall collect and recycle, or arrange to be collected and recycled or reused.

All persons desiring to comment on the proposed regulation amendments should file comments in writing no later than thirty (30) days after the publication of this notice in the *D.C. Register*. Comments should identify the commenter and be clearly marked "DOEE Electronics Stewardship Regulation Amendments." Comments may be (1) mailed or hand-delivered to DOEE, 1200 First

Street N.E., 5th Floor, Washington, D.C. 20002, Attention: DOEE Electronic Stewardship Regulation Amendments Comments, or (2) sent by e-mail to productstewardship@dc.gov, with the subject indicated as “DOEE Electronic Stewardship Regulation Amendments Comments.”

The proposed regulation amendments are available for viewing at: <http://doee.dc.gov/service/public-notice-hearings>. Additionally, a copy of the proposed amendments will be available for viewing at the Department of Energy & Environment; 1200 First Street NE, 5th Floor; Washington, D.C. 20002, during normal business hours. A hard copy of the proposed amendments can be requested by calling 202-535-2600.

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

NOTICE OF EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) - (c) (2012 Repl. & 2019 Supp.)) and D.C. Official Code § 25-502 (2012 Repl. & 2019 Supp.), and Mayor's Order 2001-96, dated June 28, 2001, as amended by Mayor's Order 2001-102, dated July 23, 2001, hereby gives notice of the intent on an emergency basis to amend Chapters 2 (License and Permit Categories) and 5 (License Applications) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The emergency rulemaking: (1) suspends the late fee for a licensee's failure to timely remit the second or third year license fee or renewal license fee for certain license categories; (2) provides the cease and desist and cancellation dates for a licensee's failure to remit payment for the annual or renewal license fees that are due on July 31, 2020, or September 30, 2020; and (3) establishes a process for non-District applicants to consent to a national background check in lieu of criminal background checks performed by their state's law enforcement agency where doing so has been delayed by COVID-19.

The public health emergency, as a result of COVID-19, has resulted in a financial hardship for many ABC-licensed establishments. Specifically, many licensees are operating in a limited fashion or not at all. Because certain licensees have annual and renewal fees coming due in the near future, the Board finds the adoption of these emergency rules to not only be essential to preserving the public health, welfare, and safety of the community so that establishments continue to be properly and timely licensed, but also to address the immediate financial concerns facing many ABC-licensed establishments as a result of the public health emergency.

The public health emergency has also impeded certain applicants from obtaining a police clearance from their state of residency. Under existing rules, applicants are required to provide ABRA with a police clearance from the Metropolitan Police Department, as well as from their state of residency if they are not a District resident. However, COVID-19 has caused disruptions to many local and state governmental operations, resulting in a delay to process requests for police clearances. The Board finds it necessary to take this emergency action to preserve the ability of applicants to obtain police clearance by temporarily allowing applicants to consent to a national criminal background check in lieu of a criminal background check from the applicant's resident state. Thus, the Board finds this rulemaking necessary to protect the public welfare while also preserving public safety.

Thus, on August 5, 2020, the Board adopted the *Temporary Suspension of Late Fees Notice of Emergency Rulemaking*, by a vote of seven (7) to zero (0). This rulemaking shall take effect August 5, 2020 and shall remain in effect for no longer than one hundred twenty (120) days from the Board's adoption; expiring on or before December 3, 2020, unless superseded.

Chapter 2, LICENSE AND PERMIT CATEGORIES, of 23 DCMR, ALCOHOLIC BEVERAGES, is as follows:

Section 208, LICENSE FEES, is amended by (1) adding a new Subsection 208.3; and (2) renumbering § 208.3 through 208.18 as § 208.4 through 208.19 to read as follows:

208.3 Notwithstanding § 208.2, the Board shall not impose the daily fifty dollar (\$50) late fee upon a licensee for failing to timely remit the annual and renewal license fees for the following license classes when those fees become due on July 31, 2020, or September 30, 2020.

- (a) All on-premises retailers;
- (b) Caterers;
- (c) Manufacturer and wholesaler licenses, class A and B; and
- (d) Solicitor and ABC manager licenses.

Section 208, LICENSE FEES, is further amended by adding new Subsections 208.20 and 208.21 to read as follows:

208.20 The date for licensees to cease and desist operations due to their failure to make annual or renewal license fee payments due on July 31, 2020, or to renew their license by no later than September 30, 2020, shall be October 21, 2020, and the license cancellation date for these licensees shall be November 4, 2020.

208.21 Those licensees whose licenses were cancelled by the Board on November 4, 2020, in accordance with § 208.20, solely due to the non-payment of the annual or renewal license fees shall be permitted to request reinstatement of the license from the Board until May 3, 2021, without the payment of any late fees, provided that all outstanding annual and renewal licensing fees have been paid.

Chapter 5, LICENSE APPLICATION, is amended as follows:

Section 502, POLICE CLEARANCE, is amended by adding a new Subsection 502.8 to read as follows:

502.8 An applicant who is not a District resident and is having difficulty or is unable to obtain a police clearance from a comparable authority from the state in which they reside due to the COVID-19 emergency may allow ABRA to conduct a national criminal background check to satisfy the out-of-state police clearance requirement set forth in § 502.5. Prior to conducting the criminal background check, ABRA shall:

- (a) Inform the applicant that a national criminal background check will be conducted; and
- (b) Obtain written approval from the applicant to conduct a national criminal background check.

**OFFICE OF THE DEPUTY MAYOR FOR PLANNING
AND ECONOMIC DEVELOPMENT**

NOTICE OF SECOND EMERGENCY RULEMAKING

The Deputy Mayor for Planning and Economic Development (Deputy Mayor), pursuant to the authority set forth in § 2316 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective March 17, 2020 (D.C. Act 23-0247; 67 DCR 3093 (March 20, 2020)), Mayor's Order 2020-045, dated March 11, 2020, Mayor's Order 2020-046, dated March 11, 2020, and Mayor's Order 2020-052, dated March 23, 2020, hereby gives notice of the adoption, on an emergency basis, of the following amendment to Chapter 8 (Local, Small, and Disadvantaged Business Contracting) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

The world continues to face an unprecedented global health crisis. COVID-19 is a highly contagious communicable disease. Presently, there is neither a vaccine to protect against nor a medical treatment to combat COVID-19. To slow the spread of the virus in the District of Columbia, public health measures are necessary to protect District residents and persons who work in and visit the city. In response, Mayor Muriel Bowser issued Mayor's Orders 2020-045 and 2020-046 to declare both a Public Emergency and a Public Health Emergency. Mayor's Order 2020-079, dated July 22, 2020, extended the Public Emergency and Public Health Emergency until October 9, 2020.

On March 17, 2020, the Council of the District of Columbia passed the COVID-19 Response Emergency Amendment Act of 2020 (D.C. Act 23-0247). This legislation provided, on an emergency basis, additional authority to the Executive to address critical needs of District residents and businesses during the current public health emergency. This included a new Public Health Emergency Small Business Grant Program to be administered by the Deputy Mayor. This authority was extended by the Coronavirus Support Emergency Amendment Act of 2020 (D.C. Act 23-0326), Coronavirus Support Temporary Amendment Act of 2020 (D.C. Act 23-0334), the Coronavirus Support Congressional Review Emergency Amendment Act of 2020 (D.C. Act 23-0328), and the Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020 (D.C. Act 23-0405).

The Deputy Mayor adopted an emergency rulemaking on March 24, 2020, published at 67 DCR 3860 (April 3, 2020). That emergency rulemaking expired on July 22, 2020; however, the Washington, DC area continues to face the COVID-19 pandemic. The Deputy Mayor believes that emergency rules continue to be necessary to support the Public Health Emergency Small Business Grant Program, to ensure that eligible small businesses continue to receive desperately needed assistance on an expedited basis.

The Deputy Mayor finds that the adoption of these emergency rules is essential to support our local businesses during the current state of emergency. Therefore, the Deputy Mayor gives notice that on August 31, 2020, it has adopted the Public Health Emergency Small Business Grant Program Second Emergency Rulemaking to take effect immediately.

The emergency rulemaking shall remain in effect for the duration of the Public Emergency and Public Health Emergency but in no event longer than one hundred twenty (120) days, unless superseded.

Chapter 8, LOCAL, SMALL, AND DISADVANTAGED BUSINESS CONTRACTING, of Title 27, CONTRACTS AND PROCUREMENT, is amended as follows:

A new Section 853, PUBLIC HEALTH EMERGENCY SMALL BUSINESS GRANT PROGRAM, is added to read as follows:

853 PUBLIC HEALTH EMERGENCY SMALL BUSINESS GRANT PROGRAM

853.1 The Deputy Mayor for Planning and Economic Development (“DMPED”) may modify or waive the conditions to making grants or subgrants under the Citywide Grants Manual and or the DMPED Grants Manual for the purpose of issuing grants pursuant to the Public Health Emergency Small Business Grant Program (“**Grant Program**”) established pursuant Section 201 of the Coronavirus Support Emergency Amendment Act of 2020, effective May 27, 2020 (D.C. Act 23-0326), Section 201 of the Coronavirus Support Congressional Review Emergency Amendment of 2020 (D.C. Act 23-0328), Section 201 of the Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020 (D.C. Act 23-0405), and Mayor’s Order 2020-079, dated July 22, 2020.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF EMERGENCY RULEMAKING

The Director of the District Department of Transportation, pursuant to the authority in Section 11e(a) of the Department of Transportation Establishment Act of 2002 (“Establishment Act”), effective March 6, 2007 (D.C. Law 16-225; D.C. Official Code § 50-921.35(a) (2014 Repl. & 2019 Supp.)), and Mayor’s Order 2009-43, dated March 26, 2009, hereby gives notice of emergency rules that modify Chapter 15 (DC Circulator) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

DDOT is introducing this notice of emergency rulemaking in keeping with the public health emergency extended by Mayor’s Order 2020-075, dated June 19, 2020: Phase Two of Washington, D.C. Reopening. The rulemaking suspends fares so that passengers can enter and exit Circulator buses from the rear door, encouraging physical distancing. A previous emergency rulemaking, introduced by DDOT in keeping with the public health emergency originally declared by Mayor’s Order 2020-045, dated March 11, 2020, promulgated similar rules, for similar purposes. Mayor’s Order 2020-075 indicates that physical distancing of riders and drivers on public transportation vehicles is still necessary as more people are now moving around the District and physical distancing is still an important component to reducing the spread of COVID-19.

The emergency rulemaking is necessitated by an immediate need to preserve the public safety and welfare with safe access to Circulator buses for residents and visitors to use in the District. Allowing residents and visitors to enter and exit the Circulator buses from the rear door (unless the wheelchair-accessible front door is needed) will encourage social distancing, allowing them to practice safe distancing (especially from the driver) as advised by the Centers for Disease Control and Prevention.

This emergency rule was adopted on September 1, 2020 and became effective immediately. This emergency rule will remain in effect until the expiration of Mayor’s Order 2020-075, and any substantially similar successor Mayor’s Order, or until September 30, 2020, whichever comes first.

Chapter 15, DC CIRCULATOR, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended by adding a new Section 1504 to read as follows:

1504 TEMPORARY FEE SUSPENSION AND SERVICE ADJUSTMENTS

1504.1 Notwithstanding Sections 1502 and 1503 of this chapter, the Circulator shall be free of charge for all riders starting on September 1, 2020. It will remain free of charge for the duration of the public health emergency declared by Mayor’s Order 2020-045, dated March 11, 2020, as extended by any successor Mayor’s Order.

DEPARTMENT OF BEHAVIORAL HEALTH**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Behavioral Health (“the Department”), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2018 Repl.)), hereby gives notice of the addition of a new Chapter 81 (Reimbursement Rates for Services Provided by the Department of Behavioral Health Chapter 80 Certified Behavioral Health Stabilization Providers), to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (“DCMR”).

This emergency and proposed rulemaking adopts the Medicaid rates published by the Department of Health Care Finance in the District of Columbia Medicaid fee schedule for services provided to Medicaid and non-Medicaid clients by providers certified by the Department under Title 22-A DCMR Chapter 80, “Certification Standards for Behavioral Health Stabilization Providers.” This rulemaking also establishes reimbursement for room and board services provided by those certified under the Psychiatric Crisis Stabilization Program.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of District residents. The Department, in partnership with the Department of Health Care Finance, received federal approval on November 6, 2019 for a Section 1115 Behavioral Health Transformation Demonstration Program (“demonstration program”) from Centers for Medicare and Medicaid Services. Under the demonstration program, the District received authority to provide new behavioral health services reimbursed by the Medicaid program between January 1, 2020 and December 31, 2024, including psychiatric stabilization and behavioral health outreach services. The demonstration program was conceived, in large part, as a response to the crisis unfolding in the District relating to opioid use and abuse. To meet the deadline required by this demonstration program, to advance the District’s goals in the Opioid Strategic Plan Live.Long.DC. and to support a more person-centered system of physical and behavioral health care, the Department requires the emergency and proposed rulemaking to begin appropriate work.

This rule was adopted and became effective on August 27, 2020. The emergency and proposed rules will remain in effect for one hundred twenty (120) days after the date of adoption unless superseded by publication of another rulemaking notice in the *D.C. Register*.

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

Title 22-A DCMR, MENTAL HEALTH, is amended to add a new Chapter 81 as follows:

CHAPTER 81 REIMBURSEMENT RATES FOR SERVICES PROVIDED BY THE DEPARTMENT OF BEHAVIORAL HEALTH CHAPTER 80 CERTIFIED BEHAVIORAL HEALTH STABILIZATION PROVIDERS

8101 REIMBURSEMENT RATE

8101.1 The Department of Health Care Finance has published rates for Medicaid-funded services under Title 22-A District of Columbia Municipal Regulations (DCMR), Chapter 80. Those rates are contained in the District of Columbia Medicaid fee schedule available online at www.dc-medicaid.com. The Department of Behavioral Health (“the Department”) shall reimburse providers for Chapter 80 services provided to non-Medicaid beneficiaries at the same rates as contained in the District of Columbia Medicaid fee schedule.

8101.2 Reimbursement for the local-only services provided under Title 22-A DCMR Chapter 80, which includes Psychiatric Crisis Stabilization Room and Board, are set forth in the table below. This rate is the same as the local-only substance use service rate provided under Title 22-A DCMR Chapter 64, Residential Room and Board, Code H0043. The Department shall update the Psychiatric Crisis Stabilization Room and Board rate to reflect any future changes to the Chapter 64 substance use service rate by publishing a Public Notice in the D.C. Register and providing an opportunity for meaningful comment before implementation. The Notice shall describe the type of change, the reason for the change, the effective date of the change, and the new local only reimbursement rate.

SERVICE	CODE	RATE per UNIT (\$)	UNIT
Psychiatric Crisis Stabilization Room and Board	S9485-U2	See Title 22-A District of Columbia Municipal Regulations (DCMR), Chapter 64, Residential Treatment, Room & Board (H0043)	Per diem

8101.3 All future updates to the service codes and rates will be included in the District of Columbia Medicaid fee schedule pursuant to the procedures established in Title 29 DCMR, Section 988, by providing notice and an opportunity for comment.

All persons desiring to comment on the subject matter of this emergency and proposed rule should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Trina Dutta, Director, Strategic Management and Policy Division, Department of Behavioral Health, 64 New York Ave, N.E., Second Floor, Washington, D.C. 20002, (202) 671-4075, trina.dutta@dc.gov, or DBHpubliccomments@dc.gov.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in the District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of emergency and proposed rulemaking action to adopt amendments to Chapter 5 (Voter Registration), and Chapter 7 (Election Procedures), of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to the aforementioned chapters is to place them into conformity with the General Elections Preparation Emergency Amendment Act of 2020, clarify that cameras may be used in voting and counting locations as long as they do not disrupt or interfere with the election administration process, establish that requests for absentee ballots must be received by the 15th day before Election Day.

Emergency action is necessary in order for these amendments to be in place prior to the November 3, 2020 General Election. Accordingly, the Board adopted these rules on an emergency basis at its regular meeting on Wednesday, September 2, 2020. The emergency rules shall remain in effect until Thursday, December 31, 2020 (one hundred and twenty (120) days from the adoption date), unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Chapter 5, VOTER REGISTRATION, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Subsection 500.2 of Section 500, GENERAL REQUIREMENTS FOR VOTER REGISTRATION, is amended to read as follows:

- 500.2 A person is a “qualified elector” if they:
- (a) For a primary election, are at least seventeen (17) years of age and will be eighteen (18) on or before the next general election, or for a general or special election, are at least eighteen (18) years of age on or before the date of the general or special election;
 - (b) Are a citizen of the United States;
 - (c) [REPEALED];
 - (d) Have maintained a residence in the District for at least thirty (30) days preceding the next election and do not claim voting residence or the right to vote in any state or territory; and
 - (e) Have not been adjudged legally incompetent to vote by a court of competent jurisdiction.

Subsection 500.3 is amended to read as follows:

500.3 [REPEALED]

Subsection 520.1 of Section 520, CANCELLATION OF VOTER REGISTRATION: GENERAL GROUNDS AND PROCEDURES, is amended to read as follows:

520.1 The grounds for cancellation of registration by the Board shall be the following:

- (a) Death of the voter;
- (b) Change in residence from the District of Columbia;
- (c) Signed authorization from a voter, or written notification from the voter that he or she is not a qualified elector;
- (d) [REPEALED];
- (e) Successful challenge to voter registration;
- (f) Falsification of information on the voter registration application;
- (g) Declaration of mental incompetence by a court of competent jurisdiction; and
- (h) In the case of a registrant whose registration is deemed inactive, failure to provide the Board with a current residence address in the District, in writing, or failure to vote in any election in accordance with D.C. Official Code § 1-1001.07(i)(4)(B) (2014 Repl.) by not later than the day after the date of the second general election for federal office that occurs after the date of the notice described in this section.

Chapter 7, ELECTION PROCEDURES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Subsection 706.17 of Section 706, POLL WATCHERS AND ELECTION OBSERVERS, is amended to read as follows:

706.17 No poll watcher or election observer shall, at any time, do any of the following:

- (a) Touch any official record, ballot, voting equipment, or counting form;
- (b) Interfere with the progress of the voting or counting;
- (c) Assist a voter with the act of voting;

- (d) Talk to any voter while the voter is in the process of voting, or to any counter while the count is underway; provided, that a watcher or observer may request that a ballot be referred for ruling on its validity to a representative of the Board;
- (e) In any way obstruct the election process; or
- (f) Use any video or still cameras inside voting and counting locations if such use is determined by election officials to be disruptive or to interfere with the election administration process.

Section 712, SPECIAL BALLOT APPEAL RIGHTS, is amended to read as follows:

712 SPECIAL BALLOT APPEAL RIGHTS

- 712.1 A voter's act of signing a challenged or Special Ballot Envelope shall be deemed the filing of an appeal by the voter of the refusal by the Board's Registrar of Voters to permit the voter to vote by regular ballot, and a waiver of personal notice from the Board of any denial or refusal to a later count of the challenged or Special Ballot.
- 712.2 The Board shall provide the voter, at the time of voting or after a challenge to an absentee ballot has been upheld pursuant to this chapter, with written notice that indicates the manner by which he or she may learn whether the Executive Director has decided to count or reject, in whole or in part, the voter's Special Ballot, and of the dates scheduled for hearings for voters whose Special Ballots are rejected to contest the Executive Director's preliminary determination if they petition to do so.
- 712.3 The Board shall enable any voter who has voted a Special Ballot to learn of the Executive Director's preliminary decision to count or reject his or her ballot along with the reason(s) for each decision by accessing either a dedicated section of the Board's website or a telephone service which shall be maintained during regular business hours.
- 712.4 Between the eighth (8th) day and the tenth (10th) day after the date of any election, the Board shall, upon petition of the voter, conduct a hearing for the voter to contest the Executive Director's preliminary determination to reject the voter's Special Ballot.
- 712.5 The Board shall review the information provided on the Special Ballot Envelope as well as all other available evidence pertaining to the eligibility of each voter casting a Special Ballot, and shall make a decision about whether to count or reject each special ballot.
- 712.6 At the hearing, the voter may appear and give testimony on the question of the Executive Director's preliminary decision to reject the Special Ballot.

- 712.7 The Board shall make a final determination to either count or reject the voter's Special Ballot no later than the day after the date of the hearing.
- 712.8 The voter may appeal an adverse decision of the Board to the Superior Court of the District of Columbia within one (1) business day after the date of the Board's decision. The decision of the court shall be final and not appealable.

Subsection 720.5 of Section 720, ABSENTEE VOTING, is amended to read as follows:

- 720.5 A duly registered voter or qualified federal elector may submit a written request for an absentee ballot electronically, by mail, or in-person at the Board's office. Qualified uniformed services and overseas voters may request an absentee ballot by using the Federal Post Card Application (FPCA) or the declaration accompanying a Federal Write-In Absentee Ballot (FWAB declaration). All requests for absentee ballots shall be received by the Board no later than the fifteenth (15th) day preceding the date of the election, except that requests for absentee ballots from qualified uniformed services and overseas voters may shall be received no later than the third (3rd) day preceding the date of the election.

All persons desiring to comment on the subject matter of this rulemaking should file written comments by no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, Board of Elections, 1015 Half Street S.E., Suite 750, Washington D.C. 20003. Please direct any questions or concerns to the Office of the General Counsel at 202-727-2194 or ogc@dcboe.org. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-089
September 3, 2020

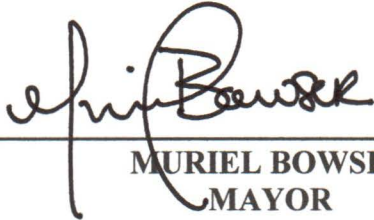
SUBJECT: Delegation – Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to the District-owned Real Property Known as the Frank D. Reeves Center of Municipal Affairs, Located at 2000 14th Street, NW and Known for Tax and Assessment Purposes as Lot 0844 in Square 0204, including Air Rights Lot 7000 (“Property”)

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) is delegated the authority vested in sections 1 through 3 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 *et seq.* and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, 58 Stat. 819, D.C. Official Code § 1-301.01(c) to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development, or use of the Property, including, but not limited to, easements, license agreements, use agreements, lease agreements, right of entry agreements, covenants, and other associated documents, and to take all other actions necessary or useful for or incidental to the solicitation, disposition, and development of the Property.
2. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.
3. This Order supersedes all prior Mayor’s Orders to the extent of any inconsistency.

4. **EFFECTIVE DATE:** The Order shall be effective *nunc pro tunc* to July 30, 2020.



MURIEL BOWSER
MAYOR

ATTEST: 

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-090
September 3, 2020


SUBJECT: Delegation – Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to the District-owned Real Property Known as Malcolm X Elementary School, Located at 1351 Alabama Avenue, SE, and Known for Tax and Assessment Purposes as Lot 0806 in Square 5914 (“Property”)

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) is delegated the authority vested in sections 1 through 3 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 *et seq.* and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, 58 Stat. 819, D.C. Official Code § 1-301.01(c) to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development, or use of the Property, including, but not limited to, easements, license agreements, use agreements, lease agreements, right of entry agreements, covenants, and other associated documents, and to take all other actions necessary or useful for or incidental to the solicitation, disposition, and development of the Property.
2. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.
3. This Order supersedes all prior Mayor’s Orders to the extent of any inconsistency.

4. **EFFECTIVE DATE:** The Order shall be effective *nunc pro tunc* to July 30, 2020.



MURIEL BOWSER
MAYOR

ATTEST: 

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

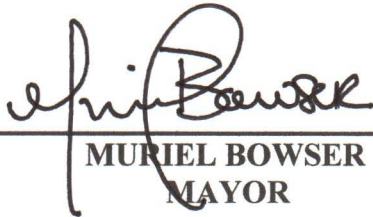
Mayor's Order 2020-091
September 3, 2020

SUBJECT: Reappointment – Commission on Judicial Disabilities and Tenure


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 431(d) and (e) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 795, Pub. L. 93-198, D.C. Official Code § 1-204.31(d) and (e) (2016 Repl.), it is hereby **ORDERED** that:

1. **WILLIAM LIGHTFOOT**, is reappointed as a member who is a lawyer of the Commission on Judicial Disabilities and Tenure, for a term to end February 24, 2026.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEMMayor's Order 2020-092
September 4, 2020

SUBJECT: Delegation – Authority to the Deputy Mayor for Planning and Economic Development to Solicit Offers, Accept Unsolicited Offers, and Execute Certain Documents with Respect to the District-owned Real Property Known as the John Mercer Langston School and the John Fox Slater School, Located at 33-45 P Street, NW, and Known for Tax and Assessment Purposes as Lot 0827 in Square 0615 (“Property”)

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) is delegated the authority vested in sections 1 through 3 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 *et seq.* and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, 58 Stat. 819, D.C. Official Code § 1-301.01(c) to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development, or use of the Property, including, but not limited to, easements, license agreements, use agreements, lease agreements, right of entry agreements, covenants, and other associated documents, and to take all other actions necessary or useful for or incidental to the solicitation, disposition, and development of the Property.
2. The authority delegated herein to the Deputy Mayor may be further delegated to subordinates under the jurisdiction of the Deputy Mayor.
3. This Order supersedes all prior Mayor’s Orders to the extent of any inconsistency.

4. **EFFECTIVE DATE:** The Order shall be effective *nunc pro tunc* to July 13, 2020.



MURIEL BOWSER
MAYOR

ATTEST: 
KIMBURLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-093
September 8, 2020

SUBJECT: Appointment — District of Columbia Health Information Exchange Policy Board

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 Mayor's Order 2016-035, dated March 10, 2016, as amended by Mayor's Order 2016-071, dated April 27, 2016, it is hereby **ORDERED** that:

1. **LUIZILDA DEOLIVEIRA**, is appointed as a medical provider who provides primary care or specialty care services member of the District of Columbia Health Information Exchange Policy Board, replacing Amanda Rhoads, for a term to end June 25, 2021.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

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

OFFICE OF ADMINISTRATIVE HEARINGS
DISTRICT OF COLUMBIA ADVISORY COMMITTEE
PUBLIC NOTICE OF MEETING

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings hereby gives notice that it will meet on Thursday, September 17, 2020 at 1:00 pm. The meeting will be held via WebEx at the link and numbers below. Below is the Draft Agenda for this meeting.

AGENDA

1. Welcome and Call to Order
2. Introductions
3. Vote to Approve Transmission of the Minutes
4. Open Microphone from Agency GC's
5. Remarks from the Chief ALJ
6. Old Business
7. New Business
8. Adjournment

Meeting Link:

<https://dcnet.webex.com/dcnet/j.php?MTID=mea2215cc02545bb3243cc743732f92de>

Meeting number (access code): 160 011 0656

Password: DYgDrssC223

More ways to join:

Join by video system - Dial [1600110656@dcnet.webex.com](tel:1600110656)

You can also dial 173.243.2.68 and enter your meeting number.ss

Join by mobile device (attendee only) – +1-202-860-2110,,1600110656 US Toll (D.C.)

Join by phone - +1-202-860-2110 United States Toll (D.C.)

For more information, please contact **Lisa Wray, Executive Assistant**, at Lisa.Wray@dc.gov or 202.724.7681 (Office); 202.552.9756 (Cell)

**DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF
ADMINISTRATIVE LAW JUDGES OF
THE OFFICE OF ADMINISTRATIVE HEARINGS
NOTICE OF PUBLIC MEETING**

In accordance with D.C. Code § 2-576(1), the District of Columbia Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings (Commission) hereby gives notice that, in light of the Government of the District of Columbia's shutdown of in-person public services due to the Coronavirus epidemic, it will conduct a teleconference meeting on Wednesday, September 9, at 12:00 p.m. in order to consider the reappointment of one Administrative Law Judge. The entire meeting will be closed pursuant to D.C. Code § 2-575(b)(10), which permits closed meetings in order to "discuss the appointment, employment, assignment, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials." The agenda below will be posted on the OAH website at www.oah.dc.gov and the Office of Open Government/BEGA website at www.open-dc.gov.

For further information, please contact Louis Neal at Louis.Neal@dc.gov or 202-724-3672.

AGENDA

- I. Call to Order (Board Chair)**
- II. Ascertainment of Quorum**
- III. Adoption of Agenda**
- IV. Vote on Reappointment of Eligible Administrative Law Judge**
 - a. Repunzelle Bullock**
- V. Discussion of Next Meeting**
- VI. Adjournment (Board Chair)**

**OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS**

**Notice of Statutory and Special
Real Property Tax Rates for Tax Year 2021**

I. Statutory Real Property Tax Rates for Tax Year 2021

<u>Real Property Tax Class</u>	<u>Statutory Tax Rates Per \$100 of Assessed Value</u>
Class One (residential property)	\$0.85
Class Two (commercial property)	
When property assessment value is not greater than \$5 million	\$1.65
When property assessment value is greater than \$5 million but not greater than \$10 million	\$1.77
When property assessment value is greater than \$10 million	\$1.89
Class Three (vacant buildings)	\$5.00
Class Four (blighted buildings)	\$10.00

II. Special Real Property Tax Rates for Tax Year 2021

**BOND ACT REQUIREMENT
Certification of Debt Service Requirement**

In Tax Year 2021, **sixteen percent (16.0%)** of total real property tax collections, by class, shall be dedicated to the repayment of General Obligation Bonds. The recommended special real property tax rates by class for Tax Year 2021 are as follows:

<u>Real Property Tax Class</u>	<u>Special Tax Rates Per \$100 of Assessed Value</u>
Class One (residential property)	\$0.136
Class Two (commercial property)	
When property assessment value is not greater than \$5 million	\$0.261
When property assessment value is greater than \$5 million but not greater than \$10 million	\$0.283
When property assessment value is greater than \$10 million	\$0.302
Class Three (vacant buildings)	\$0.800
Class Four (blighted buildings)	\$1.600

**OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS**

**The Most Recent Federal Data on Median Family Income
By Household Size for the District of Columbia
as of September 2018**

In accord with the Truth in Affordability Reporting D.C. Code §42-2151.02

District of Columbia Median Household Income By Household Size 2018		
Household Size	Estimate	Margin of Error
1-person households	\$55,008	+/- \$1,656
2-person households	\$116,795	+/- \$2,827
3-person households	\$111,567	+/- \$4,714
4-person households	\$132,361	+/- \$10,196
5-person households	\$109,717	+/- \$7,525
6-person households	\$100,182	+/- \$16,620
7 -or -more -person households	\$90,578	+/- \$10,399
All Households	\$82,604	+/- \$1,081

Source: U.S. Census Bureau, 2014-2018 American Community Survey 5-Year Estimates

Notes: The American Community Survey (ACS) is an ongoing survey by the U.S. Census Bureau. It regularly gathers information previously contained only in the long form of the decennial census, such as ancestry, educational attainment, income, language proficiency, migration, disability, employment, and housing characteristics. It is the largest household survey that the Census Bureau administers. On the national level, the survey was sent to more than 291,000 household addresses monthly (or 3.5 million in 2018). For the District of Columbia in 2018, the survey was sent to 7,500 households with 4,300 surveys being officially finalized. The 2015-2019 ACS 5-year estimates will be released on Thursday, December 10, 2020.

The 5-year estimates have larger samples and smaller margins of error than the 1-year estimates. However, they are less current because the larger samples include data that were collected in earlier years. The main advantage of using multiyear estimates is the increased statistical reliability.

OFFICE OF THE DISTRICT OF COLUMBIA CLEMENCY BOARD

NOTICE OF PUBLIC MEETING

The Clemency Board will be holding its meeting on Friday, September 18, 2020 at 1:00 p.m. The meeting will be held via WebEx at the link (and numbers) below. Below is the agenda for this meeting.

AGENDA

1. Welcome and Call to Order
2. Introductions
3. Old Business
 - a. Review Bylaws
 - b. Adopt Bylaws
4. New Business
 - a. Election of Chairperson
5. Public Comment
6. Adjournment

Meeting Link:

<https://dcnet.webex.com/dcnet/j.php?MTID=mfb5365e98d3fd08c49340cb4ba7ad9cc>

Meeting number (access code): 172 747 9336

s

Password: A2sW4QCj8nP

More ways to join:**Join by video system**

Dial 1727479336@dcnet.webex.com

You can also dial 173.243.2.68 and enter your meeting number

Join by mobile device

+1-202-860-2110, 1727479336## United States Toll (Wash., D.C.)

Join by phone

+1-202-860-2110 United States Toll (Washington, D.C.)

Join using Microsoft Lync or Microsoft Skype for Business

Dial 1727479336@dcnet@lync.webex.com

For additional information, please contact Lisa M. Wray, Executive Secretary at (202) 724-7681 or lisa.wray@dc.gov.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

RE:

Address:	Square:	Lot:
1809 Martin Luther King Jr. Avenue, SE	5601	0814

Dear Sir/Madam:

The Department of Consumer and Regulatory Affairs (DCRA), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY2020**, for the following reasons:

You provided sufficient evidence to support your extraordinary circumstances and hardship. Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, "A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.

(B) The exemption may be granted for a period of up to 24 months, subject to renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship."

Annually you are required by law to register vacant property or seek an exemption for the current tax year. DCRA will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property as (Class1/Class2). You may email OTR at adjustments@dc.gov to request a corrected bill within 5 to 7 business days. DCRA reserves the right to revoke this exemption if the building is not maintained in accordance with the Vacant Building Maintenance standards, or if disqualifying information is obtained.

If you have questions regarding this decision please contact Theresa Hollins), Program Support Specialist at (202) 805-8344.

Sincerely,

Donald Sullivan
Program Manager
Vacant Building Enforcement

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY

FISCAL YEAR 2021

Community Schools Incentive Initiative Grant School Year 2020-2021

Request for Application (RFA) Release Date: Sept. 25, 2020 at 12 p.m.

As authorized by the Community Schools Incentive Act of 2012, as amended, (D.C. Official Code § 38-754.01 *et seq*), the Office of the State Superintendent of Education (OSSE) – Division of Systems and Supports, K-12 is soliciting grant applications for the FY21 District of Columbia Community Schools Incentive Initiative Grant. The overall goal of the grant is to provide resources that will enable eligible consortia to create and enhance community-based partnerships and develop a framework for continued funding as well as ongoing evaluation of program success. A “community school” is a public and private partnership to coordinate educational, developmental, family, health, and after-school-care programs during school and non-school hours for students, families, and local communities at a public school or public charter school with the objectives of improving academic achievement, reducing absenteeism, building stronger relationships between students, parents, and communities, and improving the skills, capacity, and well-being of the surrounding community residents. The grant is supported through local funds to increase student achievement and address many of the challenges faced by economically disadvantaged communities.

Eligibility and Selection Criteria: OSSE will make these grants available through a competitive process to eligible consortia. An “eligible consortium” is a partnership established between a local education agency (LEA) in DC and one or more community partners for the purposes of establishing, operating, and sustaining a community school. OSSE will give priority to eligible consortiums that include:

1. A focus on mental health and associated treatment services;
2. A student population where more than 60% of the students are at-risk as defined in DC Official Code § 38-2901(2A); and
3. A focus on improving academic outcomes for students.

Applications will be scored on the following selection criteria: grant requirements/features, program implementation and monitoring, financial management and sustainability and service of priority areas.

Length of Award: The FY21 grant award period ends on Sept. 30, 2021. Subject to funding availability and continued compliance with grant terms and conditions, successful applicants shall be eligible for three years of grant funding.

Available Funding for Awards: The total funding available for the FY21 award period is \$1,221,823.44. An eligible consortium may apply for an award amount up to \$152,727.93 and, subject to funding availability and compliance with grant terms and conditions, shall be eligible

for continued funding for two additional years, for a total of three years. Subject to funding availability, OSSE may award up to eight grant awards. Grant funds shall only be used to support activities authorized by the relevant statutes and included in the applicant's submission.

Application Process: OSSE will be holding a pre-application webinar on Sept. 30, 2020 at 1 p.m., to answer questions about the RFA and grant competition. To register, please visit the following link: <https://www.eventbrite.com/e/community-schools-incentive-initiative-grant-fy21-pre-application-meeting-tickets-105111425102>. Please see the full RFA for a detailed timeline of events.

An external review panel will be convened to review, score, and rank each application. The review panel will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored against a rubric and application will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel shall make recommendations for awards based on the scoring rubric. The State Superintendent or her designee will make all final award decisions. Applications must be submitted by Nov. 9, 2020. OSSE estimates that it will award grants by Nov. 30, 2020; however, this date may change.

For additional information regarding this competition:

- Melissa Harper-Butler
Program Analyst, Special Programs Unit
Division of Systems and Supports, K-12
1050 First Street NE, Fifth Floor, Washington, DC 20002
Phone: (202) 478-2409
Email: Melissa.Harper-Butler@dc.gov

The RFA will be available on the [District of Columbia Office of Partnerships and Grant Services](#) website and <https://osse.dc.gov/service/community-schools-incentive-initiative>. Applications will be submitted through the [Enterprise Grants Management System](#).

DEPARTMENT OF ENERGY AND ENVIRONMENT
DISTRICT OF COLUMBIA COMMISSION ON CLIMATE CHANGE AND
RESILIENCY

NOTICE OF PUBLIC MEETING

The Commission meeting will be held on Thursday September 10, 2020 from 3:00 p.m. to 5:30 p.m. The meeting will be held virtually at:

<https://georgetown.zoom.us/j/91726772360>

The final agenda will be posted on the Commission website at
<https://doee.dc.gov/publication/commission-climate-change-and-resiliency>.

For additional information, please contact: Melissa Deas, Climate Program Analyst, at (202) 671-3041 or melissa.deas@dc.gov.

Draft Meeting Agenda

1. Call to Order
2. Announcement of Quorum
3. Approval of Agenda
4. Approval of Previous Meeting Minutes
5. Chairman's Welcoming Remarks
6. Commission Governance
7. Commission Communications
8. Agency Presentation
 - Draft Presentation: The District of Columbia Carbon Neutrality Plan,
Kate Johnson (DOEE)
9. Panel Discussion
 - Cross-sector Collaborations in Emissions Reduction
10. Public Testimony
11. Upcoming Meetings
12. Adjournment

FRIENDSHIP PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

Friendship Public Charter School is seeking bids from prospective vendors to provide:

- **General contractor services** for a wide range of school facilities including, but not limited to, review of existing building conditions, renovation of existing spaces, and development of new construction projects. The Contractor's services shall include all things necessary to provide professional general contracting services for construction projects at a variety of sites throughout the school district. Project value will range from \$50,000 to \$1,000,000 per project.
- **IT Equipment and Services** such as: HE Charging Carts with custom artwork, and ability to disinfect, certified cables for Apple products and USB-C cables for Samsung Chromebook4, battery charging refresh and repair of existing equipment to meet today's technology needs.

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, October 2, 2020. No proposals will be accepted after the deadline. Questions can be addressed to ProcurementInquiry@friendshipschools.org.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH CARE FINANCE**

NOTICE OF FUNDING AVAILABILITY

The Department of Health Care Finance (DHCF) announces a Notice of Funding Availability (NOFA) for grant funds pursuant to the authority established by DHCF using funds provided by the Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA), State Opioid Response Grant, CFDA #93.788 to make grant funds available to deliver Medication Assisted Therapy (MAT) for opioid use disorder via telemedicine. The Director of DHCF has authority to issue grants under the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code 7-771.05(4) (2012 Repl.).

A Request for Applications (RFA) for the below opportunities will be released under a separate announcement with guidelines for submitting the application, review criteria, and DHCF terms and conditions for applying for and receiving funding. The anticipated performance period for these grants is the date of award to September 29, 2021. The grant award is contingent upon available funding.

Descriptions of Opportunities:

Telemedicine Innovations in Medication Assisted Therapy (“TeleMAT”) Grant: At least three (3) grants of up to \$250,000 each will be awarded to provide telehealth services in the District’s Medication Assisted Therapy (MAT) network. DHCF shall award at least three (3) grants to support the development of scalable programs that utilize telemedicine to increase access to MAT for purposes of treating opioid use disorder (OUD) for District residents. These grants will implement, improve, enhance, or measure MAT telehealth services for District residents in compliance with the Controlled Substances Act and the Ryan Haight Act. Funding for this opportunity is provided by the District of Columbia’s Opioid Response (DCOR) initiative, which is funded by the Substance Abuse and Mental Health Services Administration (SAMHSA) State Opioid Response (SOR) grant and administered by the Department of Behavioral Health (DBH). Awardees will be required to comply with SAMHSA reporting requirements for funding used for DCOR.

Eligibility Requirements:

Applicants must have a demonstrated record of care delivery for Medicaid beneficiaries with OUD and must be authorized (“waivered”) to treat opioid dependency with buprenorphine. All applicants must also be registered organization in good standing with the DC Department of Consumer and Regulatory Affairs (DCRA), Corporation Division, the Office of Tax and Revenue (OTR), the Department of Employment Services (DOES), and the Internal Revenue Service (IRS), and demonstrate Clean Hands certification at the time of application.

A RFA will be released on or around September 25, 2020. The application package will be available online at <http://opgs.dc.gov/page/opgs-district-grants-clearinghouse> and the DHCF website (<https://dhcf.dc.gov/page/dhcf-grant-opportunities>).

DHCF will hold a pre-proposal conference on September 29, 2020 from 11:00 a.m. to 12 p.m. EST via Webex. Prospective applicants must provide an email address to DHCF to receive notification of amendments or clarifications to the RFA.

Completed applications must be received on or before 4p.m. on October 26, 2020. No applications will be accepted after the submission deadline. All eligible applications will be reviewed through a competitive process.

For additional information regarding this NOFA, please contact Okey K. Enyia, Health Reform Project Analyst, Health Care Reform and Innovation Administration at okechuku.enyia@dc.gov.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Social Work (“Board”) hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

The Board meets monthly on the fourth Monday of each month from 10:00 AM to 1:00 PM. The next meeting of the Board will be held on Monday, September 28, 2020. The meeting will start at 9:00 AM due to the scheduling of a disciplinary hearing and will be open to the public from 9:00 AM until 10:30 AM to conduct the disciplinary hearing and discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 10:30 AM to 1:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:

Meeting number: 160 859 9517

Password: qJ2-iGStRP34

<https://dcnet.webex.com/dcnet/j.php?MTID=m99dc89d1ba676c4b892a66e98ec96315>

By phone:

202-860-2110 or 1-650-479-3208 Call-in toll number (US/Canada)

Access code: 1608599517

The agenda is available at <https://dchealth.dc.gov/publication/board-social-work-agendas>. For additional information, contact the Health Licensing Specialist at mavis.azariah@dc.gov or (202) 442-4782.

**HEALTH, DEPARTMENT OF (DC HEALTH)
 COMMUNITY HEALTH ADMINISTRATION (CHA)
 NOTICE OF FUNDING AVAILABILITY (NOFA)
 RFA# CHA_PHCCI.09.25.20**

Perinatal Health Coordinated Care Integration Program

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants for services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	Perinatal Health Coordinated Care Integration Program
Funding Opportunity Number:	FO-CHA-PG-00006-006
Program RFA ID#:	CHA_PHCCI.09.25.20
Opportunity Category:	Competitive
DC Health Administrative Unit:	Community Health Administration
DC HEALTH Program Bureau	Family Health Bureau
Program Contact	Jean Gamble Community Health Administration jean.gamble@dc.gov
Program Description:	This funding opportunity seeks to pilot mechanisms to better connect prenatal care to labor and birthing options, with a focus on Wards 7 and 8. The pilot should incorporate the assessment and sharing of social determinants of health at healthcare at perinatal healthcare visits.
Eligible Applicants	Not-for-profit, profit, faith-based, public and private organizations located and licensed to conduct business within the District of Columbia experienced in providing services of a similar nature and can demonstrate evidence of the same.
Anticipated # of Awards:	1
Anticipated Amount Available:	\$650,000
Floor Award Amount:	\$400,000
Ceiling Award Amount:	\$650,000

Funding Authorization:

Legislative Authorization	District of Columbia Fiscal Year 2021 Budget Support Act of 2020
Associated CFDA#	Not Applicable
Associated Federal Award ID#	Not Applicable
Cost Sharing / Match Required?	No
RFA Release Date:	Friday, September 25, 2020
Pre-Application Meeting (Date)	Friday, October 9, 2020
Pre-Application Meeting (Time)	3:30 PM to 5:00 PM
Pre-Application Meeting Location	Virtual Meeting Link: https://dcnet.webex.com/dcnet/k2/j.php?MTID=t22d0d30fa110c329e047293bf637f037 Password: 1234
Conference Call Access	Call-in toll number (US/Canada): 1-650-479-3208 United States Toll (Washington D.C.): +1-202-860-2110 Access code: 172 184 3139
Letter of Intent Due date:	Not Applicable
Application Deadline Date:	Monday, October 26, 2020
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	Go to Serve DC’s website. Scroll to “Funding Alerts and DC Grants Clearinghouse” to obtain additional information, including instructions related to this NOFA: https://communityaffairs.dc.gov/content/community-grant-program Locate documents here, and apply for the funding opportunity via the DC Health Enterprise Grants Management System (EGMS): https://dcdoh.force.com/GO__ApplicantLogin2

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF PUBLIC MEETING

Homeland Security Commission

September 11, 2020

3:00 p.m. to 4:30 p.m.

Virtual Meeting via WebEx: 1-650-479-3208; access code: 172 826 0567

On September 11, 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.

**MONUMENT ACADEMY PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Monument Academy PCS solicits proposals for the following:

- **Human resources and related services**

Full RFP(s) by request. Contact: bids@mapcsdc.org

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING OF THE
WALTER REED ARMY MEDICAL CENTER
COMMUNITY ADVISORY COMMITTEE**

The Office of the Deputy Mayor for Planning and Economic Development will conduct a public meeting of the Walter Reed Army Medical Center Community Advisory Committee, pursuant to Walter Reed Army Medical Center Community Advisory Committee Amendment Act of 2013 and the Open Meetings Act, (DC Official Code §2-574(1)).

The date, time and location of the Public Meeting shall be as follows:

- Date:** Monday, September 14th
- Time:** 6:30 PM – 8:00 PM
- Location:** - WebEx Call -
Join by phone 1-650-479-3208
Meeting Number (access code): 172 186 1806
- Contact:** Randall Clarke, DMPED

Walter Reed Community Advisory Committee Meeting Agenda

1. LRA Opening Remarks
 - Welcome & Intro
 - Meeting Facilitation & Order
2. The Parks at Walter Reed Development Team
 - CBE First Source Project Update/Upcoming Opportunities
 - Construction Updates
 - Project Events
 - Other Project Updates
3. Special Presentation
3. Adjourn - 8pm

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, September 24, 2020 at 11:00 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to the Board of Directors Calendar on DC Water’s website at www.dewater.com. Due to COVID-19, the General Manager has suspended public access to DC Water facilities. Please see the website for remote access information for the meetings.

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

DRAFT AGENDA

- 1. Call to Order Committee Chairperson
- 2. August 2020 Financial Report Committee Chairperson
- 3. Agenda for October 2020 Committee Meeting Committee Chairperson
- 4. Adjournment Committee Chairperson

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

District of Columbia Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) District of Columbia Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, September 22, 2020 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to the Board of Directors Calendar on DC Water’s website at www.dcwater.com. Due to COVID-19, the General Manager has suspended public access to DC Water facilities. Please see the website for remote access information for the meetings.

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

DRAFT AGENDA

- | | | |
|----|---------------------|--|
| 1. | Call to Order | Committee Chairperson |
| 2. | Monthly Updates | Executive VP,
Finance & Procurement |
| 3. | Committee Work Plan | Executive VP,
Finance & Procurement |
| 4. | Other Business | Executive VP,
Finance & Procurement |
| 5. | Adjournment | Committee Chairperson |

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

Application No. 20254 of The Government of the Republic of Zambia, pursuant to 11 DCMR Subtitle X, Chapter 2, to permit the renovation of the chancery building in the R-1-B zone at premises 2419 Massachusetts Avenue, N.W. (Square 2506, Lot 22).

HEARING DATE: May 6, 2020 and July 8, 2020
DECISION DATE: July 15, 2020

NOTICE OF FINAL RULEMAKING
and
DETERMINATION AND ORDER

The Board of Zoning Adjustment (the “**Board**”), pursuant to the authority set forth in § 306 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code § 6-1306 (2012 Repl.)) and Chapter 2 of Subtitle X of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references herein are made unless otherwise specified) and after having held a virtual public hearing on July 8, 2020, hereby gives notice that it took **FINAL ACTION NOT TO DISAPPROVE** the application of The Government of the Republic of the Zambia (the “**Applicant**”) to permit the renovation of the chancery building (the “**Application**”) in the R-1-B zone at premises 2419 Massachusetts Avenue, N.W. (Square 2506, Lot 22) (the “**Property**”).

THE APPLICATION

The Property has been used as the chancery for the Government of the Republic of Zambia for approximately 50 years and is improved with a three-story structure (the “**Structure**”). The Application proposes to renovate the interior and exterior of the Structure and to install a new perimeter fence on the Property.

The renovations to the Structure include two, 300-square-foot additions at the second floor on each side of the main entrance to the building (the “**Additions**”). The Additions would be finished in stucco to match the existing façade of the Structure and would provide additional office space for the chancery. The Additions would be set back approximately four feet from the front façades.

The Application proposes to retain the existing stone retaining wall and to top the wall with a stone cap. Further, the Application proposes to install an unornamented metal perimeter fence on top of the retaining wall to a maximum height of five feet. Sixteen-foot wide mechanical gates, at

the same five-foot height as the combined wall and fence, would be installed for the two openings to the circular drive. The Application proposes to construct a new retaining wall on the south elevation and to continue the fence atop the new wall.

RESPONSES TO THE APPLICATION

On May 29, 2020, the Office of Zoning (“OZ”) provided notice of Application (Exhibits 15-27) to the United States Department of State (“DOS”), the D.C. Office of Planning (“OP”) Advisory Neighborhood Commission (“ANC”) 2D, whose boundaries encompass the Property, the Single Member District Commissioner for ANC 2D01, the Office of the ANCs, the District Department of Transportation (“DDOT”), Historic Preservation Review Board (“HPRB”), the Councilmember for Ward 2, and the At-Large Councilmembers.

The Board postponed the public hearing to July 8, 2020, due to the COVID-19 public health emergency and OZ provided notice of the hearing by mail to the Applicant, ANC 2D, and the owners of all property within 200 feet of the Property, as well as to the Department of State.

Notice of the original hearing date was published in the *D.C. Register* on March 13, 2020 (67 DCR 2783) and notice of the rescheduled hearing date was published in the *D.C. Register* on July 3, 2020 (67 DCR 8062).

The ANC did not submit a written report, but in response to a request made by the Board at the public hearing on July 8, 2020, the Chair of ANC 2D provided comments indicating that the ANC considered the matter at its June meeting and “found nothing of concern on the request.” (Exhibit 36.) The ANC Chair’s comments also raised three issues from neighbors, which were related to construction and therefore outside the scope of the Board’s review.

OP submitted a report, dated April 24, 2020 (Exhibit 13, the “OP Report”), that included a staff report from HPRB and recommended that the Board not disapprove the Application.

DDOT submitted a report, dated April 23, 2020 (Exhibit 14, the “DDOT Report”), indicating that DDOT has no objection to the Application.

The United States Department of State submitted a letter, dated June 1, 2020 (Exhibit 35, the “DOS Letter”), making the required findings and determinations relating to the statutory criteria that are within the purview of the federal government.

A notice of proposed rulemaking was published in the April 3, 2020 edition of the *D.C. Register*. (67 DCR 3899.) No comments were received in response.

FOREIGN MISSIONS ACT CRITERIA

Pursuant to § 406(d) of the Foreign Missions Act (approved August 24, 1982, 96 Stat. 283; D.C. Official Code § 6-1306(d) (2012 Repl.)), the Board must consider six enumerated criteria when

reviewing a chancery application. The provision further dictates who is to make the relevant finding for certain factors. The factors and relevant findings are as follows:

1. The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

The Board concludes that the Application meets this criterion based on the DOS Letter, which determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the Government of the Republic of Zambia in acquiring adequate and secure premises to carry out their diplomatic mission.

2. Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

The Board concludes that the Application meets this criterion based on the findings in the OP Report, including:

- The Structure is a contributing structure to the Sheridan-Kalorama Historic District and therefore subject to review by HPRB;
- The HPRB staff report (the “**HP Report**”) dated March 27, 2014, concluded that the Additions would be compatible “in massing, materials and architectural character with the existing first floor additions”
- The HP Report also determined that the adjacent embassies “have five-foot iron fences with which the proposed fence would align.”
- The HP Report recommended that the HPRB approve the concept as consistent with the character of the Sheridan-Kalorama and Massachusetts Avenue Historic District.
- Historic Preservation staff confirmed that the plans submitted with the Application are identical to those that were reviewed by staff and the HPRB in 2014.

3. The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

The Board concludes that this criterion is met based on the findings in the DDOT and OP Reports. The Board concurs with the findings in the DDOT Report that the proposed action will not have adverse impacts on the District's transportation network. In addition, the Board credits the findings in the OP Report that the use will be adequately served by:

- Off-street parking spaces, specifically the three on-site parking spaces that are currently provided in the garage and the five spaces on the Property's adjacent lot; and
- Metrobus service on Massachusetts Avenue, by the bus stop at the corner of Massachusetts Avenue and S Street.

The Board also concludes that this criterion is met because the DOS Letter determined that, after consulting with the Federal agencies authorized to perform protective services, there exist no special security requirements relating to parking in this case.

4. **The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Board concludes that the Application meets this criterion based on DOS's determination, based on consultation with Federal agencies authorized to perform protective services, that the Property is capable of being adequately protected.

5. **The municipal interest, as determined by the Mayor.**

The Board concludes that the Application meets this criterion because OP, on behalf of the Mayor of the District of Columbia, determined that approving the Application was in the municipal interest. Specifically, the OP Report found that:

- The Property is located within the R-1-B zone, a low-density residential zone, and within a mixed-use area that permits chancery uses, consistent with Subtitle X § 201.3 through 201.7. Therefore, the Application would also not be detrimental to the Zoning Regulations, as it is a use anticipated in this zone.
- The chancery use has existed on the Property since 1970 and would not be detrimental to the public good nor is it contemplated to bring substantial harm to the privacy and use of enjoyment of neighboring property.
- The Application, specifically the proposed perimeter fence, presents no public space concerns.

6. **The federal interest, as determined by the Secretary of State.**

The Board concludes that the Application meets this criterion based on DOS's determination that the federal interest supports the Application based on the Embassy of Zambia's generous assistance in accommodating security requirements for the U.S. Embassy in Lusaka, an example of the cooperation essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

The Board 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 Y § 405.8; *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).

The Board credits the analysis of the OP Report and finds its recommendation that the Application should be not disapproved persuasive and concurs in that judgement.

BZA APPLICATION NO. 20254

PAGE NO. 4

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

The Board 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 Y § 406.2. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

The ANC did not submit a written report for this Application, and therefore, the Board has no issues or concerns to give great weight.

DECISION

Based upon its consideration of the six criteria discussed above and having given great weight to the ANC and OP, the Board has decided not to disapprove the Application to permit the renovation of the chancery building in the R-1-B zone at premises 2419 Massachusetts Avenue, N.W., and therefore **ORDERS** that the application is **NOT DISAPPROVED**, and pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS** at **EXHIBIT 6**.

VOTE (July 15, 2020) **4-0-1** (Frederick L. Hill, Lorna L. John, Peter G. May, and Marcel C. Acosta to **NOT DISAPPROVE**; 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: August 31, 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.

BZA APPLICATION NO. 20254
PAGE NO. 5

**BOARD OF ZONING ADJUSTMENT
PUBLIC MEETING NOTICE
WEDNESDAY, SEPTEMBER 30, 2020
Virtual Meeting via WebEx**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to decide items on the agenda out of turn.

TIME: 9:30 A.M.

I. CONSENT CALENDAR

Application No. 20294 of Mark Herzog, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the minimum side yard requirements of Subtitle D § 206.7, to construct a front porch addition to an existing principal detached dwelling unit in the R-1-B Zone at premises 4535 Alton Place N.W. (Square 1566, Lot 12). (ANC 3E)

Application No. 20309 of David D. Do, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, and from the rear yard requirements of Subtitle E § 306.1, to add a second-story rear deck addition to an existing attached flat in the RF-1 Zone at premises 41 Quincy Place, N.W. (Square 3101, Lot 93). (ANC 5E)

Application No. 20312 of District Department of General Services, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle F § 4910.1 from the rear yard requirements of Subtitle F § 4906.1, to construct an ADA-accessible elevator at the back of Ross Elementary School building in the RA-8 Zone at premises 1730 R Street N.W. (Square 155, Lot 821). (ANC 2B)

PLEASE NOTE:

This public meeting will be held virtually through WebEx for the Board to deliberate on or decide the items listed on the agenda. Information for the public to view or listen to the public meeting will be provided on the Office of Zoning website and in the case record for each application or appeal as soon as possible in advance of the meeting date.

Do you need assistance to participate?

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

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

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

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

BZA VIRTUAL PUBLIC MEETING NOTICE

SEPTEMBER 30, 2020

PAGE NO. 2

Chinese

您需要有人帮助参加活动吗？

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

French

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

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿Necesita ayuda para participar?

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

Vietnamese

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

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

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

FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, VICE-CHAIRPERSON
VACANT, MEMBER
CHRISHAUN SMITH, MEMBER,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 19-08
Z.C. Case No. 19-08
Georgetown 29K Acquisition, LLC
(Map Amendment @ Square 1193, Lots 45, 46, & 800-804)
October 21, 2019

Pursuant to notice, at its September 12, 2019, public hearing, the Zoning Commission for the District of Columbia (the “Commission”) considered an application (the “Application”) by Georgetown 29K Acquisition, LLC (the “Applicant”) for approval of An amendment of the Zoning Map from unzoned to the MU-13 zone for Lots 45, 46, & 800-804 in Square 1193, with an address of 1051-1055 29th Street, N.W. (the “Property”), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified). The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

NOTICE

1. On January 30, 2019, the Applicant mailed a notice of intent to file the Application to all property owners within 200 feet of the Property as well as Advisory Neighborhood Commission (“ANC”) 2E, the “affected ANC” pursuant to Subtitle Z § 101.8, as required by Subtitle Z §§ 304.5 & 304.6. (Exhibit [“Ex.”] 1F.)
2. On June 25, 2019, the Office of Zoning (“OZ”) sent notice of the September 12, 2019, public hearing to:
 - ANCs 2E and 2A¹;
 - ANC Single Member District (“SMD”) 2E05;
 - Office of the ANCs;
 - Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - DC Council; and
 - Property owners within 200 feet of the Property. (Ex. 13, 14, 16.)
3. OZ published notice of the public hearing in the June 28, 2019, *D.C. Register* (66 DCR 7653) as well as on the calendar on OZ’s website. (Ex. 12, 13.)

PARTIES

4. The only party to the case besides the Applicant was ANC 2E. The Commission received no requests for party status.

¹ The Office of Zoning determined that ANC 2A, which is separated from the Property by Rock Creek, is an affected ANC. The Applicant stated that it had contacted ANC 2A regarding the application, but that the ANC declined to take a position.

THE PROPERTY

5. The Property is a two acre, triangularly shaped site, bounded by 29th Street, N.W. to the west, the C&O Canal to the north, Rock Creek to the southeast, and the Whitehurst Freeway and K Street, N.W. to the south.
6. The Property's northern portion is improved with the former West Heating Plant ("WHP"), which:
 - Is 110 feet tall;
 - Is an individual historic landmark and a contributing building in the Georgetown Historic District;
 - Has been abandoned and vacant since it was decommissioned in 2000; and
 - Is pervasively contaminated.
7. The Property is located in the southeast corner of Georgetown and is surrounded by a mix of residential and commercial uses.
8. The properties to the west and north of the Property are zoned MU-13. The properties to the southeast are unzoned federal properties along Rock Creek.

ZONING

9. The Property is currently unzoned due to its prior federal ownership.

COMPREHENSIVE PLAN (TITLE 10A DCMR, THE "CP")**Generalized Policy Map (the "GPM")**

10. The CP's GPM designates the Property for Parks – Federal and District-owned, which the CP describes as:

"The Generalized Policy Map also identifies parks and open space, federal lands, Downtown Washington, and major institutional land uses. The fact that these areas are not designated as Conservation, Enhancement, or Change does not mean they are exempt from the policies of the Comprehensive Plan or will remain static. Park and open space will be conserved and carefully managed in the future. Federal lands are called out to acknowledge the District's limited jurisdiction over them, but are still discussed in the text of the District Elements..." (CP § 223.22.)

Future Land Use Map (the "FLUM")

11. The CP's FLUM designates the Property's northern half, corresponding to the WHP, as Mixed-Use Medium Density Residential/Moderate Density Commercial, and the Property's southern half as Parks, Recreation, and Open Space.
12. The CP defines these designations as follows:

Medium Density Residential: *"[N]eighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low and moderate density housing may exist within these areas. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-*

5-B and R-5-C Zone districts are generally consistent with the Medium Density designation, although other zones may apply.”; (CP § 225.5.)

Moderate Density Commercial: “[S]hopping and service areas that are somewhat more intense in scale and character than the low-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in low density commercial areas but generally do not exceed five stories in height. The corresponding Zone districts are generally C-2-A, C-2-B, and C-3-A, although other districts may apply.”; and (CP § 225.9.)

Parks, Recreation, and Open Space: “[T]he federal and District park systems, including the National Parks, the circles and squares of the L'Enfant city and District neighborhoods, the National Mall, settings for significant commemorative works, certain federal buildings such as the White House and the US Capitol grounds, and museums, and District operated parks and associated recreation centers. It also includes permanent open space uses such as cemeteries, open space associated with utilities such as the Dalecarlia and McMillan Reservoirs, and open space along highways such as Suitland Parkway. This category includes a mix of passive open space (for resource conservation and habitat protection) and active open space (for recreation) ... Zoning designations for these areas vary. The federal parklands are generally unzoned, and District parklands tend to be zoned the same as surrounding land uses.” (CP § 225.17.)

II. THE APPLICATION

PROPOSED ZONING

13. The Application, filed on March 19, 2019, asserted that the proposed map amendment would allow for the redevelopment of the vacant Property, including the renovation and adaptive reuse of the historic WHP and the remediation of the Property’s existing contamination. (Ex. 1, 1A-1G.)
14. The intent of the Application’s proposed MU-13 zone is to permit medium-density mixed-use development generally in the vicinity of the waterfront. (Subtitle G § 500.4.)
15. The MU-13 zone permits the following development standards as a matter of right:
 - 4.0 maximum floor area ratio (“FAR”) (4.8 for Inclusionary Zoning “IZ” developments), with a 2.0 maximum non-residential FAR;
 - 60-foot maximum height (80 feet for IZ developments); and
 - 75% maximum lot occupancy.(Subtitle G §§ 502 through 504.)

16. The MU-13 Zone permits a wide range of uses including residential, commercial, institutional, office, and parks and recreation uses. (Subtitle U § 507.)

APPLICANT'S JUSTIFICATION OF RELIEF

Not Inconsistent with the CP

17. The Application asserted that it was not inconsistent with the CP and with other adopted public policies and active programs applicable to the Property, as detailed below.
18. **FLUM** - The Application asserted that the proposed map amendment would not be inconsistent with the FLUM because
- The Property's northern portion's Medium Density Residential/Moderate Density Commercial designation matches the proposed MU-13 zone's intent to permit medium density mixed-use development near the waterfront;
 - The Property's southern portion's Parks, Recreation, and Open Space designation:
 - Does not identify compatible zones and the proposed MU-13 zone would accommodate parks and recreation uses; and
 - Would allow the reallocation of permissible gross floor area from the Property's southern portion to the northern portion to allow the redevelopment of the historic WHP, which far exceeds the MU-13's maximum height; and
 - The proposed rezoning would extend the existing MU-13 zoning of the adjacent private property to the north and west (Federal properties along Rock Creek bound the Property to the southeast).
19. **Land Use Element** – The Application asserted that the proposed map amendment would:
- Facilitate the redevelopment and adaptive reuse of the Property;
 - Integrate the Property into the existing Georgetown neighborhood while providing park space and access to the waterfront; and
 - Further a number of element policies including:
 - Infill Development; (CP § 307.5.)
 - Long-Term Vacant Sites; (CP § 307.6.)
 - Zoning of Infill Sites; (CP § 307.7.)
 - Multi-Family Neighborhoods; (CP § 309.15.)
 - Reuse of Public Buildings; (CP § 309.17.)
 - Restoration or Removal of Vacant and Abandoned Buildings; and (CP § 310.4.)
 - Neighborhood Beautification. (CP § 310.5.)
20. **Housing Element** – The Application asserted that the proposed map amendment would:
- Allow the currently vacant Property to be developed to provide new multi-family housing in a desirable area of the District; and
 - Further a number of element policies including:
 - Expanding Housing Supply; (CP § 503.1.)
 - Private Sector Support; and (CP § 503.2.)
 - Balanced Growth. (CP § 503.4.)

21. **Environmental Protection Element** – The Application asserted that the proposed map amendment would:
- Facilitate development of the Property would necessitate the clean-up and remediation of the historic environmental contamination on the Property; and
 - Further a number of element policies including:
 - Hazardous Building Materials and Conditions; and (CP § 621.6.)
 - Clean-Up of Contaminated Sites. (CP § 621.9.)
22. **Parks, Recreation and Open Space Element** – The Application asserted that the proposed map amendment would:
- Allow for the redevelopment of the currently abandoned Property with new open space that would create a connection between the developed areas of Georgetown and the nearby recreation areas of C&O Canal, Rock Creek Park, and the Georgetown Waterfront; and
 - Further a number of element policies including:
 - Park Diversity; (CP § 804.10.)
 - Improving Access; (CP § 805.6.)
 - Park Acquisition; (CP § 807.4.)
 - Parks on Surplus Land; (CP § 807.7.)
 - Quality and Compatible Design; (CP § 809.8.)
 - Responding to Local Preferences; (CP § 808.9.)
 - Connecting Neighborhoods to the Rivers; (CP § 813.4.)
 - Linkages Between the Waterfront and Nearby Neighborhoods; (CP § 813.6.)
 - Trail Network; and (CP § 815.5.)
 - Common Open Space in New Development. (CP § 819.5.)
23. **Urban Design** – The Application asserted that the proposed map amendment would:
- Facilitate the redevelopment of an abandoned, contaminated, and isolated site in a manner compatible with the Property’s landmark status and location in the historic district;
 - “Enhance the visual quality and connectivity of Georgetown” by adding open space and high-quality design proximate to the waterfront; and
 - Further a number of element policies including:
 - Waterfront Public Space and Access; (CP § 905.6.)
 - Excellence in Waterfront Design; (CP § 905.7.)
 - “Activating” Waterfront Spaces; (CP § 905.11.)
 - Neighborhood Connectivity; (CP § 905.12.)
 - Neighborhood Character and Identity; (CP § 910.6.)
 - Areas of Strong Architectural Character; (CP § 910.7.)
 - Creating Attractive Facades; (CP § 910.12.)
 - Infill Development; and (CP § 910.15.)
 - Protection of Neighborhood Open Space. (CP § 910.18.)

24. **Near Northwest Area Element** – The Application asserted that the proposed map amendment would:
- Facilitate the redevelopment of the Property with new, sustainably designed housing;
 - Create new open space allowing for greater connectivity to the Rock Creek and Potomac River waterfronts; and
 - Further a number of area element policies including:
 - Residential Neighborhoods; (CP § 2108.2.)
 - Scenic Resource Protection; (CP § 2109.1.)
 - Increasing Park Use and Acreage; (CP § 2109.6.)
 - Shoreline Access; and (CP § 2109.7.)
 - Sustainable Development. (CP § 2109.10.)

Public Hearing Testimony

25. In its testimony at September 12, 2019, public hearing, the Applicant asserted that:
- The Commission should evaluate the Application’s consistency with the entire CP and its various policies and maps;
 - The Application furthered numerous CP policies, including
 - Enabling the preservation of the existing historic landmark by adaptive reuse;
 - Building compatible infill development that would provide needed housing and other beneficial uses to the area; and
 - Facilitating environmental remediation efforts to address the existing site contamination; and
 - The CP as a whole supported the Application and outweighed the FLUM’s designation of a portion of the Property as park and open space (September 12, 2019, Public Hearing Transcript, at 8-9).

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

26. OP submitted two reports in support of the Application in addition to its public hearing testimony:
- A May 31, 2019, report (“OP Setdown Report”); and (Ex. 5.)
 - A September 2, 2019, report (“OP Hearing Report”). (Ex. 18.)

The OP Setdown Report

27. The OP Setdown Report recommended that the Commission setdown the Application for a public hearing based on OP’s conclusion that the proposed map amendment is not inconsistent with the CP’s map designations and other policies because:
- The Property is currently unzoned;
 - Any proposed zoning should be compatible with and comparable to the adjacent property’s zoning, which for the Property is the MU-13 zone;

- The use, bulk, and density requirements of the MU-13 zone are generally consistent with those of the MU-5 and RA-3 zones, which the CP identifies as compatible zones with the FLUM Moderate Density Commercial and Medium Density Residential designations;
 - The proposed rezoning would further multiple CP elements by permitting redevelopment of a former industrial site with new uses that would be beneficial to the surrounding neighborhood and the District as a whole, including the Land Use, Housing; Environmental Protection; Parks, Recreation and Open Space; and Urban Design Elements, and the Near Northwest Area Element;
 - The proposed rezoning would be clearly consistent with the FLUM designation for the northern half as Medium Density Residential/Moderate Density Commercial; and
 - These other CP elements outweigh the GPM's designation for Parks and Open Space for the entire Property, as the FLUM designated the Property's northern portion, because rezoning the entire Property to the MU-13 zone would allow for thoughtful development of the Property with better connectivity to the surrounding parkland including the waterfront and the C & O Canal towpath and so would provide parks and recreation opportunities.
28. The OP Setdown Report stated that OP had referred the Application to the relevant District agencies for additional review and would provide their comments in OP's subsequent hearing report.

The OP Hearing Report

29. The OP Hearing Report reiterated the OP Setdown Report's conclusions and therefore recommended approval of the Application.
30. The OP Hearing Report reported the following responses by District agencies to OP's referral of the Application:
- Department of Housing & Community Development had no objection to the proposed map amendment and noted that the Applicant had made a financial commitment of between \$.28 million and \$4.05 million to the D.C. Housing Production Trust Fund;
 - DC Public Libraries had no comment on the proposed map amendment but that it did not expect that it would result in an undue burden to the library's operations; and
 - DDOT and the Department of Energy and the Environment ("DOEE") would submit their responses separately.

DDOT

31. DDOT submitted a September 3, 2019, report (the "DDOT Report") concluding that DDOT had no objection to the Application based on DDOT's conclusions that the proposed rezoning of the Property, if developed with the most intense matter of right uses, would not lead to a significant increase in the number of peak hour vehicle trips on the District's transportation network. (Ex. 19.)

DOEE

32. DOEE submitted an August 26, 2019, report (the “DOEE Report”) that did not make a recommendation on the Application, but that: (Ex. 17.)
- Identified several environmental issues and regulations applicable to the Property that the Applicant should consider in any future development, including changes to the floodplain regulations, stormwater, erosion and sediment control, and GAR requirements; and
 - Recommended that the Property’s southern portion with the FLUM Open Space designation be maintained as open space because it “presents an excellent opportunity to design the park in a way that incorporates flood protection for the property or neighborhood.”

ANC 2E

33. ANC 2E submitted a May 17, 2019, report (the “ANC Report”) stating that at an April 29, 2019, duly-noticed public meeting with a quorum present, the ANC voted in support of the Application. The ANC Report did not identify any issues or concerns with the Application. (Ex. 3.)

PERSONS IN SUPPORT

34. The Commission received only one response supporting the Application – a letter from the James Place Condominium. (Ex. 21.) The Commission heard no testimony supporting the Application.

PERSONS IN OPPOSITION

35. The Commission received no response opposing the Application and did not hear any testimony opposing the Application.

NCPC

36. The National Capital Planning Commission (“NCPC”) responded to the Commission’s referral of the Application for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended (87 Stat. 790, Pub. L. No. 93-198, D.C. Code § 1-201 *et seq.*) with an October 4, 2019, report stating that NCPC had determined that the Application’s proposed amendment of the Zoning Map is not inconsistent with the Comprehensive Plan for the National Capital and other federal interests. (Ex. 22, 24.)

CONCLUSIONS OF LAW

1. The Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797 Ch. 534; D.C. Official Code § 6-641.01 *et seq.* (2012 Repl.)) (the “Zoning Act”) authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.” (§ 1 of the Zoning Act; D.C. Official Code § 6-641.01.)

2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:
“zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection or property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.”
3. Pursuant to the Home Rule Charter, the District of Columbia Comprehensive Plan Act of 1989 (D.C. Law 8-129), and Subtitle A § 401.1, the Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map in a means not inconsistent with the Comprehensive Plan.
4. Pursuant to Subtitle X § 500.3, the Zoning Commission shall find that map amendments are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.
5. Although the Applicant had initially requested that the Application be reviewed as a rulemaking case under Subtitle Z, Chapter 5, the Commission set down the Application as a contested case under Subtitle Z, Chapter 4, as a map amendment filed by the owner of a single property per Subtitle Z §§ 201.2(e) and 201.7.

NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3)

6. The Commission concludes that the Application’s proposed amendment of the Zoning Map from unzoned to the MU-13 zone is not inconsistent with the Comprehensive Plan, when considered in its entirety, because the proposed map amendment will:
 - Further the Land Use Element by facilitating the redevelopment of the currently underdeveloped Property by adaptively reusing the Property’s existing structures to create new multi-family development that links the existing development in Georgetown to parkland and the waterfront;
 - Further the Housing Element by facilitating the redevelopment of the Property with new higher density housing which will advance the District’s housing goals by providing new multi-family housing proximate to existing amenities like the Georgetown commercial areas and parklands;
 - Further the Environmental Protection Element by facilitating the redevelopment of the Property which will necessitate extensive environmental remediation to address the historic contamination on the Property;
 - Further the Parks, Recreation, and Open Space Element by facilitating the redevelopment of the Property in a way that incorporates new open space that will serve

as an amenity to potential future residents on the Property and a connection between the developed Georgetown neighborhood and the C&O Canal, Rock Creek Park and the waterfront;

- Further the Urban Design Element by activating underdeveloped infill space near the Georgetown waterfront with new, attractive buildings that will complement the existing development and historic character of Georgetown and provide an access point to the Georgetown waterfront and nearby park and open spaces;
- Further the Near Northwest Area Element by facilitating the sustainable and adaptive redevelopment of the Property consistent with the Georgetown Historic District and linking the Property to existing parklands and the waterfront to benefit the surrounding community and the District as a whole;
- Further the FLUM’s designation of the Property’s northern portion as Medium Density Residential/Moderate Density Commercial because the proposed MU-13 zone is intended to permit medium density mixed-use development near the waterfront; and
- Further the FLUM’s designation of the Property’s southern portion, and the GPM’s designation of the entire Property, as Parks, Recreation, and Open Space because the proposed MU-13 zone would:
 - Allow the allocation of the permissible gross floor area from the southern portion, leaving it as open space, to the northern portion to enable the adaptive reuse of the historic WHP which far exceeds the MU-13’s maximum height; and
 - Be consistent with the CP’s definition of Parks, Recreation, and Open Space that states that “District [as opposed to federal] parklands tend to be zoned the same as surrounding land uses.” (CP § 225.17.)

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

7. 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.); Subtitle Z § 405.8); *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016.).
8. The Commission finds OP’s analysis of the proposed map amendment as not inconsistent with the CP persuasive and concurs with OP’s recommendation to approve the Application.

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

9. 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.); 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).)

- 10. Although the ANC Report did not identify any issues or concerns with the Application to which the Commission can give “great weight,” the Commission notes the ANC Report’s support for the Application and concurs that judgement.

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT	Map Amendment
1193	45, 46, & 800-804	Unzoned to MU-13

Proposed Action

Vote (September 12, 2019): 4-0-1 (Peter A. Shapiro, Robert E. Miller, Anthony J. Hood, and Michael G. Turnbull to **APPROVE**; Peter G. May recused and not participating)

Final Action

Vote (October 21, 2019): 4-0-1 (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, and Michael G. Turnbull to **APPROVE**; Peter G. May recused and not participating)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 19-08 shall become final and effective upon publication in the D.C. Register; that is on September 11, 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. 19-25**

Z.C. Case No. 19-25

Airdome, LLC

**(Zoning Map Amendment @ Square 982,
Lots 57, 65, 68, 70 & 823 [1101-1125 H Street, N.E.]**

April 27, 2020

Pursuant to notice, at its February 20, 2020 public meeting, the Zoning Commission for the District of Columbia (“Commission”) considered an application (the “Application”) by Airdome, LLC (the “Applicant”), for approval of an amendment of the Zoning Map from the NC-16 and MU-4 zones to the NC-17 zone for Lots 57, 65, 68, 70 and 823 in Square 982, with an address of 1101-1125 H Street, N.E. (the “Property”), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified). The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

NOTICE

1. On September 11, 2019, the Applicant mailed a notice of intent to file the Application to all property owners within 200 feet of the Property as well as Advisory Neighborhood Commission (“ANC”) 2E, the “affected ANC” pursuant to Subtitle Z § 101.8, as required by Subtitle Z §§ 304.5 & 304.6.(Exhibit [“Ex.”] 3G).
2. On December 26, 2019, the Office of Zoning (“OZ”) sent notice of the February 20, 2020, public hearing to:
 - The Applicant;
 - ANC 6A;
 - ANC Single Member District 6A02;
 - Office of ANCs;
 - DC Council;
 - Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - Department of Consumer and Regulatory Affairs; and
 - Property owners within 200 feet of the Property (Ex. 16 and 17).
3. OZ published notice of the February 20, 2020, public hearing in the *D.C. Register* on December 27, 2019 (66 DCR 16559) as well as through the calendar on OZ’s website. (Ex. 15 and 16.)

PARTIES

4. The only party to the case other than the Applicant was ANC 6A. The Commission received no requests for party status.

THE PROPERTY

5. The Property consists of 32,667 square feet of land area on the south side of H Street, N.E., between 11th and 12th Streets, N.E., with frontage on 11th and 12th Streets, N.E. (Ex. 3.)
6. All five lots of the Property are improved with structures as follows:
 - Lot 65 has a one-story commercial building;
 - Lot 70 has a two-story commercial building;
 - Lots 57 and 68 have five-story buildings devoted to residential use with ground floor retail; and
 - Lot 823 has a two-story commercial building. (Ex. 3.)
7. The Property abuts private property to the south, except Lots 57 and 68 which abut a public alley. (Ex. 3.)
8. H Street, N.E., where the Property is located, supports a wide variety of residential development, restaurants and bars, grocery stores, retail and service establishments, and art venues, and has ample public transportation in the form of Metrobus lines, the DC Streetcar, and the Metrorail accessed at Union Station. (Ex. 3.)
9. The development pattern surrounding the Property is characterized by higher density mixed-use development along H Street, N.E. (in the NC zones) and lower density, single-family row homes in the neighborhoods to the north and south of H Street, N.E. (in the MU, RA, and RF zones).

ZONING

10. Almost all of the Property is zoned NC-16, except for the southern portion of Lot 70 that is zoned MU-4 (approximately 1,464 square feet or 25% of Lot 70, and 4.5% of the Property). (Ex. 3, 3B, 11.)
11. The existing NC-16 zone is intended to permit mixed-use development at a moderate density with an emphasis on the provision of retail uses. (Subtitle H § 900.13.)
12. As a matter-of-right, the NC-16 zone permits:
 - A maximum density of 2.5 FAR (3.0 FAR for Inclusionary Zoning (“IZ”) developments), of which no more than 1.5 FAR may be devoted to nonresidential uses, except that for new construction that preserves an existing façade constructed before 1958 both the maximum non-residential FAR and overall FAR are increased by 0.5 FAR; (Subtitle H §§ 902.1, 902.3, 902.4, 909.1(b).)
 - A maximum height of 55 feet for new construction in the H Street Northeast Neighborhood Mixed-Use zones; and (Subtitle H §§ 903.1, 909.1(i).)

- A maximum residential lot occupancy of 70% (75% for IZ developments). (Subtitle H § 904.1.)
13. The existing MU-4 zone is intended to permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed-uses outside of the central core; be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops; and include office employment centers, shopping centers, and moderate bulk mixed-use centers. (Subtitle G § 400.3.)
 14. As a matter-of-right, the MU-4 zone permits:
 - A maximum overall density of 2.5 (3.0 FAR for IZ developments), of which no more than 1.5 FAR may be devoted to non-residential uses; (Subtitle G § 402.1.)
 - A maximum building height of 50 feet; and (Subtitle G § 403.1.)
 - A maximum residential lot occupancy of 60% (75% for IZ developments). (Subtitle G § 404.1.)
 15. Properties fronting on H Street in close proximity to the Property are generally zoned NC-16, NC-17, and NC-14. (Ex. 3B.)
 16. Properties abutting the rear of lots fronting H Street are generally zoned MU, RA, and RF. (Ex. 3.)

COMPREHENSIVE PLAN (TITLE 10A DCMR, THE “CP”)

Generalized Policy Map (“GPM”)

17. The CP’s GPM designates the Property as a Main Street Mixed Use Corridor, “a traditional commercial business corridor with a concentration of older storefronts”. The CP describes common features of these areas as:

“...a pedestrian-oriented environment with traditional storefronts. Many have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.” (CP § 223.14.)

Future Land Use Map (“FLUM”)

18. The CP’s FLUM designates the Property for Mixed-Use Medium Density Commercial and Medium Density Residential. (Ex. 3E.)
19. The CP defines these designations as follows:

Medium Density Residential - “... neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low and moderate density housing may exist within these areas. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone districts [current RA-2 and RA-3 zones] are generally consistent with the Medium Density designation, although other zones may apply.” (CP § 225.5.)

Medium Density Commercial - "... shopping and service areas that are somewhat more intense in scale and character than the moderate-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation generally draw from a citywide market area. Buildings are generally larger and/or taller than those in moderate density commercial areas but generally do not exceed eight stories in height. The corresponding Zone districts are generally C-2-B, C-2-C, C-3-A, and C-3-B, [current MU-5A, MU-6, MU-7 and MU-8 zones] although other districts may apply." (CP § 225.10.)

Mixed-Use Categories - "areas where the mixing of two or more land uses is encouraged ... and is generally applied to:

- a. Established, pedestrian-oriented commercial areas which also include substantial amounts of housing, typically on the upper stories of buildings with ground floor retail or office uses;
- b. Commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future; and
- c. Large sites where opportunities for multiple uses exist but a plan depicting the precise location of these uses has yet to be prepared." (CP § 225.18.)

Small Area Plan ("SAP")

20. The Property is subject to the H Street, N.E., Strategic Development Plan, that encompasses 13 blocks and approximately 1.5 miles along H Street, N.E., from North Capitol to 17th Streets, N.E. The SAP encourages development and redevelopment along the H. Street, N.E., corridor to accommodate new uses through lot consolidation, modifying land uses and/or zoning for preferred development, encouraging new construction and preservation with building design and development guidelines, and diversifying land uses with mixed income housing.
21. The Property is also within the SAP's Central Retail District, which extends from 7th to 12th Streets, N.E., and which identifies several sites, including the Property, as "appropriate for small scale redevelopment and infill development" that is intended to "contribute to the revitalization effort while maintaining the scale a character of the corridor".

II. THE APPLICATION

PROPOSED ZONING

22. The Application, filed on October 30, 2019, requested to rezone the Property from the NC-16 and MU-4 zones to the NC-17 zone in order to facilitate the redevelopment of the Property with a new mixed-use development project. (Ex. 1-3.)
23. The intent of the NC-17 zone proposed for the Property is to permit mixed-use development at a moderate- to medium-density with an emphasis on the provision of retail uses. (Subtitle H § 900.14.)
24. The NC-17 zone permits the following as a matter-of-right:

- A maximum overall density of 3.5 FAR (4.2 FAR for IZ developments), of which no more than 1.5 FAR may be devoted to nonresidential uses, with a 0.5 FAR bonus for new construction that preserves an existing façade constructed before 1958 for either residential or non-residential use; (Subtitle H §§ 902.1, 902.3, 902.4, and 909.1(b).)
 - A maximum height of 70 feet (75 feet for IZ developments) for new construction in the H Street Northeast Neighborhood Mixed-Use zones; and (Subtitle H §§ 903.1, 909.1(i).)
 - A maximum residential lot occupancy of 70% (80% for IZ developments). (Subtitle H § 904.1.)
25. The proposed map amendment would increase the Property's development potential by:
- 1.0 FAR for residential uses (1.2 FAR for IZ developments), with an additional 0.5 FAR for developments preserving pre-1958 facades;
 - 15 feet for building height (20 feet for IZ developments); and
 - 10% for lot occupancy (15% for IZ developments).

APPLICANT'S JUSTIFICATION OF RELIEF

Not Inconsistent with the CP

26. The Application asserted that the Application satisfied the requirements of Subtitle X § 500.3 because the Application was not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property. (Ex. 1-3L.)
27. **GPM** – The Application asserted that it is not inconsistent with the GPM's Main Street Mixed Use Corridor designation because the proposed rezoning will:
- Increase the residential density allowed on the Property while maintaining the same non-residential density as the existing zones;
 - Allow future redevelopment to both add housing units and encourage development of new commercial uses while generating additional pedestrian traffic to existing businesses; and
 - Encourage future redevelopment that would allow for improvements to the public realm adjacent to the property, thereby increasing pedestrian safety and the aesthetic appeal of the area.
28. **FLUM** – The Application asserted that the proposed rezoning would not be inconsistent with the FLUM's designation of the Property for mixed-use Medium Density Commercial/Medium Density Residential because the proposed NC-17 zone:
- Is intended to permit mixed-use moderate- to medium-density development;
 - Has identical building height, penthouse height, lot occupancy for IZ projects, and rear yard development standards and use permissions to those of the C-2-B (current (MU-5A) zone that the CP expressly identifies the MU-5A zone as compatible to a Medium Density Commercial designation; and
 - Has a maximum FAR that matched that of the MU-5A zone, except for the 0.5 FAR bonus for redevelopment of a pre-1958 façade, which is still below the maximum permitted density of the MU-6, MU-7, and MU-8 zones that the CP describes as corresponding with the Medium Density Commercial designation.

29. **CP Elements** - The Application asserted that the proposed map amendment is not inconsistent with the CP elements as detailed below.
30. **Land Use Element** – The Application would facilitate better utilization of the Property by permitting greater height and density that will better serve the long term needs of the surrounding neighborhood and District as a whole; and would advance a number of policies in the Land Use Element including:
- Development Around Metrorail Stations; (CP § 306.11.)
 - Edge Conditions Around Transit Stations; (CP § 306.14.)
 - Infill Development; (CP § 307.5.)
 - Conserving, Enhancing, and Revitalizing Neighborhoods; (CP § 307.8.)
 - Promotion of Commercial Centers; (CP § 312.5.)
 - Hierarchy of Commercial Centers; (CP § 312.6.)
 - Encouraging Nodal Development; and (CP § 312.9.)
 - Scale and Design of New Commercial Uses; (CP § 312.10.)
31. **Transportation Element** – The Application would encourage higher density development of the Property along a major mixed-use “highly-trafficked and multi-modal transit corridor”; and would advance a number of Transportation Element policies including:
- Transit-Oriented Development; (CP § 403.10.)
 - Boulevard Improvements; and (CP § 404.6.)
 - Pedestrian Network. (CP §410.5.)
32. **Housing Element** – The Application would permit greater height and residential density allowing for the creation of more market rate and affordable housing units and would advance the following Housing Element policies:
- Private Sector Support; (CP § 503.2.)
 - Balanced Growth; (CP § 503.4.)
 - Mixed Use Development; and (CP § 503.5.)
 - Land and Building Regulations. (CP § 507.2.)
33. **Economic Development Element** – The Application would encourage mixed-use development on the Property with greater height and density than is currently permitted, resulting in additional commercial uses as well increased foot traffic to local businesses, and would advance the following Economic Development policies:
- Expanding the Retail Sector; (CP § 708.4.)
 - Neighborhood Shopping; and (CP § 708.7.)
 - Neighborhood Commercial Vitality. (CP § 713.5.)
34. **Urban Design Element** – The Application would allow for the redevelopment of underutilized sites with new, aesthetically pleasing buildings that would enhance the surrounding neighborhood along a major District corridor, and would advance the following Urban Design Element policies:
- Avenues/Boulevards and Urban Form; (CP § 906.6.)

- Multi-Modal Avenue/Boulevard Design; (CP § 906.10.)
 - Priority Avenues/Boulevards; (CP § 906.11.)
 - Neighborhood Character and Identity; (CP § 910.6.)
 - Neighborhood Centers; (CP § 910.9.)
 - Infill Development; (CP § 910.15.)
 - Enhanced Streetwalls; and (CP § 913.13.)
 - Improving the Street Environment. (CP § 913.14.)
35. **Capitol Hill Area Element** – The Application would direct development towards the H Street, N.E., corridor, including “needed housing and retail services,” improvements to the public realm through high quality redevelopment all of which would facilitate the “renewal of H Street,” and would advance the following Capitol Hill Area Element policies:
- Renovation of Housing Stock; (CP § 1508.3.)
 - Upgrading Commercial Districts; (CP § 1508.4.)
 - Directing Growth; (CP § 1508.5.)
 - Transit Service; (CP § 1508.16.)
 - Façade Improvements; and (CP § 1508.17.)
 - H Street Streetcar. (CP § 1508.20.)
36. **SAP** – The Application asserted that it was not inconsistent with the SAP because the proposed map amendment would support the goals of both the SAP and of the Central Retail District, the SAP’s sub-area that encompassed the Property, by increasing the height and density available for development along the H Street, N.E., corridor, which would:
- Allow the redevelopment of an underutilized site with more neighborhood serving retail and mixed income housing;
 - Help attract private investment to the area; and
 - Encourage the renovation of existing buildings and compatible infill development.

The Transportation Study

37. The Applicant submitted on January 21, 2020, a transportation study (the “Transportation Study”), which concluded that the maximum development permitted under the proposed map amendment could be “accommodated without adverse impact to the surrounding roadway network” based on its determination that vehicle trips generated by the maximum build out under the proposed rezoning would not result in significantly higher trip generation than maximum build out under the existing zoning. (Ex. 20-20A.)

Public Hearing Testimony

38. At the February 20, 2020, public hearing, the Applicant:
- Presented an opening statement;
 - Offered expert witnesses to respond to questions from the Commission;
 - Confirmed, in response to the Commission’s question, that if the Commission approved proposed rezoning, any proposed development on the Property in excess of 6,000 square feet would require design review approval from the Board of Zoning Adjustment (“BZA”) pursuant to Subtitle H § 910.1; and

- Clarified, in response to the Commission’s question, that the ANC had categorized its support as “preliminary” because the ANC supported the proposed map amendment but did not want to approve a potential redevelopment of the Property until the development plans were finalized and submitted to the BZA. (February 20, 2020 Public Hearing Transcript [“Feb. 20 Tr.”] at 8-11, 14-16).

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

39. OP submitted two reports in support of the Application in addition to its public hearing testimony:
- A November 25, 2019, report (“OP Setdown Report”) recommending that the Commission set down the case for a public hearing; and (Ex. 11.)
 - A February 7, 2020, report (“OP Hearing Report”) recommending approval of the Application. (Ex. 22.)

OP Setdown Report

40. The OP Setdown Report concluded that the Application would not be inconsistent with the CP’s map designations and other policies because:
- The proposed map amendment would permit future development at a higher density that would allow for the creation of more housing units;
 - This additional housing would include more IZ units; and
 - This additional housing would help support nearby transit and businesses.

OP Hearing Report

41. The OP Hearing Report recommended approval of the Application based on OP’s determination that the proposed map amendment would be not inconsistent with the CP, including the GPM and FLUM designations and the citywide and area elements because:
- The additional height and density provided by the proposed rezoning would foster the development of additional housing units in support of the District’s housing goals;
 - The Property is “a targeted location in the Small Area Plan for adaptive reuse and infill development ... along a transit-rich, mixed-use corridor [that] would support development that would not be inconsistent with the medium-density, mixed-use development anticipated by the FLUM”; and
 - The proposed rezoning would be not inconsistent with the SAP because it would “promote new investment in future mixed-use infill development of the underutilized parcels, framed within the desired scale of development consistent with existing H Street design requirements”.

DDOT

42. DDOT filed a February 4, 2020, report (“DDOT Report”) stating no objection to the Application based on DDOT’s conclusions that: (Ex. 21.)
- The development of the Property with the most intense matter of right uses permissible under the proposed rezoning would likely not lead to a significant increase in the number of peak hour vehicle trips on the District’s transportation network;

- The proposed rezoning would support nearby transit and generate additional pedestrian traffic for nearby businesses;
- The Transportation Study’s analysis correctly concluded that the additional trips generated by the proposed map amendment “are expected to have a minimal impact on the transportation network”; and
- DDOT would address parking supply and TDM measures during the permitting for specific developments under the new zoning.

ANC 6A

43. ANC 6A submitted a September 28, 2019, report (“ANC Report”) stating that at its regularly scheduled and properly noticed September 12, 2019, meeting at which a quorum was present, the ANC voted to preliminarily support the Application based on the ANC’s: (Ex. 4.)
- Concern that additional housing stock is much needed in the community;
 - Understanding that the proposed map amendment would provide additional housing; and
 - Condition that future development of the Property:
 - Conform with the H Street Design Guidelines;
 - Include restrictions on Residential Parking Permits in any condominium by-laws; and
 - Would increase the number of affordable units in the community.

PERSONS IN SUPPORT

44. No letters in support of the application were filed in the case record and no persons or organizations testified in support of the application at the public hearing.

PERSONS IN OPPOSITION

45. No letters in opposition to the application were filed in the case record and no persons or organizations testified in opposition to the application at the public hearing.

NATIONAL CAPITAL PLANNING COMMISSION (“NCPC”)

46. NCPC responded to the Commission’s referral of the Application for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended (87 Stat. 790, Pub. L. No. 93-198, D.C. Code § 1-201 *et seq.*) with an April 1, 2020 letter stating that NCPC had determined that the Application is not inconsistent with the Comprehensive Plan for the National Capital and would not adversely impact any other identified federal interest. (Ex. 27, 28.)

CONCLUSIONS OF LAW

1. The Zoning Act of 1938, effective June 20, 1938, as amended (52 Stat. 797 ch. 534; D.C. Official Code § 6-641.01 *et seq.* (2012 Repl.)) (the “Zoning Act”) authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly

development as the national capital.” (§ 1 of the Zoning Act; D.C. Official Code § 6-641.01.)

2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:
“zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection or property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.”
3. Pursuant to the Home Rule Charter, the District of Columbia Comprehensive Plan Act of 1989 (D.C. Law 8-129), and Subtitle A § 401.1, the Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map in a means not inconsistent with the Comprehensive Plan.
4. Pursuant to Subtitle X § 500.3, the Zoning Commission shall find that map amendments are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.

NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3)

5. The Commission concludes that the Application complies with Subtitle X § 500.3 because the proposed map amendment is consistent with the purpose of the Zoning Act and is not inconsistent with the CP, when considered in its entirety including its maps and policies, as supplemented by the SAP, as detailed below.

GPM

6. The Commission concludes that the Application is not inconsistent with the GPM’s Main Street Mixed Use Corridor designation because:
 - The proposed rezoning will increase the Property’s permitted overall density, including density for housing and affordable housing which will not only contribute needed units to the District’s housing supply but will contribute to the economic vitality of the H Street corridor and generate positive economic benefits for new and existing businesses; and
 - The Property is presently underutilized considering its proximity to the H Street, N.E., DC Streetcar line, multiple Metrobus routes, the Metrorail, and regional rail lines at Union Station, and the location along one of the District’s Great Streets (Findings of Fact (“FF”) 27).

FLUM

7. The Commission concludes that the proposed NC-17 zone is not inconsistent with the FLUM's mixed-use Medium Density Commercial/Medium Density Residential designation because:
- The NC-17 zone is specifically intended to permit "mixed-use development at a moderate- to medium-density"; and
 - The NC-17 zone's development standards permit comparable height and density to other zones that the CP identifies as corresponding to the FLUM's Medium Density Commercial designation. (FF 28.)

Land Use Element

8. The Commission concludes that the Application is not inconsistent with the Land Use Element because the proposed map amendment will:
- Facilitate greater utilization of the Property that can better meet long-term neighborhood and citywide needs by permitting a greater height and density than allowed under the existing zoning; and
 - Facilitate the redevelopment of some or all of the Property which will improve the character, stability, and safety of the neighborhood, reinvigorate underutilized land, and therefore help to balance competing demands for land within the District. (FF 30.)

Transportation Element

9. The Commission concludes that the Application is not inconsistent with the objectives of the Transportation Element because the proposed map amendment will:
- Not result in any adverse impacts to the District's transportation network, even at maximum potential build out of the Property under the proposed rezoning, as confirmed by the Transportation Study and DDOT Report; and
 - Encourage redevelopment of the Property at a greater height and density than currently permitted along a major mixed-use and transit-oriented corridor, which will generate additional transit ridership and pedestrian traffic for the retail corridor, which will support the District's goal of improving mobility through the District and enhancing access to the city's mixed-use designations. (FF 31, 37, 43.)

Housing Element

10. The Commission concludes that the Application is not inconsistent with the Housing Element because the proposed map amendment will encourage the future reuse and redevelopment of the Property by permitting a greater height and residential density that can facilitate new market-rate and affordable housing to help realize the unmet demand throughout the city. (FF 32.)

Economic Development Element

11. The Commission concludes that the Application is not inconsistent with the goals of the Economic Development Element because the proposed map amendment will:
- Encourage the mixed-use growth at the Property, including commercial uses in the form of neighborhood serving retail uses; and

- Allow additional residential density that will help to support new and existing businesses in the H Street Commercial Corridor (FF 33).

Urban Design Element

12. The Commission concludes that the Application is not inconsistent with the Urban Design Element because the proposed map amendment will:
- Encourage the redevelopment of underutilized sites with new, visually appealing structures that appropriately interact with the surrounding public streets and sidewalks and integrate new construction with the existing and recently developed improvements on the H Street corridor; and
 - Facilitate redevelopment of the Property that will prompt associated improvements to the surrounding public spaces and increased livability and neighborhood identity. (FF 34.)

Capitol Hill Area Element

13. The Commission concludes that the Application is not inconsistent with the Capitol Hill Area Element because the proposed map amendment will assist in achieving Area Element's planning and development priorities. The greater height and density afforded by the NC-17 zone will encourage development, including the establishment of new retail stores and affordable housing, on H Street which the Area Element specifically referenced as a corridor ripe for development. (FF 35.)

SAP

14. The Commission concludes that the proposed NC-17 zone is not inconsistent with the policies and goals of the SAP because the proposed map amendment will allow increased height and density that would attract new private investment, encourage the renovation of existing buildings, establish office and residential uses in upper stories, and promote infill development on the existing underutilized lots, all of which are goals encouraged by the SAP, and the Central Retail District specifically. (FF 36.)

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

15. The Commission is required to give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.); Subtitle Z § 405.8); *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016.)
16. The Commission concludes that the OP Reports, which provided an-depth analysis of the Application, are persuasive and concurs with OP's recommendation that the Property be rezoned to the NC-17 zone as discussed above. (FF 39-41.)

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

17. 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.);

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).)

- 18. The Commission finds the ANC Report’s concern to increase housing in the community persuasive and concurs, although the Commission notes that the ANC Report’s conditions are not relevant to a map amendment like the Application but instead relevant in a future BZA review of a specific development project. The Commission notes the ANC Report’s support for the Application and concurs with that judgments. (FF 43.)

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT	Map Amendment
982	57, 65, 68, 70, & 823	NC-16 & MU-4 to NC-17

Proposed Action

Vote (February 20, 2020): 5-0-0 (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**)

Final Action

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 No. 19-25 shall become final and effective upon publication in the D.C. Register; that is on September 11, 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.

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