

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council enacts Act 23-410, Election Worker Residency Requirement Waiver Emergency Amendment Act of 2020
- D.C. Council schedules a public hearing on Bill 23-338 to discuss tenant evictions for non-payment and sealing of certain eviction records
- D.C. Council schedules a public hearing on Bill 23-886, Washington Metropolitan Area Transit Authority Police Accountability Amendment Act of 2020
- D.C. Council schedules a public hearing on monitoring of prescriptions for Opioids (Bill 23-890) and affordability of insulin (Bill 23-920)
- D.C. Council schedules a public hearing on Bill 23-918 that would close a loophole that allows large out of state companies to certify as local business enterprises
- Office of the State Superintendent of Education announces availability of funding for the FY 2021 National School Lunch Program Equipment Assistance Grant
- D.C. Public Service Commission approves Pepco’s update of its electric rates for retail service and for plug-in electric vehicles (PIV-Green Program)

The Mayor of the District of Columbia extends the Public Emergency and Public Health Emergency through December 31, 2020 and outlines modified and additional measures for Phase 2 of Washington DC reopening (Mayor’s Order 2020-103)

# 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](http://dcregs.dc.gov). Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ROOM 520S – 441 4<sup>th</sup> STREET, ONE JUDICIARY SQUARE - WASHINGTON, D.C. 20001 - (202) 727-5090

MURIEL E. BOWSER  
MAYOR

VICTOR L. REID, ESQ.  
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

**D.C. ACT 23-410**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**OCTOBER 5, 2020**

To amend, on an emergency basis, the District of Columbia Election Code of 1955 to provide for the November 3, 2020 General Election that election workers who are District government employees are not required to be District residents or qualified electors.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Election Worker Residency Requirement Waiver Emergency Amendment Act of 2020".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

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

“(31) For elections held in calendar year 2020, the term “polling place” shall include Vote Centers operated by the Board throughout the District.”.

(b) Section 5(e)(4) (D.C. Official Code § 1-1001.05(e)(4)) is amended as follows:

(1) Subparagraph (A) is amended by striking the phrase “The Board shall” and inserting the phrase “Except as provided in subparagraph (C) of this paragraph, the Board shall” in its place.

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

“(C) For the November 3, 2020 General Election, election workers, including precinct captains and polling place workers, who are District government employees are not required to be District residents or qualified electors.”.

Sec. 3. Section 804(a) of the Coronavirus Support Temporary Amendment Act of 2020, enacted on July 7, 2020 (D.C. Act 23-334; 67 DCR 8622), is repealed.

Sec. 4. Fiscal impact statement.

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

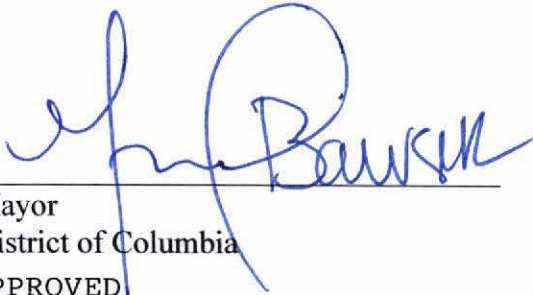
**ENROLLED ORIGINAL**

Sec. 5. Effective date.

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED  
October 5, 2020

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 23-411**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**OCTOBER 5, 2020**

To amend, on an emergency basis, the District of Columbia Public Emergency Act of 1980 to authorize the Mayor to extend the 15-day March 11, 2020, emergency orders issued in response to the coronavirus through December 31, 2020.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Public Health Emergency Authority Additional Extension Emergency Amendment Act of 2020”.

Sec. 2. Section 7(c-1) of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2306(c-1)), is amended to read as follows:

“(c-1) Notwithstanding subsections (b) and (c) of this section, the Council authorizes the Mayor to extend the 15-day March 11, 2020, emergency executive order and public health emergency executive order (“emergency orders”) issued in response to the coronavirus (SARS CoV-2) through December 31, 2020. After the extension authorized by this subsection, the Mayor may extend the emergency orders for additional 15-day periods pursuant to subsection (b) or (c) of this section.”.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

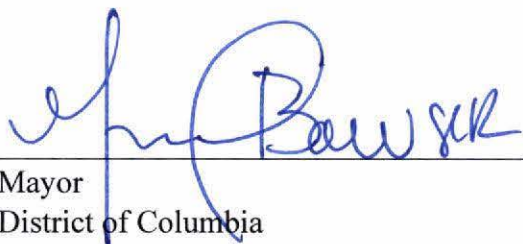
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
October 5, 2020



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

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

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

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

B23-0949     Juneteenth Day Amendment Act of 2020

Intro. 09-16-2020 by Chairman Mendelson, Councilmembers Todd, Pinto, McDuffie, R. White, Allen, Bonds, Gray, Cheh, Grosso, Nadeau, Silverman, and T. White and referred sequentially to the Committee on Government Operations, and Committee on Business and Economic Development

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B23-0952     John Lewis Way Designation Act of 2020

Intro. 09-28-2020 by Chairman Mendelson, Councilmembers Gray, Bonds, T. White, Nadeau, Todd, Pinto, McDuffie, Silverman, R. White, Cheh, Allen, and Grosso and referred to the Committee of the Whole

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B23-0959     Supporting Local Business Enterprises Amendment Act of 2020

Intro. 09-29-2020 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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B23-0960     Employment of Minors Amendment Act of 2020

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Intro. 09-29-2020 by Councilmembers Gray, Silverman, and Grosso and referred to the Committee on Labor and Workforce Development

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B23-0961 Closing of a Portion of a Public Alley in Square 5730 S.O. 19-45936 Act of 2020

Intro. 09-30-2020 by Chairman Mendelson and referred to the Committee of the Whole

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B23-0963 Voter Mobile App Amendment Act of of 2020

Intro. 10-05-2020 by Councilmember T. White and referred to the Committee on Judiciary and Public Safety

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B23-0964 Fiscal Year 2021 Budget Support Clarification Amendment Act of 2020

Intro. 10-05-2020 by Chairman Mendelson and referred to the Committee of the Whole

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B23-0965 Displaced Workers Right to Reinstatement and Retention Amendment Act of 2020

Intro. 10-05-2020 by Chairman Mendelson and referred to the Committee of the Whole

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B23-0966 Emergency Rental Assistance Reform Amendment Act of 2020

Intro. 10-05-2020 by Chairman Mendelson, and Councilmember Bonds and referred to the Committee on Human Services

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PR23-0974 Local Rent Supplement Program Contract No. 2019-LRSP-04A Approval Resolution of 2020

Intro. 09-25-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Housing and Neighborhood Revitalization

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PR23-0983 District of Columbia Housing Finance Agency Board of Directors Stephen Green Confirmation Resolution of 2020

Intro. 09-29-2020 by Chairman Mendelson and referred to the Committee on Housing and Neighborhood Revitalization

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PR23-0984 District of Columbia Combat Sports Commission Adam Weers Confirmation Resolution of 2020

Intro. 09-29-2020 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR23-0988 Gallaudet University Revenue and Refunding Bonds Project Approval Resolution of 2020

Intro. 10-02-2020 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION  
NOTICE OF JOINT PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**COUNCILMEMBER ANITA BONDS, CHAIRPERSON  
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION**

**&**

**COUNCILMEMBER BRANDON T. TODD, CHAIRPERSON  
COMMITTEE ON GOVERNMENT OPERATIONS**

**ANNOUNCE A JOINT PUBLIC HEARING**

*on*

**Friday, October 30, 2020, 12:00 PM**

**Virtual Hearing via Zoom  
To Watch Live**

**Broadcast on D.C. Cable Channel 13 or online at <https://dccouncil.us/council-videos/>**

*on*

**B23-0338 – “Eviction Record Sealing Authority Amendment Act of 2019”**

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On Friday, October 30, 2020, Councilmember Anita Bonds, Chairperson of the Committee on Housing and Neighborhood Revitalization and Councilmember Brandon T. Todd, Chairperson of the Committee on Government Operations, will hold a Public Hearing on B23-0338, the “Eviction Record Sealing Authority Amendment Act of 2019.” The hearing will take place via Zoom.

B23-0338 would require 30 days’ written notice to the Rent Administrator and tenant prior to evicting a tenant for nonpayment of rent. B23-0338 also requires the Court to seal certain eviction records, prohibits discrimination in housing based on a person having a sealed eviction record, and prohibits conditioning real estate transactions and other terms or condition of housing on disclosure of a sealed eviction record.

Persons who wish to testify are requested to either email the Committee at [housing@dccouncil.us](mailto:housing@dccouncil.us) or telephone the Committee at (202)724-8198, at least two days before the hearing and provide their name, address, telephone number, email address, organizational affiliation and title. Each witness will receive an individual Zoom invitation for the hearing in a

separate e-mail. Witnesses are encouraged to submit an electronic version of their testimony to [housing@dccouncil.us](mailto:housing@dccouncil.us). Oral testimony will be limited to 3 minutes.

All Councilmembers will receive an individual Zoom invitation for the hearing in a separate email. If a Councilmember does not have a separate link for each, please contact Sam Stephens at [sstephens@dccouncil.us](mailto:sstephens@dccouncil.us).

The hearing can also be viewed at [www.dccouncil.us](http://www.dccouncil.us) and [www.entertainment.dc.gov](http://www.entertainment.dc.gov).

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

If someone is unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Neighborhood Revitalization, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite G6, Washington, D.C. 20004 or by email at [housing@dccouncil.us](mailto:housing@dccouncil.us). The record will close at 5:00p.m. on Friday, November 13, 2020.

**Council of the District of Columbia**  
**COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**  
**NOTICE OF PUBLIC HEARING**  
 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

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**COUNCILMEMBER KENYAN R. McDUFFIE, CHAIRPERSON**  
**COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

**ANNOUNCES A PUBLIC HEARING ON**

**B23-0884, “BRUCE MONROE EXTENSION OF DISPOSITION AUTHORITY ACT OF 2020”;**

**AND**

**PR23-0988, THE “GALLAUDET UNIVERSITY REVENUE AND REFUNDING BONDS PROJECT APPROVAL RESOLUTION OF 2020”**

**Thursday, October 29, 2020, 9 a.m.**  
**Remote Hearing via Virtual Platform**  
**Broadcast live on DC Council Channel 13**  
**Streamed live at [www.dccouncil.us](http://www.dccouncil.us) and [entertainment.dc.gov](http://entertainment.dc.gov).**

On Thursday, October 29, 2020, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development, will hold a public hearing to consider Bill B23-0884, the “Bruce Monroe Extension of Disposition Authority Act of 2020” and Proposed Resolution 23-0988, the “Gallaudet University Revenue and Refunding Bonds Project Approval Resolution of 2020”.

Bill B23-0884, the “Bruce Monroe Extension of Disposition Authority Act of 2020,” extends the time for the District to dispose of real property located at 3012 Georgia Avenue, N.W., a portion of the Bruce Monroe site. As part of the redevelopment of Park Morton, the Property will also be developed in furtherance of New Community Initiative (“NCI”) objectives.

PR23-0988, the “Gallaudet University Revenue and Refunding Bonds Project Approval Resolution of 2020” would authorize the issuance, sale, and delivery of tax-exempt bonds, notes or other obligations in aggregate principal amount not to exceed \$60,000,000.00. The bonds will be used for the financing, refinancing, or reimbursing of costs incurred by Gallaudet University in costs associated with an authorized project of properties located at 800 Florida Avenue, N.E., Washington, D.C., 20002. The project is located in Ward 5.

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 [BusinessEconomicDevelopment@dccouncil.us](mailto:BusinessEconomicDevelopment@dccouncil.us) or by phone and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **5:00 p.m. on October 23, 2020**. Witnesses are encouraged to submit their testimony in writing electronically in advance to [BusinessEconomicDevelopment@dccouncil.us](mailto:BusinessEconomicDevelopment@dccouncil.us). Public witnesses will participate remotely, and 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 three minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced or extended.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted either by e-mail at [BusinessEconomicDevelopment@dccouncil.us](mailto:BusinessEconomicDevelopment@dccouncil.us). To be included in the record, please indicate that you are submitting testimony for this hearing in the subject line of the e-mail. **The record for this hearing will close at 5:00 p.m. on November 13, 2020.**

For accommodation requests, including spoken language or sign language interpretation, please inform the Committee by email of the need as soon as possible but no later than five (5) business days before the proceeding. The Council 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.

Please contact Brian McClure, Interim Committee Director, at [bmclure@dccouncil.us](mailto:bmclure@dccouncil.us) for additional information.

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

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 23-886, “Washington Metropolitan Area Transit Authority Police Accountability  
Amendment Act of 2020”**

on

**Tuesday, October 27, 2020 at 3:00 p.m.**

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

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 23-886, the “Washington Metropolitan Area Transit Authority Police Accountability Amendment Act of 2020.” The hearing will be held **Tuesday, October 27, 2020, 3:00 p.m.** via Zoom video conference.

The stated purpose of **Bill 23-886** is to amend the Washington Metropolitan Area Transportation Authority Regulation Compact to prohibit the use of enforcement quotas for the Metro Transit Police Department and to create a multijurisdictional Civilian Complaint Board to review complaints against Metro Transit Police Department members. Given that the bill seeks to amend an interstate compact between the District, Maryland, Virginia, and the Federal government, all four jurisdictions must adopt the changes to amend the compact.

Those who wish to testify must email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Evan Cash, Committee and Legislative Director, at (202) 724-7002, and provide your name, address, telephone number, organizational affiliation and title (if any) by the close of business **Friday, October 23, 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.

Due to the COVID-19 public health emergency declaration, the roundtable will be conducted virtually on the Internet utilizing Zoom video conferencing technology. Because of this, written or transcribed testimony from the public is **highly encouraged** and will be taken by email or voice mail. Testimony may be submitted in writing to [cow@dccouncil.us](mailto:cow@dccouncil.us) or may be left by voice mail (up to 3 minutes) – **which will be transcribed** – by calling (202) 430-6948. Testimony received by close of business on **October 23, 2020** will be posted publicly to <http://www.chairmanmendelson.com/circulation> prior to the hearing. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. This hearing will be limited to 1½ hours.

Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on November 9, 2020.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 23-889, “Harold “Ike” Foster Way Designation Act of 2020”**

on

**Tuesday, October 27, 2020 at 5:30 p.m. (or immediately following the preceding hearing)**

**Live via Zoom Video Conference Broadcast**  
**Council Channel 13** (Cable Television Providers)  
**DC Council Website** ([www.dccouncil.us](http://www.dccouncil.us))

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 23-889, the “Harold “Ike” Foster Way Designation Act of 2020.” The hearing will be held **Tuesday, October 27, 2020, 5:30 p.m.** via Zoom video conference.

The stated purpose of **Bill 23-889** is to symbolically designate the 1800 block of Bruce Place, S.E., in Square 5880, in Ward 8, as Harold “Ike” Foster Way. For streets and alleys, a symbolic naming is for ceremonial purposes and shall be in addition to and subordinate to any name that is an official name; an official designation typically involves the designation of postal addresses and enables the placement of the primary entrance to residences or offices on the street or alley. Public spaces other than a street or alley, such as parks or buildings, may also be symbolically or officially named.

Those who wish to testify must email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Evan Cash, Committee and Legislative Director, at (202) 724-7002, and provide your name, address, telephone number, organizational affiliation and title (if any) by the close of business **Friday, October 23, 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.

Due to the COVID-19 public health emergency declaration, the roundtable will be conducted virtually on the Internet utilizing Zoom video conferencing technology. Because of this, written or transcribed testimony from the public is **highly encouraged** and will be taken by email or voice mail. Testimony may be submitted in writing to [cow@dccouncil.us](mailto:cow@dccouncil.us) or may be left by voice mail (up to 3 minutes) – **which will be transcribed** – by calling (202) 430-6948. Testimony received by close of business on **October 23, 2020** will be posted publicly to <http://www.chairmanmendelson.com/circulation> prior to the hearing. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record.

Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at noon on November 9, 2020.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON HEALTH  
NOTICE OF PUBLIC HEARING  
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

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**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON  
THE COMMITTEE ON HEALTH**

**ANNOUNCES A PUBLIC HEARING ON**

**BILL 23-0890, THE “PRESCRIPTION DRUG MONITORING PROGRAM QUERY  
AMENDMENT ACT OF 2020”**

**AND**

**BILL 23-0920, THE “INSULIN AFFORDABILITY AMENDMENT ACT OF 2020”**

**WEDNESDAY, OCTOBER 28, 2020, 4:00 PM – 6:00 PM**

**REMOTE HEARING VIA WEBEX**

**BROADCAST LIVE ON DC COUNCIL CHANNEL 13**

**STREAMED LIVE AT [WWW.DCCOUNCIL.US](http://WWW.DCCOUNCIL.US) AND ENTERTAINMENT.DC.GOV.**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a Public Hearing on Bill 23-0890, the “Prescription Drug Monitoring Program Query Amendment Act of 2020” and Bill 23-0920, the “Insulin Affordability Amendment Act of 2020.” The hearing will be held on Wednesday, October 28, 2020, at 4:00 p.m, or immediately following the Committee on Health’s 9:00 a.m. public oversight hearing, via Webex.

Bill 23-0890, the “Prescription Drug Monitoring Program Query Amendment Act of 2020”, would require mandatory query of the prescription drug monitoring database by prescribers and dispensers prior to prescribing or dispensing an opioid or benzodiazepine for more than seven consecutive days, and every ninety days thereafter while the course of treatment or therapy continues, or prior to dispensing another refill after ninety days.

Bill 23-0920, the “Insulin Affordability Amendment Act of 2020”, would amend the Specialty Drug Copayment Limitation Act to impose a limit on the amount that a person must pay in copayment or coinsurance through a health benefit plan for a prescription for insulin.

Persons wishing to provide oral testimony should contact Malcolm Cameron, Legislative Analyst of the Committee on Health by e-mail at [mcameron@dccouncil.us](mailto:mcameron@dccouncil.us) or by phone at (202) 341-4425 before 6:00 p.m. on Monday, October 26, 2020. When sending an e-mail or leaving a voicemail, please provide Mr. Cameron with the following information:

- Your first and last name;
- The name of the organization you are representing (if any);
- Your title with the organization;

- Your e-mail address;
- Your phone number; and
- The specific bill/s you will be testifying about.

Mr. Cameron will e-mail a confirmation of your attendance with an agenda, witness list, and attached instructions for accessing the Webex video conference hearing by 6:00 p.m. on October 27, 2020. Oral testimony will be strictly limited to three minutes to allow everyone an opportunity to testify.

For accommodation requests, including spoken language or sign language interpretation, please inform the Committee office of the need as soon as possible but no later than five (5) business days before the proceeding. The Council 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.

Persons wishing to provide written testimony should e-mail their written testimony to Malcolm Cameron, Legislative Analyst of the Committee on Health at [mcameron@dccouncil.us](mailto:mcameron@dccouncil.us) before 6:00 p.m. on Wednesday, November 11, 2020. Any testimony provided after this time will not be made part of the hearing record. Please indicate that you are submitting testimony for this hearing in the subject line of the e-mail. The Committee also welcomes e-mails commenting on the proposed legislation, however, this correspondence is not included in the official Committee report if it is not labeled as testimony.



**Council of the District of Columbia**  
**COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**  
**NOTICE OF PUBLIC HEARING**  
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

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**COUNCILMEMBER KENYAN R. McDUFFIE, CHAIRPERSON**  
**COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

**ANNOUNCES A PUBLIC HEARING ON**

**BILL 23-0918, THE “LOCAL BUSINESS ENTERPRISE CLARIFICATION  
AMENDMENT ACT OF 2020”; AND**

**BILL 23-0959, THE “SUPPORTING LOCAL BUSINESS ENTERPRISES  
AMENDMENT ACT OF 2020”**

**Thursday, October 29, 2020, 3 p.m.**  
**Remote Hearing via Virtual Platform**  
**Broadcast live on DC Council Channel 13**  
**Streamed live at [www.dccouncil.us](http://www.dccouncil.us) and [entertainment.dc.gov](http://entertainment.dc.gov).**

On Thursday, October 29, 2020, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development, will hold a public hearing to consider Bill 23-0918, the “Local Business Enterprise Clarification Amendment Act of 2020” and Bill 23-0959, the “Supporting Local Business Enterprises Amendment Act of 2020”

Bill 23-0918, the “Local Business Enterprise Clarification Amendment Act of 2020,” amends the Small and Certified Business Enterprise Development and Assistance Act of 2005 (CBE Act) to close a loophole in the existing law that allows large out of state companies the ability to certify as a local business enterprise. The measure would also amend existing law to require currently certified local business enterprises that are not independently owned, operated, and controlled to be recertified by a time specified, or have their certification status revoked. Bill 23-0959, the “Supporting Local Business Enterprises Amendment Act of 2020” seeks to make technical and other clarifying amendments to the CBE Act.

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 [BusinessEconomicDevelopment@dccouncil.us](mailto:BusinessEconomicDevelopment@dccouncil.us) or by phone and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **5:00 p.m. on October 23, 2020**. Witnesses are encouraged to submit their testimony in writing electronically in advance to [BusinessEconomicDevelopment@dccouncil.us](mailto:BusinessEconomicDevelopment@dccouncil.us). Public witnesses will participate remotely, and

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 three minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced or extended.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted either by e-mail at [BusinessEconomicDevelopment@dccouncil.us](mailto:BusinessEconomicDevelopment@dccouncil.us). To be included in the record, please indicate that you are submitting testimony for this hearing in the subject line of the e-mail. **The record for this hearing will close at 5:00 p.m. on November 13, 2020.**

For accommodation requests, including spoken language or sign language interpretation, please inform the Committee by email of the need as soon as possible but no later than five (5) business days before the proceeding. The Council 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.

Please contact Brian McClure, Interim Committee Director, at [bmcclure@dccouncil.us](mailto:bmcclure@dccouncil.us) for additional information.

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

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**PR 23-900, “Commission on the Arts and Humanities Quanice Floyd Confirmation Resolution of 2020”**

**PR 23-901, “Commission on the Arts and Humanities Maggie Fitzpatrick Confirmation Resolution of 2020”**

**PR 23-902, “Commission on the Arts and Humanities Maria Hall Rooney Confirmation Resolution of 2020”**

**PR 23-903, “Commission on the Arts and Humanities Hector Torres Confirmation Resolution of 2020”**

**PR 23-904, “Commission on the Arts and Humanities Carla Sims Confirmation Resolution of 2020”**

**PR 23-905, “Commission on the Arts and Humanities Stacie Lee Banks Confirmation Resolution of 2020”**

on

**Tuesday, October 27, 2020 at 4:30 p.m. (or immediately following the preceding hearing)**

**Live via Zoom Video Conference Broadcast  
Council Channel 13 (Cable Television Providers)**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on PR 23-900, the “Commission on the Arts and Humanities Quanice Floyd Confirmation Resolution of 2020,” PR 23-901, the “Commission on the Arts and Humanities Maggie Fitzpatrick Confirmation Resolution of 2020,” PR 23-902, the “Commission on the Arts and Humanities Maria Hall Rooney Confirmation Resolution of 2020,” PR 23-903, the “Commission on the Arts and Humanities Hector Torres Confirmation Resolution of 2020,” PR 23-904, the “Commission on the Arts and Humanities Carla Sims Confirmation Resolution of 2020,” and PR 23-905, the “Commission on the Arts and Humanities Stacie Lee Banks Confirmation Resolution of 2020.” The hearing will be held on **Thursday October 27, 2020 at 4:30 p.m. (or immediately following preceding hearing)** via Zoom video conference.

The stated purpose of **PR 23-900** is to reappoint Quanice Floyd to the Commission on Arts and Humanities for a term ending June 30, 2023. The stated purpose of **PR 23-901** is to appoint Maggie Fitzpatrick to the Commission on Arts and Humanities, replacing Josef Palermo, for a

term ending June 30, 2023. The stated purpose of **PR 23-902** is to reappoint Maria Hall Rooney to the Commission on Arts and Humanities for a term ending June 30, 2023. The stated purpose of **PR 23-903** is to appoint Hector Torres to the Commission on Arts and Humanities, replacing Chineda Osuchukuwu, for a term ending on June 30, 2023. The stated purpose of **PR 23-904** is to appoint Carla Sims to the Commission on Arts and Humanities, replacing Edmund Fleet, for a term ending June 30, 2023. The stated purpose of **PR 23-905** is to reappoint Stacie Lee Banks to the Commission on Arts and Humanities for a term ending June 30, 2023. The Commission on the Arts and Humanities (CAH) is an independent agency in the District of Columbia government that evaluates and initiates action on matters—and gives grants—relating to the arts and humanities and encourages programs and the development of programs that promote the arts and humanities.

Those who wish to testify must email the Committee of the Whole at [cow@dccouncil.us](mailto:cow@dccouncil.us), or call Blaine Stum, Legislative Policy Advisor, at (202) 724-8092, and to provide your name, address, telephone number, organizational affiliation and title (if any) by the close of business **Friday, October 23, 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.

Due to the COVID-19 public health emergency declaration, the roundtable will be conducted virtually on the Internet utilizing Zoom video conferencing technology. Because of this, written or transcribed testimony from the public is **highly encouraged** and will be taken by email or voice mail. Testimony may be submitted in writing to [cow@dccouncil.us](mailto:cow@dccouncil.us) or may be left by voice mail (up to 3 minutes) – **which will be transcribed** – by calling (202) 430-6948. Testimony received by close of business on **October 23, 2020** will be posted publicly to <http://www.chairmanmendelson.com/circulation> prior to the hearing. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. This hearing will be limited to 1½ hours.

Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 12:00 p.m. on November 9, 2020.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**CONSIDERATION OF TEMPORARY LEGISLATION**

**B23-929**, Community Harassment Prevention Temporary Amendment Act of 2020, **B23-932**, Medical Marijuana Plant Count Elimination Temporary Amendment Act of 2020, **B23-939**, Emergency Rental Assistance Reform Temporary Amendment Act 2020, **B23-941**, Fairness in Renting Temporary Amendment Act of 2020, **B23-943**, Revised Sreatery and Pop Up Locations Programs Clarification Temporary Amendment Act of 2020, and **B23-945**, Revised Game of Skill Machines Consumer Protections Temporary Amendment Act of 2020 adopted on first reading on October 6, 2020. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on October 20, 2020.

|                                                                                                                                          |
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| <p style="text-align: center;"><b>COUNCIL OF THE DISTRICT OF COLUMBIA<br/>EXCEPTED SERVICE APPOINTMENTS AS OF SEPTEMBER 30, 2020</b></p> |
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**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.

| <b>COUNCIL OF THE DISTRICT OF COLUMBIA</b> |                       |              |                             |
|--------------------------------------------|-----------------------|--------------|-----------------------------|
| <b>NAME</b>                                | <b>POSITION TITLE</b> | <b>GRADE</b> | <b>TYPE OF APPOINTMENT</b>  |
| Hugee, Yukia                               | Legislative Clerk     | 1            | Excepted Service - Reg Appt |

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
1350 Pennsylvania Avenue, NW, Suite 410  
Washington, DC 20004

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ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on Bill 23-964 the “Fiscal Year 2021 Budget Support Clarification Amendment Act of 2020,” to ensure the bill can be considered at the October 20, 2020 Legislative Meeting. The Council adopted an emergency version of the measure on September 22, 2020. The abbreviated notice is necessary to allow the Council to consider the permanent measure timely.

COUNCIL OF THE DISTRICT OF COLUMBIA  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR23-0974, the “Local Rent Supplement Program Contract No. 2019-LRSP-04A Approval Resolution of 2020”, to allow for the proposed resolutions to be considered at the legislative meeting on October 20, 2020.



**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Notice of Reprogramming Requests**

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of reprogramming's are available in Legislative Services, Room 10.  
Telephone: 724-8050

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**Reprog. 23-126:** Request to reprogram \$5,000,000.00 of Capital PAYGO from the District of Columbia Public Schools (DCPS) capital budget was filed in the Office of the Secretary on October 2, 2020. This reprogramming is needed to cover the purchase of the Empowered Learners Initiative student devices in School Year 2019-2020.

RECEIVED: 14-day review begins October 5, 2020

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-079164

License Class/Type: B / Retail - Grocery

Applicant: A & F, LLC

Trade Name: L Street Market

ANC: 6C06

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

1100 4TH ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 10 am - 9 pm       | 10 am - 9 pm           |
| Monday:    | 9 am - 9 pm        | 9 am - 9 pm            |
| Tuesday:   | 9 am - 9 pm        | 9 am - 9 pm            |
| Wednesday: | 9 am - 9 pm        | 9 am - 9 pm            |
| Thursday:  | 9 am - 9 pm        | 9 am - 9 pm            |
| Friday:    | 9 am - 9 pm        | 9 am - 9 pm            |
| Saturday:  | 9 am - 9 pm        | 9 am - 9 pm            |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-072260

License Class/Type: B / Retail - Grocery

Applicant: Mok Ju Na

Trade Name: Daily Fish Of Chesapeake

ANC: 1B11

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

2250 SHERMAN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | CLOSED - CLOSED    | CLOSED - CLOSED        |
| Monday:    | 6 am - 6 pm        | 7 am - 6 pm            |
| Tuesday:   | 6 am - 6 pm        | 7 am - 6 pm            |
| Wednesday: | 6 am - 6 pm        | 7 am - 6 pm            |
| Thursday:  | 6 am - 6 pm        | 7 am - 6 pm            |
| Friday:    | 6 am - 6 pm        | 7 am - 6 pm            |
| Saturday:  | 6 am - 6 pm        | 7 am - 6 pm            |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-072611

License Class/Type: B / Retail - Grocery

Applicant: Cost Plus Inc.

Trade Name: World Market

ANC: 3E04

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

5335 WISCONSIN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Monday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Tuesday:   | 9 am - 10 pm       | 9 am - 10 pm           |
| Wednesday: | 9 am - 10 pm       | 9 am - 10 pm           |
| Thursday:  | 9 am - 10 pm       | 9 am - 10 pm           |
| Friday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Saturday:  | 9 am - 10 pm       | 9 am - 10 pm           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-023503

License Class/Type: B / Retail - Grocery

Applicant: Rufael, Incorporation

Trade Name: Missouri Avenue Market

ANC: 4A06

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

5900 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7 am - 12 am       | 7 am - 12 am           |
| Monday:    | 7 am - 12 am       | 7 am - 12 am           |
| Tuesday:   | 7 am - 12 am       | 7 am - 12 am           |
| Wednesday: | 7 am - 12 am       | 7 am - 12 am           |
| Thursday:  | 7 am - 12 am       | 7 am - 12 am           |
| Friday:    | 7 am - 12 am       | 7 am - 12 am           |
| Saturday:  | 7 am - 12 am       | 7 am - 12 am           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-026520

License Class/Type: B / Retail - Grocery

Applicant: Tariq Hussain

Trade Name: 7-Eleven

ANC: 6D02

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

1101 SOUTH CAPITOL ST SW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 24 hours -         | 9 am - 10 pm           |
| Monday:    | 24 hours -         | 9 am - 10 pm           |
| Tuesday:   | 24 hours -         | 9 am - 10 pm           |
| Wednesday: | 24 hours -         | 9 am - 10 pm           |
| Thursday:  | 24 hours -         | 9 am - 10 pm           |
| Friday:    | 24 hours -         | 9 am - 10 pm           |
| Saturday:  | 24 hours -         | 9 am - 10 pm           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-003815

License Class/Type: B / Retail - Grocery

Applicant: Freedom Market Inc

Trade Name: Freedom Market

ANC: 2B09

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

1901 NEW HAMPSHIRE AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 8 am - 12 am              | 9 am - 12 am                  |
| Monday:     | 8 am - 12 am              | 9 am - 12 am                  |
| Tuesday:    | 8 am - 12 am              | 9 am - 12 am                  |
| Wednesday:  | 8 am - 12 am              | 9 am - 12 am                  |
| Thursday:   | 8 am - 12 am              | 9 am - 12 am                  |
| Friday:     | 8 am - 12 am              | 9 am - 12 am                  |
| Saturday:   | 8 am - 12 am              | 9 am - 12 am                  |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-008809

License Class/Type: B / Retail - Grocery

Applicant: Clinton Price

Trade Name: Price's Grocery

ANC: 5A07

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

5018 ROCK CREEK CHURCH RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 24 HOURS -         | 9 am - 12midnight      |
| Monday:    | 24HOURS -          | 9 am - 12midnight      |
| Tuesday:   | 24HOURS -          | 9 am - 12midnight      |
| Wednesday: | 24HOURS -          | 9 am - 12midnight      |
| Thursday:  | 24HOURS -          | 9 am - 12midnight      |
| Friday:    | 24HOURS -          | 9 am - 12midnight      |
| Saturday:  | 24HOURS -          | 9 am - 12midnight      |

FOR FURTHER INFORMATION CALL: (202) 442-4423



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-080595

License Class/Type: B / Retail - Class B

Applicant: Travel Traders Retail, Inc

Trade Name: The Market

ANC: 6C02

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

400 NEW JERSEY B AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 6 am - 11 pm       | 7 am - 10 pm           |
| Monday:    | 6 am - 11 pm       | 7 am - 10 pm           |
| Tuesday:   | 6 am - 11 pm       | 7 am - 10 pm           |
| Wednesday: | 6 am - 11 pm       | 7 am - 10 pm           |
| Thursday:  | 6 am - 11 pm       | 7 am - 10 pm           |
| Friday:    | 6 am - 11 pm       | 7 am - 10 pm           |
| Saturday:  | 6 am - 11 pm       | 7 am - 10 pm           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-082376

License Class/Type: B / Retail - Class B

Applicant: Hope Market, Inc

Trade Name: Lena Market

ANC: 4A04

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

1206 UNDERWOOD ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9 am - 12 am       | 9 am - 12 am           |
| Monday:    | 9 am - 12 am       | 9 am - 12 am           |
| Tuesday:   | 9 am - 12 am       | 9 am - 12 am           |
| Wednesday: | 9 am - 12 am       | 9 am - 12 am           |
| Thursday:  | 9 am - 12 am       | 9 am - 12 am           |
| Friday:    | 9 am - 12 am       | 9 am - 12 am           |
| Saturday:  | 9 am - 12 am       | 9 am - 12 am           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-082665

License Class/Type: B / Retail - Grocery

Applicant: 3rd & K Street Market, Inc.

Trade Name: Cornercopia

ANC: 6D07

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

1000 3RD ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9 am - 6 pm        | 9 am - 6 pm            |
| Monday:    | 7 am - 10 pm       | 9 am - 10 pm           |
| Tuesday:   | 7 am - 10 pm       | 9 am - 10 pm           |
| Wednesday: | 7 am - 10 pm       | 9 am - 10 pm           |
| Thursday:  | 7 am - 10 pm       | 9 am - 10 pm           |
| Friday:    | 7 am - 10 pm       | 9 am - 10 pm           |
| Saturday:  | 7 am - 10 pm       | 9 am - 10 pm           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-082995

License Class/Type: B / Retail - Grocery

Applicant: Koo Sunbeam Market, Inc.

Trade Name: Sunbeam Market

ANC: 5E09

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

2324 NORTH CAPITOL ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9 am - 9 pm        | 10 am - 9 pm           |
| Monday:    | 9 am - 9 pm        | 9 am - 9 pm            |
| Tuesday:   | 9 am - 9 pm        | 9 am - 9 pm            |
| Wednesday: | 9 am - 9 pm        | 9 am - 9 pm            |
| Thursday:  | 9 am - 9 pm        | 9 am - 9 pm            |
| Friday:    | 9 am - 9 pm        | 9 am - 9 am            |
| Saturday:  | 9 am - 9 pm        | 9 am - 9 pm            |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-080006

License Class/Type: B / Retail - Grocery

Applicant: CHO'S FAMILY MARKET, INC.

Trade Name: Mott's Market

ANC: 6B05

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

233 12TH ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 8 am - 8 pm               | 9 am - 8 pm                   |
| Monday:     | 8 am - 9 pm               | 9 am - 9 pm                   |
| Tuesday:    | 8 am - 9 pm               | 9 am - 9 pm                   |
| Wednesday:  | 8 am - 9 pm               | 9 am - 9 pm                   |
| Thursday:   | 8 am - 9 pm               | 9 am - 9 pm                   |
| Friday:     | 8 am - 9 pm               | 9 am - 9 pm                   |
| Saturday:   | 8 am - 9 pm               | 9 am - 9 pm                   |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-083128

License Class/Type: B / Retail - Grocery

Applicant: Ramos Market, inc.

Trade Name: International Progreso Market

ANC: 1D04

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

3158 MOUNT PLEASANT ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 8 am - 7pm         | 8am - 7 pm             |
| Monday:    | 8 am - 9 pm        | 8 am - 9 pm            |
| Tuesday:   | 8 am - 9 pm        | 8 am - 9 pm            |
| Wednesday: | 8 am - 9 pm        | 8 am - 9 pm            |
| Thursday:  | 8 am - 9 pm        | 8 am - 9 pm            |
| Friday:    | 8 am - 9 pm        | 8 am - 9 pm            |
| Saturday:  | 8 am - 9 pm        | 8 am - 9 pm            |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-086230

License Class/Type: B / Retail - Class B

Applicant: HSA Investments, LLC

Trade Name: Sara's Market

ANC: 2E06

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

3008 Q ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 8 am - 9 pm               | 8 am - 8:30 pm                |
| Monday:     | 8 am - 9 pm               | 8 am - 8:30 pm                |
| Tuesday:    | 8 am - 9 pm               | 8 am - 8:30 pm                |
| Wednesday:  | 8 am - 9 pm               | 8 am - 8:30 pm                |
| Thursday:   | 8 am - 9 pm               | 8 am - 8:30 pm                |
| Friday:     | 8 am - 9 pm               | 8 am - 8:30 pm                |
| Saturday:   | 8 am - 9 pm               | 8 am - 8:30 pm                |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-086607

License Class/Type: B / Retail - Class B

Applicant: The Bodega Incorporated

Trade Name: The Cupboard

ANC: 6A08

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

1504 EAST CAPITOL ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9:30 am - 10 pm    | 10 am - 10 pm          |
| Monday:    | 9:30 am - 10 pm    | 9:30 am - 10 pm        |
| Tuesday:   | 9:30 am - 10 pm    | 9: 30 am - 10 pm       |
| Wednesday: | 9:30 am - 10 pm    | 9:30 am - 10 pm        |
| Thursday:  | 9:30 am - 10 pm    | 9:30 am - 10 pm        |
| Friday:    | 9:30 am - 10 pm    | 9:30 am - 10 pm        |
| Saturday:  | 9:30 am - 10 pm    | 9:30 am - 10 pm        |

FOR FURTHER INFORMATION CALL: (202) 442-4423



**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020**

**Notice is hereby given that:**

**License Number: ABRA-078242**

**License Class/Type: B / Retail - Class B**

**Applicant: E & K, Limited Liability Company**

**Trade Name: 13th Street Market**

**ANC: 1A04**

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

**3582 13TH ST NW**

**PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020**

**A HEARING WILL BE HELD ON:  
12/28/2020**

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 9 am - 12 am              | 9 am - 12 am                  |
| Monday:     | 9 am - 12 am              | 9 am - 12 am                  |
| Tuesday:    | 9 am - 12 am              | 9 am - 12 am                  |
| Wednesday:  | 9 am - 12 am              | 9 am - 12 am                  |
| Thursday:   | 9 am - 12 am              | 9 am - 12 am                  |
| Friday:     | 9 am - 12 am              | 9 am - 12 am                  |
| Saturday:   | 9 am - 12 am              | 9 am - 12 am                  |

**FOR FURTHER INFORMATION CALL: (202) 442-4423**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-087999

License Class/Type: B / Retail - Class B

Applicant: BJ & M, Inc.

Trade Name: Argonne Market

ANC: 1C05

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

1629 COLUMBIA RD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 7 am - 8 pm               | 9 am - 8 pm                   |
| Monday:     | 7 am - 8 pm               | 9 am - 8 pm                   |
| Tuesday:    | 7 am - 8 pm               | 9 am - 8 pm                   |
| Wednesday:  | 7 am - 8 pm               | 9 am - 8 pm                   |
| Thursday:   | 7 am - 8 pm               | 9 am - 8 pm                   |
| Friday:     | 7 am - 8 pm               | 9 am - 8 pm                   |
| Saturday:   | 7 am - 8 pm               | 9 am - 8 pm                   |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-088858

License Class/Type: B / Retail - Grocery

Applicant: Liff's Market, LLC

Trade Name: Liff's Market

ANC: 8C03

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

600 ALABAMA AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 6 am - 6 am        | 7 am - 12 am           |
| Monday:    | 6 am - 6 am        | 7am - 12 am            |
| Tuesday:   | 6 am - 6 am        | 7 am - 12 am           |
| Wednesday: | 6 am - 6 am        | 7 am - 12 am           |
| Thursday:  | 6 am - 6 am        | 7 am - 12 am           |
| Friday:    | 6 am - 6am         | 7 am - 12 am           |
| Saturday:  | 6 am - 6 am        | 7 am - 12 am           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-090639

License Class/Type: B / Retail - Grocery

Applicant: Midagra L.L.C.

Trade Name: DCanter

ANC: 6B03

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

545 8th ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Monday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Tuesday:   | 9 am - 10 pm       | 9 am - 10 pm           |
| Wednesday: | 9 am - 10 pm       | 9 am - 10 pm           |
| Thursday:  | 9 am - 10 pm       | 9 am - 10 pm           |
| Friday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Saturday:  | 9 am - 10 pm       | 9 am - 10 pm           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-091391

License Class/Type: B / Retail - Class B

Applicant: Walgreen Co.

Trade Name: Walgreens #15360

ANC: 2C01

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

801 7th ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 24 hours -         | 9 am - 12 am           |
| Monday:    | 24 hours -         | 9 am - 12 am           |
| Tuesday:   | 24 hours -         | 9 am - 12 am           |
| Wednesday: | 24 hours -         | 9 am - 12 am           |
| Thursday:  | 24 hours -         | 9 am - 12 am           |
| Friday:    | 24 hours -         | 9 am - 12 am           |
| Saturday:  | 24 hours -         | 9 am - 12 am           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-091449

License Class/Type: B / Retail - Class B

Applicant: A & M, Inc.

Trade Name: Rock Creek Market

ANC: 1A08

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

644 - 646 ROCK CREEK CHURCH RD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9:30 am - 10 pm    | 9:30 am - 10 pm        |
| Monday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Tuesday:   | 9 am - 10 pm       | 9 am - 10 pm           |
| Wednesday: | 9 am - 10 pm       | 9 am - 10 pm           |
| Thursday:  | 9 am - 10 pm       | 9 am - 10 pm           |
| Friday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Saturday:  | 9 am - 10 pm       | 9 am - 10 pm           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-093115

License Class/Type: B / Retail - Class B

Applicant: YD Progress, LLC

Trade Name: Lucky Corner Store

ANC: 4D01

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

5433 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 7 am - 12 am              | 7 am - 12 am                  |
| Monday:     | 7 am - 12 am              | 7 am - 12 am                  |
| Tuesday:    | 7 am - 12 am              | 7 am - 12 am                  |
| Wednesday:  | 7 am - 12 am              | 7 am - 12 am                  |
| Thursday:   | 7 am - 12 am              | 7 am - 12 am                  |
| Friday:     | 7 am - 12 am              | 7 am - 12 am                  |
| Saturday:   | 7 am - 12 am              | 7 am - 12 am                  |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-093687 License Class/Type: B / Retail-Full Service Grocery

Applicant: Radici Uno (One Root), LLC

Trade Name: Radici

ANC: 6B02

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

301 - 303 7th ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7 am - 9 pm        | 9 am - 9 pm            |
| Monday:    | 7 am - 11 pm       | 9 am - 11 pm           |
| Tuesday:   | 7 am - 11 pm       | 9 am - 11 pm           |
| Wednesday: | 7 am - 11 pm       | 9 am - 11 pm           |
| Thursday:  | 7 am - 11 pm       | 9 am - 11 pm           |
| Friday:    | 7 am - 11 pm       | 9 am - 11 pm           |
| Saturday:  | 7 am - 11 pm       | 9 am - 11 pm           |

FOR FURTHER INFORMATION CALL: (202) 442-4423



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-093871

License Class/Type: B / Retail - Grocery

Applicant: G & H, Inc.

Trade Name: Chesapeake Big Market

ANC: 8D01

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

601 CHESAPEAKE ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7 am - 12 am       | 7 am - 12 am           |
| Monday:    | 7 am - 12 am       | 7 am - 12 am           |
| Tuesday:   | 7 am - 12 am       | 7 am - 12 am           |
| Wednesday: | 7 am - 12 am       | 7 am - 12 am           |
| Thursday:  | 7 am - 12 am       | 7 am - 12 am           |
| Friday:    | 7 am - 12 am       | 7 am - 12 am           |
| Saturday:  | 7 am - 12 am       | 7 am - 12 am           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-094783

License Class/Type: B / Retail - Grocery

Applicant: Wade Road, Inc.

Trade Name: Charles Corner

ANC: 8C02

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

**2600 WADE RD SE**

**PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020**

**A HEARING WILL BE HELD ON:  
12/28/2020**

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 8 am - 10 pm              | 8 am - 10 pm                  |
| Monday:     | 7 am - 10 pm              | 7 am - 10 pm                  |
| Tuesday:    | 7 am - 10 pm              | 7 am - 10 pm                  |
| Wednesday:  | 7 am - 10 pm              | 7 am - 10 pm                  |
| Thursday:   | 7 am - 10 pm              | 7 am - 10 pm                  |
| Friday:     | 7 am - 10 pm              | 7 am - 10 pm                  |
| Saturday:   | 8 am - 10 pm              | 8 am - 10 pm                  |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-095112 License Class/Type: B / Retail-Full Service Grocery

Applicant: Harris Teeter, LLC

Trade Name: Harris Teeter

ANC: 6D07

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

401 M ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 6 am - 12 am       | 7 am - 12 am           |
| Monday:    | 6 am - 12 am       | 7 am - 12 am           |
| Tuesday:   | 6 am - 12 am       | 7 am - 12 am           |
| Wednesday: | 6 am - 12 am       | 7 am - 12 am           |
| Thursday:  | 6 am - 12 am       | 7 am - 12 am           |
| Friday:    | 6 am - 12 am       | 7 am - 12 am           |
| Saturday:  | 6 am - 12 am       | 7 am - 12 am           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-095169

License Class/Type: B / Retail - Class B

Applicant: Shaw Howard Deli, LLC

Trade Name: Shaw Howard Deli

ANC: 1B01

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

1911 7th ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 7 am - 12 am              | 9 am - 12 am                  |
| Monday:     | 7 am - 12 am              | 9 am - 12 am                  |
| Tuesday:    | 7 am - 12 am              | 9 am - 12 am                  |
| Wednesday:  | 7 am - 12 am              | 9 am - 12 am                  |
| Thursday:   | 7 am - 12 am              | 9 am - 12 am                  |
| Friday:     | 7 am - 12 am              | 9 am - 12 am                  |
| Saturday:   | 7 am - 12 am              | 9 am - 12 am                  |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-095170 License Class/Type: B / Retail-Full Service Grocery

Applicant: Harris Teeter, LLC

Trade Name: Harris Teeter

ANC: 6C06

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

1201 1st ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7 am - 12 am       | 7 am - 12 am           |
| Monday:    | 7 am - 12 am       | 7 am - 12 am           |
| Tuesday:   | 7 am - 12 am       | 7 am - 12 am           |
| Wednesday: | 7 am - 12 am       | 7 am - 12 am           |
| Thursday:  | 7 am - 12 am       | 7 am - 12 am           |
| Friday:    | 7 am - 12 am       | 7 am - 12 am           |
| Saturday:  | 7 am - 12 am       | 7 am - 12 am           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-095171 License Class/Type: B / Retail-Full Service Grocery

Applicant: Harris Teeter, LLC

Trade Name: Harris Teeter

ANC: 1C06

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

1631 Kalorama RD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7 am - 12 am       | 7 am - 12 am           |
| Monday:    | 7 am - 12 am       | 7 am - 12 am           |
| Tuesday:   | 7 am - 12 am       | 7 am - 12 am           |
| Wednesday: | 7 am - 12 am       | 7 am - 12 am           |
| Thursday:  | 7 am - 12 am       | 7 am - 12 am           |
| Friday:    | 7 am - 12 am       | 12 am - 12 am          |
| Saturday:  | 7 am - 12 am       | 7 am - 12 am           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-095181 License Class/Type: B / Retail-Full Service Grocery

Applicant: Harris Teeter , LLC

Trade Name: Harris Teeter

ANC: 6B07

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

1350 POTOMAC AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7 am - 12 am       | 7 am - 12 am           |
| Monday:    | 7 am - 12 am       | 7 am - 12 am           |
| Tuesday:   | 7 am - 12 am       | 7 am - 12 am           |
| Wednesday: | 7 am - 12 am       | 7 am - 12 am           |
| Thursday:  | 7 am - 12 am       | 7 am - 12 am           |
| Friday:    | 7 am - 12 am       | 7am - 12 am            |
| Saturday:  | 7 am - 12 am       | 7 am - 12 am           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-095245

License Class/Type: B / Retail - Class B

Applicant: Minnesota Store, LLC

Trade Name: Minnesota Store

ANC: 7F06

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

3728 MINNESOTA AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7am - 11:45 pm     | 7 am - 11:45 pm        |
| Monday:    | 7 am - 11:45 pm    | 7 am - 11:45 pm        |
| Tuesday:   | 7 am - 11:45 pm    | 7 am - 11:45 pm        |
| Wednesday: | 7 am - 11:45 pm    | 7 am - 11:45 pm        |
| Thursday:  | 7 am - 11:45       | 7 am - 11:45 pm        |
| Friday:    | 7 am - 11:45 pm    | 7 am - 11:45 pm        |
| Saturday:  | 7 am - 11:45 pm    | 7 am - 11:45 pm        |

FOR FURTHER INFORMATION CALL: (202) 442-4423



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-098845

License Class/Type: B / Retail - Class B

Applicant: The Mediterranean Way Co.

Trade Name: The Mediterranean Way Gourmet Market

ANC: 2B01

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

1717 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 10am - 8pm         | 10am - 8pm             |
| Monday:    | 10am - 10pm        | 10am - 10pm            |
| Tuesday:   | 10am - 10pm        | 10am - 10pm            |
| Wednesday: | 10am - 10pm        | 10am - 10pm            |
| Thursday:  | 10am - 10pm        | 10am - 10pm            |
| Friday:    | 10am - 10pm        | 10am - 10pm            |
| Saturday:  | 10am - 10pm        | 10am - 10pm            |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-106180

License Class/Type: B / Retail - Grocery

Applicant: 3rd & Pennsylvania, LLC

Trade Name: Roland's Grocery

ANC: 6B01

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

333 Pennsylvania AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 8 am - 11 pm       | 10 am - 10 pm          |
| Monday:    | 8 am - 11 pm       | 9 am - 10 pm           |
| Tuesday:   | 8 am - 11 pm       | 9 am - 10 pm           |
| Wednesday: | 8 am - 11 pm       | 9 am - 10 pm           |
| Thursday:  | 8 am - 11 pm       | 9 am - 10 pm           |
| Friday:    | 8 am - 11 pm       | 9 am - 10 pm           |
| Saturday:  | 8 am - 11 pm       | 9 am - 10 pm           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-106969

License Class/Type: B / 25 Percent

Applicant: Trump Old Post Office, LLC

Trade Name: Trump Gift Shop

ANC: 2C01

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

1100 PENNSYLVANIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 7 am - 12 am       | 7 am - 12 am           |
| Monday:    | 7 am - 12 am       | 7 am - 12 am           |
| Tuesday:   | 7 am - 12 am       | 7 am - 12 am           |
| Wednesday: | 7 am - 12 am       | 7 am - 12 am           |
| Thursday:  | 7 am - 12 am       | 7 am - 12 am           |
| Friday:    | 7 am - 12 am       | 7 am - 12 am           |
| Saturday:  | 7 am - 12 am       | 7 am - 12 am           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-109916

License Class/Type: B / Beer and Wine

Applicant: Abaye, Inc.

Trade Name: 7 Days Market

ANC: 5C07

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

2310 RHODE ISLAND AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 12 pm - 12 am      | 12 pm - 12 am          |
| Monday:    | 6 am - 12 am       | 9 am - 12 am           |
| Tuesday:   | 6 am - 12 am       | 9 am - 12 am           |
| Wednesday: | 6 am - 12 am       | 9 am - 12 am           |
| Thursday:  | 6 am - 12 am       | 9 am - 12 am           |
| Friday:    | 6 am - 12 am       | 9 am - 12 am           |
| Saturday:  | 6 am - 12 am       | 9 am - 12 am           |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-110217

License Class/Type: B / 25 Percent

Applicant: Square 369 Hotel TRS, LLC

Trade Name: Courtyard By Marriott & Residence Inn By Marriott Washington Downtown  
ANC: 2F06

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

901 L ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 7 am - 12 am              | 7 am - 12 am                  |
| Monday:     | 7 am - 12 am              | 7 am - 12 am                  |
| Tuesday:    | 7 am - 12 am              | 7 am - 12 am                  |
| Wednesday:  | 7 am - 12 am              | 7 am - 12 am                  |
| Thursday:   | 7 am - 12 am              | 7 am - 12 am                  |
| Friday:     | 7 am - 12 am              | 7 am - 12 am                  |
| Saturday:   | 7 am - 12 am              | 7 am - 12 am                  |

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-113478

License Class/Type: B / Retail - Class B

Applicant: Veni, Inc.

Trade Name: Gedera Market

ANC: 4C03

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

**4600 14TH ST NW**

**PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020**

**A HEARING WILL BE HELD ON:  
12/28/2020**

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 10 am - 11 pm             | 10 am - 10 pm                 |
| Monday:     | 10 am - 11 pm             | 10 am - 10 pm                 |
| Tuesday:    | 10 am - 11 pm             | 10 am - 10 pm                 |
| Wednesday:  | 10 am - 11 pm             | 10 am - 10 pm                 |
| Thursday:   | 10 am - 11 pm             | 10 am - 10 pm                 |
| Friday:     | 10 am - 11 pm             | 10 am - 10 pm                 |
| Saturday:   | 10 am - 11 pm             | 10 am - 10 pm                 |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-114634

License Class/Type: B / Retail - Class B

Applicant: Ganada, LLC

Trade Name: Prego Again

ANC: 2B04

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

1617 17TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9 am - 10 pm       | 9 am - 10 pm           |
| Monday:    | 9 am - 12 am       | 9 am - 12 am           |
| Tuesday:   | 9 am - 12pm        | 9 am - 12 am           |
| Wednesday: | 9 am - 12 am       | 9 am - 12 am           |
| Thursday:  | 9 am - 12 pm       | 9 am - 12 am           |
| Friday:    | 9 am - 12 am       | 9 am - 12 am           |
| Saturday:  | 9 am - 12 am       | 9 am - 12 am           |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-116739

License Class/Type: B / Retail - Grocery

Applicant: I & I Palisades, Inc.

Trade Name: Palisades Deli & Market

ANC: 3D09

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

4554 MACARTHUR BLVD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| Days       | Hours of Operation | Hours of Sales/Service |
|------------|--------------------|------------------------|
| Sunday:    | 9 am - 8 pm        | 9 am - 8 pm            |
| Monday:    | 9 am - 8 pm        | 9 am - 8 pm            |
| Tuesday:   | 9 am - 8 pm        | 9 am - 8 pm            |
| Wednesday: | 9 am - 8 pm        | 9 am - 8 pm            |
| Thursday:  | 9 am - 8 pm        | 9 am - 8 pm            |
| Friday:    | 9 am - 8 pm        | 9 am - 8 pm            |
| Saturday:  | 9 am - 8 pm        | 9 am - 8 pm            |

FOR FURTHER INFORMATION CALL: (202) 442-4423



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
10/9/2020

Notice is hereby given that:

License Number: ABRA-116854

License Class/Type: B / Beer and Wine

Applicant: City Corner, Inc.

Trade Name: City Corner Mart

ANC: 1B03

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

2601 SHERMAN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
12/14/2020

A HEARING WILL BE HELD ON:  
12/28/2020

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

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 10:00am - 09:00pm         | 10:00am - 09:00pm             |
| Monday:     | 10:00am - 10:00pm         | 10:00am - 10:00pm             |
| Tuesday:    | 10:00am - 10:00pm         | 10:00am - 10:00pm             |
| Wednesday:  | 10:00am - 10:00pm         | 10:00am - 10:00pm             |
| Thursday:   | 10:00am - 10:00pm         | 10:00am - 10:00pm             |
| Friday:     | 10:00am - 11:00pm         | 10:00am - 11:00pm             |
| Saturday:   | 10:00am - 11:00pm         | 10:00am - 11:00pm             |

FOR FURTHER INFORMATION CALL: (202) 442-4423

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: October 9, 2020  
Protest Petition Deadline: December 14, 2020  
Roll Call Hearing Date: December 28, 2020  
Protest Hearing Date: March 10, 2021

License No.: ABRA-117216  
Licensee: TAQUERIA AL LADO LLC  
Trade Name: Taqueria Al Lado  
License Class: Retailer's Class "C" Restaurant  
Address: 1792 Columbia Road, N.W.  
Contact: Jeffrey Jackson: (202) 251-1566

WARD 1

ANC 1C

SMD 1C07

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 December 28, 2020 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **March 10, 2021 at 4:30 p.m.**

**NATURE OF OPERATION**

A new Retailer's Class C Restaurant with a seating capacity of 110 and Total Occupancy Load of 110. Sidewalk Café with 6 seats. Summer Garden with 30 seats.

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

Sunday and Monday 11am – 10pm, Tuesday and Wednesday 11am – 12am, Thursday 11am – 2am, Friday and Saturday 11am – 3am

**HOURS OF OPERATION FOR OUTSIDE IN SUMMER GARDEN AND SIDEWALK CAFÉ**

Sunday and Monday 11am – 10pm, Tuesday through Thursday 11am – 12am, Friday and Saturday 11am – 1am

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTSIDE IN SUMMER GARDEN AND SIDEWALK CAFÉ**

Sunday and Monday 11am – 10pm, Tuesday through Saturday 11am – 12am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: October 9, 2020  
Protest Petition Deadline: December 14, 2020  
Roll Call Hearing Date: December 28, 2020  
Protest Hearing Date: March 10, 2021

License No.: ABRA-117261  
Licensee: Vino 301 Wine Concierge, LLC  
Trade Name: The Wine Concierge  
License Class: Retailer's Class "B" Internet  
Address: 3521 V Street N.E., #49-50  
Contact: Risa Hirao, Esq.: (202) 921-7900

WARD 5

ANC 5C

SMD 5C04

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 December 28, 2020 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **March 10, 2021 at 1:30 p.m.**

**NATURE OF OPERATION**

New Class "B" Internet Retailer selling wine online only for off-premises consumption. Applicant is also applying for a Tasting permit endorsement. This location will not be open to the public.

**HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES**

Sunday through Saturday 7am – 12am

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, OCTOBER 28, 2020  
VIRTUAL HEARING via WebEx**

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

**TIME: 9:30 A.M.**

**WARD SIX**

20280  
ANC 6C                    **Application of VBS Community Builders LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF use requirements of Subtitle U § 320.2, to convert an existing residential building into a five-unit apartment house in the RF-1 Zone at premises 622 I Street, N.E. (Square 857, Lots 32 and 113).

**WARD FIVE**

20297  
ANC 5E                    **Application of Hart Wardman, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle G § 1200 from the lot occupancy requirements of Subtitle G § 404.1, from the rear yard requirements of Subtitle G § 405.2, and from the side yard requirements of Subtitle G § 406.1, to connect the existing two principal dwelling units into one building and construct a third-story addition to the new 14-unit apartment building in the MU-4 Zone at premises 302-304 Florida Avenue, N.W. (Square 519, Lots 71 and 72).

**WARD ONE**

20298  
ANC 1D                    **Application of 3215 Mount Pleasant Partners LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle C § 703.2, from the minimum parking requirement of Subtitle C § 701.5, and under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1(b), to redevelop the existing historic building with a new mixed-use project providing 15 apartment units and retail space in the MU-4 Zone at premises 3215 Mount Pleasant Street N.W. (Square 2608, Lot 825).

## BZA PUBLIC HEARING NOTICE

OCTOBER 28, 2020

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**WARD EIGHT**

20299  
ANC 8A            **Application of Residential Redevelopment LLC**, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from minimum alley width requirements of Subtitle C § 303.3 (a), to subdivide the existing lot into two alley lots and convert the detached principal dwelling unit into one semi-detached principal dwelling unit in each lot in the R-3 Zone at premises 1673 W Street S.E. (Square 5755, Lot 835).

**WARD SIX**

20300  
ANC 6B            **Application of Brad Mueller**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1 to construct a two-story accessory garage structure in the rear yard of an existing attached principal dwelling unit in the RF-1 Zone at premises 1309 Potomac Avenue, S.E. (Square 1046, Lot 854).

**WARD SIX**

20301  
ANC 6A            **Application of Eric Wortman**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 205.5 and 5201 from the rear addition requirements of Subtitle E § 205.4., to construct a two-story rear addition to an existing attached principal dwelling unit in the RF-1 Zone at premises 229 14th Street N.E. (Square 1055, Lot 55).

**WARD FOUR**

20302  
ANC 4C            **Application of SQL512TAYLOR LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 320.2, to construct a third-story a three-story rear addition and to convert an existing semi-detached principal dwelling unit into a three-unit apartment house in the RF-1 Zone at premises 512 Taylor Street N.W. (Square 3231, Lot 98).

BZA PUBLIC HEARING NOTICE  
OCTOBER 28, 2020  
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**WARD FIVE**

20307            **Application of Eckington Court LLC**, pursuant to 11 DCMR Subtitle  
ANC 5E           X, Chapter 9, for special exceptions under Subtitle U § 601.1(d), and  
                         under Subtitle E § 5108 from the alley lot height requirements of  
                         Subtitle E § 5102.1, and the alley centerline setback requirements of  
                         Subtitle E § 5106.1, to permit the renovation of an existing detached  
                         storage building into two principal dwelling units in the RF-1 Zone at  
                         premises 315 Rear W Street, N.E. (Square 3562, Lot 60).

**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](mailto:bzasubmissions@dc.gov). Submissions are strongly encouraged to be sent at least 24 hours prior to the start of the hearing.

**Do you need assistance to participate?**

*\*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](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

## BZA PUBLIC HEARING NOTICE

OCTOBER 28, 2020

PAGE NO. 4

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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF VIRTUAL PUBLIC HEARING**

**TIME AND PLACE:** **Monday, November 23, 2020, @ 4:00 p.m.**  
**WebEx or Telephone – Instructions will be provided on  
the OZ website by Noon of the Hearing Date<sup>1</sup>**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 19-18 (Belmont Crossing Partners, LLC – Zoning Map Amendment in Square 6208)**

**THIS CASE IS OF INTEREST TO ANCs 8D AND 8E**

Belmont Crossing Partners, LLC (the “Applicant”) filed an application (the “Application”) on August 14, 2019, pursuant to Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references are made unless otherwise specified) requesting that the Zoning Commission for the District of Columbia (the “Commission”) approve an amendment to the Zoning Map for Lots 59-63, 64-69, 809-811, 817, and 827-829 in Square 6208, known as “Belmont Crossing” (the “Property”), from the RA-1 to the RA-2 zone. The Application asserts that the requested rezoning will facilitate the redevelopment of the Property with an all-affordable, residential development to upgrade, replace, and expand the existing on-site housing through a build-first model so no residents are displaced. The Applicant is coordinating with the existing tenants’ association regarding this Application and future development at the Property.

The Property consists of approximately 278,744 square feet (6.93 acres) of land area in the Washington Highlands neighborhood along 7<sup>th</sup> Street, S.E. between Chesapeake Street, S.E. on the north, Barnaby Road, S.E., to the east, improved lots to the south, and an improved public alley to the west. The Property is currently located in the RA-1 zone.

The Generalized Policy Map of the Comprehensive Plan (the “CP”) designates the Property in the Neighborhood Enhancement Area, which the CP describes as neighborhoods with substantial amounts of vacant and underutilized land, that present opportunities for compatible infill development, including new single-family homes, townhomes, other density housing types, mixed-use buildings, and where appropriate, light industrial facilities. New development should respond to the existing character, natural features, and existing/planned infrastructure capacity and improve the neighborhood within the CP’s policies and Future Land Use Map (“FLUM”) designation.

The CP’s FLUM designates the Property for Moderate-Density Residential uses, which the CP describes as applicable for neighborhoods that are generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. Density is typically calculated either as a

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<sup>1</sup> Anyone who wishes to participate in this case but cannot do so via WebEx or telephone may submit written comments to the record. (See p. 3, *How to participate as a witness – written statements.*)



number of dwelling units per minimum lot area or as floor area ratio (“FAR”) up to 1.8, although greater density may be possible when complying with Inclusionary Zoning (“IZ”) or when approved through a Planned Unit Development (“PUD”). The CP identifies the R-3, RF, and RA-2 zones as appropriate for the Moderate-Density Residential FLUM category.

The Property’s current RA-1 zone is intended for predominantly low- to moderate-density residential developments, with all new residential developments except all one-family detached and semi-detached dwellings requiring special exception approval from the Board of Zoning Adjustment (the “Board”). The RA-1 zone limits density by a minimum lot area of 1,800 square feet for row dwellings, or as approved by the Board as part of a special exception, and with a maximum 0.9 FAR (1.08 for IZ developments). The RA-1 zone allows a maximum height of 40 feet and 3 stories and a maximum 40% lot occupancy.

The Application’s proposed RA-2 zone is intended for predominantly moderate-density residential developments, with a maximum 1.8 FAR (2.16 for IZ developments), a maximum height of 50 feet (no story limit), and a maximum 60% lot occupancy.

The Office of Planning (“OP”) filed a May 20, 2020, report (the “OP Setdown Report”) recommending that the Commission set the Application down for a public hearing because the proposed rezoning would facilitate the redevelopment of the Property with matter of right infill housing that would increase the number of affordable housing units and would be inconsistent with the CP.

At its June 9, 2020, public meeting, the Commission voted to set down the Application for a public hearing as a contested case.

The Applicant submitted its prehearing submission on September 24, 2020.

This public hearing will be conducted in accordance with Subtitle Z, Zoning Commission Rules of Practice and Procedure, including the emergency rules adopted by the Commission on July 30, 2020, as a contested case under Subtitle Z, Chapter 4.

#### **How to participate as a witness – oral presentation**

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to sign up to testify at least 24 hours prior to the start of the hearing** on OZ’s website at <https://dcoz.dc.gov/> or by calling Donna Hanousek at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The Commission must base its decision on the record before them. Therefore, it is **required that all written comments and/or testimony be submitted to the record at least 24 hours prior to the start of the hearing, unless approved by the Commission upon request to be introduced at the public hearing.** The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

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

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

#### **How to participate as a witness – written statements**

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov). Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Donna Hanousek at (202) 727-0789 for further assistance.

#### **How to participate as a party.**

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

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

Except for an affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from OZ's website at: <https://app.dcoz.dc.gov/Help/Forms.html>.** This form may also be obtained from OZ at the address stated below.

#### **“Great weight” to written report of ANC**

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, an ANC that wishes to participate in the hearing must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

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

**ANTHONY J. HOOD, ROBERT E. MILLER, PETER G. MAY, PETER A. SHAPIRO, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.**

**Do you need assistance to participate?** If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) five days in advance of the meeting. These services will be provided free of charge.

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

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

**您需要有人帮助参加活动吗?** 如果您需要特殊便利设施或语言协助服务(翻译或口译)·请在见面之前提前五天与 Zee Hill 联系·电话号码 (202) 727-0312, 电子邮件 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 这些是免费提供的服务。

**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](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

**ለመሳተፍ ዕርዳታ ያስፈልግዎታል?** የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እንኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

## DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FINAL 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 adoption of final rulemaking for Chapter 63 (Certification Standards for Substance Use Disorder Treatment and Recovery Providers), to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (“DCMR”).

The Final Rulemaking updates the Chapter 63, Certification Standards for Substance Use Disorder Treatment and Recovery Providers to (1) improve quality of care, accountability, and efficiency of Substance Use Disorder (“SUD”) services; (2) implement requirements under the District’s Section 1115 Behavioral Health Transformation Demonstration Program for Medicaid reimbursement of Trauma Recovery and Empowerment Model services; (3) clarify ambiguous or conflicting language; (4) update provisions to reflect the most current terminology and standards of care in use by the Department; (5) require that all treatment providers provide intake and assessment services; (6) amend plan of care requirements to provide a framework versus specific requirements and to create consistency with Chapter 34 Mental Health Rehabilitation Services Provider Certification Standards; (7) add discharge planning language for residential levels of care; (8) add requirement that all treatment providers must provide on-site or facilitate access to all Food and Drug Administration (“FDA”) approved medication used in medication assisted treatment (“MAT”); and (9) update the definition of and make recovery support services a core service for all treatment providers.

A Notice of First Emergency and Proposed Rulemaking was adopted and became effective on April 5, 2019 and was published in the *D.C. Register* on August 2, 2019 at 66 DCR 10010. On August 2, 2019, a Notice of Second Emergency and Proposed Rulemaking was adopted and became effective and was published in the *D.C. Register* on September 13, 2019 at 66 DCR 12192. On November 26, 2019, a Notice of Third Emergency and Proposed Rulemaking was adopted and became effective and was published in the *D.C. Register* on December 27, 2019 at 66 DCR 16593. A Notice of Fourth Emergency and Proposed Rulemaking was adopted and became effective on February 18, 2020, and was published in the *D.C. Register* on February 28, 2020 at 67 DCR 2252. Most recently, a notice of Fifth Emergency and Proposed Rulemaking was adopted and became effective on June 17, 2020, and was published in the *D.C. Register* on July 3, 2020 at 67 DCR 8118. The Department did not receive any comments about this rulemaking. The Department made technical changes in the Notice of Final Rulemaking to (1) clarify the bases upon which the Department may revoke an exemption from a certification standard (§ 6304.3); (2) reprise language from the Second Emergency and Proposed Rulemaking regarding provider expectations for creating an electronic trail when data is released (§ 6323.4(e)); (3) clarify that clients must receive Health Information Exchange opt-out forms as part of their notice of privacy practices (§ 6324.1); (4) clarify whom can sign plans of care for individuals receiving only Recovery Support Services (§ 6339.6(h)); and (5) clarify eligibility for the Supported Employment program (§ 6339.7). Further, this Notice of Final Rulemaking removes changes related to Qualified Practitioners (QP) specific to Licensed Graduate Professional Counselors and Physician’s

Assistants that were noticed as proposed changes in the Fifth Emergency and Proposed Rulemaking to align with an amendment to the District of Columbia Medicaid State Plan (SPA). The amended Adult Substance Abuse Rehabilitative Services SPA has not yet been transmitted to the Centers for Medicare and Medicare Services for consideration. To prevent confusion, the Department removed the proposed changes related to QPs in §§ 6337, 6339, 6340, 6341 and 6342.

This rule was adopted as final on October 5, 2020 and will be effective on the publication of this notice in the *D.C. Register*.

**Chapter 63, CERTIFICATION STANDARDS FOR SUBSTANCE USE DISORDER TREATMENT AND RECOVERY PROVIDERS, of Title 22-A DCMR, MENTAL HEALTH, is repealed and replaced by a new Chapter 63 to read as follows:**

**CHAPTER 63            CERTIFICATION STANDARDS FOR SUBSTANCE USE  
DISORDER TREATMENT AND RECOVERY PROVIDERS**

**6300            GENERAL PROVISIONS**

- 6300.1            The Department of Behavioral Health (“Department”) is the Single State Agency (“SSA”) responsible for the development and promulgation of rules, regulations, and certification standards for prevention and treatment services related to the abuse of alcohol, tobacco, and other drugs (“ATOD”) in the District of Columbia (“District”). The Department is responsible for the inspection, monitoring, and certification of all District of Columbia substance use disorder (“SUD”) treatment and recovery support service providers.
- 6300.2            The purpose of these rules is to establish service and certification requirements for operating a SUD treatment or recovery program in the District of Columbia.
- 6300.3            Providers seeking certification shall specify the age ranges of the clients they will be serving. Providers serving youth shall be known as Adolescent Substance Abuse Treatment Expansion Program (“ASTEP”) providers.
- 6300.4            The SUD treatment framework in this chapter is based on levels of care established by the American Society of Addiction Medicine (“ASAM”).
- 6300.5            No person or entity shall own or operate a program that offers or proposes to offer non-hospital SUD treatment services without being certified by the Department pursuant to this chapter. This chapter does not apply to Health Maintenance Organizations, physicians, and other licensed behavioral health and medical professionals in individual or group practice.
- 6300.6            The Department shall issue one (1) certification for each provider that is valid only for the programs, premises, and Level(s) of Care stated on the certificate. The certificate is the property of the Department and must be returned upon request by the Department.

- 6300.7 The Department's staff, upon presentation of proper identification, has authority to enter the premises of a certified SUD treatment or recovery program during operating hours to conduct announced or unannounced inspections and investigations.
- 6300.8 Providers certified as Levels 1 - 3, except Medically Monitored Inpatient Withdrawal Management ("MMIWM"), may also receive a special designation as a program serving parents with children, subject to § 6326 of this chapter.
- 6300.9 Each certified provider shall comply with all the provisions of this chapter consistent with the scope of the authorized Level of Care.

### **6301 ELIGIBILITY FOR SUBSTANCE USE DISORDER SERVICES**

- 6301.1 SUD is a chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the client continues using the substance despite significant substance-related problems. A diagnosis of SUD requires a client to have had persistent, substance related problem(s) within a twelve (12)-month period in accordance with the most recent version of the American Psychiatric Association's Diagnostic and Statistical Manual ("DSM"). SUD services as described throughout this chapter include both treatment and Recovery Support Services ("RSS").
- 6301.2 To be eligible for SUD treatment, a client must have received a diagnosis of SUD in accordance with § 6301.1. Eligibility for Medicaid-funded or Department-funded SUD services shall be determined in accordance with § 6301.4.
- 6301.3 To be eligible for RSS, a client must have an identified need for RSS and:
- (a) Be actively participating in the Department treatment system;
  - (b) Have completed treatment; or
  - (c) Have a self-identified substance use issue that is not assessed as needing active treatment.
- 6301.4 A client shall meet the following eligibility requirements in order to receive Medicaid-funded SUD services:
- (a) Be bona fide residents of the District, as required in 29 DCMR §2405.1(a); and
  - (b) Be referred for SUD services by a treatment provider or other intake center authorized by the Department.
  - (c) Be enrolled in Medicaid, or be eligible for enrollment and have an application pending; or

- (d) For new enrollees and those enrollees whose Medicaid coverage has lapsed:
  - (1) There is an eligibility grace period of ninety (90) calendar days from the date of first service for new enrollees, or from the date of eligibility expiration for enrollees who have a lapse in coverage, until the date the Department of Human Services' Economic Security Administration ("ESA") makes an eligibility or renewal determination.
  - (2) In the event the client appeals a denial of eligibility or renewal by the ESA, the Director may extend the ninety (90) calendar day eligibility grace period until the appeal has been exhausted. The ninety (90) calendar day eligibility grace period may also be extended at the discretion of the Director for other good cause shown.
  - (3) Upon expiration of the eligibility grace period, SUD services provided to the client are no longer reimbursable by Medicaid. Nothing in this section alters the District's timely-filing requirements for claim submissions.

## 6301.5

Clients eligible for locally-funded SUD treatment are those individuals who are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program except the D.C. Healthcare Alliance, or who are enrolled in a third-party insurance program that does not cover SUD treatment and who meet the following requirements:

- (a) For individuals eighteen (18) years of age and older, live in households with a countable income of less than two hundred percent (200%) of the federal poverty level, and for individuals under eighteen (18) years of age, live in households with a countable income of less than three hundred percent (300%) of the federal poverty level.
- (b) A client that does not meet the income limits of § 6301.5(a) above may receive treatment services in accordance with the following requirements:
  - (1) The client must, within ninety (90) calendar days of enrollment for services, apply to the ESA for certification, which will verify income; and
  - (2) An individual with income over the limits in paragraph (a) above may receive treatment services in accordance with rates determined by the Department.

**6302 SERVICES FOR PEOPLE WITH CO-OCCURRING MENTAL ILLNESSES**

- 6302.1 A provider shall not decline to provide SUD services because of a person's co-occurring mental illness.
- 6302.2 All SUD treatment providers shall screen each client for SUD and mental illness during the Initial or Comprehensive Diagnostic Assessment.
- 6302.3 If a client screens positive for a co-occurring mental illness, the SUD treatment provider shall take the following steps in addition to providing SUD treatment:
- (a) If certified to provide mental health services, offer the client mental health treatment in addition to SUD treatment with the provider. If the client declines, the provider shall make the appropriate referrals for the client to receive mental health treatment at another qualified provider.
  - (b) If the provider is not certified to provide mental health services, the provider shall ensure the client is referred to an appropriate mental health provider.
  - (c) If a client that screens positive for a co-occurring mental illness receives mental health treatment at another provider, the Clinical Care Coordinator shall ensure the Plan of Care and subsequent care and treatment of the client is coordinated with the mental health provider.

**6303 PROVIDER CERTIFICATION PROCESS**

- 6303.1 The Department utilizes the certification process to thoroughly evaluate an applicant's capacity to provide high quality SUD services in accordance with this regulation and the needs of the District's behavioral health system. Each applicant seeking certification as a provider shall submit a certification application to the Department. A certified provider seeking renewal of certification shall submit a certification application at least ninety (90) calendar days prior to the termination of its current certification. The certification of a provider that has submitted a timely application for renewal of certification shall continue until the Department renews or denies renewal of the certification application.
- 6303.2 An applicant may apply for certification for one or more of the following Levels of Care ("LOC"):
- (a) Level: Opioid Treatment Program ("OTP");
  - (b) Level 1: Outpatient;
  - (c) Level 2.1: Intensive Outpatient;
  - (d) Level 2.5: Day Treatment;



- (e) Level 3.1: Clinically Managed Low-Intensity Residential;
- (f) Level 3.3: Clinically Managed Population-Specific High-Intensity Residential;
- (g) Level 3.5: Clinically Managed High-Intensity Residential Services (Adult Criteria) or Clinically Managed Medium-Intensity Residential Services (Adolescent Criteria);
- (h) Level 3.7-WM: Medically Monitored Inpatient Withdrawal Management (“MMIWM”); and
- (i) Level-R: RSS.

6303.3 Providers may also be certified to provide one or more of the following specialty services based on their LOC certifications from the Department:

- (a) Medication Management;
- (b) Adolescent – Community Reinforcement Approach (“ACRA”);
- (c) Medication Assisted Treatment (“MAT”);
- (d) Trauma Recovery and Empowerment Model (“TREM”); and
- (e) Environmental Stability.

6303.4 All certified providers, except those only certified as Level-R, shall provide all of the following core services according to the requirements of this chapter and the individual needs of the client as outlined in the Plan of Care:

- (a) Diagnostic Assessment and Plan of Care;
- (b) Clinical Care Coordination (“CCC”);
- (c) Crisis Intervention;
- (d) SUD Counseling/Therapy, including the following:
  - (1) Individual Counseling/Therapy;
  - (2) Group Counseling/Therapy;
  - (3) Family Counseling/Therapy;
  - (4) Group Counseling – Psychoeducation.
- (e) Drug Screening, as follows:

- (1) Toxicology Sample Collection;
- (2) Breathalyzer Testing.

(f) RSS.

6303.5 Certification shall be considered terminated if the provider:

- (a) Fails to submit a complete certification application ninety (90) calendar days prior to the expiration date of the current certification;
- (b) Voluntarily relinquishes certification; or
- (c) Terminates operations.

6303.6 Upon receipt of a certification application, the Department shall review the certification application to determine whether it is complete. If a certification application is incomplete, the Department shall return the incomplete application to the applicant. An incomplete certification application shall not be regarded as a certification application. The Department shall not take further action to issue certification unless a complete certification application is submitted within ninety (90) calendar days prior to the expiration of the applicant's current certification.

6303.7 Following the Department's acceptance of the certification application, the Department shall determine whether the applicant's facility, services and activities meet the certification standards described in this chapter. The Department shall conduct an on-site survey of the applicant's facility, services, and activities to determine whether the applicant satisfies all the certification standards. The Department shall have access to all records necessary to verify compliance with certification standards and may conduct interviews with staff, others in the community, and clients.

6303.8 The Department may conduct an on-site survey at the time of initial certification or certification renewal, or at any other time during the period of certification.

6303.9 Applicant or provider interference with the on-site survey, or submission of false or misleading information, or lack of candor by the applicant or provider, shall be grounds for an immediate suspension of any prior certification, or denial of a new certification application.

6303.10 A Statement of Deficiency ("SOD") is a written notice to a provider identifying non-compliance with this chapter. The intent of the SOD is to provide existing certified providers with an opportunity to correct minor deficiencies to avoid decertification and disruption of service to existing clients. When utilized, the SOD shall describe the areas of non-compliance, suggest actions needed to bring operations into compliance with the certification standards, and set forth a timeframe of no more than ten (10) business days for the provider's submission of a written Corrective Action Plan ("CAP").

- 6303.11 The issuance of an SOD is a separate process from the issuance of a Notice of Infraction (“NOI”). NOIs shall be issued promptly upon observation of violations of this chapter, especially when they are recurrent, endanger client or staff health or safety or when there is a failure to comply with core requirements of operating an SUD treatment facility.
- 6303.12 The Department is not required to utilize the SOD or NOI process. It may immediately deny certification or re-certification or proceed with decertification.
- 6303.13 A certified provider’s CAP shall describe the actions to be taken and specify a timeframe for correcting the areas of non-compliance. The CAP shall be submitted to the Department within ten (10) business days after receipt of the SOD from the Department, or sooner if specified in the SOD.
- 6303.14 The Department shall notify the certified provider whether the provider’s CAP is accepted within ten (10) business days after receipt. In addition to utilizing the SOD process in § 6303.10 during renewal of certification stage, the Director may utilize the same procedures at any other time to address violations of this chapter.
- 6303.15 The Department may only issue its certification after the Department verifies that certified provider has remediated all of the deficiencies identified in the CAP and meets all the certification standards.
- 6303.16 The Department may grant full or provisional certification to an SUD applicant after conducting on-site surveys and reviewing application materials, including CAPs. A determination to grant full certification to a provider or program shall be based on the Department’s review and validation of the information provided in the application, facility inspection findings, CAPs, and the provider or program’s compliance with this chapter.
- 6303.17 The Department may grant provisional certification to a new provider or program that can demonstrate substantial compliance with this chapter and (a) has not previously held any certification issued by the Department; or (b) is in the process of securing a facility within the District at the time of application.
- 6303.18 Provisional certification shall not exceed a period of six (6) months and may be renewed only once for an additional period not to exceed ninety (90) calendar days.
- 6303.19 Full certification as an SUD treatment provider or RSS provider shall be for one (1) calendar year for new applicants and two (2) calendar years for existing providers seeking renewal of certification. Certification shall start from the date of issuance of certification by the Department, subject to the provider’s continuous compliance with this chapter. Certification shall remain in effect until it expires, is renewed, or is revoked pursuant to this chapter. The certification shall specify the effective date of the certification, the program(s), level(s) of care, and services that the provider is certified to provide.

- 6303.20 The provider shall notify the Department within forty-eight (48) hours of any changes in its operation that affect the provider's continued compliance with this chapter, including changes in ownership or control, changes in service, and changes in its affiliation and referral arrangements.
- 6303.21 Prior to adding an SUD service during the term of certification, the provider shall submit a certification application describing the service. Upon determination by the Department that the provider is in compliance with certification standards, the Department may certify the provider to provide that service. A provider that applies for certification during an open application period as published in the District of Columbia Register may appeal the denial of certification under this subsection by utilizing the procedures contained in § 6305. The Department shall not accept any applications for which a notice of moratorium is published in the District of Columbia Register.
- 6303.22 In the event that a certification application is under review while a moratorium is put in place, the Department will continue to process the application for a time period of no more than thirty (30) calendar days. If, after thirty (30) calendar days, the application is deemed incomplete, the provider will be granted ten (10) business days to resolve all items of incompleteness. Any items not resolved or provided by the due date will result in the incomplete application being returned to the applicant. The Department will take no further action to issue certification. The applicant must then wait until the moratorium is lifted in order to submit any subsequent certification application.
- 6303.23 Nothing in these rules shall be interpreted to mean that certification is a right or an entitlement. New certification as a provider shall depend upon the Director's assessment of the need for additional providers(s) and availability of funds.
- 6303.24 Certification shall be limited to the applicant granted the certification and shall be limited to the location and services as indicated on the certificate. Certification is not transferable to any other organization.
- 6303.25 Written notice of any change in the name or ownership of a program owned by an individual, partnership, or association, or in the legal or beneficial ownership of ten percent (10%) or more of the stock of a corporation that owns or operates the program, shall be given to the Department at least thirty (30) calendar days prior to the change in ownership.
- 6303.26 The provider shall notify the Department in writing thirty (30) calendar days prior to implementing any of the following operational changes, including all aspects of the operations materially affected by the changes:
- (a) A proposed change in the program's geographic location;
  - (b) The proposed addition or deletion of core (§ 6303.4) or specialty (§6303.3) service components, which is anything that would alter or disrupt services

where the client would be impacted by the change, or any change that would affect compliance with this regulation;

- (c) A change in the required staff qualifications for employment;
- (d) A proposed change in organizational structure;
- (e) A proposed change in the population served; or
- (f) A proposed change in program capacity and, for residential programs, a proposed change in bed capacity.

6303.27 Providers shall forward to the Department within thirty (30) calendar days all inspection reports conducted by an oversight body and all corresponding corrective actions taken regarding cited deficiencies.

6303.28 Providers shall immediately report to the Department any criminal allegations involving provider staff.

6303.29 The Department may consider a provider's accreditation by one or more national accrediting bodies as evidence of compliance with one or more certification standards in this chapter.

#### **6304 CERTIFICATION: EXEMPTIONS FROM STANDARDS**

6304.1 Upon good cause shown, including but not limited to a conflict between a certification standard and a provider's third-party contract or agreement, the Department may exempt a provider from a certification standard if the exemption does not jeopardize the health and safety of clients, violates a client's rights, or otherwise conflict with the purpose and intent of these rules.

6304.2 If the Department approves an exemption, such exemption shall end on the expiration date of the provider certification, or at an earlier date if specified by the Department, unless the provider requests renewal of the exemption prior to expiration of its certificate or the earlier date set by the Department.

6304.3 The Department may at any time revoke an exemption if it that it determines that the exemption may jeopardize the health, safety, or welfare of the clients/consumers served, staff, volunteers, and/or the general public.

6304.4 All requests for an exemption from certification standards must be submitted in writing to the Department.

#### **6305 DENIAL OR DECERTIFICATION PROCESS**

6305.1 The Director may deny initial certification if the applicant fails to comply with any certification standard or the application fails to demonstrate the applicant's capacity to deliver high quality SUD services on a sustained and regular basis. Furthermore,

to avoid an over concentration of providers in areas with existing providers and to encourage increased access to underserved areas of the District, the Director may deny certification if the applicant proposes to operate a facility in an area already served by one or more providers. The Department's priority shall be to grant certification to applicants with the demonstrated capacity to deliver high quality SUD services that will address unmet needs of the behavioral health system. While applicants may make minor corrections and substitutions to its application during the certification process, evidence of one or more of the following shall constitute good cause to deny the application for certification when the circumstances demonstrate deliberate misrepresentations, organizational instability, or the lack of preparedness or capacity to meet and sustain compliance with this chapter:

- (a) An incomplete application;
- (b) False information provided by applicant or contained in an application;
- (c) One or more changes to an organizational chart during the application process;
- (d) A facility that is inadequate in health, safety, size or configuration to provide SUD services consistent with high quality care and privacy standards;
- (e) The lack of demonstrated experience providing SUD services by the applicant's clinical leadership, practitioners, and/or staff;
- (f) An applicant's lack of financial resources (e.g., inability to pay all staff, or inability to provide at least ninety (90) days of running capital as dictated by the provider's monthly operating budget, etc.) to carry out its commitments and obligations under this chapter for the foreseeable future;
- (g) An applicant's failure to timely respond to the Department's requests for information; and
- (h) History of poor performance.

6305.2

Upon written request submitted by the applicant and received by the Department within fifteen (15) business days of the certification denial, the Department shall provide an applicant an impartial administrative review of the decision. The Department shall conduct the administrative review to determine whether the certification denial complied with § 6305.1. Each request for an administrative review shall contain a concise statement of the reason(s) why the certification denial was in error. The Director shall issue a written decision within fifteen (15) business days. The Director's decision is final and not subject to further appeal. An applicant, its principals, and successor in interests shall be prohibited from reapplying for certification for twelve (12) months following the date of the certification denial.

- 6305.3 The Department shall decertify existing providers who fail to comply with the certification requirements contained in this chapter. Evidence of one or more of the following shall constitute good cause to decertify:
- (a) An incomplete recertification application;
  - (b) False information provided by provider or contained in a recertification application;
  - (c) High staff turnover where there are two or more changes made to the leadership staff within a certification period, demonstrating organizational instability;
  - (d) One or more documented violations of the certification standards during the certification period that evidence a provider's lack of capacity to meet and sustain compliance with this chapter;
  - (e) Claims audit error rate in excess of twenty-five percent (25%);
  - (f) A provider's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future; evidenced by an inability to all pay staff, or an inability to provide at least ninety (90) days of running capital as dictated by the provider monthly operating budget;
  - (g) Failure to cooperate with Department investigations or lack of timely response to information requests.
- 6305.4 Nothing in this chapter requires the Director to issue an SOD prior to decertifying a provider. If the Director finds that there are grounds for decertification, the Director shall issue a written notice of decertification setting forth the factual basis for the decertification, the effective date, and the provider's right to request an administrative review.
- 6305.5 The provider may request an administrative review from the Director within fifteen (15) business days of the date on the notice of decertification.
- 6305.6 Each request for an administrative review shall contain a concise statement of the reason(s) why the provider asserts that it should not have had its certification revoked and include any relevant supporting documentation.
- 6305.7 Each administrative review shall be conducted by the Director and shall be completed within fifteen (15) business days of the receipt of the provider's request.
- 6305.8 The Director shall issue a written decision and provide a copy to the provider. If the Director denies the appeal and approves the decertification, the provider may request a hearing under the D.C. Administrative Procedure Act, within fifteen (15) business days of the receipt of the Director's written decision. The administrative

hearing shall be limited to the issues raised in the administrative review request. The decertification shall be stayed pending resolution of the hearing.

6305.9 Upon decertification, the provider and its executive leadership shall not be allowed to reapply for certification for a period of two (2) years following the date of the order of revocation. If a provider reapplies for certification, the provider must reapply in accordance with the established certification standards for the type of services provided and show evidence that the grounds for the revocation have been corrected.

## **6306 NOTICES OF INFRACTION**

6306.1 The fine amount for any NOI issued under this chapter shall be as follows:

- (a) For the first offense \$500.00;
- (b) For the second offense \$1,000.00;
- (c) For the third offense \$2,000.00;
- (d) For the fourth and subsequent offenses \$4,000.00.

6306.2 The administrative procedure for the appeal of an NOI issued under this chapter shall be governed by 16 DCMR §§ 3100 *et seq.*

## **6307 CLOSURES AND CONTINUITY OF CLIENT CARE**

6307.1 A provider shall provide written notification to the Department at least ninety (90) calendar days prior to its impending closure, or immediately upon knowledge of an impending closure less than ninety (90) calendar days in the future. This notification shall include plans for continuity of care and preservation of client records.

6307.2 The Department shall review the continuity of care plan and make recommendations to the provider as needed. The plan should include provision for the referral and transfer of clients, as well as for the provision of relevant treatment information, medications, and information to the new provider. The provider shall incorporate all Department recommendations necessary to ensure a safe and orderly transfer of care.

6307.3 Closure does not absolve a provider from its legal responsibilities regarding the preservation and the storage of client records as described in § 6323 of this chapter and all applicable Federal and District laws and regulations. A provider must take all necessary and appropriate measures to ensure client records are preserved, maintained, and made available to clients upon request after closure of a program.

6307.4 A provider shall be responsible for the execution of its continuity of care plan in coordination with the Department.



**6308 GENERAL MANAGEMENT AND ADMINISTRATION STANDARDS**

- 6308.1 Each provider shall be established as a recognized legal entity in the District of Columbia and qualified to conduct business in the District. Evidence of qualification to conduct business includes a certificate of good standing and clean hands, or an equivalent document, issued by the District of Columbia Department of Consumer and Regulatory Affairs (DCRA). Each provider shall maintain the clinical operations, policies, and procedures described in this section. These operations, policies and procedures shall be reviewed and approved by the Department during the certification survey process. Providers certified or accredited by a national body may apply for deemed status. To be considered for deemed status, a prospective provider submitting an application for certification must request “Deemed Status” on the certification application. Providers must also provide a current copy of their national accreditation certificate along with their most recent accreditation report. Deemed Status does not waive the requirement of service specific requirements and/or fiscal responsibility requirements.
- 6308.2 All providers shall report to the Department in a form and manner prescribed by the Department’s policy on major unusual incidents, including but not limited to abuse or neglect of client or any other event that may compromise the health, safety, or welfare of clients.
- 6308.3 Each provider shall:
- (a) Comply with all applicable Federal and District laws and regulations;
  - (b) Participate through a formal agreement with a registered Health Information Exchange (“HIE”) entity of the DC Health Information Exchange (“DC HIE”), defined in Chapter 87 of Title 29 DCMR;
  - (c) Hire personnel with the necessary qualifications to provide SUD treatment and/or RSS to meet the needs of its enrolled clients; and
  - (d) For SUD treatment, employ Qualified Practitioners to ensure provision of services as appropriate and in accordance with this chapter.
- 6308.4 Providers shall make services available a minimum five (5) days per week on a regular schedule for at least eight (8) hours per day, in the evening by appointment, and at least once a month on a Saturday for four (4) hours. An independently licensed clinician with the ability to provide and supervise the offered services must be available on-site during regular hours of operation.
- 6308.5 Each provider shall have a full-time program director with authority and responsibility for the administrative direction and day-to-day operation of the program(s).
- 6308.6 Each provider shall have a clinical director responsible for the full-time clinical direction and day-to-day delivery of clinical services provided to clients of the

program(s). The clinical director must be a clinician who is licensed to practice independently in the District and supervise other clinical staff.

- 6308.7 The program director and clinical director shall devote adequate time and authority to perform necessary duties to ensure that service delivery is in compliance with applicable standards set forth in this chapter and in applicable policies issued by the Department. The program director and clinical director shall not be the same individual.
- 6308.8 Each provider shall establish and adhere to policies and procedures for selecting and hiring staff, including but not limited to requiring:
- (a) Evidence of licensure, certification, or registration, as applicable and as required by the job being performed;
  - (b) Evidence of an appropriate degree, training program, or credentials, such as academic transcripts or a copy of degree;
  - (c) Evidence of all required criminal background checks, and for all non-licensed staff members, application of the criminal background check requirements contained in District Official Code §§ 44-551 *et seq.*, Unlicensed Personnel Criminal Background Check, as well as child abuse registry checks (for both state of residence and employment);
  - (d) Evidence of quarterly checks that no individual is excluded from participation in a federally funded health care program as listed on the Department of Health and Human Services' "List of Excluded Individuals/Entities," the General Services Administration's "Excluded Parties List System," or any similar succeeding governmental list; and
  - (e) Evidence of a negative result on a tuberculosis test or medical clearance related to a positive result.
- 6308.9 Each provider shall establish and adhere to written job descriptions for all positions, including, at a minimum, the role, responsibilities, reporting relationships, and minimum qualifications for each position. The minimum qualifications established for each position shall be appropriate for the scope of responsibility and clinical practice (if any) described for each position.
- 6308.10 Each provider shall establish and adhere to policies and procedures requiring a periodic evaluation of clinical and administrative staff performance that requires an assessment of clinical competence (if appropriate), general organizational work requirements, and key functions as described in the job description. The periodic evaluation shall also include an annual individual development plan for each staff member.

- 6308.11 Each provider shall establish and adhere to a supervision policy to ensure that services are provided according to this chapter and Department policies on supervision and service standards as well as District laws and regulations.
- 6308.12 Each provider shall establish and adhere to a training policy in accordance with § 6319 of this chapter.
- 6308.13 Personnel policies and procedures shall apply to all staff and volunteers working for a provider and shall include:
- (a) Compliance with Federal and District equal opportunity laws, including the Americans with Disabilities Act and the D.C. Human Rights Act;
  - (b) A current organizational flow chart reflecting each program position and, where applicable, the relationship to the larger program or provider of which the program is a part;
  - (c) Written plans for developing, posting, and maintaining files pertaining to work and leave schedules, time logs, and on-call schedules for each functional unit, to ensure adequate coverage during all hours of operation;
  - (d) A written policy requiring that a designated individual be assigned responsibility for management and oversight of the volunteer program, if volunteers are utilized;
  - (e) A written policy regarding volunteer recruitment, screening, training, supervision, and dismissal for cause, if volunteers are utilized; and
  - (f) Provisions through which the program shall make available to staff a copy of the personnel policies and procedures.
- 6308.14 Providers shall develop and implement procedures that prohibit the possession, use, or distribution of controlled substances or alcohol, or any combination of them, by staff during their duty hours, unless medically prescribed and used accordingly. Staff possession, use, or distribution of controlled substances or alcohol, or any combination of them, during off duty hours that affects job performance shall also be prohibited. These policies and procedures shall ensure that the provider:
- (a) Provides information about the adverse effects of the non-medical use and abuse of controlled substances and alcohol to all staff;
  - (b) Initiates disciplinary action for the possession, use, or distribution of controlled substances or alcohol, which occurs during duty hours or which affects job performance; and
  - (c) Provides information and assistance to any impaired staff member to facilitate his or her recovery.

6308.15 Individual personnel records shall be maintained for each person employed by a provider and shall include, at a minimum, the following:

- (a) A current job description for each person, that is revised as needed;
- (b) Evidence of a negative result on a tuberculosis test or medical clearance related to a positive result;
- (c) Evidence of the education, training, and experience of the individual, and a copy of the current appropriate license, registration, or certification credentials (if any);
- (d) Documentation that written personnel policies were distributed to the employee;
- (e) Notices of official tour of duty: day, evening, night, or rotating shifts; payroll information; and disciplinary records;
- (f) Documentation that the employee has received all health care worker immunizations recommended by the District of Columbia Department of Health; and
- (g) Criminal background checks as required in § 6308.8.

6308.16 All personnel records shall be maintained during the course of an individual's employment with the program and for three (3) years following the individual's separation from the program.

### **6309 EMPLOYEE CONDUCT**

6309.1 All staff shall adhere to ethical standards of behavior in their relationships with clients as follows:

- (a) Staff shall maintain an ethical and professional relationship with clients at all times;
- (b) Licensed or certified staff must adhere to their professional codes of conduct, as required by District licensing laws and regulations;
- (c) Staff shall not enter into dual or conflicting relationships with individuals that might affect professional judgment, therapeutic relationships, or increase the risk of exploitation; and
- (d) The provider shall establish written policies and procedures regarding staff relationships with both current and former clients that are consistent with this section.

- 6309.2 No staff, including licensed professionals, support personnel, and volunteers, shall engage in sexual activities or sexual contact with clients.
- 6309.3 No staff, including licensed professionals, support personnel, and volunteers, shall engage in sexual activities or sexual contact with former clients.
- 6309.4 No staff, including licensed professionals, support personnel, and volunteers, shall engage in sexual activities or sexual contact with clients' relatives or other individuals with whom clients maintain a close personal relationship.
- 6309.5 No staff, including licensed professionals, support personnel, and volunteers, shall provide services to individuals with whom they have had a prior sexual or other significant relationship.
- 6309.6 Staff, including licensed professionals, support personnel, and volunteers, shall only engage in appropriate physical contact with clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries that govern such physical contact.
- 6309.7 No staff, including licensed professionals, support personnel, and volunteers, shall sexually harass clients. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- 6309.8 No provider or employee of a provider shall be a representative payee for any person receiving services from a treatment or RSS program.

**6310 QUALITY IMPROVEMENT**

- 6310.1 Each provider shall establish and adhere to policies and procedures governing quality improvement ("Quality Improvement Policy").
- 6310.2 The Quality Improvement Policy shall require the provider to adopt a written quality improvement ("QI") plan describing the objectives and scope of its QI program and requiring provider staff, client, and family involvement in the QI program.
- 6310.3 The Department shall review and approve each provider's QI program at a minimum as part of the certification and renewal of certification process. The QI program shall submit data to the Department upon request.
- 6310.4 The QI program shall be directed by a coordinator ("QI Coordinator") who has direct access to the Program Director if applicable. In addition to directing the QI program's activities, the QI Coordinator shall also review unusual incidents, deaths, and other sentinel events; monitor and review utilization patterns; and track consumer complaints and grievances. The QI Coordinator shall be one of the following:

- (a) Physician;
- (b) Psychologist;
- (c) Licensed Independent Clinical Social Worker (“LICSW”);
- (d) Advanced Practice Registered Nurse (“APRN”);
- (e) Licensed Professional Counselor (“LPC”);
- (f) Licensed Marriage and Family Therapist (“LMFT”);
- (g) Registered Nurse (“RN”);
- (h) Licensed Independent Social Worker (“LISW”);
- (i) Licensed Graduate Professional Counselor (“LGPC”);
- (j) Licensed Graduate Social Worker (“LGSW”);
- (k) Certified Addictions Counselor (“CAC”) I or II;
- (l) Physician Assistant (“PA”); or
- (m) An individual with a Bachelors’ Degree and a minimum of two (2) years of relevant, qualifying experience, such as experience in behavioral health care delivery or health care quality improvement initiatives.

6310.5 The QI program shall be operational and shall measure and ensure at least the following:

- (a) Easy and timely access and availability of services;
- (b) Treatment and prevention of acute and chronic conditions;
- (c) Close monitoring of high-volume services, clients with high risk conditions, and services for children and youth;
- (d) Coordination of care across behavioral health treatment and primary care treatment settings;
- (e) Compliance with all certification standards;
- (f) Adequacy, appropriateness, and quality of care for clients;
- (g) Efficient utilization of resources;
- (h) Client and family satisfaction with services;

- (i) Quarterly random samplings of client outcomes, including but not limited to biological markers such as drug/alcohol screening results, in a format approved by the Department; and
- (j) Any other indicators that are part of the Department QI program for the larger system.

6310.6 When the provider identifies a significant problem or quality of service issue, the provider shall notify the Department. The provider shall act to correct the problem or improve the effectiveness of service delivery, or both, and shall assess corrective or supportive actions through continued monitoring.

6310.7 Providers certified through Deemed Status or accredited by nationally-recognized bodies may submit their QI program accepted by that body to fulfill the requirements in § 6310.5.

### **6311 FISCAL MANAGEMENT STANDARDS**

6311.1 Applicants or providers that are in financial distress and at risk of imminent closure represent a risk both to the Department's clients and the behavioral health system. The Department shall not certify any applicant or re-certify any provider without evidence that the applicant or provider has sufficient financial resources (e.g., ability to provide at least ninety (90) days of running capital as dictated by the provider's monthly operating budget) to carry out its commitments and obligations under this chapter for the foreseeable future. The provider shall have adequate financial resources to deliver all required services and shall provide documented evidence at the time of certification and renewal of certification that it has adequate resources to operate a SUD program. Documented evidence shall include federal and state tax returns, including Form 990s for non-profit organizations, for the three (3) most recent tax reporting years, and a current financial statement signed and verified by a certified public accountant.

6311.2 A provider shall have fiscal management policies and procedures and keep financial records in accordance with generally accepted accounting principles.

6311.3 A provider shall include adequate internal controls for safeguarding or avoiding misuse of client or organizational funds.

6311.4 A provider shall have a uniform budget of expected revenue and expenses as required by the Department. The budget shall:

- (a) Categorize revenue by source;
- (b) Categorize expenses by type of service; and
- (c) Estimate costs by unit of service.

- 6311.5 A provider shall have the capacity to determine direct and indirect costs for each type of service provided.
- 6311.6 A written schedule of rates and charges shall be conspicuously posted and available to staff, clients, and the general public.
- 6311.7 Fiscal reports shall provide information on the relationship of the budget to actual spending, including revenues and expenses by category and an explanation of the reasons for any substantial variance.
- 6311.8 Providers shall correct or resolve all adverse audit findings prior to recertification.
- 6311.9 A provider shall have policies and procedures regarding:
- (a) Purchase authority, product selection and evaluation, property control and supply, storage, and distribution;
  - (b) Billing;
  - (c) Controlling accounts receivable;
  - (d) Handling cash;
  - (e) Management of client fund accounts;
  - (f) Arranging credit; and
  - (g) Applying discounts and write-offs.
- 6311.10 All business records pertaining to costs, payments received and made, and services provided to clients shall be maintained for a period of ten (10) years or until all audits and ongoing litigations are complete, whichever is longer.
- 6311.11 All providers must maintain proof of liability insurance coverage, which must include malpractice insurance of at least three million dollars (\$3,000,000.00) aggregate and one million dollars (\$1,000,000.00) per incident and comprehensive general coverage of at least three million dollars (\$3,000,000.00) per incident that covers general liability, vehicular liability, and property damage. The insurance shall include coverage of all personnel, consultants, or volunteers working for the provider.
- 6311.12 Environmental Stability providers that handle client funds must maintain financial records with separate accounting for each Environmental Stability client's funds.
- 6311.13 A provider shall ensure that clients employed by the organization are paid in accordance with all applicable laws and regulations governing labor and employment, including those governing minimum wage.



6311.14 All money earned by a client shall accrue to the sole benefit of that individual and be provided to the client or the client's legal representative upon discharge or sooner.

## **6312 ADMINISTRATIVE PRACTICE ETHICS**

6312.1 All providers shall operate in an ethical manner, including but not limited to complying with the provisions of this section. A provider shall not offer or imply to offer services not authorized on the certification issued by the Department.

6312.2 A provider shall not use any advertising that contains false, misleading, or deceptive statements or claims or that contains false or misleading information about fees.

6312.3 A provider shall not offer or imply to offer services not authorized on the certification issued by the Department.

6312.4 A provider shall comply with all Federal and District laws and regulations, including but limited to the False Claims Act, 31 USC §§ 3729-3733, the Anti-Kickback Statute, 42 USC § 1320a-7b, the Physician Self-Referral Law (Stark law), 42 USC § 1395nn, and the Exclusion Statute, 42 USC § 1320a-7.

6312.5 The provider shall keep all employees informed of policy changes that affect performance of duties.

6312.6 The provider must treat all allegations of ethical violations as major unusual incidents.

6312.7 Any research must be conducted in accordance with Federal law.

## **6313 PROGRAM POLICIES AND PROCEDURES**

6313.1 Each program must document the following:

- (a) Organization and program mission statement, philosophy, purpose, and values;
- (b) Organizational structure;
- (c) Leadership structure;
- (d) Program relationships;
- (e) Staffing;
- (f) Relationships with parent organizations, affiliated organizations, and organizational partners;
- (g) Treatment philosophy and approach;

- (h) Services provided;
- (i) Characteristics and needs of the population served;
- (j) Performance metrics, including intended outcomes and process methods;
- (k) Contract services, if any;
- (l) Affiliation agreements, if any;
- (m) The scope of volunteer activities and rules governing the use of volunteers, if any;
- (n) Location of service sites and specific designation of the geographic area to be served; and
- (o) Hours and days of operation of each site.

6313.2 Each program shall establish written policies and procedures to ensure each of the following:

- (a) Service provision based on the individual needs of the client;
- (b) Consideration of special needs of the client and the program's population of focus;
- (c) Placement of clients in the least restrictive setting necessary to address the acuity of the client's presenting illness and circumstances; and
- (d) Facilitation of access to other more appropriate services for clients who do not meet the criteria for admission into a program offered by the provider.

6313.3 Each program shall develop and document policies and procedures subject to review by the Department related to each of the following:

- (a) Program admission and exclusion criteria;
- (b) Termination of treatment and discharge or transition criteria;
- (c) Outreach;
- (d) Infection control procedures and use of universal precautions, addressing at least those infections that may be spread through contact with bodily fluids;
- (e) Volunteer utilization, recruitment, and oversight;
- (f) Crisis intervention and medical emergency procedures;

- (g) Safety precautions and procedures for participant volunteers, employees, and others;
- (h) Record management procedures in accordance with “Confidentiality of Substance Use Disorder Patient Records” (“42 CFR Part 2”), this chapter, and any other Federal and District laws and regulations regarding the confidentiality of client records;
- (i) The on-site limitations on use of tobacco, alcohol, and other substances;
- (j) Clients’ rules of conduct and commitment to treatment regimen, including restrictions on carrying weapons and specifics of appropriate behavior while in or around the program;
- (k) Clients’ rights;
- (l) Addressing and investigating major unusual incidents;
- (m) Addressing client grievances;
- (n) Addressing issues of client non-compliance with established treatment regimen and/or violation of program policies and requirements; and
- (o) The purchasing, receipt, storage, distribution, return, and destruction of medication, including accountability for and security of medications located at any of its service site(s) (“Medication Policy”).

6313.4 Gender-specific programs shall ensure that staff of that specific gender is in attendance at all times when clients are present.

#### **6314 EMERGENCY PREPAREDNESS PLAN**

6314.1 Each provider shall establish and adhere to a written disaster evacuation and continuity of operations plan in accordance with the Department policy on Disaster Evacuation/Continuity of Operations Plans.

6314.2 A provider shall immediately notify the Department and implement its Continuity of Operations Plan if an imminent health hazard exists because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, gross unsanitary conditions, or other circumstances that may endanger the health, safety, or welfare of its clients.

#### **6315 FACILITIES MANAGEMENT**

6315.1 A provider shall establish and maintain a safe environment for its operation, including adhering to the following provisions:

- (a) Each provider's service site(s) shall be located and designed to provide adequate and appropriate facilities for private, confidential individual and group counseling/therapy sessions;
- (b) Each provider's service site(s) shall have appropriate space for group activities and educational programs;
- (c) In-office waiting time shall be less than one (1) hour from the scheduled appointment time. Each provider shall also demonstrate that it can document the time period for in-office waiting;
- (d) Each provider shall comply with applicable provisions of the Americans with Disabilities Act in all business locations;
- (e) Each service site shall be located within reasonable walking distance of public transportation;
- (f) Providers shall maintain fire safety equipment and establish practices to protect all occupants. This shall include clearly visible fire extinguishers, with a charge, that are inspected annually by a qualified service company or trained staff member; and
- (g) Each provider shall annually obtain a written certificate of compliance from the District of Columbia Department of Fire and Emergency Medical Services ("FEMS") indicating that all applicable fire and safety code requirements have been satisfied for each facility.

- 6315.2 Each window that opens shall have a screen.
- 6315.3 Each rug or carpet in a facility shall be securely fastened to the floor or shall have a non-skid pad.
- 6315.4 Each hallway, porch, stairway, stairwell, and basement shall be kept free from any obstruction at all times.
- 6315.5 Each ramp or stairway used by a client shall be equipped with a firmly secured handrail or banister.
- 6315.6 Each provider shall maintain a clean environment free of infestation and in good physical condition, and each facility shall be appropriately equipped and furnished for the services delivered.
- 6315.7 Each provider shall properly maintain the outside and yard areas of the premises in a clean and safe condition.
- 6315.8 Each exterior stairway, landing, and sidewalk used by clients shall be kept free of snow and ice.

- 6315.9 Each facility shall be located in an area reasonably free from noxious odors, hazardous smoke and fumes, and where interior sounds may be maintained at reasonably comfortable levels.
- 6315.10 A provider shall take necessary measures to ensure pest control, including:
- (a) Refuse shall be stored in covered containers that do not create a nuisance or health hazard; and
  - (b) Recycling, composting, and garbage disposal shall not create a nuisance, permit transmission of disease, or create a breeding place for insects or rodents.
- 6315.11 A provider shall ensure that medical waste is stored, collected, transported, and disposed of in accordance with applicable Federal and District laws, as well as guidelines from the Centers for Disease Control and Prevention (“CDC”).
- 6315.12 Each provider shall ensure that its facilities have comfortable lighting, proper ventilation, and moisture and temperature control. Rooms, including bedrooms and activity rooms below ground level, shall be dry and the temperature shall be maintained within a normal comfort range.
- 6315.13 Each facility shall have potable water available for each client.
- 6315.14 No smoking shall be allowed inside a program’s facility.
- 6315.15 Providers’ physical design and structure shall be sufficient to accommodate staff, clients, and functions of the program(s), and shall make available the following:
- (a) A reception area;
  - (b) Private areas for individual treatment services;
  - (c) An area(s) for dining, if applicable; and
  - (d) Separate bathrooms and/or toilet facilities in accordance with District law where the:
    - (1) Required path of travel to the bathroom shall not be through another bedroom;
    - (2) Windows and doors provide privacy; and
    - (3) Showers and toilets not intended for individual use provide privacy.
- 6315.16 If activity space is used for purposes not related to the program’s mission, the provider shall ensure that:
- (a) The quality of services is not reduced;

- (b) Activity space in use by other programs shall not be counted as part of the required activity space; and
  - (c) Client confidentiality is protected, as required by 42 CFR Part 2 and other applicable Federal and District laws and regulations.
- 6315.17 The use of appliances such as cell phones, computers, televisions, radios, CD players, recorders, and other electronic devices shall not interfere with the therapeutic program.
- 6315.18 Each facility shall maintain an adequately supplied first-aid kit which:
  - (a) Shall be maintained in a place known and readily accessible to clients and employees; and
  - (b) Shall be adequate for the number of persons in the facility.
- 6315.19 Each provider shall have on-site at each facility a fully functioning automatic external defibrillator (“AED”) and shall ensure that all staff are trained in how to use the AED.
- 6315.20 Each provider shall have on-site at each facility at least one dose of naloxone that is unexpired and shall ensure that all staff are trained in how to administer the naloxone.
- 6315.21 Each provider shall post emergency numbers near its telephones for fire, police, and poison control, along with contact information and directions to the nearest hospital.
- 6315.22 A provider shall have an interim plan addressing safety and continued service delivery during construction.
- 6315.23 If the facility has had work done requiring a DCRA building permit or other related permits such as plumbing or electrical within the twelve (12) months prior to application for initial certification or re-certification, the applicant shall also submit copies of the DCRA permits and post-work inspection approvals during initial certification and re-certification.

## **6316 MEDICATION STORAGE AND ADMINISTRATION STANDARDS**

- 6316.1 Controlled substances shall be maintained in accordance with applicable Federal and District laws and regulations.
- 6316.2 An SUD treatment program shall implement written policies and procedures to govern the acquisition, safe storage, prescribing, dispensing, labeling, administration, and the self-administration of medication, including medications clients may bring into the program that shall have a record of the prescribing physician’s order or approval prior to the administration or self-administration of

medication.

- 6316.3 Any prescribed medication brought into a facility by a client shall not be administered or self-administered until the medication is identified and the attending practitioner's written order or approval is documented in the client record.
- 6316.4 Verbal orders may only be given by the attending practitioner to another physician, PA, APRN, RN, or pharmacist. Verbal orders shall be noted in the client's record as such and countersigned and dated by the prescribing practitioner within twenty-four (24) hours.
- 6316.5 Medication, both prescription and over-the-counter, brought into a facility must be packaged and labeled in accordance with Federal and District laws and regulations.
- 6316.6 Medication, both prescription and over-the-counter, brought into a facility by a client that is not approved by the attending practitioner shall be packaged, sealed, stored, and returned to the client upon discharge.
- 6316.7 The administration of medications, excluding self-administration, shall be permitted only by licensed individuals pursuant to applicable District laws and regulations.
- 6316.8 Medications shall be administered only in accordance with the prescribing practitioner's order.
- 6316.9 Only a physician, APRN, RN, or PA shall administer controlled substances or injectable drugs, excluding self-administered drugs.
- 6316.10 Program staff responsible for supervision of the self-administration of medication shall document consultations with a physician, APRN, RN, pharmacist, or referral to appropriate reference material regarding the action and possible side effects or adverse reactions of each medication under their supervision.
- 6316.11 As applicable, a program shall provide training to the staff designated to supervise the self-administration of medication. The training shall include but not be limited to the expected action of and adverse reaction to the self-administered medication.
- 6316.12 Only trained staff shall be responsible for observing the self-administration of medication.
- 6316.13 Medication administration training shall be facilitated by the following Qualified Practitioners, as led by signature and date on the training certificate:
- (a) Physicians;
  - (b) PAs;
  - (c) APRNs; or

- (d) RNs.
- 6316.14 A program shall ensure that medication is available to clients as prescribed.
- 6316.15 A program shall maintain records that track and account for all medication, ensuring the following:
- (a) That each client receiving medication shall have a medication administration record, which includes the client's name, the name of medication, the type of medication (classification), the amount of medication, the dose and frequency of administration/self-administration, and the name of staff who administered or observed the self-administration of the medication;
  - (b) That documentation shall include omission and refusal of medication administration;
  - (c) That the medication administration record shall note the amount of medication originally present and the amount remaining;
  - (d) That documentation of medication administration shall include over-the-counter ("OTC") drugs administered or self-administered; and
  - (e) That SUD treatment programs administering controlled substances, including but not limited to methadone, shall follow the requirements of applicable Federal and District laws and regulations.
- 6316.16 An attending practitioner shall be notified immediately of any medication error or adverse reaction. The staff responsible for the medication error shall complete an incident report, and the practitioner's recommendations and subsequent actions taken by the program shall be documented in the client record.
- 6316.17 A program shall ensure that all medications, including those that are self-administered, are secured in locked storage areas.
- 6316.18 The locked medication area shall provide for separation of internal and external medications.
- 6316.19 A program shall maintain a list of personnel who have access to the locked medication area and, where applicable, are qualified to administer medication.
- 6316.20 A program shall comply with all Federal and District laws and regulations concerning the acquisition and storage of pharmaceuticals.
- 6316.21 Each client's medication shall be properly labeled as required by Federal and District laws and regulations, shall be stored in its original container, and shall not be transferred to another container or taken by clients other than the client for whom it was originally prescribed.



- 6316.22 Medications requiring refrigeration shall be maintained in a separate and secure refrigerator, labeled "FOR MEDICATION ONLY" and shall be maintained at a temperature between thirty-six degrees Fahrenheit (36°F) and forty-six degrees Fahrenheit (46°F). All refrigerators shall have thermometers, which are easily readable, in proper working condition, and accurate within a range of plus or minus two (2°F) degrees Fahrenheit.
- 6316.23 A program shall conspicuously post in the drug storage area the following information:
- (a) Telephone numbers for the regional Poison Control Center; and
  - (b) Metric-apothecaries weight and conversion measure charts.
- 6316.24 A program shall conduct monthly inspections of all drug storage areas to ensure that medications are stored in compliance with Federal and District laws and regulations. The program shall maintain records of these inspections for verification.
- 6316.25 Where applicable, the program shall implement written policies and procedures for the control of stock pharmaceuticals.
- 6316.26 The receipt and disposition of stock pharmaceuticals must be accurately documented as follows:
- (a) Invoices from companies or pharmacies shall be maintained to document the receipt of stock pharmaceuticals;
  - (b) A log shall be maintained for each stock pharmaceutical that documents receipt and disposition; and
  - (c) At least quarterly, each stock pharmaceutical shall be reconciled as to the amount received and the amount dispensed.
- 6316.27 A program shall implement written procedures and policies for the disposal of medication.
- 6316.28 Any medication left by a client at discharge shall be destroyed within thirty (30) calendar days after the client has been discharged, with the exception of Methadone and other controlled substances which must be returned to the point of issue or destroyed in accordance with Federal regulations.
- 6316.29 The disposal of all medications shall be witnessed and documented by two (2) staff members.

**6317 VEHICLE ENVIRONMENTAL AND SAFETY STANDARDS**

- 6317.1 A provider shall implement measures to ensure the safe operation of its transportation service, if applicable. These measures shall include, but are not limited to:
- (a) Automobile insurance with adequate liability coverage;
  - (b) Regular inspection and maintenance of vehicles, as required by law;
  - (c) Adequate first aid supplies and fire suppression equipment secured in the vehicles;
  - (d) Training of vehicle operators in emergency procedures and in the handling of accidents and road emergencies; and
  - (e) Verification to ensure that vehicles are operated by properly licensed drivers with driving records that are absent of serious moving violations, including but not limited to driving under the influence.

**6318 FOOD AND NUTRITION STANDARDS**

- 6318.1 The provisions of this section apply to any provider that prepares or serves food.
- 6318.2 All programs that prepare food shall have a current Certified Food Protection Manager (“CFPM”) certification from the District of Columbia Department of Health, and the CFPM must be present whenever food is prepared and served.
- 6318.3 The provider shall require each CFPM (or a Certified Food Handler (“CFH”), for providers serving food prepared off-site) to monitor any staff members who are not certified as CFPMs (or CFHs) in the storage, handling, and serving of food and in the cleaning and care of equipment used in food preparation in order to maintain sanitary conditions at all times.
- 6318.4 The kitchen, dining, and food storage areas shall be kept clean, orderly, and protected from contamination.
- 6318.5 A program providing meals shall maintain a fully equipped and supplied code-compliant kitchen area unless meals are catered by an organization licensed by the District to serve food.
- 6318.6 A program may share kitchen space with other programs if the accommodations are adequate to perform required meal preparation for all programs using the kitchen.
- 6318.7 Each food and drink item procured, stored, prepared, or served by the facility shall be clean, free from spoilage, prepared in a manner that is safe for human consumption, and protected from contamination.

- 6318.8 Dishes, cooking utensils, and eating utensils shall be cleaned after each meal and stored to maintain their sanitary condition.
- 6318.9 Hot and cold water, soap, and disposable towels shall be provided for hand washing in or adjacent to food preparation areas.
- 6318.10 Each facility shall maintain adequate dishes, utensils, and cookware in good condition and in sufficient quantity for the facility.

**6319 PERSONNEL TRAINING STANDARDS**

- 6319.1 Provider staff shall have annual training that meets the Occupational Safety & Health Administration (“OSHA”) regulations that govern behavioral health facilities and any other applicable infection control guidelines, including use of universal precaution and avoiding exposure to hepatitis, tuberculosis, and HIV.
- 6319.2 An SUD treatment program shall have at least two (2) staff persons, trained and certified by a nationally recognized authority that meets OSHA guidelines for basic first aid and cardiopulmonary resuscitation (“CPR”), present at all times during the hours of operation of the program. An SUD recovery program shall have at least one (1) staff person trained and certified by a recognized authority that meets OSHA guidelines in basic first aid and CPR present at all times during the hours of operation of the program. Programs serving parents with children may have additional requirements related to first aid training, pursuant to § 6326.
- 6319.3 A provider shall have a current written plan for staff development and organizational onboarding, approved by the Department which reflects the training and performance improvement needs of all employees. The plan must address the steps the organization will take to ensure the recruitment and retention of highly qualified employees and the reinforcement of staff development through training, supervision, the performance management process, and activities such as shadowing, mentoring, skill testing and coaching. The plan must, at a minimum, include culturally competent training and onboarding activities in the following core areas:
- (a) The program’s approach to addressing treatment or RSS (as appropriate to its certification), including philosophy, goals and methods;
  - (b) The staff member’s specific job description and role in relationship to other staff;
  - (c) The emergency preparedness plan and all safety-related policies and procedures;
  - (d) The proper documentation of services in client records, as applicable;
  - (e) Policies and procedures governing infection control, protection against exposure to communicable diseases, and the use of universal precautions;

- (f) Laws, regulations, and policies governing confidentiality of client information and release of information, including 42 CFR Part 2;
- (g) Laws, regulations, and policies governing reporting abuse and neglect;
- (h) Client rights; and
- (i) Other trainings directed by the Department.

**6320****CLIENT RIGHTS AND PRIVILEGES, INCLUDING GRIEVANCES**

## 6320.1

A program shall protect the following rights and privileges of each client:

- (a) Right to be admitted and receive services in accordance with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code §§ 2-1401.01 *et seq.*);
- (b) Right to make choices regarding provider, treatment, medication, and advance directives, when necessary;
- (c) Right to receive prompt evaluation, care, and treatment, in accordance with the highest quality standards;
- (d) Right to receive services and live in healthy, safe, and clean place;
- (e) Right to be evaluated and cared for in the least restrictive and most integrated environment appropriate to a client's needs;
- (f) Right to participate in the treatment planning process, including decisions concerning treatment, care, and other services, and to receive a copy of the Plan of Care;
- (g) Right to have records kept confidential;
- (h) Right to privacy;
- (i) Right to be treated with respect and dignity in a humane treatment environment;
- (j) Right to be safe from harm and from verbal, physical, or psychological abuse;
- (k) Right to be free of discrimination;
- (l) Right to be paid commensurate wages for work performed in compliance with applicable Federal and District laws and regulations;
- (m) Right to own personal belongings;

- (n) Right to refuse treatment and/or medication;
- (o) Right to give, not give, or revoke already-given consent to treatment, supports, and/or release of information;
- (p) Right to give, not give, or revoke informed, voluntary, written consent of the client or a person legally authorized to act on behalf of the client to participate in research; the right to protection associated with such participation; and the right and opportunity to revoke such consent;
- (q) Right to be informed, in advance, of charges for services;
- (r) Right to be afforded the same legal rights and responsibilities as any other citizen, unless otherwise stated by law;
- (s) Right to request and receive documentation on the performance track record of a program with regard to treatment outcomes and success rates;
- (t) Right to provide feedback on treatment and RSS, including evaluation of providers;
- (u) Right to assert grievances with respect to infringement of these rights, including the right to have such grievances considered in a fair, timely, and impartial manner;
- (v) Right to receive written and oral information on client rights, privileges, program rules, and grievance procedures in a language understandable to the client;
- (w) Right to access services that are culturally appropriate, including the use of adaptive equipment, sign language, interpreter, or translation services, as appropriate; and
- (x) Right to vote.

6320.2 A program shall post conspicuously a statement of client rights, program rules, and grievance procedures. The grievance procedures must inform clients that they may report any violations of their rights to the Department and shall include the telephone numbers of the Department and any other relevant agencies for the purpose of filing complaints.

6320.3 At the time of admission to a program, staff shall explain program rules, client rights, and grievance procedures. Program staff shall document this explanation by including a form, signed by the client and witnessed by the staff person, in the client's record.

6320.4 A program shall develop and implement written grievance procedures to ensure a prompt, impartial review of any alleged or apparent incident of violation of rights

or confidentiality. The procedures shall be consistent with the principles of due process and Department requirements, and shall include but not be limited to:

- (a) Reporting the allegation or incident to the Department within twenty-four (24) hours of it coming to the attention of program staff;
- (b) Completing the investigation of any allegation or incident within thirty (30) calendar days;
- (c) Providing a copy of the investigation report to the Department within twenty-four (24) hours of completing the investigation of any complaint; and
- (d) Cooperating with the Department with any inquiries or investigations related to alleged violations of clients' rights conducted by Department staff.

6320.5 Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded SUD services. The Department shall provide local-only beneficiaries the same Notice and Appeal rights as those provided to Medicaid beneficiaries in 29 DCMR § 9508.

6320.6 The provider shall give the client or legal guardian a written statement concerning client's rights and responsibilities ("Client's Rights Statement") in the program. The client or guardian shall sign the statement attesting to his or her understanding of these rights and responsibilities as explained by the staff person who shall witness the client's or guardian's signature. This document shall be placed in the client's record.

## **6321 CLIENT CHOICE**

6321.1 Each provider shall establish and adhere to policies and procedures governing the means by which clients shall be informed of the full choices of providers and how to access these services ("Client Choice Policy").

6321.2 The Department shall review and approve each provider's Client Choice Policy during the certification process.

6321.3 The Client Choice Policy shall comply with applicable Federal and District laws and regulations.

6321.4 Each provider shall:

- (a) Make its Client Choice Policy available to consumers and their families; and

- (b) Establish and adhere to a system for documenting that clients and families receive the Client Choice Policy.

6321.5 Each providers' Client Choice Policy shall ensure that each client requesting SUD services directly from the provider is informed that the client may choose to have SUD services provided by any of the other certified providers that offer the appropriate LOC for that client.

## **6322 CLIENT RECORDS MANAGEMENT AND CONFIDENTIALITY**

6322.1 A program shall create and maintain an organized record for each client receiving services.

6322.2 All records must be secured in a manner that provides protection from unauthorized disclosure, access, use, or damage in accordance with both Federal and District laws and regulations.

6322.3 All client records shall be kept confidential and shall be handled in compliance with 42 CFR Part 2, and Federal and District laws and regulations regarding the confidentiality of client records.

6322.4 Each provider shall have a designated privacy officer responsible for ensuring compliance with privacy requirements.

6322.5 A program shall ensure that all staff and clients, as part of their orientation, are informed of the privacy requirements.

6322.6 A decision to disclose protected health information ("PHI"), under any provisions of Federal or District laws or regulations that permit such disclosure, shall be made only by the Privacy Officer or his/her designee with appropriately administered consent procedures.

6322.7 A program shall implement policies and procedures for the release of identifying information consistent with Federal and District laws and regulations regarding the confidentiality of client records including 42 CFR Part 2, the District of Columbia Mental Health Information Act, and the Health Insurance Portability and Accountability Act ("HIPAA").

6322.8 In order to facilitate treatment and care coordination, the program shall encourage all enrolled clients to authorize the release of information to other certified providers, primary health care providers, and other health care organizations engaged in treating the client.

6322.9 The program director shall designate a staff member to be responsible for the maintenance and administration of records.

6322.10 A program shall arrange and store records according to a uniform system approved by the Department.

6322.11 A program shall maintain records such that they are readily accessible for use and review by authorized staff and other authorized parties.

6322.12 A program shall organize the content of records so that information can be located easily and so that Department surveys and audits can be conducted with reasonable efficiency.

### **6323 STORAGE AND RETENTION OF CLIENT RECORDS**

6323.1 A provider shall retain client records (either original or accurate reproductions) until all litigation, adverse audit findings, or both, are resolved. If no such conditions exist, a provider shall retain client records for at least ten (10) years after discharge.

6323.2 Records of minors shall be kept for at least ten (10) years after such minor has reached the age of eighteen (18) years.

6323.3 The provider shall establish a Document Retention Schedule with all medical records retained in accordance with Federal and District laws and regulations.

6323.4 If the records of a program are maintained on computer systems, the computer system shall:

- (a) Have a backup system to safeguard the records in the event of operator or equipment failure, natural disasters, power outages, and other emergency situations;
- (b) Identify the name of the person making each entry into the record;
- (c) Be secure from inadvertent or unauthorized access to records in accordance with 42 CFR Part 2 and other Federal and District laws and regulations regarding the confidentiality of client records;
- (d) Limit access to providers who are involved in the care of the client and who have permission from the client to access the record; and
- (e) Create an electronic trail when data is released.

6323.5 A program shall maintain records that safeguard confidentiality in the following manner:

- (a) Records shall be stored with access controlled and limited to authorized staff and authorized agents of the Department;
- (b) Written records that are not in use shall be maintained in either a secured room, locked file cabinet, safe, or other similar container;



- (c) The program shall implement policies and procedures that govern client access to their own records;
- (d) The policies and procedures of a program shall only restrict a client's access to their record or information in the record after an administrative review with documented clinical justification;
- (e) Clients shall receive copies of their records as permitted under 42 CFR Part 2;
- (f) All staff entries into the record shall be clear, complete, accurate, and recorded in a timely fashion;
- (g) All entries shall be dated and authenticated by the recorder with full signature and title;
- (h) All non-electronic entries shall be typewritten or legibly written in indelible ink that will not deteriorate from photocopying;
- (i) Any documentation error shall be marked through with a single line and initialed and dated by the recorder; and
- (j) Limited use of symbols and abbreviations shall be pre-approved by the program and accompanied by an explanatory legend.

6323.6 Any records that are retained off-site must be kept in accordance with this chapter. If an outside vendor is used, the provider must submit the vendor's name, address, and telephone number to the Department.

## **6324 CLIENT RECORD CONTENTS**

6324.1 At a minimum, all client records shall include:

- (a) Documentation of the referral and initial screening interview and its findings;
- (b) The client's consent to SUD services;
- (c) The Client's Rights Statement;
- (d) Documentation that the client received:
  - (1) An orientation to the program's services, rules, confidentiality practices, and client's rights; and
  - (2) Notice of privacy practices and opt-out forms.
- (e) Confidentiality forms and releases signed to permit the facility to obtain and/or release information;

- (f) Diagnostic interview and assessment record, including any Department-approved screening and assessment tools;
- (g) Evaluation of medical needs and, as applicable, medication intake sheets and special diets which shall include:
  - (1) Documentation of physician's orders for medication and treatment, change of orders, and/or special treatment evaluation;
  - (2) For drugs prescribed following admissions, any prescribed drug product by name, dosage, and strength, as well as date(s) medication was administered, discontinued, or changed; and
  - (3) For any prescribed "OTC" medications following admissions, any OTCs by product name, dosage, and strength, as well as date(s) medication was administered, discontinued, or changed.
- (h) Assessments and individual treatment plans pursuant to the LOC and the client's needs, including recovery plans, if applicable;
- (i) Encounter notes, which provide sufficient written documentation to support each therapy, service, activity, or session for which billing is made that, at a minimum, consists of:
  - (1) The specific service type rendered;
  - (2) Dated and authenticated entries with their authors identified, that include the duration, and actual time (beginning and ending as well as a.m. or p.m.), during which the services were rendered. To constitute a valid signature, digital signatures must include a date and time stamp contemporaneous with the signature function and must be recorded and readily retrievable in the electronic system's audit log;
  - (3) Name, title, and credentials (if applicable) of the person providing the services;
  - (4) The setting in which the services were rendered;
  - (5) Confirmation that the services delivered are contained in the client's treatment or recovery plan and are identified in the encounter note;
  - (6) A description of each encounter or intervention provided to the client, which is sufficient to document that the service was provided in accordance with this chapter;

- (7) A description of the client's response to the intervention sufficient to show, particularly in the case of group interventions, their unique participation in the service; and
- (8) Provider's observations.
- (j) Documentation of all services provided to the client as well as activities directly related to the individual treatment or recovery plan that are not included in encounter notes;
- (k) Documentation of missed appointments and efforts to contact and reengage the client;
- (l) Documentation of any personal articles of the client held by the provider for safekeeping and any statements acknowledging receipt of the property;
- (m) Emergency contact information of individuals to contact in case of a client emergency with appropriate consent to share information;
- (n) Documentation of all referrals to other agencies and the outcome of such referrals;
- (o) Documentation establishing all attempts to acquire necessary and relevant information from other sources;
- (p) Pertinent information reported by the client, family members, or significant others regarding a change in the client's condition and/or an unusual or unexpected occurrence in the client's life;
- (q) Drug test results and incidents of drug use;
- (r) Discharge summary and aftercare plan;
- (s) Outcomes of care and follow-up data concerning outcomes of care;
- (t) Documentation of correspondence including with other medical, community providers, human service, social service, and criminal justice entities as it pertains to a client's treatment and/or recovery; and
- (u) Documentation of a client's representative payee or legal guardian, as applicable.

**6325****RESIDENTIAL TREATMENT AND RECOVERY PROGRAMS**

## 6325.1

The provisions of this section apply only to residential treatment programs and environmental stability programs, as defined by this chapter.

- 6325.2 Each residential provider, except providers only offering environmental stability, must obtain a Certificate of Need (“CON”), from the District of Columbia State Health Planning and Development Agency (“SHPDA”).
- 6325.3 The CON must be submitted as part of the certification application packet.
- 6325.4 Each residential treatment program serving children and youth under eighteen (18) must obtain written approval from the Office of the State Superintendent of Education (“OSSE”).
- 6325.5 Residential treatment and environmental stability providers shall comply with all applicable construction codes and housing codes, and zoning requirements applicable to the facility, including all Certificate of Occupancy, Basic Business License (“BBL”), and Construction Permit requirements.
- 6325.6 Each newly established residential treatment and environmental stability provider shall provide proof of a satisfactory pre-certification inspection by DCRA for initial certification, dated not more than forty-five (45) calendar days prior to the date of submission to the Department, for District of Columbia Property Maintenance Code (12-G DCMR) and Housing Code (14 DCMR) compliance, including documentation of the inspection date and findings and proof of abatement certified by DCRA of all deficiencies identified during the inspection. This requirement can be met by submission of a Certificate of Occupancy or a BBL dated within the past six (6) months, provided that that applicant can demonstrate that DCRA performed an onsite inspection of the premises.
- 6325.7 For existing residential treatment and recovery programs that are applying for re-certification, the applicants shall also provide proof of current BBLs.
- 6325.8 Residential facilities’ physical design and structure shall be sufficient to accommodate staff, clients, and functions of the program and shall make available an area(s) for indoor social and recreational activities.
- 6325.9 A program that provides overnight accommodations shall not operate more beds than the number for which it is authorized by the Department.
- 6325.10 Other than routine household duties, no client shall be required to perform unpaid work.
- 6325.11 Upon admission to a residential program, each client shall be provided a copy of the program’s house rules.
- 6325.12 Each residential program shall have house rules consistent with this chapter and that include, at a minimum, rules concerning:
- (a) The use of tobacco;
  - (b) The use of the telephone;

- (c) Utilizing, viewing or listening to cell phones, television, radio, computers, CDs, DVDs, or other media such as social media;
  - (d) Movement of clients in and out of the facility, including a requirement for escorted movements by program staff or another agency-approved escort;
  - (e) A policy that addresses search and drug testing upon return to the facility; and
  - (f) The prohibition of sexual relations between staff/volunteers and clients.
- 6325.13 Each residential program shall be equipped, furnished, and maintained to provide a functional, safe, and comfortable home-like setting.
- 6325.14 The dining area shall have a sufficient number of tables and chairs to seat all individuals residing in the facility at the same time. Dining chairs shall be sturdy, non-folding, without rollers unless retractable, and designed to minimize tilting.
- 6325.15 Each residential program shall permit each client to bring reasonable personal possessions, including clothing and personal articles, to the facility unless the provider can demonstrate that it is not practical, feasible or safe.
- 6325.16 Each residential facility shall provide clients with access to reasonable individual storage space for private use.
- 6325.17 Upon each client's discharge from a residential program, the provider shall return to the client, or the client's representative, any personal articles of the client held by the provider for safekeeping. The provider shall also ensure that the client is permitted to take all of his or her personal possessions from the facility. The provider may require the client or client's representative to sign a statement acknowledging receipt of the property. A copy of that receipt shall be placed in the client's record.
- 6325.18 Each residential program shall maintain a separate and accurate record of all funds that the client or the client's representative or representative payee deposits with the provider for safekeeping. This record shall include the signature of the client for each withdrawal and the signature of facility staff for each deposit and disbursement made on behalf of a client.
- 6325.19 Each residential facility shall be equipped with a functioning landline or mobile telephone for use by clients. The telephone numbers shall be provided to clients and to the Department.
- 6325.20 Staff bedrooms shall be separate from client bedrooms and all common living areas.
- 6325.21 Each facility housing a residential program shall have a functioning doorbell or knocker.

- 6325.22 Each bedroom shall comply with the space and occupancy requirements for habitable rooms in 14 DCMR § 402.
- 6325.23 The provider shall ensure each client has the following items:
- (a) A bed, which shall not be a cot;
  - (b) A mattress that was new when purchased by the provider, has a manufacturer's tag or label attached to it, and is in good, intact condition with unbroken springs and clean surface fabric;
  - (c) A bedside table or cabinet and an individual reading lamp with at least a seventy-five (75) watt, or its LED light bulb equivalent, rate of capacity;
  - (d) Storage space in a stationary cabinet, chest, or closet that provides at least one (1) cubic foot of space for each client for valuables and personal items;
  - (e) Sufficient suitable storage space, including a dresser and closet space, for personal clothing, shoes, accessories, and other personal items; and
  - (f) A waste receptacle and clothes hamper with lid.
- 6325.24 Each bed shall be placed at least three (3) feet from any other bed and from any uncovered radiator.
- 6325.25 Each bedroom shall have direct access to a major corridor and at least one window to the outside, unless the DCRA, or a successor agency responsible for enforcement of the D.C. Housing Code, has determined that it otherwise meets the lighting and ventilation requirements of the D.C. Housing Code for habitable rooms.
- 6325.26 Each facility housing a residential program shall provide one or more bathrooms for clients that are equipped with the following fixtures, properly installed and maintained in good working condition:
- (a) Toilet (water closet);
  - (b) Sink (lavatory);
  - (c) Shower or bathtub with shower, including a handheld shower; and
  - (d) Grab bars in showers and bathtubs.
- 6325.27 Each residential facility shall provide at least one (1) bathroom for each six (6) occupants in compliance with 14 DCMR § 602.
- 6325.28 Each bathroom shall be adequately equipped with the following:
- (a) Toilet paper holder and toilet paper;

- (b) Paper towel holder and paper towels or clean hand towels;
- (c) Soap;
- (d) Mirror;
- (e) Adequate lighting;
- (f) Waste receptacle;
- (g) Floor mat;
- (h) Non-skid tub mat or decals; and
- (i) Shower curtain or shower door.

- 6325.29 Each residential provider shall ensure that properly anchored grab bars or handrails are provided near the toilet or other areas of the bathroom, if needed by any resident in the facility.
- 6325.30 Adequate provision shall be made to ensure each client's privacy and safety in the bathroom.
- 6325.31 Each residential program shall promote each client's participation and skill development in menu planning, shopping, food storage, and kitchen maintenance, if appropriate.
- 6325.32 Each residential program shall provide appropriate equipment (including a washing machine and dryer) and supplies on the premises or through a laundry service to ensure sufficient clean linen and the proper sanitary washing and handling of linen and clients' personal clothing.
- 6325.33 Each program shall ensure that every client has at least three (3) washcloths, two (2) towels, two (2) sheet sets that include pillowcases, a bedspread, a pillow, a blanket, and a mattress cover in good and clean condition.
- 6325.34 Each blanket, bedspread, and mattress cover shall be cleaned regularly, whenever soiled, and before being transferred from one resident to another.
- 6325.35 Each piece of bed linen, towel, and washcloth shall be changed and cleaned as often as necessary to maintain cleanliness, provided that all towels and bed linen shall be changed at least once each week.
- 6325.36 No person who is not a client, staff member, or child of a client (only in the case of programs for parents and children) may reside at a facility that houses a residential treatment program.
- 6325.37 Providers shall ensure that clients can access all scheduled or emergency medical and dental appointments.

- 6325.38 Providers serving parents and children must take precautions to ensure child safety, including but not limited to protection for windows, outlets, and stairways.
- 6325.39 Each facility housing a program that provides services for parents with children shall have extra supplies for babies, including but not limited to diapers, wipes, baby soap, baby food and formula.
- 6325.40 The following provisions apply only to residential treatment programs, except environmental stability programs, as defined by this chapter:
- (a) A program that provides overnight accommodations shall ensure that evening and overnight shifts have at least two (2) staff members on duty.
  - (b) Children and youth under eighteen (18) may not reside at an adult residential treatment facility or visit overnight at a facility not certified to serve parents and children. This information must be included in the house rules.
  - (c) Each provider shall maintain a current inventory of each client's personal property and shall provide a copy of the inventory, signed by the client and staff, to the client.
  - (d) Each provider shall take appropriate measures to safeguard and account for personal property brought into the facility by a client.
  - (e) Each provider shall provide the client, or the client's representative, with a receipt for any personal articles to be held by the provider for safekeeping that includes and the date it was deposited with the provider and maintain a record of all articles held for safekeeping.
  - (f) Each residential treatment program shall have a licensed dietitian or nutritionist available, a copy of whose current license shall be maintained on file, to provide the following services:
    - (1) Review and approval of menus;
    - (2) Education for clients with nutrition deficiencies or special needs;
    - (3) Coordination with medical personnel, as appropriate; and
    - (4) A nutritional assessment for each client within three (3) calendar days of admission unless the client has a current assessment or doctor's order for dietary guidelines.
  - (g) The provider shall provide at least three (3) meals per day and between meal snacks that:



- (1) Provide a nourishing, well-balanced diet in accordance with dietary guidelines established by the United States Department of Agriculture;
  - (2) Are suited to the special needs of each client; and
  - (3) Are adjusted for seasonal changes, particularly to allow for the use of fresh fruits and vegetables.
- (h) The provider shall ensure that menus are written on a weekly basis, that the menus provide for a variety of foods at each meal, and that menus are varied from week to week. Menus shall be posted for the clients' review.
- (i) The provider shall ensure that a copy of each weekly menu is retained for a period of six (6) months. The menus retained shall include special diets and reflect meals as planned and as actually served, including handwritten notations of any substitutions. The provider shall also retain receipts and invoices for food purchases for six (6) months. The records required to be retained by this subsection are subject to review by the Department.
- (j) Each meal shall be scheduled so that the maximum interval between each meal is no more than six (6) hours, with no more than fourteen (14) hours between a substantial evening meal and breakfast the following day.
- (k) If a client refuses food or misses a scheduled meal, appropriate food substitutions of comparable nutritional value shall be offered.
- (l) If a client will be away from the program during mealtime for necessary medical care, work, or other scheduled appointments, the program shall provide an appropriate meal and in-between-meal snack for the client to carry with him or her and shall ensure that the meal is nutritious as required by these rules and suited to the special needs of the client.
- (m) A residential treatment program providing meals shall implement a written Nutritional Standards Policy that outlines their procedures to meet the dietary needs of its clients, ensuring access to nourishing, well-balanced, and healthy meals. The policy shall identify the methods and parties responsible for food procurement, storage, inventory, and preparation.
- (n) The Nutritional Standards Policy shall include procedures for clients unable to have a regular diet as follows:
- (1) Providing clinical diets for medical reasons, when necessary;
  - (2) Recording clinical diets in the client's record;
  - (3) Providing special diets for clients' religious needs; and

- (4) Maintaining menus of special diets or a written plan stating how special diets will be developed or obtained when needed.
- (o) A residential treatment program shall make reasonable efforts to prepare meals that consider the cultural background and personal preferences of the clients.
- (p) Meals shall be served in a pleasant, relaxed dining area that accommodates families and children.
- (q) Under the supervision of a Qualified Practitioner, all Level 3 programs except MMIWM programs shall:
  - (1) Provide training in activities of daily living;
  - (2) Provide therapeutic recreational activities designed to help the client learn ways to use leisure time constructively, develop new personal interests and skills, and increase social adjustment; and
  - (3) Ensure that staff providing activities listed in subparagraphs (1) and (2) have a high school degree or a GED and at least twenty (20) hours of in-service training per year regarding issues of substance abuse.

## **6326 PROGRAMS SERVING PARENTS AND CHILDREN**

- 6326.1 In addition to core requirements and other standards described in this chapter, a program providing SUD treatment services to parents and their children shall comply with the provisions of this section.
- 6326.2 The provider shall specify in its certification application the age range of the children that will be accepted in the program of parents with children, and ensure that it satisfies Federal and District laws and regulations governing care for children including those listed in this section.
- 6326.3 The Department will include in the program certification a designation as a program serving parents with children, and specify the age range of children that may be accepted when the parents are admitted into the program.
- 6326.4 Programs shall ensure that children are supervised at all times. Programs shall ensure that parents designate an alternate caretaker who is not in the program to care for the children in case of emergency.
- 6326.5 Programs serving parents and young children (ages zero [0] to five [5]) shall also serve pregnant women.

- 6326.6 Programs shall ensure all parents and children are connected to a primary care provider and any other needed specialized medical provider and shall facilitate medical appointments and treatment for parents and children in the program.
- 6326.7 Programs shall ensure that childcare/daycare is available for children, provided while the parent participates in treatment services either directly or through contractual or other affiliation.
- 6326.8 A program that directly operates a child development facility shall be licensed in accordance with District laws and regulations.
- 6326.9 Programs that serve parents with children shall ensure that school-age children are in regular attendance at a public, independent, private, or parochial school, or in private instruction in accordance with District laws and regulations, and support the parent's engagement with the child's school.
- 6326.10 Programs that serve parents with school-age children shall ensure that children have access to tutoring programs.
- 6326.11 Before a parent and child can be admitted to a program serving parents and children, the program shall ensure that it has a copy of the child's current immunization records, which must be up to date. A sixty (60) calendar day grace period will be provided to a parent(s) or child experiencing homelessness.
- 6326.12 Programs that serve parents with children shall record information about the children residing in or attending the program who are not formally admitted for treatment, including but not limited to the following, as applicable:
- (a) Individualized education plans ("IEPs");
  - (b) Report cards;
  - (c) Health records; and
  - (d) Information linking the child to the course of treatment for the parent, as clinically indicated.
- 6326.13 Programs shall develop policies and procedures for determining the need to formally admit or refer a child.
- 6326.14 A program that is also certified to treat children and youth shall establish a separate record for each child when a clinical determination is made to formally admit the child.
- 6326.15 An individualized Plan of Care shall be developed for any child who is formally admitted to the program.

- 6326.16 The program shall obtain informed consent consistent with District law and regulations prior to rendering services.
- 6326.17 Service delivery and program administration staff shall demonstrate experience and training in addressing the needs of parents and children.
- 6326.18 All services delivery staff shall receive periodic training regarding therapeutic issues relevant to parents and children. At least two (2) times per year, the program shall provide or arrange training on each of the following topics:
- (a) Child development; and
  - (b) The appropriate care and stimulation of infants, including drug-affected newborn infants.
- 6326.19 Service delivery staff shall maintain current training in first aid and CPR for infants and children.
- 6326.20 Programs shall ensure that an annual medical evaluation is performed for each parent and child.
- 6326.21 Programs shall ensure that recommendations by a physician or APRN are followed.

**6327 PROVIDER REQUIREMENTS FOR OPIOID TREATMENT PROGRAMS**

- 6327.1 In accordance with 42 CFR Part 8, Certification of Opioid Treatment Programs (“OTPs”), all OTPs must be certified by the U.S. Substance Abuse and Mental Health Services Administration (“SAMHSA”), the Drug Enforcement Administration (“DEA”), and accredited by a national accreditation body that has been approved by SAMHSA.
- 6327.2 OTPs shall comply with Federal requirements for opioid treatment, as specified in 42 CFR Part 8, and shall comply with Federal and District laws and regulations for maintaining controlled substances as specified in Chapter 10, Title 22-B DCMR and 21 CFR Part 1300, respectively.
- 6327.3 OTPs shall submit to the Department photocopies of all applications, reports, and notifications required by Federal laws and regulations.
- 6327.4 OTPs shall ensure the following:
- (a) That access to electronic alarm areas where drug stock is maintained shall be limited to a minimum number of authorized, licensed personnel;
  - (b) That each employee shall have his or her own individual code to access alarmed stock areas, which shall be erased upon separation from the provider;

- (c) That all stored drugs (liquid, powder, solid, and reconstituted), including controlled substances, shall be clearly labeled with the following information:
  - (1) Name of substance;
  - (2) Strength of substance;
  - (3) Date of reconstitution or preparation;
  - (4) Manufacturer and lot number;
  - (5) Manufacturer's expiration date, if applicable; and
  - (6) If applicable, reconstituted/prepared drug's expiration date according to the manufacturer's expiration date or one (1) year from the date of reconstitution or preparation, whichever is shorter.
  
- (d) Take-home medications shall be labeled and packaged in accordance with Federal and District laws and regulations and shall include the following information:
  - (1) Treatment program's name, address, and telephone number;
  - (2) Physician's name;
  - (3) Client's name;
  - (4) Directions for ingestion;
  - (5) Name of medication;
  - (6) Dosage in milligrams;
  - (7) Date issued; and
  - (8) Cautionary labels, as appropriate.

6327.5 Containers of drugs shall be kept covered and stored in the appropriate locked safe, with access limited by an electronic alarm system that conforms to the DEA requirements and District laws and regulations.

6327.6 The Department shall be notified of any theft, suspected theft, or any significant loss of controlled substances, including spillage. Copies of DEA forms 106 and 41 shall be submitted to the Department.

**6328 LEVELS OF CARE: GENERAL REQUIREMENTS**

- 6328.1 All individuals seeking SUD services must be assessed and referred to a particular LOC in accordance with the Department-approved assessment tool(s) and ASAM criteria.
- 6328.2 Each provider shall ensure that the client receives treatment in accordance with ASAM criteria and this chapter.
- 6328.3 Each provider shall ensure that all staff comply with all Federal and District laws and regulations pertaining to scope of practice, licensing requirements, and supervision requirements.
- 6328.4 All treatment shall be:
- (a) Person-centered;
  - (b) Provided only if determined to be medically necessary in accordance with the Plan of Care; and
  - (c) Provided as part of organized or structured treatment services.
- 6328.5 Prior to transitioning to a new LOC, at a minimum, an Ongoing Diagnostic Assessment must be performed to ensure that the client is appropriate for the new LOC.
- 6328.6 The Clinical Care Coordinator shall ensure appropriate client referrals, authorizations, and transitions to new LOCs.
- 6328.7 A certified provider shall not deny admission for services to an otherwise qualified client because that person is receiving Medication-Assisted Treatment (“MAT”) services, even if the MAT services are provided by a different provider.
- 6328.8 All providers shall offer all Food and Drug Administration (“FDA”) approved forms of MAT to any client who meets the criteria for and selects MAT as part of their Plan of Care, in accordance with certification under this chapter or other Federal and District laws and regulations. If a provider is not certified to offer the client’s choice of medication in accordance with this chapter or under any other Federal and District laws and regulations, then the provider shall refer the client to another provider able to offer MAT that meets the client’s needs.

**6329 PROVIDER REQUIREMENT: INTAKE AND ASSESSMENT**

- 6329.1 Intake and Assessment is a not a LOC but a core responsibility of all certified treatment providers. All certified treatment providers, with the exception of those certified at Level R only, shall provide an initial health screening and intake and assessment in accordance with this chapter. The intake and assessment shall include the following:

- (a) Presenting problem;
- (b) Substance use history;
- (c) Immediate risks related to serious intoxication or withdrawal;
- (d) Immediate risks for self-harm, suicide and violence;
- (e) Past and present mental disorders, including posttraumatic stress disorder and other anxiety disorders, mood disorders, and eating disorders;
- (f) Past and present history of violence and trauma, including sexual victimization and interpersonal violence;
- (g) Legal history, including whether a client is court-ordered to treatment or under the supervision of the Department of Corrections;
- (h) Employment and housing status;
- (i) Once assessed, the provider shall refer the client to the appropriate LOC as outlined by ASAM. The client has a choice about which provider will provide services at that LOC. If the client does not select the provider that conducted the initial assessment as the place to receive services, the provider shall make a referral, seek authorization of services, and arrange transportation to the chosen provider if the client selects same day services. The provider shall have a policy and procedure that clearly outlines an intake process and an emergency intake process, including a procedure to refer individuals who are not clinically appropriate for its program.

6329.2 All treatment providers shall provide the following services:

- (a) Initial Assessment (if the client does not remain with assessing provider);
- (b) SUD Counseling/Therapy;
- (c) Crisis Intervention;
- (d) Ongoing or Comprehensive Diagnostic Assessment (if the client remains at assessing provider);
- (e) Drug Screening;
- (f) CCC; and
- (g) RSS.

6329.3 Treatment providers shall ensure appropriate staff is on duty to assess clients for acute withdrawal symptoms and to provide medical triage. Providers shall have

proper infrastructure to conduct testing and screening and proper storage for testing kits.

6329.4 Medical triage is the process of determining the priority of a client's treatment needs via the following activities:

- (a) Obtaining general medical history including co-occurring medical concerns; assessing medical stability and providing clearance for treatment;
- (b) Checking vital signs including blood pressure, blood glucose, temperature, pulse, etc.;
- (c) Assessing any urgent or emergent medical concerns and addressing as appropriate including but not limited to calling and engaging 911;
- (d) Assessing for withdrawal symptoms/need for detox;
- (e) Conducting medication review to ensure that medications match bottle name and identified medical concern including physical health and psychiatric medications;
- (f) Screening and assessing for emergent psychiatric concerns; determining current degree of mental health treatment;
- (g) Urine pregnancy testing for all women of childbearing age and referral for pre-natal care if pregnant and has no provider;
- (h) Conducting tuberculosis screens;
- (i) Collecting urine for screening;
- (j) Using ASAM criteria to make recommendations for medically necessary and clinically appropriate treatment;
- (k) Collaborating with counselors regarding appropriate level of care; initiating the Treatment Assignment Protocol;
- (l) Linking all clients that test positive to medical services via a warm transition; and
- (m) Maintaining an updated list of HIV medical providers in the District.

6329.5 Providers shall screen all clients for RSS.

6329.6 Providers shall obtain client's informed consent to treatment consistent with District laws and regulations.



**6330 LEVEL OF CARE: OPIOID TREATMENT PROGRAM**

- 6330.1 Opioid Treatment Programs (“OTPs”) provide Medication Assisted Treatment (“MAT”) for clients that have an SUD that could be appropriately treated in accordance with Federal regulations.
- 6330.2 MAT is the combination of any FDA-approved medication with behavioral therapies to treat SUD. A client who receives medication to treat SUD must also receive SUD Counseling/Therapy. Use of this service should be in accordance with ASAM criteria and practice guidelines issued by the Department.
- 6330.3 OTPs shall ensure that clients seeking MAT services are informed that there are multiple medications approved to treat SUD and provide written informed consent to the specific medication selected by the client. If the medication the client chooses is unavailable at that OTP, the provider must refer the client to another provider that offers the selected medication. No client under eighteen (18) years of age may be admitted to an OTP unless a parent or legal guardian consents in writing to such treatment.
- 6330.4 MAT may be administered on an in-office basis or as take-home regimen. Whether in-office or take-home, MAT administrations include the unit of medication and therapeutic guidance. For clients receiving a take-home regimen, therapeutic guidance must include additional guidance related to storage and self-administration. OTPs must comply with all Federal and District laws and regulations concerning MAT.
- 6330.5 The provision of MAT to treat SUD must be accompanied by a clinically appropriate array of SUD treatment services that include:
- (a) Diagnostic Assessment and Plan of Care in accordance with § 6339;
  - (b) SUD Counseling/Therapy in accordance with § 6342;
  - (c) CCC in accordance with § 6340;
  - (d) Drug Screening in accordance with § 6343 and including at least eight (8) random drug screens per year, per client;
  - (e) Crisis Intervention in accordance with § 6341; and
  - (f) RSS in accordance with § 6344.
- 6330.6 Providers shall have medical staff (physician, PA, APRN, or RN) on duty during all clinic hours. A physician shall be available on-call during all clinic hours, if not present on site.
- 6330.7 An OTP shall provide a mechanism to address a client’s medical or psychiatric emergencies occurring outside of program hours of operation, including an

emergency system to obtain dosage levels and other pertinent client information, twenty-four (24) hour a day, seven (7) days a week. The OTP shall provide every client an identification card that identifies the pharmacotherapy being administered through the OTP. The card shall include the provider's emergency contact information so that appropriate clinical information and dosing information can be obtained in an emergency.

6330.8 A physician shall evaluate the client a minimum of once per month for the first year that a client receives MAT and a minimum of every six (6) months thereafter, in coordination with the Plan of Care and as needed.

6330.9 An OTP shall require that each client undergo a complete, fully documented physical evaluation prior to prescribing or renewing a prescription for MAT. If no physical is available within the past twelve (12) months, the provider shall ensure the full medical examination is completed within fourteen (14) days of admission to the OTP.

6330.10 An OTP shall provide counseling on preventing exposure to, and the transmission of, HIV for each client admitted or readmitted to the program.

### **6331 LEVEL OF CARE 1: OUTPATIENT**

6331.1 Level 1 Outpatient providers shall have the capacity to provide up to eight (8) hours of SUD treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria. Level 1 Outpatient is the appropriate LOC for individuals who are assessed as meeting the ASAM criteria for Level 1 and:

- (a) Recognize their SUD and are committed to recovery;
- (b) Are transitioning from a higher LOC;
- (c) Are in the early stages of change and not yet ready to commit to full recovery;
- (d) Have a co-occurring condition that is stable; or
- (e) Have achieved stability in recovery and can benefit from ongoing monitoring and disease management.

6331.2 Level 1 Outpatient providers may also be certified in the specialty service of Adolescent-Community Reinforcement Approach ("ACRA") in accordance with § 6347 of this chapter for services to youth and young adults with co-occurring substance use and mental health disorders ages twelve (12) to twenty-one (21) for youth providers and twenty-two (22) to twenty-four (24) for adult providers.

6331.3 Level 1 Outpatient treatment duration varies with the severity of the patient's SUD and their response to treatment but generally lasts up to one hundred and eighty

(180) days for an initial authorization. Level 1 treatment can continue long-term in accordance with the Plan of Care, for clients needing long-term disease management.

- 6331.4 Level 1 Outpatient services are determined by a Diagnostic Assessment, performed in accordance with § 6339.
- 6331.5 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this LOC.
- 6331.6 Level 1 Outpatient shall include the following mix of services in accordance with the client's Plan of Care and this chapter (unless the client is receiving ACRA services in which case SUD Counseling/Therapy and CCC shall be provided in accordance with § 6347):
- (a) Diagnostic Assessment and Plan of Care in accordance with § 6339.
  - (b) SUD Counseling/Therapy in accordance with § 6342;
  - (c) CCC in accordance with § 6340;
  - (d) Drug Screening in accordance with § 6343;
  - (e) Crisis Intervention in accordance with § 6341; and
  - (f) RSS in accordance with § 6344.

**6332 LEVEL OF CARE 2.1: INTENSIVE OUTPATIENT PROGRAM (IOP)**

- 6332.1 Level 2.1 Intensive Outpatient Program (IOP) providers shall have the capacity to provide between nine (9) and nineteen (19) hours of a mixture of SUD treatment services per week for adults and between six (6) and nineteen (19) hours of treatment services per week for adolescents in accordance with this section and medical necessity based on ASAM criteria. IOP is the appropriate LOC for clients who are assessed as meeting the ASAM criteria for Level 2.1 and:
- (a) Recognize their SUD and are committed to recovery;
  - (b) Are transitioning from a different LOC; or
  - (c) Have stable medical or psychiatric co-occurring conditions.
- 6332.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this LOC.
- 6332.3 Level 2.1 IOP includes the following mix of core services, in accordance with the client's Plan of Care:
- (a) Diagnostic Assessment and Plan of Care in accordance with § 6339;

- (b) SUD Counseling/Therapy in accordance with § 6342;
- (c) CCC in accordance with § 6340;
- (d) Drug Screening in accordance with § 6343;
- (e) Crisis Intervention in accordance with § 6341; and
- (f) RSS in accordance with § 6344.

**6333 LEVEL OF CARE 2.5: DAY TREATMENT**

6333.1 Level 2.5 Day Treatment providers shall have the capacity to provide a minimum of twenty (20) hours of a mixture of SUD treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria. Day Treatment is the appropriate LOC for clients who are assessed as meeting the ASAM criteria for Level 2.5 and:

- (a) Have unstable medical or psychiatric co-occurring conditions; or
- (b) Have issues that require daily management or monitoring but can be addressed on an outpatient basis.

6333.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the service requirements for this LOC.

6333.3 Level 2.5 Day Treatment includes the following mix of core services as indicated on the Plan of Care and in accordance with this chapter:

- (a) Diagnostic Assessment and Plan of Care in accordance with § 6339;
- (b) SUD Counseling/Therapy in accordance with § 6342;
- (c) CCC in accordance with § 6340;
- (d) Drug Screening in accordance with § 6343;
- (e) Crisis Intervention in accordance with § 6341; and
- (f) RSS in accordance with § 6344.

**6334 LEVEL OF CARE 3.1: CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL**

6334.1 Level 3.1 Clinically Managed Low-Intensity Residential providers shall have the capacity to provide a minimum of five (5) hours of a mixture of SUD treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria. Level 3.1 providers must be staffed with independently licensed clinicians who are competent to treat SUD and mental illness. A physician

must be available on-site or by telephone twenty-four (24) hours a day, seven (7) days a week. Level 3.1 Clinically Managed Low-Intensity Residential is the appropriate LOC for clients who are assessed as meeting the ASAM criteria for Level 3.1 and:

- (a) Are employed, in school, in pre-vocational programs, actively seeking employment, or involved in a structured day program;
- (b) Recognize their SUD and are committed to recovery or are in the early stages of change and not yet ready to commit to full recovery but need a stable supportive living environment to support their treatment or recovery;
- (c) May have a stable co-occurring physical or mental illness;
- (d) Who meet the ASAM criteria for Level 3.1, or its equivalent, as approved by the Department; and
- (e) Who are capable of self-care but are not ready to return to family or independent living.

6334.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this LOC.

6334.3 Level 3.1 Clinically Managed Low-Intensity Residential includes the following mix of core and specialty services, as indicated on the Plan of Care and in accordance with this chapter:

- (a) Diagnostic Assessment and Plan of Care in accordance with § 6339;
- (b) SUD Counseling/Therapy in accordance with § 6342;
- (c) CCC in accordance with § 6340;
- (d) Drug Screening in accordance with § 6343;
- (e) Crisis Intervention in accordance with § 6341;
- (f) Medication Management in accordance with § 6345; and
- (g) RSS in accordance with § 6344.

6334.4 The provider shall conduct discharge planning shall for all clients discharged from Level 3.1. Discharge planning criteria shall include at least the following activities prior to discharge from a Level 3.1 program:

- (a) A review of the client's behavioral health, social, and physical needs;
- (b) Completion of referrals to appropriate community services providers, to address the client's identified needs;

- (c) If the client desires, the provider shall arrange for appointments with community providers which shall be made as soon as possible after discharge; and
- (d) Each client shall be given the opportunity to participate in the development of his or her discharge plan, including selecting appropriate community providers. With the consent of the client, and when clinically appropriate, reasonable attempts shall be made to contact family members for their participation in the discharge planning process. No client or family member shall be required to agree to a discharge. A provider shall make a notation in the client's record if any objection is raised to the discharge plan.

**6335 LEVEL OF CARE 3.3: CLINICALLY MANAGED POPULATION-SPECIFIC HIGH-INTENSITY RESIDENTIAL**

6335.1 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential providers shall have the capacity to provide a minimum of twenty (20) hours of mixture of SUD treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria. Level 3.3 providers must be staffed with physicians, PA or APRN and qualified practitioners able to deliver the necessary mixture of SUD services. One or more clinicians must be available on-site or by telephone twenty-four (24) hours a day, seven (7) days a week. Level 3.3 Clinically Managed Population-Specific High-Intensity Residential is the appropriate LOC for clients who are assessed as meeting the ASAM criteria for Level 3.3 and:

- (a) Need a stable supportive living environment to support their treatment or recovery;
- (b) Have co-occurring or other issues that have led to temporary or permanent cognitive impairments and would benefit from slower-paced repetitive treatment; or
- (c) Have unstable medical or psychiatric co-occurring conditions.

6335.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this LOC.

6335.3 Level 3.3 Clinically Managed Population-Specific High-Intensity Residential includes the following mix of services, as indicated on the Plan of Care and in accordance with this chapter:

- (a) Diagnostic Assessment and Plan of Care in accordance with § 6339;
- (b) SUD Counseling/Therapy in accordance with § 6342;
- (c) CCC in accordance with § 6340;

- (d) Drug Screening in accordance with § 6343;
- (e) Crisis Intervention in accordance with § 6341;
- (f) Medication Management in accordance with § 6345; and
- (g) RSS in accordance with § 6344.

6335.4 The provider shall conduct discharge planning for all clients discharged from Level 3.3. Discharge planning criteria shall include at least the following activities prior to discharge from a Level 3.3 program:

- (a) A review of the client's behavioral health, social, and physical needs;
- (b) Completion of referrals to appropriate community services providers to address the client's identified needs;
- (c) If the client desires, the provider shall arrange for appointments with community providers which shall be made as soon as possible after discharge; and
- (d) Each client shall be given the opportunity to participate in the development of his or her discharge plan, including selecting appropriate community providers. With the consent of the client, and when clinically appropriate, reasonable attempts shall be made to contact family members for their participation in the discharge planning process. No client or family member shall be required to agree to a discharge. A provider shall make a notation in the client's record if any objection is raised to the discharge plan.

**6336 LEVEL OF CARE 3.5: CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL (ADULT)/ CLINICALLY MANAGED MEDIUM-INTENSITY RESIDENTIAL (YOUTH)**

6336.1 Level 3.5 Clinically Managed High-Intensity Residential/Clinically Managed Medium-Intensity Residential providers shall have the capacity to provide a minimum of twenty-five (25) hours of a mixture of SUD treatment services per week, per client, in accordance with this section and medical necessity based on ASAM criteria. One or more clinicians must be available on-site or by telephone twenty-four (24) hours a day, seven (7) days a week. Level 3.5 is the appropriate LOC for clients who are assessed as meeting the ASAM criteria for Level 3.5, need a twenty-four (24) hour supportive treatment environment to initiate or continue their recovery process, and:

- (a) Have co-occurring or severe social/interpersonal impairments due to substance use; or
- (b) Significant interaction with the criminal justice system due to substance use.

- 6336.2 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this LOC.
- 6336.3 Level 3.5 includes the following mix of services, as indicated on the Plan of Care and in accordance with this chapter:
- (a) Assessment and Plan of Care in accordance with § 6339;
  - (b) SUD Counseling/Therapy in accordance with § 6342;
  - (c) CCC in accordance with § 6340;
  - (d) Drug Screening in accordance with § 6343;
  - (e) Crisis Intervention in accordance with § 6341;
  - (f) Medication Management in accordance with § 6345; and
  - (g) RSS in accordance with § 6344.
- 6336.4 Discharge planning shall be conducted for all clients discharged from Level 3.5. Discharge planning criteria shall include at least the following activities prior to discharge from a Level 3.5 program:
- (a) A review of the client's behavioral health, social, and physical needs;
  - (b) Completion of referrals to appropriate community services providers to address the client's identified needs;
  - (c) If the client desires, the provider shall arrange for appointments with community providers which shall be made as soon as possible after discharge; and
  - (d) Each client shall be given the opportunity to participate in the development of his or her discharge plan, including selecting appropriate community providers. With the consent of the client, and when clinically appropriate, reasonable attempts shall be made to contact family members for their participation in the discharge planning process. No client or family member shall be required to agree to a discharge. A provider shall make a notation in the client's record if any objection is raised to the discharge plan.
- 6337 LEVEL OF CARE 3.7-WM: MEDICALLY MONITORED INPATIENT WITHDRAWAL MANAGEMENT (MMIWM)**
- 6337.1 MMIWM is twenty-four (24) hour, medically directed evaluation and withdrawal management service. This service is for clients with sufficiently severe signs and symptoms of withdrawal from psychoactive substances who require medical monitoring and nursing care, but for whom hospitalization is not indicated.



- 6337.2 MMIWM shall include the following services in accordance with ASAM criteria, as clinically appropriate:
- (a) Medication Management in accordance with § 6345;
  - (b) CCC in accordance with § 6340;
  - (c) Medication Assisted Treatment in accordance with § 6346;
  - (d) Drug Screening in accordance with § 6343;
  - (e) Crisis Intervention in accordance with § 6341;
  - (f) RSS, in accordance with § 6344, which must be billed separately;
  - (g) SUD Counseling/Therapy, in accordance with § 6342, which must be billed separately; and
  - (h) Comprehensive Diagnostic Assessment, in accordance with § 6339, which must be billed separately.
- 6337.3 Discharge planning shall be conducted for all clients discharged from MMIWM. Discharge planning criteria shall include at least the following activities prior to discharge from a MMIWM program:
- (a) A review of the client's behavioral health, social, and physical needs;
  - (b) Completion of referrals to appropriate community services providers, including additional residential treatment, to address the client's identified needs;
  - (c) If the client desires, the provider shall arrange for appointments with community providers which shall be made as soon as possible after discharge; and
  - (d) Each client shall be given the opportunity to participate in the development of his or her discharge plan, including selecting appropriate community providers. With the consent of the client, and when clinically appropriate, reasonable attempts shall be made to contact family members for their participation in the discharge planning process. No client or family member shall be required to agree to a discharge. A provider shall make a notation in the client's record if any objection is raised to the discharge plan.
- 6337.4 MMIWM providers shall have a physician on staff that is able to respond within one (1) hour of notification.
- 6337.5 MMIWM providers shall have medical staff (physician, PA, APRN, or RN) on duty twenty-four (24) hours per day, seven (7) days per week providing directed

evaluation, care, and treatment in an inpatient setting. Medical staff shall have a client-to-staff ratio of 12-to-1 during daytime operating hours, a 17-to-1 ratio during evening hours, and a 25-to-1 ratio during the night shift.

- 6337.6 A withdrawal management service Level 3.7 provider shall offer twenty-four (24) hour medically supervised evaluation and withdrawal management.
- 6337.7 MMIWM shall have psychiatric services available on-site, through consultation or referral as medically necessary according the client's needs for treatment and recovery.
- 6337.8 MMIWM shall have psychosocial and medical services delivered by appropriate staff in accordance with § 6337.4, who can administer withdrawal management services to a client by: (1) monitoring the decreasing amount of alcohol and toxic agents in the body; (2) managing the withdrawal symptoms; and (3) motivating the client to participate in an appropriate treatment program for alcohol or other drug dependence.
- 6337.9 Qualified practitioners of MMIWM are:
- (a) Physicians;
  - (b) Psychologists;
  - (c) PAs;
  - (d) RNs;
  - (e) LICSWs;
  - (f) LISWs;
  - (g) LGSWs;
  - (h) APRNs;
  - (i) LPCs;
  - (j) LMFTs; or
  - (k) CACs I or II.

**6338 LEVEL OF CARE-R: RECOVERY SUPPORT SERVICES**

- 6338.1 RSS covers the provision of non-clinical services for clients in treatment or in need of supportive services to maintain their recovery.
- 6338.2 RSS providers shall provide the following core RSS:

- (a) Recovery Support Evaluation; and
  - (b) RSS.
- 6338.3 RSS providers may provide the following specialty services, in accordance with their certification:
  - (a) Environmental Stability.
- 6338.4 RSS are for clients who have an identified need for RSS and:
  - (a) Are actively participating in the Department treatment system;
  - (b) Have completed treatment; or
  - (c) Have a self-identified substance use issue that is not assessed as needing active treatment.
- 6338.5 If a client is assessed as needing treatment and is not currently enrolled in treatment, he or she must be referred to an SUD provider for treatment in addition to receiving RSS.
- 6338.6 The duration of Level-R RSS varies but lasts as long as needed, with a reassessment every one hundred and eighty (180) calendar days.
- 6338.7 RSS are determined by a Recovery Support Evaluation, performed in accordance with § 6349 of this chapter.
- 6338.8 Unless clinically inappropriate or a client does not consent, all providers shall adhere to the minimum service requirements for this LOC.
- 6338.9 Each recovery program must have a recovery program manager who is responsible for overseeing all services provided within the recovery program.
- 6338.10 Each recovery program must have a comprehensive curriculum for its RSS that has been approved by the Department.
- 6339 CORE SERVICE: DIAGNOSTIC ASSESSMENT AND PLAN OF CARE**
- 6339.1 Diagnostic Assessment and Plan of Care services include two distinct actions: (1) the assessment and diagnosis of the client, and (2) the development of the Plan of Care. A Diagnostic Assessment and Plan of Care Service may be (1) Comprehensive or (2) Ongoing.
- 6339.2 The Diagnostic Assessment portion of this service includes the evaluation and ongoing collection of relevant information about a client to determine or confirm an SUD diagnosis and the appropriate LOC. The assessment shall serve as the basis for the formation of the Plan of Care, which establishes medical necessity and is

designed to help the client achieve and sustain recovery. The assessment instrument shall incorporate ASAM criteria.

- 6339.3 All assessment services must include a Plan of Care, including the development of or an update to a Plan of Care and necessary referrals. Updates to the Plan of Care shall occur, at a minimum:
- (a) Every one hundred and eighty (180) days for all clients in OTP and Level 1 programs;
  - (b) Every sixty (60) days for clients in Level 2.1 programs;
  - (c) Every thirty (30) days for clients in Level 2.5 programs;
  - (d) Every ninety (90) days for clients in Level 3.1 or 3.3 programs;
  - (e) Every twenty-eight (28) days for clients in Level 3.5 programs; and
  - (f) Every five (5) days for clients in Level 3.7 programs.
- 6339.4 Providers shall use a tool(s) approved by the Department for both the Diagnostic Assessment and Plan of Care.
- 6339.5 Diagnostic Assessment and Plan of Care services shall be provided in certified SUD treatment programs or community settings.
- 6339.6 The Plan of Care shall be person-centered and include the following elements:
- (a) Overall broad, long-term goal statement(s) that captures the client's and/or family's short- and long-term goals for the future, ideally written in first-person language. This shall include the client's self-identified recovery goals;
  - (b) List or statement of individual or family strengths that support goal(s) accomplishment. These include abilities, talents, accomplishments, and resources;
  - (c) List or statement of barriers that pose obstacles to the client's and/or family's ability to accomplish the stated goal(s). These include symptoms, functional impairments, lack of resources, consequences of behavioral health issues, and other challenges;
  - (d) Statement of objectives that identify the short-term client and/or family changes in behavior, function, or status that can help overcome the identified barriers and are building blocks toward the eventual accomplishment of the long-term goal(s). Objective statements describe outcomes that are measurable and include individualized target dates to be accomplished within the scope of the plan;

- (e) Intervention statements that describe the treatment and recovery services to be utilized to reduce or eliminate the barriers identified in the plan and support objective and eventual goal(s) accomplishment. Interventions are specific to each objective and the client's and/or family's stage of change. Intervention statements identify who will deliver the service, what will be delivered, when it will be delivered, and the purpose of the intervention. Natural support interventions should also be included in the plan and include those non-billable supports delivered by resources outside of the formal behavioral health service-delivery system. When appropriate and applicable, EBP shall be incorporated into the intervention statement;
- (f) Provide for the delivery of services in the least restrictive environment that is appropriate for the client;
- (g) The client or legal guardian's signature on the plan (if the client refuses to sign the Plan of Care, the Clinical Care Coordinator shall document the reason(s) in the Plan of Care); and
- (h) Signatures of all interdisciplinary team members participating in the development of the Plan of Care. A Plan of Care is valid when electronically signed and dated by an independently licensed clinician working within the scope of their license.
- (i) For individuals receiving only RSS services, their Plan of Care shall be signed by those Qualified Practitioners described in §6344.11.

6339.7 For clients who are determined appropriate for an outpatient level of care (outpatient OTP, Level 1, Level 2.1, and Level 2.5) and who meet the eligibility requirements described in §§ 6301.4 or 6301.5, the outpatient provider delivering such services shall, as a part of the development or updating of the Plan of Care, comply with the requirements set forth in 22-A DCMR Chapter 37 regarding:

- (a) Assessment of the client for interest in, potentially eligibility for, and referral to SUD Supported Employment services, and
- (b) Integration of Employment Specialists into the SUD provider's treatment team.

6339.8 Qualified Practitioners of Comprehensive or Ongoing Diagnostic Assessments are:

- (a) Physicians;
- (b) Psychologists;
- (c) LICSWs;

- (d) LGPCs (providers not operating under an HCA);
- (e) LGSWs;
- (f) LISWs;
- (g) LPCs;
- (h) LMFTs;
- (i) APRNs;
- (j) CAC II;
- (k) CAC I; or
- (l) RNs.

6339.9 An Initial Assessment/Diagnostic and Plan of Care service (“Initial Assessment”) is a behavioral health assessment that (1) identifies the client’s need for SUD treatment, (2) determines the appropriate LOC of SUD treatment, and (3) initiates the course of treatment. The following provisions apply to an Initial Assessment:

- (a) The provider shall use and complete an assessment tool approved by the Department that meets the ASAM biopsychosocial requirements. The assessment should result in identification of the necessary LOC and an appropriate provider referral, documented in the designated electronic record format.
- (b) The provider shall record any medications used by the client;
- (c) Staff must have an in-person encounter with the client to conduct the initial assessment;
- (d) Providers must obtain and document client's understanding and agreement, evidenced by the client’s signature, for consent to treatment, assessment, provider choice, the client bill of rights, and release of information; and
- (e) A treatment provider will complete an Initial Assessment and refer the client to the appropriate LOC or treat the client 1) if the client is found appropriate for the LOC available at that provider, and 2) the client chooses to receive services at that provider.

6339.10 A Comprehensive Diagnostic Assessment is a behavioral health assessment that collects, compiles, and integrates sufficiently detailed information to successfully guide level of care decisions, the place of care process, and the provision of services.

6339.11 Providers shall ensure appropriate staff (physician, PA, APRN, or RN) is available to assess clients for acute withdrawal symptoms and provide medical triage. Providers shall use a Department-approved assessment tool to determine the need for withdrawal management. Providers shall have infrastructure to conduct health testing and screening as appropriate, and storage for testing kits. If the provider does not have the infrastructure or medical personnel on their staff the provider shall enter into an affiliation agreement or contract with a medical provider for these services, or show the Department documentation that they are part of an integrated care setting that offers the services.

6339.12 The following provisions apply to the Comprehensive Diagnostic Assessment:

(a) When a client enters his or her first LOC within a treatment episode, the provider shall perform a Comprehensive Diagnostic Assessment to determine their treatment and recovery needs, unless a Comprehensive Diagnostic Assessment completed within the last sixty (60) days is available to the treating provider; in that case, an ongoing assessment may be completed. A Comprehensive Diagnostic Assessment consists of a biopsychosocial assessment and the development of a Plan of Care. ASAM biopsychosocial elements include, but are not limited to:

- (1) History of the presenting episode;
- (2) Family history;
- (3) Developmental history;
- (4) Alcohol, tobacco, other drug use, addictive behavior history;
- (5) Personal/social history;
- (6) Legal history;
- (7) Psychiatric history;
- (8) Medical history;
- (9) Spiritual history;
- (10) Review of systems;
- (11) Mental status examination;
- (12) Medical triage;
- (13) Formulation and diagnosis;
- (14) Survey of assets, vulnerabilities, and supports;

- (15) Treatment recommendations; and
- (16) Health screenings/testing including:
  - (A) HIV;
  - (B) Hepatitis;
  - (C) Tuberculosis (if referred for residential and detox); and
  - (D) Pregnancy (If applicable).
- (b) A Comprehensive Diagnostic Assessment shall include the use of a Department-approved assessment tool and a detailed diagnostic formulation. The Comprehensive Diagnostic Assessment will document the client's strengths, resources, mental status, identified problems, current symptoms as outlined in the DSM, and RSS needs. The Comprehensive Diagnostic Assessment will also confirm the client's scores on the ASAM criteria and confirm that the assigned LOC is most applicable to the client's needs. The diagnostic formulation shall include presenting symptoms for the previous twelve (12) months, including mental and physical health symptoms, degree of severity, functional status, and differential diagnosis. This information forms the basis for the development of the individualized person-centered Plan of Care as defined in § 6339.
- (c) A Comprehensive Diagnostic Assessment must be performed in-person by an interdisciplinary team consisting of the client and at least one Qualified Practitioner allowed to diagnose in accordance with their license.
- (d) The approval of the Plan of Care is demonstrated by the electronic signature and date stamp of an independently licensed Qualified Practitioner. A completed Plan of Care is required to establish medical necessity.
- (e) A Comprehensive Diagnostic Assessment and Plan of Care must be completed within seven (7) calendar days of the client's admission to a provider. Providers at Level 3.7-MMIWM must complete a Comprehensive Diagnostic Assessment within forty-eight (48) hours of the client's admission, or prior to discharge or transfer to another LOC, whichever comes first.
- (f) Within twenty-four (24) hours of the client's admission at a new LOC, during the period prior to the completion of the Comprehensive Diagnostic Assessment, the provider shall review the client's prior Department-approved Diagnostic Assessment to assist with developing a Plan of Care.
- (g) The Plan of Care (valid for seven (7) calendar days) will validate treatment until the Comprehensive Diagnostic Assessment is completed. A Qualified Practitioner as listed in § 6339 shall develop the Plan of Care. A



Comprehensive Diagnostic Assessment and Plan of Care shall include client understanding and agreement, documented by the client's signature, for consent to treatment, assessment, provider choice, client bill of rights, and release of information.

6339.13 Ongoing Diagnostic Assessment and Plan of Care occurs at regularly scheduled intervals depending on the LOC. The following provisions apply to ongoing assessments:

- (a) An Ongoing Diagnostic Assessment and Plan of Care, conducted using a tool(s) approved by the Department, provides a review of the client's strengths, resources, mental status, identified problems, and current symptoms as outlined in the most recent DSM.
- (b) An Ongoing Diagnostic Assessment will confirm the appropriateness of the existing diagnosis and revise the diagnosis, as warranted. The Ongoing Diagnostic Assessment will also revise the client's scores on all dimensions of the ASAM criteria, as appropriate, to determine if a change in LOC is needed and make recommendations for changes to the Plan of Care.
- (c) An Ongoing Diagnostic Assessment includes a review and update of the Plan of Care with the client to reflect the client's progress, growth, and ongoing areas of need.
- (d) The Ongoing Diagnostic Assessment and Plan of Care is also used prior to a planned transfer to a different LOC and for discharge from a course of service.
- (e) The Ongoing Diagnostic Assessment can be used for a review and documentation of a client's physical and mental status for acute changes that require an immediate response, such as a determination of a need for immediate hospitalization.
- (f) The Clinical Care Coordinator shall determine the frequency of Ongoing Diagnostic Assessments and Plan of Care services.
- (g) An Ongoing Diagnostic Assessment and Plan of Care must be completed in-person with the client and at least one Qualified Practitioner with the license and capability to develop a diagnosis.
- (h) The Ongoing Diagnostic Assessment requires documentation of the assessment tools, updated diagnostic formulation, and the Plan of Care update. The diagnostic formulation shall include presenting symptoms since previous assessment (including mental and physical health symptoms), degree of severity, functional status, and differential diagnosis. The Plan of Care update shall address current progress toward goals for all problematic areas identified in the Diagnostic Assessment and adjust interventions and RSS as appropriate.

**6340 CORE SERVICE: CLINICAL CARE COORDINATION**

- 6340.1 The CCC service adopts a “whole-person” approach to address the client’s needs related to physical health, behavioral health, and social determinants of health. CCC involves coordination of care between the behavioral health clinician and the clinical personnel of an external provider (e.g., primary care, another behavioral health provider, hospital).
- 6340.2 CCC occurs when the practitioner, through direct face-to-face contact, video-conferencing, or telephone, communicates treatment needs, assessments, and treatment information to external health care providers and facilitates appropriate linkages with other health care professionals, including transitions into or from higher levels of care or institutional settings. CCC also includes treatment planning and plan of care implementation activities that are separate from the diagnostic assessment service, when the clinician and client are meeting face-to-face or through video-conference.
- 6340.3 The Clinical Care Coordinator is responsible for ensuring that the client is at the appropriate LOC. If the client fails to make progress or has met all of their treatment goals, the Clinical Care Coordinator shall ensure timely assessment and transfer to a more appropriate LOC.
- 6340.4 The CCC service must be documented in an encounter note that indicates the intended purpose of that particular service, the actions taken, and the result(s) achieved.
- 6340.5 CCC shall be provided in certified SUD treatment programs or community settings.
- 6340.6 Qualified Practitioners of CCC are:
- (a) Physicians;
  - (b) Psychologists;
  - (c) LICSWs;
  - (d) LGSWs;
  - (e) APRNs;
  - (f) RNs;
  - (g) LISWs;
  - (h) LPCs;
  - (i) LMFTs; and
  - (j) LGPCs (providers not operating under an HCA).

**6341 CORE SERVICE: CRISIS INTERVENTION**

6341.1 Crisis Intervention is an immediate short-term treatment intervention, which assists a client to resolve an acute personal crisis that significantly jeopardizes the client's treatment, recovery progress, health, or safety. Crisis Intervention does not necessarily lead to a change in LOC or a change to the Plan of Care; however, if a change is needed, this service may be followed by an Ongoing Diagnostic Assessment.

6341.2 Crisis Intervention is a service available at all levels of care and can be provided to any client in treatment, even if the service is not included on the Plan of Care.

6341.3 Crisis Intervention services must be documented using an encounter note that explains the crisis and the response.

6341.4 Crisis Intervention services shall be provided in certified SUD treatment programs or community settings.

6341.5 Qualified Practitioners of Crisis Intervention are:

- (a) Physicians;
- (b) Psychologists;
- (c) LICSWs;
- (d) LGSWs;
- (e) APRNs;
- (f) RNs;
- (g) LISWs;
- (h) LPCs;
- (i) LGPCs (providers not operating under an HCA);
- (j) LMFTs; or
- (k) CACs I or II.

**6342 CORE SERVICE: SUBSTANCE USE DISORDER COUNSELING/THERAPY**

6342.1 SUD Counseling/Therapy includes Individual, Family, and Group, and enhanced with Group-Psychoeducation Counseling.

- 6342.2 SUD Counseling/Therapy shall be provided in certified SUD treatment programs or community settings.
- 6342.3 Individual SUD Counseling/Therapy is a face-to-face service for symptom and behavior management, development, restoration, or enhancement of adaptive behaviors and skills, and enhancement or maintenance of daily living skills to facilitate long-term recovery.
- 6342.4 Individual SUD Counseling/Therapy addresses the specific issues identified in the Plan of Care. Individual counseling/therapy:
- (a) Shall be documented in an encounter note; and
  - (b) Shall not be conducted within the same or overlapping time period as Medication Management.
- 6342.5 Qualified Practitioners of Individual SUD Counseling/Therapy are:
- (a) Physicians;
  - (b) Psychologists;
  - (c) LICSWs;
  - (d) LGSWs;
  - (e) APRNs;
  - (f) LISWs;
  - (g) LPCs;
  - (h) LGPCs (providers not operating under an HCA);
  - (i) LMFTs; or
  - (j) CACs I or II.
- 6342.6 Group Counseling/Therapy includes Cognitive Behavioral Groups, Support Groups, and Interpersonal Process Groups. Cognitive Behavioral Groups have a trained facilitator utilizing a specific therapeutic model to alter thoughts and actions that lead to substance use. Support Groups uplift members and provide a forum to share pragmatic information about managing day to day life. Interpersonal Process Groups delve into major developmental issues that contribute to SUD or interfere with recovery.

- 6342.7 The following provisions apply to Group SUD Counseling:
- (a) Group SUD Counseling/Therapy addresses the specific issues identified in the Plan of Care;
  - (b) The focus of the group SUD Counseling/Therapy session shall be driven by the participants;
  - (c) A maximum of fifteen (15) individuals may participate in a single group SUD counseling/therapy session; and
  - (d) Group SUD Counseling/Therapy shall not be billed during recreational activities.

6342.8 Qualified Practitioners of Group SUD/Counseling/Therapy are:

- (a) Physicians;
- (b) Psychologists;
- (c) LICSWs;
- (d) LGSWs;
- (e) APRNs;
- (f) LISWs;
- (g) LPCs;
- (h) LGPCs (providers not operating under an HCA);
- (i) LMFTs; or
- (j) CACs I or II.

6342.9 Group SUD Counseling-Psychoeducation promotes help-seeking and supportive behaviors by working in partnership with clients to impart current information and facilitate group discussion through lecture, audio-visual presentations, handouts, etc. This service assists with developing coping skills that support recovery and encourage problem-solving strategies for managing issues posed by SUDs, and presents structured, group specific content taught by a trained facilitator. This service should also provide education about HIV, STDs, and other infectious diseases, though clients are not required to have one of these diseases to receive this education. Psychoeducational groups provide information designed to have a direct application to clients' lives that include but are not limited to developing self-awareness, suggesting options for growth and change, identifying community resources that can assist clients in recovery, developing an understanding of the

process of recovery, and encouraging clients to take action on their own behalf toward recovery.

6342.10 Group Counseling-Psychoeducation requires the following:

- (a) The subject of the counseling must be relevant to the client's needs as identified in his or her Plan of Care;
- (b) This service must include facilitated group discussion of the relevant topic or topics;
- (c) An encounter note for each participant shall be completed, which includes the client's response to the group; and
- (d) A maximum of thirty (30) clients may participate in a single session.

6342.11 Qualified Practitioners of Group Counseling Psychoeducation are:

- (a) Physicians;
- (b) Psychologists;
- (c) LICSWs;
- (d) LGSWs;
- (e) APRNs;
- (f) LISWs;
- (g) LPCs;
- (h) LGPCs (providers not operating under an HCA);
- (i) LMFTs; or
- (j) CAC Is or IIs.

6342.12 Family Counseling/Therapy is a planned, goal-oriented therapeutic interaction between a Qualified Practitioner and the client's family, with or without the client present. The aim of Family Counseling/Therapy is to improve the client's functioning with his or her family and to cultivate the awareness, skills, and supports to facilitate long term recovery. Family Counseling/Therapy must address specific issues identified in the Plan of Care. The following provisions apply to Family Counseling/Therapy:

- (a) Family Counseling/Therapy shall be documented using an encounter note; if the client is not present for the service, the note must explain how the session benefits the client;

- (b) A service encounter note documenting Family Counseling/Therapy shall clearly state the relationship of the participant(s) to the client; and
- (c) Family Counseling/Therapy participants other than the client must meet the definition of "family member" in § 6351.

6342.13 Qualified Practitioners of Family Counseling/Therapy are:

- (a) Physicians;
- (b) Psychologists;
- (c) LICSWs;
- (d) LGSWs;
- (e) APRNs;
- (f) LISWs;
- (g) LPCs;
- (h) LGPCs (providers not operating under an HCA);
- (i) LMFTs; or
- (j) CAC Is and IIs.

**6343 CORE SERVICE: DRUG SCREENING**

6343.1 Drug Screening consists of toxicology sample collection and breathalyzer and urine testing to determine and detect the use of alcohol and other drugs.

6343.2 Providers must have their own drug screening policy.

6343.3 Toxicology sample collection involves the collection of biological specimens for drug analysis. The following provisions apply to toxicology sample collection:

- (a) The handling of biological specimens requires a chain of custody in accordance with Federal and District laws and regulations from the point of collection throughout the analysis process to ensure the integrity of the specimen;
- (b) Toxicology sample collection shall be conducted to verify abstinence or use of substances to inform treatment;
- (c) Toxicology sample collection shall include an in-person encounter with the client;

- (d) Documentation of the toxicology sample collection service requires an encounter note, laboratory request, and recorded laboratory results from an approved laboratory;
- (e) Chain of custody for the toxicology specimen must be observed and documented in accordance with Federal and District laws and regulations; and
- (f) Individuals collecting the samples must be properly trained to do so.

6343.4 Breathalyzer testing is the collection and documentation of valid breath specimens for alcohol analysis in accordance with Department standards. A Breathalyzer is conducted to test for blood alcohol content to inform treatment for a client. The following provisions apply to Breathalyzer services:

- (a) Breathalyzer testing requires an in-person collection of the sample;
- (b) Breathalyzer testing must be documented with an encounter note and recorded results;
- (c) The chain of custody must be kept in accordance with District guidelines; and
- (d) Individuals collecting the samples must be properly trained.

**6344 CORE SERVICE: RECOVERY SUPPORT**

6344.1 RSS are strength-based supports for those with addictions and those in recovery from SUD. These services are provided to assist clients with implementation of their recovery plan through direct contact interventions provided to an individual or a group of individuals.

6344.2 RSS activities facilitate implementation of the Plan of Care and administrative facilitation of the client's service needs, including but not limited to:

- (a) Scheduling and tracking appointments;
- (b) Facilitating transportation,
- (c) Collecting information about the client's progress;
- (d) Goal setting and monitoring;
- (e) Making referrals;
- (f) Assisting with linkages;
- (g) Assisting with the completion of benefits, housing or financial forms;



- (h) Assisting clients with strategy development and coping skills;
- (i) Providing clients with encouragement and emotional support; and
- (j) Providing education around social skill development and drug free social activities, life skills, relapse prevention, employment preparation, money management, health and wellness, and family reunification.

6344.3 In addition to the activities listed in § 6344.2, RSS-HIV entails providing clients access to testing and referrals for HIV and infectious diseases and linkage of services with medical care or specialty services related to an infectious disease. A client does not need to be diagnosed with an infectious disease to receive this service.

6344.4 Additional key service functions of RSS include:

- (a) Attending interdisciplinary team meetings for Diagnostic Assessment services;
- (b) Following up on service delivery by providers external to the treatment program and ensuring communication and coordination of services;
- (c) Contacting clients who have unexcused absences from program appointments or from other critical off-site service appointments to re-engage them and promote recovery efforts;
- (d) Locating and coordinating services and resources to resolve a client's crisis;
- (e) Providing training in the development of life skills necessary to achieve and maintain recovery; and
- (f) Participating in discharge planning.

6344.5 Each RSS must be documented using an encounter note that is sufficient to justify the time and service provided.

6344.6 RSS shall be provided in certified SUD treatment programs or community settings.

6344.7 The duration of RSS varies but lasts as long as needed, with a reassessment every one hundred and eighty (180) days according to the client's recovery goals.

6344.8 The need for RSS is determined by the completion of a Diagnostic Assessment service or a Recovery Support Evaluation and shall be authorized in the client's Plan of Care.

6344.9 Each RSS program must have a program manager who is responsible for overseeing all services provided within the program.

- 6344.10 Each RSS program shall have a comprehensive curriculum that has been approved by the Department.
- 6344.11 Qualified Practitioners of RSS are:
- (a) Recovery Coach;
  - (b) Certified Peer Specialist;
  - (c) An individual with at least a GED or high school diploma, two (2) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationship, and the ability to negotiate complex service systems to obtain needed services and resources for individuals; or
  - (d) Any practitioner qualified to provide SUD Counseling/Therapy pursuant to § 6342.

**6345 SPECIALTY SERVICE: MEDICATION MANAGEMENT**

- 6345.1 Medication Management shall include the coordination and evaluation of medications consumed by clients, monitoring potential side effects, drug interactions, compliance with doses, and efficacy of medications.
- 6345.2 Medication Management also includes the evaluation of a client's need for Medication Assisted Treatment ("MAT"), the provision of prescriptions, and ongoing medical monitoring/evaluation related to the use of psychoactive drugs.
- 6345.3 Medication Management is used to inform treatment and to assist with withdrawal management, as clinically appropriate.
- 6345.4 All providers certified as MMIWM or at any of the Level 3 certifications shall also be certified to provide Medication Management.
- 6345.5 Medication Management requires in-person interaction with the client and may not be conducted at the same or overlapping times as any other service.
- 6345.6 The Qualified Practitioner performing the Medication Management service or the Clinical Care Coordinator, if not the same individual, must coordinate with the client's primary care practitioner unless the client's record documents that the client refused to provide consent for the coordination.
- 6345.7 Documentation of Medication Management shall include an encounter note and appropriately completed medication fields in the record, if applicable.
- 6345.8 Medication Management shall be provided in certified SUD treatment programs or community settings.

6345.9 Qualified Practitioners of Medication Management are:

- (a) Physicians;
- (b) APRN;
- (c) RNs;
- (d) LPNs; or
- (e) PAs.

**6346 SPECIALTY SERVICE: MEDICATION ASSISTED TREATMENT**

6346.1 MAT is the combination of FDA approved medication with behavioral therapies to treat SUD. A client who receives medication to treat SUD must also receive SUD Counseling/Therapy. Use of this service should be in accordance with ASAM criteria and practice guidelines issued by the Department.

6346.2 Clients appropriate for MAT must have an SUD that could be appropriately treated in accordance with Federal regulations.

6346.3 OTPs must ensure that individuals receiving MAT understand and provide written informed consent to the specific medication administered. No client under age eighteen (18) may be admitted to an OTP unless a parent or legal guardian consents in writing to such treatment.

6346.4 MAT may be administered on an in-office basis or as take-home regimen. Both MAT administrations include the unit of medication and therapeutic guidance. For clients receiving a take-home regimen, therapeutic guidance must include additional guidance related to storage and self-administration. OTPs must comply with all Federal and District laws and regulations concerning MAT.

6346.5 Therapeutic guidance provided during MAT shall include:

- (a) Safeguarding medications;
- (b) Possible side-effects and interaction with other medications;
- (c) Impact of missing doses;
- (d) Monitoring for withdrawal symptoms and other adverse reactions; and
- (e) Appearance of medication and method of ingestion.

6346.6 The provision of MAT must be accompanied by a clinically appropriate array of SUD treatment services in accordance with § 6330 that include SUD Counseling/Therapy.

- 6346.7 A physician must evaluate the client a minimum of once per month for the first year that a client receives MAT and a minimum of every six (6) months thereafter, in coordination with the Plan of Care and as needed.
- 6346.8 Documentation for this service must include medication log updates and an encounter note for each visit, which captures the therapeutic guidance provided.
- 6346.9 Qualified Practitioners of MAT are:
- (a) Physicians;
  - (b) APRNs;
  - (c) PAs;
  - (d) RNs; or
  - (e) LPNs.

**6347 SPECIALTY SERVICE: ADOLESCENT — COMMUNITY REINFORCEMENT APPROACH**

- 6347.1 Adolescent – Community Reinforcement Approach (“ACRA”) is a specialty service that is provided in conjunction with Level 1 or Level 2.1 Outpatient treatment as a more targeted approach to treatment for youth and young adults, ages twelve (12) to twenty-four (24) years old with co-occurring mental health and SUD. ACRA services include approximately ten (10) individual sessions with the adolescent, two (2) individualized sessions with the caregiver and two (2) sessions with the adolescent and caregiver together in accordance with the procedures outlined in the ACRA evidence-based practice certification model.
- 6347.2 The provider must have the following ACRA-certified staff for each ACRA team:
- (a) A clinical supervisor, with ACRA clinical supervisor certification, who is also a Master’s-level qualified practitioner; and
  - (b) One (1) to four (4) clinicians with ACRA clinician certification who are either Master’s-level qualified practitioners or Bachelor’s-level qualified practitioners with at least five (5) years’ experience working with behaviorally-challenged youth.
- 6347.3 ACRA practitioners must comply with the supervision, taping, feedback and coaching requirements of the ACRA certification.
- 6347.4 A minimum of four units of ACRA services should be provided once per week. Level 1 or 2.1 services shall be provided as clinically appropriate.

6347.5 ACRA generally lasts up to six (6) months with the first three (3) months of services provided in the office setting and the last three (3) months of service provided in the home or community setting, based on the client's needs and progress.

6347.6 Qualified Practitioners of ACRA are:

- (a) Physicians;
- (b) Psychologists;
- (c) LICSWs;
- (d) LGSWs;
- (e) APRNs;
- (f) RNs;
- (g) LISWs;
- (h) LPCs;
- (i) LGPCs (providers not operating under an HCA);
- (j) LMFTs; or
- (k) CACs I and II.

**6348 SPECIALTY SERVICE: TRAUMA RECOVERY AND EMPOWERMENT MODEL**

6348.1 Trauma Recovery and Empowerment Model ("TREM") is a structured group therapy intervention designed for clients who have survived trauma and have substance use disorders and/or mental health conditions. TREM draws on cognitive restructuring, skills training, and psychoeducational and peer support to address recovery and healing from sexual, physical, and emotional abuse.

6348.2 A curriculum for each model outlines the topic of discussion, a rationale, a set of goals, and a series of questions to be posed to the group in addition to an experiential exercise for each session. The components are:

- (a) Therapy sessions focused on empowerment, self-comfort, and accurate self-monitoring, as well as ways to establish safe physical and emotional boundaries;
- (b) Therapy sessions focused on the trauma experience and its consequences; and

- (c) Therapy sessions focused on skills building, including emphases on communication style, decision-making, regulating overwhelming feelings, and establishing safer, more reciprocal relationships.

6348.3 Each TREM group is population specific and on average consists of eighteen (18) to twenty-four (24) sessions, with each session at least seventy-five (75) minutes in duration. Population-specific groups include:

- (a) TREM for women;
- (b) TREM for men;
- (c) TREM for girls twelve (12) to eighteen (18) years of age;
- (d) TREM for boys twelve (12) to under eighteen (18) years of age; or
- (e) TREM for individuals who are lesbian, gay, bisexual, transgender, or questioning (groups for either individuals under eighteen (18) or individuals eighteen (18) years of age and over).

6348.4 Due to the sensitive nature of the discussions, TREM requires at least two (2) facilitators to be assigned to every group to ensure the safety and continuity of the group. At least one (1) facilitator must be a qualified practitioner licensed to practice independently. A team approach is required to: address situations that may arise within the group; decrease burnout; provide continuity if one facilitator is absent; and to lend additional therapeutic support to the group. Qualified practitioners working as facilitators must have completed Department-approved, population-specific TREM training.

6348.5 Qualified Practitioners of TREM are:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) LICSWs;
- (d) APRNs;
- (e) LMFTs;
- (f) LPCs;
- (g) LISWs;
- (h) LGSWs;
- (i) LGPCs; or

(j) Psychology Associates.

6348.6 Recovery Coaches, Certified Peer Specialists, and CACs I and II who have successfully completed a TREM group and Department-approved TREM training shall be authorized to support TREM services under the supervision of the two group facilitators.

6348.7 TREM shall be provided at the SUD treatment provider's site or in a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

**6349 RECOVERY SUPPORT – EVALUATION, ALCOHOL OR DRUG ASSESSMENT**

6349.1 A Recovery Support Evaluation is a process used to evaluate and document a client's individual recovery support service needs, develop a comprehensive individual Recovery Support Plan, and monitor client progress on achievement of goals and objectives every one hundred and eighty (180) days.

6349.2 The purpose of the Recovery Support Evaluation is to identify domains that require support, using a Department-approved recovery support assessment tool, and to develop a Recovery Support Plan.

6349.3 Recovery Support Evaluation requires an in-person encounter with the client and must be performed by staff trained to use the recovery support assessment tool.

6349.4 Required elements of a Recovery Support Evaluation include the completion of a Department-approved recovery support assessment tool and Recovery Support Plan.

6349.5 Providers must document completion and client signatures for: consents, completion of the recovery support assessment tool and Recovery Support Plan, client bill of rights, and release of information.

6349.6 A Recovery Support Evaluation shall take at least forty (40) minutes to complete.

6349.7 A maximum of two (2) occurrences of Recovery Support Evaluation are allowed every six (6) months. Additional Recovery Support Evaluations require approval from the Department.

6349.8 The Clinical Care Coordinator is responsible for ensuring coordination if a client is receiving treatment and recovery services from different providers. A client receiving treatment and recovery services from different providers may receive Initial, Comprehensive, or Ongoing Assessment and a separate Recovery Support Evaluation as clinically indicated.

6349.9 A client receiving treatment and recovery services from the same provider shall not require a separate Recovery Support Evaluation or Recovery Support Plan.

6349.10 A Recovery Support Evaluation shall be provided in certified SUD treatment programs or community settings.

6349.11 Qualified Practitioners of Recovery Support Evaluation are:

- (a) A Recovery Coach;
- (b) A Certified Peer Specialist;
- (c) An individual with at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field and training or relevant experience in substance use; or
- (d) An individual with at least four (4) years of relevant, qualifying full-time-equivalent experience in human service delivery who demonstrates skills in developing positive and productive community relationships and the ability to negotiate complex service systems to obtain needed services and resources for individuals.

## **6350 ENVIRONMENTAL STABILITY, SUPPORTED HOUSING**

6350.1 The Environmental Stability service provides a structured and stable living environment and recovery support system that includes recovery housing for up to six (6) months. The objective of Environmental Stability is to prepare the client for independent living upon completion of the Environmental Stability Service.

6350.2 Eligible clients for this service must:

- (a) Be drug- and alcohol-free (with the exception of prescribed medication) for thirty (30) days prior to admission;
- (b) Maintain sobriety throughout the program;
- (c) Be age eighteen (18) or older and in recovery from a diagnosed SUD;
- (d) Be employed, be receiving alternate income, or be participating in a structured training class or workforce-development program or a combination of both training and employment as deemed clinically appropriate;
- (e) Deposit thirty percent (30%) of net income into the client's escrow account for the purposes of post-environmental-stability independent living;
- (f) Be enrolled and active in other certified RSS; and
- (g) Be prior authorized by the Department.



- 6350.3 The Environmental Stability provider shall comply with the Department’s drug testing policy.
- 6350.4 Each Environmental Stability facility shall be for a single parent with a child or children.
- 6350.5 Environmental Stability providers must comply with the applicable of provisions of § 6325 of this chapter governing residential recovery programs.
- 6350.6 No Environmental Stability program shall use a name on the exterior of the building or display any logo that distinguishes the facility from any other residence in the neighborhood.

### 6399 DEFINITIONS

- 6399.1 **Admission** – Entry into the SUD treatment or recovery support services program after completion of Initial Diagnostic Assessment and a determination that an individual is eligible for the program.

**Advanced Practice Registered Nurse (“APRN”)** – A person licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)), and who has demonstrated proficiency in SUD treatment, as evidenced by specialized training or a minimum of 5 years of experience in SUD care delivery.

**Affiliation Agreement** – A legal agreement between a provider and another entity that describes how they will work together to benefit clients.

**Aftercare Plan** – A plan developed with a client and their treatment team to identify goals and action steps the client can use to move forward with their recovery once they leave treatment services.

**Alternate Income** – Supplemental Security Income (SSI), unemployment insurance, child support, non-SSI social security, pensions and retirement income, and veterans’ benefits.

**Applicant** – A program that has applied to the Department for certification as an SUD treatment or recovery program.

**Assessment** – A process that gathers information and engages with the client to enable the provider to determine the presence or absence of a co-occurring disorder.

**Certification** – The process of establishing that the standards described in this chapter are met; or approval from the Department indicating that an

applicant has successfully complied with all requirements for the operation of a substance use disorder treatment or recovery program in the District.

**Certified Addiction Counselor (“CAC”)** – A person certified to provide SUD counseling services in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)). A CAC may be certified as a CAC I or CAC II and is supervised in accordance with Title 17 DCMR § 8715.

**Certified Peer Specialist** – An individual who has completed the Peer Specialists Certification Program requirements and is approved to deliver Peer Support Services within the District’s public behavioral health network.

**Child Development Facility** – A center, home, or other structure that provides care, supervision, and guidance for children up to fifteen (15) years of age on a regular basis, regardless of its designated name. A Child Development Facility does not include a public or private elementary or secondary school engaged in legally required educational and related functions.

**Client** – A person admitted to an SUD treatment or recovery program and is assessed to need SUD treatment services or recovery support services.

**Clinical Care Coordination** – Coordination of care between the behavioral health clinician and the clinical personnel of an external provider (*e.g.*, primary care, another behavioral health provider, or hospital).

**Clinical Care Coordinator** – A licensed or certified Qualified Practitioner who has the overall responsibility for the development and implementation of the client’s Plan of Care, is responsible for identification, coordination, and monitoring of non-SUD-treatment clinical services, and is identified in the client’s Plan of Care.

**Clinical Staff** – Staff who are licensed, certified, or registered by the District Department of Health, Health Regulation and Licensing Administration.

**Communicable Disease** – Any disease as defined in Title 22-B, § 201 of the District of Columbia Municipal Regulations.

**Continuity of Care Plan** – A plan that provides for the ongoing care of clients in the event that a certified provider is no longer able to provide adequate care.

**Co-Occurring Disorders** – The presence of concurrent diagnoses of substance use disorder and a mental illness.

**Core Service** – All of the following services that shall be provided by all treatment providers under this chapter: Diagnostic Assessment and Plan of Care,

Clinical Care Coordination, Crisis Intervention, SUD Counseling/Therapy, Drug Screening, and RSS.

**Crisis** – An event that significantly jeopardizes the client’s treatment, recovery progress, health, or safety.

**Department** – The District of Columbia Department of Behavioral Health.

**Director** – The Director of the District of Columbia Department of Behavioral Health.

**Discharge** – The time when a client’s active involvement with a provider is terminated.

**Discharge Planning** – Activities with or on behalf of an individual to arrange for appropriate follow-up care to sustain recovery after being discharged from a program, including educating the individual on how to access or reinstate additional services, as needed.

**District** – The District of Columbia.

**Drug** – Substances that have the likelihood or potential to be misused or abused, including alcohol, prescription drugs, and nicotine.

**Facility** – Any physical premises which houses one or more SUD treatment or recovery programs.

**Family Counseling/Therapy** – A planned, goal-oriented therapeutic interaction between a Qualified Practitioner and the client’s family, with or without the client present.

**Family Member** – Individual identified by the client as a person with whom the client has a significant relationship and whose participation is important to the client’s recovery.

**Group SUD Counseling/Therapy** – A therapeutic service that facilitates disclosure of issues that permit generalization to a larger group; promotes help-seeking and supportive behaviors; encourages productive and positive interpersonal communication; and develops motivation through peer support, structured confrontation, and constructive feedback.

**Individual Substance Use Disorder Counseling/Therapy** – A face-to-face service with an authorized Qualified Practitioner for symptom and behavior management, development, restoration, or enhancement of adaptive behaviors and skills, and enhancement or maintenance of daily living skills to facilitate long-term recovery.

**In-service Training** – Activities undertaken to achieve or improve employees’ competency to perform present jobs or to prepare for other jobs or promotions.

**Interdisciplinary Team** – Members of the provider staff who provide services to the client, including the client, the client’s CCC, a CAC, and at least one QP with the license and ability to diagnose.

**Licensed Graduate Professional Counselor (“LGPC”)** – A person licensed as a graduate professional counselor in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)) applicable District laws and regulations. An LGPC is a Qualified Practitioner only for providers not providing services pursuant to a Human Care Agreement with the Department and must be appropriately supervised.

**Licensed Graduate Social Worker (“LGSW”)** – A person licensed as a graduate social worker in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Licensed Independent Clinical Social Worker (“LICSW”)** – A person licensed as an independent clinical social worker in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Licensed Independent Social Worker (“LISW”)** – A person licensed as a licensed independent social worker in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Licensed Marriage and Family Therapist (“LMFT”)** – A person licensed as a marriage and family therapist in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Licensed Practical Nurse (“LPN”)** – A person licensed as practical nurse in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Licensed Professional Counselor (“LPC”)** – A person licensed as a professional counselor in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Major Unusual Incidents** – Adverse events that can compromise the health, safety, and welfare of persons; employee misconduct; fraud; and actions that are violations of law and policy.

**Medicaid** – The medical assistance program, as approved by the Federal Centers for Medicare and Medicaid Services and administered by the Department of Health Care that enables the District to receive Federal financial assistance for its medical assistance program and other purposes as permitted by law.

**Medical Necessity (or Medically Necessary)** – Health care services or products that a prudent provider would provide to a client for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is: (a) in accordance with generally accepted standards of health care practice; (b) clinically appropriate in terms of type, frequency, extent, site, and duration; and (c) not primarily for the economic benefit of the health plans and purchasers or for the convenience of the client or treating provider.

**Medical Triage** – The process of determining the priority of a client’s treatment needs.

**Medical Waste** – Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or in the testing of biologicals, including but not limited to: soiled or blood-soaked bandages, needles used to give shots or draw blood, and lancets.

**Mental Illness** – A diagnosable mental, behavioral, or emotional disorder (including those of biological etiology) which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the most recent Diagnostic and Statistical Manual (DSM) or its most recent International Classification of Diseases equivalent.

**Notice of Infraction** – An action taken by agencies to enforce alleged violations of regulatory provisions.

**Opioid** – A psychoactive substance in the narcotic class derived from opium, including natural and synthetic compounds. Substances in this class may produce pharmacological effects such as physical withdrawal symptoms.

**Organizational onboarding** – Mechanism through which new employees acquire the necessary knowledge, skills, and behaviors to become effective performers. It begins with recruitment and includes orientation, which helps new employees understand performance expectations and contribute to the success of the organization.

**Organized Treatment Services** – Treatment that consists of a scheduled series of structured, face-to-face or group therapeutic sessions organized at various levels of intensity and frequency to assist clients in achieving the goals identified in the person-centered plans of care. Also may be called structured treatment services.

**Outcomes of Care** – The results of a course of treatment, including abstinence or reduction of abuse of substances, elimination or reduction of criminal activity, reduction of antisocial activity associated with SUD, reduction of need for health care services, reduction of need for SUD treatment, increase in pro-social involvement, and increase in productivity and employment.

**Outpatient Services** – Therapeutic services that are medically necessary, provided to a client according to an individualized Plan of Care, and do not require the client’s admission to a hospital or a non-hospital residential facility. The term "outpatient services" refers to services that may be provided: on an ambulatory basis in a hospital; on an outpatient basis in a non-hospital residential facility; an outpatient treatment facility; or the office of a provider licensed to provide SUD treatment services.

**Outreach** – Efforts to inform and facilitate access to a program’s services.

**Parent** – A person who has custody of a child as a natural parent, stepparent, adopted parent, or has been appointed as a guardian for the child by a court of competent jurisdiction.

**Plan of Care** – The individualized Plan of Care that is the result of the Diagnostic Assessment. All services must be guided by a valid Plan of Care. The Plan of Care includes the client’s treatment goals, strengths, challenges, objectives, and interventions. The Plan of Care is based on the client’s identified needs as reflected by the Diagnostic Assessment, the client’s expressed needs, and referral information.

**Pharmacist** – A person licensed or authorized to practice pharmacy pursuant to Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Physician** – A person licensed or authorized to practice medicine pursuant to Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Physician Assistant (“PA”)** – A person licensed as a Physician Assistant pursuant to Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Privacy Officer** – A person designated by an organization that routinely handles protected health information, to develop, implement, and oversee the organization’s compliance with the U.S. Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 42 CFR Part 2, and the District’s Mental Health Information Act.

**Program** – An SUD Treatment or Recovery Support Services Program certified by the Department at a specific LOC to provide SUD treatment or recovery support services.

**Program Director** – An individual having authority and responsibility for the day-to-day operation of an SUD treatment or recovery program.

**Protected Health Information (“PHI”)** – Any written, recorded, electronic (ePHI), or oral information which either (1) identifies, or could be used to identify, a client; or (2) relates to the physical or mental health or condition of a client, provision of health care to a client, or payment for health care provided to a client. PHI does not include information in the records listed in 45 CFR § 160.103.

**Provider** – An entity certified by the Department to provide either SUD treatment or recovery support services or both. A single provider may operate multiple programs.

**Psychiatrist** – A physician who has completed all training in a program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, approved by the American Board of Psychiatry and Neurology, Inc., or is board certified in psychiatry.

**Psychologist** – A person licensed to practice psychology in accordance with applicable District laws and regulations.

**Psychology Associate** – A person registered as a Psychology Associate in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Qualified Practitioner** – Staff authorized to provide treatment and other services based on the definition of the service.

**Recovery Coach** – An individual who participated in an educational training for at least 30 hours from a program approved by the Department.

**Recovery Support Plan** – A document developed during a Recovery Support Evaluation that outlines the client’s needs, goals, and recovery support services to be utilized to achieve those goals. The Recovery Support plan assists a client in recovery to develop goals and objectives to maintain their

sobriety in the community with supports from family, community and recovery support programs.

**Recovery Support Services (“RSS”)** – Non-clinical services provided to a client by a certified RSS provider to assist the client in achieving or sustaining recovery from an SUD.

**Registered Nurse (“RN”)** – A person licensed as a registered nurse in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Representative Payee** – An individual or organization appointed by the Social Security Administration to receive Social Security or Supplemental Security Income (“SSI”) benefits for someone who cannot manage or direct someone else to manage his or her money.

**Research** – Experiments including new interventions of unknown efficacy applied to clients whether behavioral, psychological, biomedical, or pharmacological.

**Residential Program** – Any SUD treatment or recovery support services program which houses clients overnight, including Level 3 treatment programs and environmental stability programs.

**Screening** – A determination of the likelihood that a client has co-occurring substance use and mental disorders or that their presenting signs, symptoms, or behaviors may be influenced by co-occurring issues. The purpose is not to establish the presence or specific type of such a disorder, but to establish the need for an in-depth assessment. Screening is a formal process that typically is brief and occurs soon after the client presents for services.

**Specialty Service** – Any of the following services that may be provided by SUD providers under this chapter and that require additional certification, specifically, Medication Management, ACRA, MAT, TREM, and Environmental Stability.

**Statement of Deficiencies (“SOD”)** – A written statement of non-compliance issued by the Department, which describes the areas in which an applicant for certification or the certified provider fails to comply with the certification standards pursuant to this chapter.

**Substance Use Disorder (“SUD”)** – A chronic relapsing disease characterized by a cluster of cognitive, behavioral, and psychological symptoms indicating that the client continues using a substance despite significant substance-related problems. A diagnosis of SUD requires a client to have had persistent, substance related problem(s) within a twelve (12)-month period in accordance with the most recent version of the DSM.



**SUD Services** – All of the services described in this chapter, including treatment services, specialty services and Recovery Support Services.

**Supported Employment Services** – Program services designed for SUD clients for whom competitive employment has been interrupted or is intermittent as a result of a substance use disorder. Services assists consumers in obtaining and maintaining permanent part-time or full-time employment in a competitive setting.

**Treatment** – A therapeutic effort to improve a client’s cognitive or emotional conditions or the behavior of a client, consistent with generally recognized principles or standards in the SUD treatment field, provided or supervised by a Qualified Practitioner.

**Withdrawal Management** – A program designed to achieve systematic reduction in the degree of physical dependence on alcohol or drugs.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**NOTICE OF FINAL RULEMAKING**  
**Z.C. CASE NO. 19-24<sup>1</sup>**  
**(Text Amendment – Subtitle K of Title 11 DCMR)**  
**(Walter Reed Zone Regulations)**  
**September 14, 2020**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2019 Repl.)), hereby gives notice of its amendment of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

The text amendment adds new zones WR-9 through WR-15, as follows:

- Subtitle K: Special Purpose Zones  
Chapter 9, Walter Reed Zones (WR-1 through WR-8)
  - § 900 – incorporating new zones
  - § 909 – adding a new section creating new WR-9 zone
  - § 910 – adding a new section creating new WR-10 through WR-15 zones
  - § 911-923 – renumbering current §§ 909-921 to accommodate the new §§ 909 and 910 and incorporating new zones

#### **Setdown**

On October 28, 2019, Children’s National at Walter Reed, LLC (Petitioner) filed a petition to the Commission proposing the text amendment, concurrently with a proposed Zoning Map amendment (Z.C. Case No. 19-24A) to allow for the development of a portion of the former Walter Reed Army Medical Center.

The Office of Planning (OP) filed a November 8, 2019, report recommending approval of the proposed text amendment as not inconsistent with the Comprehensive Plan (CP) and related public policies.

#### **ANC 4C Report**

On November 8, 2019, Advisory Neighborhood Commission (ANC) 4A submitted a written report (ANC Report) stating that at its duly notice meeting on November 5, 2019, with a quorum present, the ANC voted to support the proposed text amendment, with the following concerns:

- Applications to the Historic Preservation Review Board (HPRB) be presented to the ANC for its recommendation prior to the HPRB’s review;
- No new building be constructed above eighty-five feet (85 ft.) unless reviewed and approved by the ANC and HPRB;

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<sup>1</sup> For Office of Zoning tracking only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 19-24.

- Construction truck traffic be governed by the Traffic Management Plan agreed to by the Petitioner; and
- Traffic associated with the Petitioner will enter and exit the Walter Reed campus through the Georgia Avenue and 16<sup>th</sup> Street, N.W. entrances once Dahlia Street, N.W. within the Walter Reed campus is constructed.

At its public meeting on November 18, 2019, the Commission voted to grant the Petitioner's request to set down the proposed text amendment for a public hearing, with flexibility to work with the Office of the Attorney General (OAG), including on the potential affordable housing exemption of the proposed Subtitle K § 920.14.

### **Public Hearing**

OP filed a March 23, 2020, hearing report, as required by Subtitle Z § 400.6, that recommended approval of the proposed text amendment with a note that the Petitioner, OP, and OAG had resolved the potential affordable housing exemption raised by the Commission at setdown by clarifying that lodging uses more accurately described the Petitioner's proposed use than the initial proposed residential uses (lodging uses do not trigger the affordable housing requirements triggered by residential uses).

Based on OAG's recommendations and as agreed with OP, the Petitioner submitted non-substantive revisions to the proposed text amendment on June 9, 2020, to use separate zones (WR-10 through WR-15) instead of multiple land bays within the WR-10 zone.

Multiple comments were filed to the record in support of the proposed text amendment, and one comment by a group of neighbors expressed concerns about anticipated construction traffic generated by development if the proposed text amendment and related proposed Zoning Map amendment were approved.

At the June 25, 2020 virtual public hearing, the Commission heard testimony from the Petitioner in support of the proposed text amendment and from OP and the public. OP testified that it supported the changes proposed by OAG. The public comments included testimony echoing concerns about anticipated construction traffic.

### **Proposed Action**

At the close of its June 25, 2020, public hearing, the Commission voted to take **PROPOSED ACTION** and to authorize the publication of a Notice of Proposed Rulemaking:

**VOTE (June 25, 2020):**      **5-0-0**      (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**)

### **Notice of Proposed Rulemaking**

The Commission published the proposed amendment as a Notice of Proposed Rulemaking (NPR) in the *D.C. Register* (67 DCR 8841, *et seq.*) on July 17, 2020.

No comments to the NOPR were received in the thirty (30)-day period required by § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl.)).

### **National Capital Planning Commission (NCPC)**

The Commission referred the proposed amendment to NCPC on July 14, 2020, for the thirty (30)-day review period required by § 492 of the District Charter.

NCPC filed a report dated September 2, 2020, stating that NCPC had determined, pursuant to delegated authority, that the proposed amendment was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any identified federal interests. (Exhibit [Ex.] 59).

### **“Great Weight” to the Recommendations of OP**

The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

The Commission finds OP’s recommendation that the Commission take proposed action to adopt the proposed text amendment persuasive and concurs in that judgment.

### **“Great Weight” to the Written Report of the ANCs**

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

The Commission noted ANC 4A’s support for the proposed text amendment but noted that the Commission lacks the authority to impose mandatory review and approval by the ANC as part of the zoning process and that traffic management would be addressed at permitting stage and under DDOT’s guidance.

### **Final Action**

At its public meeting on September 14, 2020, the Zoning Commission voted to take **FINAL ACTION** and to authorize the publication of a Notice of Final Rulemaking:

**VOTE (September 14, 2020): 5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

The complete record in the case can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

The following amendments to the text of the Zoning Regulations are hereby adopted.

**I. Amendments to Subtitle K, SPECIAL PURPOSE ZONES**

**The title of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is amended to read as follows:**

**CHAPTER 9 WALTER REED ZONES – WR-1 THROUGH WR-15**

**Section 900, GENERAL PROVISIONS AND PURPOSE AND INTENT (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:**

- 900.1 The purposes of the Walter Reed (WR) zones (WR-1 through WR-15) are to:
- (a) Provide for the growth ...<sup>2</sup>  
...
- 900.2 Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of this chapter shall govern.
- 900.3 The WR zones include the WR-1 through the WR-15 zones. Each zone may have one (1) or more sub-areas, as identified in the Development Standards table for each zone. Each sub-area may be comprised of one (1) or more Land Bays.
- 900.4 Land Bays may be shown, for reference only, in the boundary maps of this chapter for each zone.
- 900.5 Any reference to a street refers to either existing or proposed streets as depicted in the boundary maps of this chapter for each zone.

**Current § 909, HEIGHT AND PENTHOUSES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 911 and amended, as detailed below.**

**A new § 909 is added to Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, to read as follows:**

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<sup>2</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

**909 WR-9 ZONE**

909.1 The WR-9 zone is intended to support the expansion of medical care and research facilities at a scale of development that does not adversely impact the character of nearby established neighborhoods.

909.2 The development standards for the WR-9 zone are set forth in the following table:

**TABLE K § 909.2: WR-9 DEVELOPMENT STANDARDS**

| Building Height (maximum) | Stories (maximum) | Lot Occupancy (maximum) | Pervious Surface (minimum) | Side Yard (minimum)              | Rear Yard (minimum) |
|---------------------------|-------------------|-------------------------|----------------------------|----------------------------------|---------------------|
| 45 ft.                    | 4                 | 70%                     | 10%                        | None required; 4 ft. if provided | None required       |

**Current § 910, STREETScape STANDARDS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 912 and amended, as detailed below.**

**A new § 910 is added to Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, to read as follows:**

**910 WR-10 THROUGH WR-15 ZONES**

910.1 The WR-10 through WR-15 zones are intended to:

- (a) Support the expansion of medical care and research facilities at a scale of development that does not adversely impact the character of nearby established neighborhoods; and
- (b) Encourage adaptive reuse of existing buildings to support medical research uses.

910.2 The development standards for the WR-10 through WR-15 zones are set forth in the following table:

**TABLE K § 910.2: WR-10 THROUGH WR-15 DEVELOPMENT STANDARDS**

| Zone District | FAR | Building Height (maximum) | Lot Occupancy (maximum) | Side Yard (minimum) | Rear Yard (minimum) |
|---------------|-----|---------------------------|-------------------------|---------------------|---------------------|
| WR-10         | 4.5 | 60 ft.                    | 100%                    | None required       | None required       |
| WR-11         | 4.5 | 90 ft.                    | 75%                     | None required       | None required       |
| WR-12         | 2.0 | 65 ft.                    | 75%                     | None required       | None required       |
| WR-13         | 6.0 | 110 ft.                   | 100%                    | None required       | None required       |
| WR-14         | 4.5 | 110 ft.                   | 75%                     | None required       | None required       |
| WR-15         | 2.5 | 85 ft                     | 60%                     | None required       | None required       |

910.3 In the WR-11 zone, no building or portion of a building shall be constructed above grade within one hundred fifty feet (150 ft.) of the street lot lines abutting Dahlia Street, N.W.

910.4 In the WR-15 zone, no building or portion of a building shall be constructed above grade within eighty feet (80 ft.) of the street lot lines abutting Fern Street, N.W.

**Current § 911, USE PERMISSIONS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 913 and amended, as detailed below.**

**Current § 909, HEIGHT AND PENTHOUSES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 911 and amended to correct references, to read as follows:**

**911 HEIGHT AND PENTHOUSES (WR)**

911.1 In the WR zone, the point chosen for measurement of height shall conform to the other provisions of this title, except that the point may be on either a public or private street.

911.2 For the purposes of applying general zoning requirements of this title:  
 (a) The WR-1, WR-7, and WR-8 zones shall be considered Residence zones; and  
 (b) The WR-2, WR-3, WR-4, WR-5, WR-6, WR-9, WR-10, WR-11, WR-12, WR-13, WR-14, and WR-15 zones shall be considered Mixed Use or Commercial Zones.

911.3 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle C § 911.4.

911.4 A penthouse constructed in accordance with the provisions of Subtitle C, Chapter 15, may be erected to a height in excess of that permitted, but shall not exceed the height, as measured from the surface of the roof upon which the penthouse sits, in the following table:

**TABLE K § 911.4: TABLE OF PENTHOUSE STANDARDS**

| <b>Zone District</b>   | <b>Maximum Penthouse Height</b>                                     | <b>Maximum Penthouse Stories</b>                                  |
|------------------------|---------------------------------------------------------------------|-------------------------------------------------------------------|
| WR-1, WR-6             | Pursuant to Subtitle C § 1500.4                                     | Pursuant to Subtitle C § 1500.4                                   |
| WR-4, WR-5, WR-7, WR-9 | 12 feet;<br>except 15 feet for penthouse mechanical space           | 1 story;<br>second story permitted for penthouse mechanical space |
| WR-8                   | 12 feet;<br>except 18 feet, 6 inches for penthouse mechanical space | 1 story;<br>second story permitted for penthouse mechanical space |
| WR-3                   | 20 feet                                                             | 1 story;<br>second story permitted for penthouse mechanical space |

| Zone District                                  | Maximum Penthouse Height | Maximum Penthouse Stories                                                     |
|------------------------------------------------|--------------------------|-------------------------------------------------------------------------------|
| WR-2, WR-10, WR-11, WR-12, WR-13, WR-14, WR-15 | 20 feet                  | 1 story plus mezzanine; second story permitted for penthouse mechanical space |

**Current § 912, CONDITIONAL USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 914 and amended, as detailed below.**

**Current § 910, STREETSCAPE STANDARDS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 912, to read as follows:**

**912 STREETSCAPE STANDARDS (WR)**

912.1 In all WR zones, all buildings are subject to the following design requirements ...

**Current § 913, SPECIAL EXCEPTION USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 915 and amended, as detailed below.**

**Current § 911, USE PERMISSIONS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 913 and amended by adding a new § 913.6 and correcting references, to read as follows:**

**913 USE PERMISSIONS (WR)**

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

- (a) Agriculture ...
- (b) Antennas subject to the conditions of Subtitle K § 914.2;
- (c) Arts, design, and creation subject to the conditions of Subtitle K § 914.3;  
...
- (f) Daytime care subject to the conditions of Subtitle K § 914.4;
- (g) Emergency shelter subject to the conditions of Subtitle K § 914.5;  
...
- (i) Parking subject to the conditions of Subtitle K § 914.8;  
...
- (l) Retail subject to the conditions of Subtitle K § 914.9;



...

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

- (a) Agriculture ...
- (b) Antennas subject to the conditions of Subtitle K § 914.2;  
...
- (g) Eating and drinking establishments subject to the conditions of Subtitle K § 914.6;  
  
...
- (k) Emergency shelter subject to the conditions of Subtitle K § 914.5;  
...
- (s) Parking subject to the conditions of Subtitle K § 914.8;  
...
- (x) Service, general subject to the conditions of Subtitle K § 914.10; and  
...

913.3 The uses in this section shall be permitted as a matter of right in the WR-6 zone, subject to ...

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

- (a) Agriculture ...
- (b) Antennas subject to the conditions of Subtitle K § 914.2;  
...
- (g) Education, college/university subject to the conditions of Subtitle K § 914.7;
- (h) Education, private, subject to the conditions of Subtitle K § 914.7;
- (i) Education, public, subject to the conditions of Subtitle K § 914.7;
- (j) Emergency shelter subject to the conditions of Subtitle K § 914.5;  
...
- (o) Parking subject to the conditions of Subtitle K § 914.8;  
...

(f) Retail subject to the conditions of Subtitle K § 914.9; and  
...

913.5 The uses in this section shall be permitted as a matter of right in the WR-8 zone, subject to any applicable conditions:

(a) Agriculture ...

(b) Antennas subject to the conditions of Subtitle K § 914.2;

(c) Arts, design, and creation subject to the conditions of Subtitle K § 914.3;

...

(g) Emergency shelter subject to the conditions of Subtitle K § 914.5;

...

(k) Parking subject to the conditions of Subtitle K § 914.8;

...

(n) Retail subject to the conditions of Subtitle K § 914.9; and

...

913.6 The uses in this section shall be permitted as a matter of right in the WR-9 through WR-15 zones, subject to any applicable conditions:

(a) Daytime Care

(b) Office

(c) Medical Care

(d) Institutional, General

(e) Lodging uses devoted to persons associated with the permitted medical care and institutional uses at Children’s National at Walter Reed including, but not limited to, patient families, visiting researchers, and medical professionals.

913.7 For the purposes of the WR zone ...

913.8 A home occupation use, including a business, profession ...

**Current § 914, PROHIBITED USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by renumbering it as new § 916 and amended, as detailed below.**

**Current § 912, CONDITIONAL USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 914 and amended by deleting current § 912.6 and renumbering the following subsections, and by correcting references, to read as follows:**

**914 CONDITIONAL USES (WR)**

- 914.1 The following conditions shall apply as required in Subtitle K § 913.
- 914.2 Antennas shall be permitted ...
- 914.3 An arts, design, and creation use shall be permitted ...
- 914.4 Daytime care uses shall be permitted in the WR-1 zone as a matter of right subject to the following conditions:
- (a) The dwelling unit in which the use is located ...
- 914.5 An emergency shelter for one (1) to four (4) persons, not including resident supervisors or staff and their families, shall be a matter-of-right use.
- 914.6 All eating and drinking establishment uses shall be permitted as a matter of right except that:
- (a) A drive-through shall not be permitted; and
  - (b) Fast food establishments and a fast food establishment that meets the definition of a food delivery services may be permitted by special exception pursuant to Subtitle K § 915.2(d) and if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9.
- 914.7 Education (public, private, college/university) uses shall ...
- 914.8 Parking shall be permitted as a matter of right provided that all off-street parking is provided in compliance with the provisions of Subtitle K § 917;
- 914.9 A sale in the nature of a yard ...
- 914.10 Service, general uses shall be ...

**Current § 915, VEHICLE PARKING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 917 and amended, as detailed below.**

Current § 913, SPECIAL EXCEPTION USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 915 and amended to correct references, to read as follows:

915 SPECIAL EXCEPTION USES (WR)

915.1 The following uses shall be permitted in the WR-1 zone if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable conditions of each paragraph below:

- (a) Community-based institutional facilities (CBIF) ...
- (b) Community solar facility not meeting the requirements of Subtitle K § 913.1(e), subject to the following ...
- ...

915.2 The following uses shall be permitted in the WR-2, WR-3, WR-4, and WR-5 zones if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable conditions of each paragraph below:

- (a) Animal sales, care, and boarding shall be ...
- (b) Community-based institutional facilities (CBIF) for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the conditions of Subtitle K § 915.1(a);
- (c) Community solar facility not meeting the requirements of Subtitle K § 913.1(e), subject to ...
- ...
- (e) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions of Subtitle K § 915.1(c); and
- ...

915.3 The following uses shall be permitted in the WR-7 and WR-8 zones if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable conditions of each paragraph below:

- (a) Community solar facility not meeting the requirements of Subtitle K § 913.1(e), subject to the following:
  - (1) Provision of a landscaped area ...
  - (2) The Office of Zoning shall refer the Application, including the landscape plan, to the District Department of Energy and Environment

for review and; recommendation if filed to the case record within the forty (40)-day period established by Subtitle A § 211; and

- (b) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions of Subtitle K § 915.1(c).

**Current § 916, BICYCLE PARKING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 918 and amended, as detailed below.**

**Current § 914, PROHIBITED USES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is amended by renumbering it as new § 916 and by correcting references, to read as follows:**

**916 PROHIBITED USES (WR)**

916.1 The following uses are prohibited in the WR zone as either a principal or accessory use:

- (a) Drive-through or drive-in ...
- (b) Any establishment that has as its principal use ...
- (c) Self-service storage establishment that provides ...

916.2 Any use not otherwise permitted by Subtitle K §§ 913, 914, or 915, or permitted as an accessory or home occupation in this chapter shall not be permitted.

**Current § 917, LOADING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 919, as detailed below.**

**Current § 915, VEHICLE PARKING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 917 and amended by adding new §§ 917.4 and 917.5 and renumbering the existing subsections and by correcting references, to read as follows:**

**917 VEHICLE PARKING (WR)**

917.1 Except as noted in this section, the provisions and requirements of Subtitle C, Chapter 7, Vehicle Parking, shall not apply, and the following provisions of this section shall apply.

- 917.2 In the WR-1 through WR-8 zones, the cumulative total of all automobile parking spaces, including below-grade surface, and above-grade structured parking, shall not exceed a total of three thousand four hundred (3,400) parking spaces.
- 917.3 Each application to the Department of Consumer and Regulatory Affairs for a development within the WR-1 through WR-8 zones that includes parking shall provide an accounting of the total number of parking spaces which count towards the parking space limit of Subtitle K § 917.2.
- 917.4 In the WR-9 through WR-15 zones, the cumulative total of all automobile parking spaces, including below-grade, surface, and above-grade structured parking, shall not exceed a total of one thousand six hundred (1,600) parking spaces.
- 917.5 Each application to the Department of Consumer and Regulatory Affairs for a development within the WR-9 through WR-15 zones that includes parking shall provide an accounting of the total number of parking spaces which count towards the parking space limit of Subtitle K § 917.4.
- 917.6 Parallel parking spaces on a private street shall not count toward the limits of Subtitle K §§ 917.2 and 917.4, provided they are open to use by the public and not reserved for a particular or private use.
- 917.7 Parking spaces dedicated for use by a car-sharing service or dedicated for the charging of electric vehicles shall not count toward the limits of Subtitle K §§ 917.2 and 917.4.
- 917.8 Additional parking spaces beyond the limits of Subtitle K §§ 917.2 or 917.4, as applicable, shall be permitted by special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9 and provided that the applicant addresses compliance with the following standards:
  - (a) The application shall include:
    - (1) A detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to Subtitle K §§ 917.2 and 917.4, as applicable;
    - (2) A traffic study assessing ...
    - ...
  - (b) Vehicular access and egress ...
- 917.9 For any application pursuant to Subtitle K § 917.8:
  - (a) The Board of Zoning Adjustment shall ...

(b) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the individual WR zones.

917.10 Parking spaces need not be located on the same lot as the building or buildings they are intended to serve, but must be located within the WR zones.

917.11 Parking spaces may be shared among more than one (1) use, whether the uses are on the same lot or on separate lots. A parking space that is shared among more than one (1) use shall be subject to the following conditions:

(a) The parking space and the uses shall all be within the WR zones;  
...

(c) A written agreement assigning the parking space to each use, stating compliance with Subtitle K § 917.11(b), shall be signed by the owner of the parking space and the owner of each use requiring the parking space;  
...

917.12 Parking spaces shall not be located ...

917.13 An above-grade structure constructed or renovated to provide parking after September 4, 2015, when this chapter was adopted, shall be lined with preferred uses on the ground and second floors to a depth of fifteen feet (15 ft.) minimum, except the portions of the building façade used for vehicular, bicycle, or pedestrian access to the parking area. For the purposes of this subsection, preferred uses shall include any use from the arts design and creation; eating and drinking establishments; office; residential; retail; service, general; and service, financial use groups.

917.14 All parking spaces, other than mechanical parking spaces, shall be ...

917.15 New parking spaces and drive aisles shall be ...

917.16 Approval of a driveway under this chapter shall not be ...

917.17 All access to parking facilities, whether from a ...

**Current § 918, AFFORDABLE HOUSING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 920 and amended, as detailed below.**

**Current § 916, BICYCLE PARKING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 918 and amended to a reference, to read as follows:**

**918 BICYCLE PARKING (WR)**

918.1 Bicycle parking shall be provided in accordance with the requirements of Subtitle C, Chapter 8, and in accordance with Subtitle K § 918.2.

918.2 Long-term bicycle parking spaces shall ...

**Current § 919, GREEN AREA RATIO (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 921 and amended, as detailed below.**

**Current § 917, LOADING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 919, to read as follows:**

**919 LOADING (WR)**

919.1 Loading shall be provided ...

919.2 Access to loading and service/delivery space shall ...

919.3 All access to loading facilities ...

919.4 In addition to the loading screening ...

**Current § 920, PLANNED UNIT DEVELOPMENTS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-10, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 922, to read as follows:**

**Current § 918, AFFORDABLE HOUSING (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 920 and amended by correcting references, to read as follows:**

**920 AFFORDABLE HOUSING (WR)**

920.1 Affordable housing shall be provided as described in this section. The provisions of Subtitle C, Chapter 10 shall not apply in the WR-1 through WR-8 zones, with the exception of the relevant penthouse habitable space affordable housing provisions pursuant to Subtitle C § 1500.11 as specified in Subtitle K § 920.13.

920.2 The purposes of this section are ...

920.3 The FAR, lot occupancy, and height ...



- 920.4 For the WR-1 through WR-8 zones, no less than four hundred and thirty-two (432) units of affordable housing shall be subject to affordable housing covenants that collectively result in compliance with Subtitle K §§ 920.5 and 920.6.
- 920.5 Of the four hundred and thirty-two (432) units ...
- 920.6 A minimum amount of affordable units shall be provided in each of the WR-1 through WR-8 zones, and in each multifamily building, according to the following table. The remaining affordable units may be located anywhere in the WR-1 through WR-8 zones.

**TABLE K § 920.6: AFFORDABLE UNIT REQUIREMENTS**

|             | <b>Column A</b>                                                                               | <b>Column B</b>                                                                                                            |
|-------------|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| <b>Zone</b> | <b>Minimum Percentage of Residential Units to be Provided as Affordable Units in the Zone</b> | <b>Of the Units Prescribed in Column A, the Minimum Percentage to be Provided in Each Multifamily Building in the Zone</b> |
| WR-1        | 8%                                                                                            | n/a                                                                                                                        |
| WR-2        | 8%                                                                                            | 20%                                                                                                                        |
| WR-3        | 8%                                                                                            | 12.5%                                                                                                                      |
| WR-4        | 8%                                                                                            | 20%                                                                                                                        |
| WR-5        | 8%                                                                                            | 25%                                                                                                                        |
| WR-7        | 8%                                                                                            | 25%                                                                                                                        |
| WR-8        | 8%                                                                                            | 25%                                                                                                                        |

- 920.7 At the expiration of the affordability control period established by its affordable housing covenant, each multifamily building within the WR-2 through WR-8 zones shall devote no less than eight percent (8%) of its units to affordable units, which shall remain affordable in accordance with Subtitle K § 920.8 for so long as the multifamily building exists.
- 920.8 At the expiration of the affordability control period ....
- 920.9 At the expiration of all affordability control periods established by affordable housing covenants recorded against properties in the WR-1 zone, no less than eight percent (8%) of all units within the WR-1 zone shall be devoted to affordable units, which shall remain affordable in accordance with Subtitle K § 920.10 for so long as the units exists.
- 920.10 At the expiration of all affordability control periods ...
- 920.11 In the WR-1 through WR-8 zones, each application for a building permit for a residential use shall include in tabular and map format a description of which affordable units have been provided to date and where, which affordable units have

yet to be provided and where they are anticipated to be provided, and how the provisions of this section are being met.

- 920.12 Pursuant to Subtitle X, Chapter 9, the Board of Zoning Adjustment may hear and decide any requests for relief from Subtitle K §§ 920.5 and 920.6, subject to the application demonstrating that the purposes of Subtitle K § 920.2 would still be met.
- 920.13 Affordable units, in addition to the other requirements of this section, arising from penthouse habitable space pursuant to Subtitle C §§ 1500.11 and 1500.12 shall be provided in accordance with the relevant provisions of Subtitle C, Chapter 10, for residential penthouse habitable space or Subtitle C § 1505 for non-residential penthouse space, except that such units may be located anywhere within the area covered by any WR zone.

**Current § 921, SPECIAL EXCEPTION REVIEW (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 923, as detailed below.**

**Current § 919, GREEN AREA RATIO (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 921 and amended by correcting references, to read as follows:**

**921 GREEN AREA RATIO (WR)**

- 921.1 In the WR-2, WR-3, WR-4, WR-5, WR-7, WR-8, and WR-10 through WR-15 zones, the GAR requirement is four-tenths (0.4), pursuant to Subtitle C, Chapter 6.

**Current § 920, PLANNED UNIT DEVELOPMENTS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-10, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 922, to read as follows:**

**922 PLANNED UNIT DEVELOPMENTS (WR)**

- 922.1 A planned unit development (PUD) in the WR zone shall ...

**Current § 921, SPECIAL EXCEPTION REVIEW (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-15, of Subtitle K, SPECIAL PURPOSE ZONES, is renumbered as new § 923, to read as follows:**

**923 SPECIAL EXCEPTION RELIEF (WR)**

- 923.1 Except for Subtitle K §§ 903.10 through 903.14 and 903.18 ...

In accordance with the provisions of Subtitle Z § 604.9, this Notice of Final Rulemaking shall become final and effective upon publication in the *D.C. Register*; that is, on October 9, 2020.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**NOTICE OF FINAL RULEMAKING**  
**Z.C. CASE NO. 20-04<sup>1</sup>**  
**(Text Amendment – Subtitle K of Title 11 DCMR)**  
**(Preferred Use Requirements of the Capitol Gateway Zone)**  
**September 14, 2020**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of the following amendment of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

The text amendment clarifies the application of the preferred use requirements to properties with street frontage along Potomac Avenue, S.W., as follows:

- Subtitle K, Special Purpose Zones  
Chapter 5, Capitol Gateway Zones – CG-1 through CG-7
  - § 509.1 – adding Potomac Avenue, S.W. to the designated street list subject to preferred use requirements
  - § 509.3 – adding a new ground-floor use requirement for properties that front on Potomac Avenue, S.W., and clarifying text

### **Setdown**

On January 31, 2020, the Office of Planning (OP) filed a petition proposing these changes which were designed to encourage uses that activate Potomac Avenue, S.W. OP filed a pre-hearing report on April 24, 2020, confirming the changes to the proposed text amendment due to consultation with the Office of Attorney General and the Department of Consumer and Regulatory Affairs as published in the public hearing notice.

At its public meeting on February 10, 2020, the Commission voted to grant's OP's request to set down the proposed text amendment for a public hearing.

### **ANC Report**

Advisory Neighborhood Commission (ANC) 6D, which includes the area affected by the proposed text amendment, submitted a May 4, 2020, report that supported the proposed text amendment but raised two concerns:

- To encourage smaller retailers and services in ground-floor spaces, the proposed amendment to § 509.3(b) might be more effective by substituting the current 0.5 FAR requirement with a 75-foot maximum depth instead of the proposed minimum depth; and

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<sup>1</sup> For Office of Zoning tracking only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 20-04.

- The current twenty-five percent (25%) limit on general or financial services, while useful for financial service uses, might also prevent general services uses needed by the new community being created at Buzzard Point, such as an urgent care facility.

### Public Hearing

At its public hearing on May 4, 2020, the Commission heard testimony from OP in support of the proposed text amendment and from the ANC's authorized representative. OP explained that the 75-foot minimum depth was chosen as the best way of encouraging uses that activate Potomac Avenue, S.W. because this would provide flexibility to owners of property with very deep lots that would be disadvantage by the 0.5 FAR limitation proposed by the ANC. OP acknowledged the ANC's concern about the twenty-five percent (25%) limit on general or financial services but asserted that this raised larger issues that should be considered as part of a broader text amendment and not be limited by the narrow scope of the proposed text amendment.

### Proposed Action

At the close of the public hearing, the Commission agreed with OP's suggestion that the ANC's proposed changes were better addressed by a future broader text amendment and therefore voted to take **PROPOSED ACTION** and to authorize the publication of a Notice of Proposed Rulemaking:

**VOTE (May 4, 2020):**            **5-0-0**        (Peter G. May, Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Michael G. Turnbull to **APPROVE**)

### Notice of Proposed Rulemaking

The Commission published the proposed amendment as a Notice of Proposed Rulemaking (NOPR) in the *D.C. Register* (67 DCR 8083, *et seq.*) on July 3, 2020.

No comments to the NOPR were received in the thirty (30)-day period required by § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968. (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl).)

### National Capital Planning Commission (NCPC)

The Commission referred the proposed amendment to the National Capital Planning Commission (NCPC) for the thirty (30)-day review period required by § 492 of the District Charter.

NCPC filed a report dated June 3, 2020, stating that NCPC had determined, pursuant to delegated authority, that the proposed amendment was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any identified federal interests (Exhibit 13).

### Great Weight" to the Recommendations of OP

The Commission must give "great weight" to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8. ) *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

The Commission finds OP's recommendation that the Commission adopt the text amendment persuasive and concurs in that judgment.

### **“Great Weight” to the Written Report of the ANCs**

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

The Commission concludes that OP satisfactorily addressed the two specific issues raised by the ANC report, including considering the ANC's broader concerns in a future text amendment with a larger focus. The Commission notes the ANC's general support for the text amendment.

### **Final Action**

At its public meeting on September 14, 2020, the Zoning Commission voted to take **FINAL ACTION** and to authorize the publication of a Notice of Final Rulemaking:

**VOTE (September 14, 2020): 5-0-0** (Peter A. Shapiro, Michael G. Turnbull, Anthony J. Hood, Peter G. May, Robert E. Miller to **APPROVE**)

The complete record in the case, including the OP reports and transcript of the public hearing, can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

The following amendments to the text of the Zoning Regulations are hereby adopted:

### **I. Amendments to Subtitle K, SPECIAL PURPOSE ZONES**

**Subsections 509.1 and 509.3 of § 509, USE REQUIREMENTS FOR DESIGNATED STREETS (CG), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are amended to read as follows:**

- 509.1 Preferred use requirements shall apply only to the following designated streets:
- (a) M Street, S.E. or S.W.;
  - (b) Half Street, S.E.;
  - (c) First Street, S.E.; and

(d) Potomac Avenue, S.W.

509.2 Preferred uses of this section ...<sup>2</sup>

509.3 Any new building with frontage on the streets identified in Subtitle K § 509.1 shall comply with the following:

- (a) Except for buildings with street frontage on Potomac Avenue, S.W., buildings shall devote not less than 0.5 FAR of the ground floor gross floor area to one (1) or more of the preferred uses;
- (b) For buildings with street frontage on Potomac Avenue, S.W., one (1) or more preferred uses must be provided on the ground floor for a minimum depth of seventy-five feet (75 ft.) from the building's Potomac Avenue frontage;
- (c) Devote no more than twenty-five percent (25%) of the ground floor gross floor area preferred use requirement to service uses (general or financial);
- (d) Devote one hundred percent (100%) of the building's street frontage along the designated street to preferred uses except for space devoted to building entrances or required for fire control; and
- (e) For good cause shown, the Zoning Commission may authorize interim occupancy by a non-preferred use of the preferred use space required by that this subsection for up to five (5) years, provided that:
  - (1) The interim non-preferred use space is suitably designed for future occupancy by a preferred use; and
  - (2) The interim non-preferred use space is designed to fully meet the applicable design regulations of Subtitle K § 510.

In accordance with the provisions of Subtitle Z § 604.9, this Notice of Final Rulemaking shall become final and effective upon publication in the *D.C. Register*; that is, on October 9, 2020.

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<sup>2</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

**FORMAL CASE NO. 1130, IN THE MATTER OF THE INVESTIGATION INTO MODERNIZING THE ENERGY DELIVERY SYSTEM FOR INCREASED SUSTAINABILITY; AND**

**RM21-2020-01, IN THE MATTER OF 15 DCMR CHAPTER 21-PROVISIONS FOR CONSTRUCTION OF ELECTRIC GENERATING FACILITIES AND TRANSMISSION LINES,**

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code §§ 34-505 (2019 Repl.) and 34-802 (2019 Repl.), hereby gives notice of its intent to amend Chapter 21 (Provisions for Construction of Electric Generating Facilities and Transmission Lines), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR). Written comments are due in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

2. The District of Columbia has established clean energy goals that encourage among other things the development of distributed energy resources, including distributed generation, such as Solar Energy Systems, microturbines, and cogeneration both as standalone as well as part of microgrids. As the deployment of distributed generation expands and adjusts to meet demand, the Commission must examine how it can best use its broad regulatory authority to support the District's energy goals while simultaneously adhering to the statutory provisions in D.C. Code § 34-1516 which prohibit the construction of electric generating facilities, regardless of capacity, for the purpose of the retail or wholesale sale of electricity, without first obtaining Commission approval. The Commission's purpose in revising these construction rules is to promote the development of distributed generation and renewable energy by providing a streamlined application process for Commission approval of the construction of electric generating facilities, the electricity generated from which will be sold, with a capacity of less than two (2) megawatts. The changes reflect conforming amendments to the current Chapter 21 rules governing the construction of electric generating facilities, with a capacity of more than two (2) megawatts, the electricity generated from which will be sold are also proposed.

**Chapter 21, PROVISIONS FOR CONSTRUCTION OF ELECTRIC GENERATING FACILITIES AND TRANSMISSION LINES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:**

**Section 2100, APPLICABILITY, is amended as follows:**

2100.1 This chapter shall govern the construction of any electric generating facility for the purpose of the retail and wholesale sale of electricity, regardless of the capacity of the facility, pursuant to a Power Purchase Agreement or other contractual arrangement; overhead transmission lines designed to carry sixty-nine thousand (69,000) volts or more; and underground transmission lines in excess of sixty-nine thousand (69,000) volts as well as any substations connected to such lines.

2100.2 No person shall construct an electric generating facility, an overhead transmission line designed to carry sixty-nine thousand (69,000) volts or greater, or substation connected to such line, unless the project has been approved in accordance with this chapter. Unless specifically required by law or other provision of this chapter, Commission approval shall not be required for the routine repair and replacement activities necessary to maintain an electric generating facility or transmission line.

...

**The title to Section 2101, APPLICATION FILING REQUIREMENTS, is amended to read, APPLICATION FILING REQUIREMENTS FOR THE CONSTRUCTION OF ELECTRIC GENERATING FACILITIES WITH A CAPACITY OF TWO (2) MEGAWATTS OR ABOVE, TRANSMISSION LINES, AND SUBSTATIONS CONNECTED TO TRANSMISSION LINES, and the section is amended as follows:**

2101.1 An application for approval of the construction of an electric generating facility with a capacity of two (2) megawatts or above, a transmission line, or a substation covered under this chapter shall include the following information:

- (a) The name and address of the principal place of business of the applicant;
- (b) The name, title, and address of the person authorized to receive notices and communications with respect to the application;
- (c) The location or locations where the public may inspect or obtain a copy of the application;
- (d) A list of each District of Columbia, state, or federal government agency having authority to approve or disapprove the construction or operation of the project and containing the following:
  - (1) A statement indicating whether the necessary approval from each agency has been obtained, with a copy of each approval or disapproval attached;
  - (2) A statement indicating the circumstances under which any necessary approval has not been obtained; and
  - (3) A statement indicating whether any waiver or variance has been requested, with a copy of each approval or disapproval attached.
- (e) A general description of the generating station under § 2102, or the transmission line under § 2104, and the alternatives considered under §§ 2103 and 2104, respectively;
- (f) The environmental information required under § 2108;
- (g) A statement of the engineering justifications for the project;



- (h) A statement of the safety considerations incorporated into the design, construction, and maintenance of the project;
- (i) A statement of the socioeconomic impact of the project;
- (j) A statement of contacts with community groups and the affected community;
- (k) A statement that the applicant has complied with all applicable environmental and zoning laws; and
- (l) A statement that the applicant has complied or will comply with the applicable PJM Interconnection, L.L.C. (PJM) tariff and requirements for the interconnection of new and expanded electric generating facilities within the PJM transmission system.

...

**The title to Section 2102, DESCRIPTION OF GENERATING FACILITY, is amended to read, DESCRIPTION OF ELECTRIC GENERATING FACILITY WITH A CAPACITY OF TWO (2) MEGAWATTS OR ABOVE, and the section is amended as follows:**

2102.1 The description of an electric generating facility with a capacity of two (2) megawatts or above shall include the following:

- (a) Location;
- (b) All important design and engineering features, including fuel requirements, heat rates, emission rates, space requirements, transportation facilities, water requirements, and transmission requirements;
- (c) Operational features, including operation and maintenance personnel and equipment;
- (d) The schedule for engineering, construction, and operation of the generating stations;
- (e) The impact of the proposed generating station on system operations, reliability, reserve margins, and capacity factors;
- (f) A statement of the reasons for the selection of the design and the site of the generating facility, including the location and identification of the following sites from which the project would be clearly visible:
  - (1) Residential structures;
  - (2) Historical structure and land sites;

- (3) Institutional land, including school hospitals, and pre-school facilities;
- (4) Recreational area;
- (5) Aesthetic;
- (6) Archaeological;
- (7) Wildlife management area; and
- (8) Park or forest.

**The title to Section 2103, ALTERNATIVE GENERATING FACILITY, is amended to read, ALTERNATIVE ELECTRIC GENERATING FACILITY WITH A CAPACITY OF TWO (2) MEGAWATTS OR ABOVE, and the section is amended as follows:**

2103.1 The description of each alternative design or site considered for an electric generating facility with a capacity of two (2) megawatts or above shall include the reasons for rejecting each alternative design or site.

...

**The title to Section 2106, PROJECT COORDINATING COMMITTEE, is amended to read, PROJECT COORDINATING COMMITTEE FOR AN ELECTRIC GENERATING FACILITY WITH A CAPACITY OF TWO (2) MEGAWATTS OR ABOVE, A TRANSMISSION LINE, OR A SUBSTATION CONNECTED TO TRANSMISSION LINE APPLICANT, and the section is amended as follows:**

2106.1 Once an application for an electric generating facility with a capacity of two (2) megawatts or more, a transmission line, or a substation connected to transmission line has been properly filed, the applicant may request the formation of a project coordinating committee. If the request is approved, the Committee shall consist of the following members:

- (a) A chairperson, who shall be designated by the Commission;
- (b) A representative of the applicant;
- (c) A representative from the Office of the People’s Counsel, if a notice of intent to participate on the committee is filed within ten (10) days of the date of the filing of a request to form a project coordinating committee;
- (d) A representative from each District of Columbia agency that has as follows:
  - (1) Authority to issue a license, permit, or authorization before the construction or operation of the project; or

- (2) A direct interest in the project;
- (e) Pepco, if Pepco is not the applicant;
- (f) A representative designated by the Executive Office of the Mayor; and
- (g) A representative of any federal agency or independent system operator that, in the Commission’s view, has an interest in the project.

...

**The title to Section 2107, COMMUNITY ADVISORY GROUP, is amended to read, COMMUNITY ADVISORY GROUP FOR AN ELECTRIC GENERATING FACILITY WITH A CAPACITY OF TWO (2) MEGAWATTS OR ABOVE, TRANSMISSION LINE, OR SUBSTATION CONNECTED TO TRANSMISSION LINE, and the section is amended as follows:**

2107.1 In order to inform and educate the community regarding the construction and operation of any proposed for an electric generating facility with a capacity of two (2) megawatts or above, a transmission line, or a substation connected to transmission line, the applicant shall convene a community advisory group.

...

**The title to Section 2108, ENVIRONMENTAL IMPACT STATEMENT, is amended to read, ENVIRONMENTAL IMPACT STATEMENT FOR AN ELECTRIC GENERATING FACILITY WITH A CAPACITY OF TWO (2) MEGAWATTS OR ABOVE, TRANSMISSION LINE, OR SUBSTATION CONNECTED TO TRANSMISSION LINE, and the section is amended as follows:**

2108.1 The applicant for an electric generating facility with a capacity of two (2) megawatts or above, a transmission line, or a substation connected to transmission line shall submit an Environmental Impact Statement (EIS). At a minimum, the EIS shall evaluate the following potential environmental impacts:

- (a) Air quality, National Ambient Air Quality Standards (NAAQS). The analysis of air quality shall include an analysis of the following six (6) criteria pollutants in the context of NAAQS:
  - (1) Sulfur dioxide;
  - (2) Nitrogen oxides;
  - (3) Carbon monoxide;
  - (4) Particulate matter (PM 2.5 and PM10);

- (5) Ozone; and
- (6) Lead.
- (b) Air Quality, other emissions: The analysis of air quality shall include all other emissions regulated for the utility industry under the Federal Clean Air Act;
- (c) Surface and ground water resources. The analysis of surface and ground water resources shall include the following:
  - (1) Water availability; and
  - (2) Water quality, including discharge, storm water runoff, and potential spill events.
- (d) Land use, socioeconomic, and aesthetic conditions: The analysis of these items shall evaluate, at a minimum, the following:
  - (1) Appropriate zoning and compatibility with adjacent land use;
  - (2) Impact on traffic;
  - (3) Impact on cultural and historical resources; and
  - (4) Visibility impacts in terms of air pollution effects and aesthetics.
- (e) Noise conditions: The analysis of noise shall include the following:
  - (1) A complete review of standards that will be met;
  - (2) The points of measurement for noise impacts;
  - (3) A comparison of the impact of the action to common outdoor sounds at that location; and
  - (4) A complete explanation of the methodology used for the noise impact measurements.
- (f) Aquatic and terrestrial ecology resources: The analysis of aquatic and terrestrial ecology shall evaluate the impact upon the following:
  - (1) Fish;
  - (2) Wildlife;
  - (3) Vegetation; and

- (4) Direct discharges into surface waters and impact on wetland habitats; and
- (g) Electric and magnetic fields (EMF): Until applicable laws governing EMF are enacted, the applicant shall submit the following information:
  - (1) An update of the general research on the health effects of EMF;
  - (2) The relationship of the proposed action to the increase or decrease of EMF, including any mitigating measures that could be employed to decrease EMF;
  - (3) The applicant’s efforts to measure and better understand background EMF in the communities affected by the proposed action; and
  - (4) If and when laws are enacted, then the EIS shall demonstrate compliance with all applicable laws.

...

**The title to Section 2109, PHASED PROCEEDINGS ON THE APPLICATION, is amended to read, PHASED PROCEEDINGS ON THE APPLICATION FOR AN ELECTRIC GENERATING FACILITY WITH A CAPACITY OF TWO (2) MEGAWATTS OR ABOVE, TRANSMISSION LINE, OR SUBSTATION CONNECTED TO TRANSMISSION LINE, and the section is amended as follows:**

2109.1 The applicant for an electric generating facility with a capacity of two (2) megawatts or above, a transmission line, or a substation connected to a transmission line may request, or the Commission may on its own initiative direct, that the construction project be reviewed in two (2) or more phases.

...

**Section 2110, ANNUAL REPORT ON SMALLER SCALE CONSTRUCTION, is deleted in its entirety.**

...

**The previous Section 2112, WAIVERS AND MODIFICATIONS, is renumbered Section 2113, and the section is amended as follows:**

2113.1 The Commission may impose additional requirements, as circumstances warrant.

2113.2 The Commission may upon request, or on its own initiative after notice to the parties of its intention do so, waive any provision of this chapter for good cause.

...

**A new Section 2112, APPLICATION FILING REQUIREMENTS FOR THE CONSTRUCTION OF AN ELECTRIC GENERATING FACILITY WITH A CAPACITY OF LESS THAN TWO (2) MEGAWATTS, is added to read as follows:**

2112.1 Any person planning to construct an electric generating facility, with a capacity of less than two (2) megawatts, for the purpose of the retail or wholesale sale of electricity, pursuant to a Power Purchase Agreement or other contractual arrangement, shall file the application attached at the end of this chapter for approval by the Commission. For the purposes of this section, the credits that an eligible Customer-Generator receives for producing excess generation by participating in Net Energy Metering are not considered to be sales of electricity.

2112.2 Unless an objection is filed in response to an application under this section within ten (10) days, an application shall be deemed approved. Consistent with the provisions of D.C. Official Code § 34-1516 (2019 Repl.), in the event an objection is filed, the Commission may provide for a notice and hearing, if warranted, in considering whether to grant the application under this section.

2112.3 If an application for any electric generating facility is approved under this section, any expansion of that facility which would result in the facility having a capacity of two (2) megawatts or more shall require approval by the Commission pursuant to the filing requirements prescribed in Section 2101 of this chapter.

...

**Sections 2199, DEFINITIONS, is amended as follows:**

2199.1 For the purposes of this chapter, the following terms and phrases have the following meanings:

**Customer-Generator** – a residential or commercial customer that owns (or leases or contracts) and operates an electric generating facility that: (a) has a capacity of not more than 1000 kilowatts; (b) uses renewable resources, cogeneration, fuel cells, or microturbines; (c) is located on the customer's premises; (d) is interconnected with the Electric Company's transmission and distribution facilities; and (e) is intended primarily to offset all or part of the customer's own electricity requirements.

...

**Electric Generating Facility** – all buildings, easements, real estate, mains, pipes, conduits, fixtures, meters, wires, poles, lamps, devices, and materials of any kind operated, owned, used, or to be used by a person for the generation of electricity. The term includes all buildings, easements, real estate, mains, pipes, conduits, fixtures, meters, wires, poles, lamps, devices, and materials of any kind operated, owned, used, or to be used by a person for cogeneration of electricity.

...

**Net Energy Metering** – the difference between the kilowatt-hours consumed by a Customer-Generator and the kilowatt-hours generated by the Customer-Generator’s facility over any time period determined as if measured by a single meter capable of registering the flow of electricity in two directions.

...

**Power Purchase Agreement** – a legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

3. Any person interested in commenting on the subject matter of this proposed rulemaking action may submit written comments not later than thirty (30) days after publication of this notice in the *D.C. Register* addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 and submitted electronically on the Commission’s website at [https://edocket.dcpSC.org/public/public\\_comments](https://edocket.dcpSC.org/public/public_comments). Copies of the proposed rules may be obtained by visiting the Commission’s website at [www.dcpSC.org](http://www.dcpSC.org) or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPR should call (202) 626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA****NOTICE OF PROPOSED RULEMAKING****RM36-2020-02-E, ELECTRICITY QUALITY OF SERVICE STANDARDS,**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 34-802 and 2-505 of the District of Columbia Code,<sup>1</sup> of its intent to amend Chapter 36 (Electricity Quality of Service Standards), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking (Notice) in the *D.C. Register*.

2. Chapter 36 of Title 15 DCMR contains customer service and reliability standards applicable to the Potomac Electric Power Company's (Pepco) provision of retail electric distribution service in the District of Columbia (District). These reliability performance standards are found in Section 3603 and set forth the requirement that Pepco not exceed the annual system-wide reliability performance standards established for System Average Interruption Frequency Index (SAIFI), a numeric measurement, and System Average Interruption Duration Index (SAIDI), measured in hours (Subsections 3603.10 – 3603.12). These standards include provisions (Subsections 3603.13 and 3603.14) for the enforceability of the reliability performance standards. In addition, Pepco is required to report to the Commission annually on its reliability performance, as measured under these SAIFI and SAIDI indices, as well as under a Customer Average Interruption Duration Index (CAIDI) (Subsection 3603.16).

3. In 2011, the Commission adopted the present Electricity Quality of Service Standards seeking a target for reliability that would place Pepco, no later than 2020, in the top tier of electric distribution systems. The Commission described at that time the steps which it took to calculate the annual SAIFI and SAIDI standards currently prescribed in Subsection 3603.11, explaining that it began with Pepco's 2009 first quartile Institute of Electrical and Electronics Engineers (IEEE) Benchmarking results for SAIDI and SAIFI, considered 2020 as the year when Pepco could reasonably be expected to meet the goal of top quartile performance, and then worked backwards from these targets to derive annual SAIDI and SAIFI standards that reflected measured improvements over the years 2013 through 2020, with the 2020 standard to apply each year thereafter.<sup>2</sup>

4. There are multiple changes that have occurred since 2013 which suggest that the time has come for the Commission to develop new SAIDI and SAIFI standards for Pepco's minimum level of reliability performance in the District. Chiefly, the merger of Exelon Corporation (Exelon) and Pepco in 2018 was accompanied by Pepco's agreement (merger commitment) to improve, through 2020, its SAIDI and SAIFI reliability

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<sup>1</sup> D.C. Official Code § 34-802 (2019 Repl.); § 2-505 (2016 Repl.).

<sup>2</sup> Order No. 16427, ¶ 37, rel. July 7, 2011.



performance beyond what is prescribed under the Commission's rules.<sup>3</sup> Pepco has largely met its merger commitment reliability standards thus far and has significantly improved its SAIDI and SAIFI reliability performance. Therefore, this Notice of Proposed Rulemaking (NOPR) amends the present SAIDI and SAIFI performance standards to prescribe further reliability improvements in Pepco's distribution service in the District.

5. The NOPR maintains Pepco's existing annual reporting of SAIDI, SAIFI and CAIDI but requires (at Subsection 3603.16) Pepco to also report annually the number of customers experiencing three or more interruptions over the course of the year (CEMI<sub>3</sub>). While SAIDI, SAIFI, and CAIDI provide information about reliability performance at a system level, CEMI<sub>3</sub> provides information about reliability performance at the neighborhood and customer levels. Proposed Subsection 3603.16 requires Pepco to report annually its CEMI<sub>3</sub> across the District as a whole, by Ward, and within each District neighborhood by Ward.

6. The proposed SAIDI and SAIFI performance standards are set for a period of three years (2021-2023) and reflect a combination of factors, including, but not limited to: Pepco's actual reliability performance subsequent to its merger with Exelon; Pepco's significant post-merger reliability-driven investments in the District's electric grid, including distribution automation; a continuation in Pepco's deployment of Exelon's utility industry best practices in maintenance, outage restoration and repair; the unique features of the District's electric distribution system, including a significant and growing level of underground service and the current level of electric distribution-related networked service; and finally, industry top-decile reliability performance trends, as well as Exelon's utility fleet electric reliability performance trends.

7. Additionally, Section 3968 (Enforcement) has been added to clearly note the Commission's authority to issue civil penalties pursuant to the provisions of Title 34 of the District of Columbia Code, Sections 34-706(e)(1) and (4), for violations of the Commission's reliability performance standards.<sup>4</sup>

**Chapter 36, ELECTRICITY QUALITY OF SERVICE STANDARDS, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:**

**Section 3603, RELIABILITY PERFORMANCE STANDARDS, is amended as follows:**

3603.11 The reliability performance standards adopted by the Public Service Commission for SAIDI and SAIFI are established as follows:

- (a) For 2021, SAIDI shall be one and one hundredths (1.01) and SAIFI shall be fifty-seven hundredths (0.57);

<sup>3</sup> Order No. 18148, Attachment B, ¶ 54, rel. March 23, 2016.

<sup>4</sup> D.C. Official Code §§ 34-706(e)(1) and (4) (2019 Repl.).

- (b) For 2022, SAIDI shall be ninety-two hundredths (0.92) and SAIFI shall be fifty-four hundredths (0.54); and
- (c) For 2023, SAIDI shall be eighty-three hundredths (0.83) and SAIFI shall be fifty hundredths (0.50).

3603.12 The calculations of these indices shall exclude District of Columbia Major Service Outages (MSOs) and include only outages on District of Columbia feeders.

3603.13 If the electric utility fails to comply with the reliability performance standards in Subsection 3603.11, it may be subject to forfeiture in accordance with D.C. Official Code §§ 34-706 and 34-1508 (2019 Repl.) pursuant to the enforcement procedures in § 3698 of this chapter. The electric utility shall also be required to develop a corrective action plan, which it shall file for the Commission’s information within thirty (30) days of filing its Annual Consolidated Report of the following year.

3603.14 The corrective action plan shall clearly describe the cause(s) of the electric utility’s failure to comply with Subsection 3603.11, describe the corrective measure(s) to be taken to ensure that the standard is met or improved upon in the future, and provide a target date for completion of the corrective measure(s).

...

3603.16 The electric utility shall also report in its Annual Consolidated Report of the following year the following reliability performance information:

- (a) Its annual reliability indices of SAIFI, SAIDI, and CAIDI, calculated first, using District-only data with and without Major Service Outages (MSOs); and second, using District-only data based on the IEEE 1366-2003 standard with and without Major Event Days (MEDs); and.
- (b) The number of its customers experiencing three or more sustained interruptions of power (CEMI<sub>3</sub>) inclusive of MSOs. When reporting CEMI<sub>3</sub>, Pepco shall indicate its CEMI<sub>3</sub> first, across the District as a whole, second, by Ward and third, within each District neighborhood by Ward.

3603.17 [Reserved]

A new Section 3698, ENFORCEMENT, is added to read as follows:

**3698 ENFORCEMENT**

- 3698.1 The rules in Section 3603 are electric reliability performance standards adopted by the Commission in accordance with D.C. Official Code § 34-706(e)(1), and failure to comply with them may result in a civil penalty of up to one hundred thousand dollars (\$100,000) per each violation.
- 3698.2 The Commission may consider the following factors in determining the amount of any civil penalty:
- (a) Number, gravity and duration of previous violation(s);
  - (b) Number, gravity and duration of current violation(s); and
  - (c) The electric utility's good-faith attempt to achieve compliance.
- 3698.3 The Commission may periodically issue compliance guidance outlining its compliance and enforcement priorities, and providing additional guidance on penalty assessment for specific repeated or high-risk types of violations.
- 3698.4 Any civil penalty assessed shall be paid in full no more than thirty (30) days after the date of the Notice of Probable Violation. If there is a request for compromise through mitigation and compromise of the assessed civil penalty or a request for hearing, the civil penalty shall be paid within fifteen (15) days after an agreement is reached or after a final order is issued following a hearing.
- 3698.5 The electric utility shall not pass on to ratepayers in rates or in any other manner, or obtain tax benefits from any civil penalty imposed under this section and any other provision of Title 34 of the D.C. Official Code.

**Subsection 3699.1 of Section 3699, DEFINITIONS, is amended by adding the following definitions:**

...

**Customers Experiencing Multiple Interruptions (CEMI<sub>n</sub>)** – is a reliability performance index, a number that expresses the ratio of individual customers experiencing *n* or more sustained interruptions when compared to the total number of customers served.

**District Neighborhood** – is a unique geographical area of the District of Columbia, the boundaries and identification which are published by the D. C. Office of Planning.

8. Any person interested in commenting on this proposed rulemaking action may submit written comments, not later than thirty (30) days after publication of this Notice in the *D.C. Register*. Comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 and are to be submitted electronically through the Commission's website at [https://edocket.dcpSC.org/public/public\\_comments](https://edocket.dcpSC.org/public/public_comments). Copies of the proposed rules may be obtained by visiting the Commission's website at [www.dcpSC.org](http://www.dcpSC.org). Persons with questions concerning this Notice should call (202) 626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

**DISTRICT DEPARTMENT OF TRANSPORTATION****NOTICE OF SECOND PROPOSED RULEMAKING**

The Director of the District Department of Transportation (“Department”), pursuant to the authority set forth in section 3(C) (coordinating and managing public space permits and records), section 5(3)(D)(i) (allocating and regulating on-street parking), section 5(4)(A) (reviewing and approving public space permit requests), section 6(b) (transferring the public right-of-way maintenance and parking management functions previously delegated to the Department of Public Works (“DPW”) under section III (F) of Reorganization Plan No. 4 of 1983, effective March 1, 1984, to the Department), and section 7 (transferring to the Director of the Department all transportation-related authority previously delegated to the DPW Director by Mayor’s Order 96-175, dated December 9, 1996) of the Department of Transportation Establishment Act of 2002 (“DDOT Establishment Act”), effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.03(3)(C), 50-921.04(a)(3)(Q), 50-921.04(a)(3)(E), 50-921.05(b) and 50-921.06), and the Electric Vehicle Public Infrastructure Expansion Amendment Act of 2018 (D.C. Law 22-78; D.C. Official Code § 50-921.23) hereby gives notice of the intent to adopt the following rulemaking to amend Chapters 24 (Stopping, Standing, Parking, and Other Non-Moving Violations) and 26 (Civil Fines for Moving and Non-Moving Infractions) of Title 18 (Vehicles and Traffic) and Chapter 2 (Rental of Public Space) and Chapter 33 (Public Right-of-Way Occupancy Permits) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 21, 2020 at 67 DCR 1975, with a 30-day public comment period. The District Department of Transportation thoroughly reviewed and considered all public feedback throughout this rulemaking process. DDOT received public comments from a total of 10 commenters.

This second proposed rulemaking removes the maximum of two (2) charging stations per square block, eliminates the prohibition of installing a charger on blocks with Residential Permit Parking (RPP) restrictions, and clarifies that parking meter rates apply only during hours of enforcement.

**Public Comments**

Supportive commenters applauded the District’s efforts to expand electric vehicle (EV) charging infrastructure in the public right-of-way. Supportive comments suggested that DDOT require that permit holders install a station within ten (10) weeks of receiving a permit and that DDOT eliminate sections 2406.24 and 2406.25, leveraging installation in the Central Business District to achieve coverage in all eight (8) Wards. Commenters recommended establishing this deadline to avoid the potential for vendors to reserve a space without ever installing a charger and that DDOT facilitate equity by soliciting proposals for installation at pre-selected locations.

Comments critical of the proposed rulemaking expressed concerns that the amount of curbside space made available for chargers would be insufficient, that DDOT’s proposed meter rate and parking regulations would be overly punitive and do not support efficient use of a charger, and that having multiple charging vendors with the ability to set the charging tariffs would result in an

unpredictable program with costly charging rates. Specific recommendations are summarized below, along with DDOT's response to each.

DDOT received no official resolutions from Advisory Neighborhood Commissions (ANCs).

#### Comments Incorporated into the Second Rulemaking and EV Charging Policy

In response to comments, DDOT is now proposing to expand the amount of eligible space for chargers by removing the limit of two chargers per square block and made RPP blocks eligible for installation of an EV charger. DDOT is also clarifying in this second rulemaking that the parking meter rate would only apply during enforcement hours (9:00 a.m. to 8:00 p.m.) to enable overnight charging of EVs. The rationale behind this decision is detailed below.

DDOT will also incorporate the recommendation that the agency institute a deadline before which a station must be installed into the permit's terms and conditions or internal operating procedures.

#### Removing the Maximum Number of Chargers per Square Block

DDOT agreed that limiting the number of chargers per square block to two (2) imposes unnecessary limitations on the available curbside space for charging. The intent of this proposal was to disperse the charging stations across the District; however, upon reconsideration and receipt of comments, DDOT believes that market forces and regulations encapsulated within this proposed rulemaking, like requiring coverage across eight (8) Wards, will efficiently disperse charging stations and prevent their displacing existing curbside uses.

#### Permitting Chargers on RPP Blocks.

DDOT has also removed the provision that prohibited the installation of charging stations on blocks with RPP restrictions. DDOT removed this restriction to increase the amount of curbside space eligible for chargers and, moreover, allow chargers to be installed closer to where current and potential EV owners live. The exclusion of RPP blocks was proposed to avoid repurposing curbside parking prioritized for residents to another use that is more exclusive. However, upon receipt of comments and reconsideration, DDOT believes that regulations should not preclude a station's installation on RPP blocks, especially when a charging vendor, Pepco, and the community believe that the location is suitable for a charger.

If a charger is proposed on a block with RPP restrictions and has received initial approval from DDOT and Pepco, DDOT will require that a vendor present the proposal to the affected ANC for the permit application to advance. This requirement enhances the existing notice requirement included in D.C. Law 21-269, the Advisory Neighborhood Commissions Omnibus Amendment Act of 2016 (D.C. Code §1-309.10) as it requires a presentation at an ANC meeting as opposed to simply the issuance of a notice of intent (NOI). Presenting before the affected community will help educate residents about why this technology is an important means to achieve the District's larger transportation electrification and sustainability goals and, also, give the public the opportunity to opine on the repurposing of public space in their neighborhood.

Any resolution from an affected ANC regarding a proposed station, whether it is on an RPP block or not, will be afforded Great Weight by DDOT when evaluating an application. After considering

comments and resolutions, DDOT will make a final determination on the permit application.

### Comments Not Incorporated into the Second Rulemaking

In this second proposed rulemaking, DDOT did not amend the parking restrictions, violations, or fines included in the first proposal, increase curbside space for chargers by permitting application on blocks with emergency or rush-hour restrictions, opt to install chargers through a solicitation rather than a public space permit, or retrofit streetlights to support charging ports. The rationale for each of these decisions is detailed below.

#### Increasing the Maximum Parking Session beyond Four (4) Hours

DDOT does not support increasing the maximum parking session above four (4) hours because turnover at these curbside charging spaces during the day is essential to ensuring that the station can benefit the maximum number of people. Data from existing stations illustrate that approximately thirty-two per cent (32%) of the time a vehicle occupies a charger it is not charging. These parking-only sessions diminish the effectiveness of the stations and the number of people they can serve.

The charging stations installed pursuant to this program support “top off” charging during enforcement hours and long-term charging for nearby residents at night. These charging stations are not intended to replace the parking an EV owner would have sought otherwise when going to work or planning long-term visits, nor do they guarantee that every EV can achieve a full charge. Permitting long-term, daytime parking and charging sessions would diminish the benefit of the station as fewer EV owners would have the opportunity to use them. As such, DDOT supports maintaining the four (4) hour maximum session to facilitate turnover and maximize the use and benefit of the station. Current restrictions at existing stations limit parking sessions to four (4) hours; therefore, this proposal represents no change from existing parking and charging policy.

#### Setting the Charging Tariffs

DDOT did not include regulations standardizing a tariff or a charging rate to be assessed to customers because the agency does not have the experience, expertise, or mechanism to set and determine appropriate charging tariffs. The cost of electricity charged to residences, commercial entities, and other customers, e.g. a charging station vendor, in the District is determined by Pepco and the Public Service Commission (PSC), not DDOT. Lacking a formal role in the rate-making process inhibits DDOT’s ability to determine an appropriate fee to charge customers for electricity and establish that rate via regulations.

The variety of pricing frameworks currently employed by vendors across the region also inhibits DDOT’s ability to determine a standardized cost to charge. For example, some vendors charge a usage fee per kilowatt-hour, some vendors permit unlimited charging with a membership fee, and some vendors charge a membership fee and have usage fees for non-members and discounts for members. Some vendors implement a dynamic pricing framework across their charger network to incentivize charging at different times and locations. DDOT believes that vendors should have the flexibility to determine a pricing framework, but encourages vendors, Pepco, and the PSC to work together to ensure that rates are comparable to surrounding jurisdictions and not detrimentally high.

### Contracting as a Project Delivery Method

DDOT does not support pursuing a contract to install chargers at pre-selected locations in each Ward, in lieu of creating a permit, for three (3) reasons; 1) the coordination needed to install charging stations is best orchestrated by DDOT's Public Space Regulation Division, 2) DDOT lacks the expertise necessary to pre-select locations that meet each requirement to successfully host a charger, and 3) expanding the number of charging station vendors will diversify the services offered to EV owners.

DDOT's Public Space Regulation Division (PSRD) has experience successfully fielding permit applications requiring high levels of coordination between the public and private sectors and public utilities and, thus, is best equipped to do so in this circumstance. To install a charger, a vendor will make a request to Pepco and DDOT to assess the feasibility of citing a charger at a proposed location. Pepco and DDOT will then have to determine if the existing utilities and curbside priorities can support a charger. If the existing utilities cannot support the charger, Pepco will have to make the necessary upgrades for them to do so. If DDOT determines that the site is appropriate for a charger, PSRD will work with Pepco and the charging station vendor to permit those upgrades and advance the application to install a charger. PSRD is accustomed to facilitating this type of coordination, especially with Pepco, as staff orchestrate this type of coordination often when fielding applications for building permits and excavation. For these reasons, the PSRD is best equipped to field and assess these applications for permit.

DDOT is not prepared to preselect locations to install chargers because the agency is not best suited to determine if a proposed location meets each requirement for it to successfully support a charger. A qualifying location must conform to DDOT's standards and priorities, have the grid capacity to support a charger, be desirable to the vendor, and have the support of the community. DDOT is not positioned to make each of these determinations, nor is making each of these determinations beforehand an efficient use of time and resources. Because chargers are best sited at locations that have been vetted and supported by vendors, Pepco, DDOT, and the community, the agency supports a process through which vendors propose locations for chargers that are then vetted by Pepco, DDOT, and the community.

Finally, availing the permit application to all EV charging station vendors diversifies the types of charging and pricing frameworks available to customers and fosters competition among vendors. With more vendors and more pricing frameworks, EV owners can pick which vendor meets their needs the most and vendors can compete for business. In addition, not all EVs can receive a Level 3 charge from every Level 3 charger, also known as a DC Fast Charger, due to compatibility issues. Three standards for Level 3 fast charging methods currently exist: CHAdeMO, Combined Charging System (CCS), and Tesla Supercharger. In the United States, each vehicle is generally only compatible with one standard. Therefore, diversifying the number of vendors increases the types of charging that may be available and EV owners' access to them.

### Retrofitting Streetlights

In the past, DDOT had explored the possibility of retrofitting streetlights to support EV charging and determined that such a retrofit is not feasible. Streetlights do not have a voltage high enough to support Level 2 charging and upgrading the infrastructure to do so would be cost prohibitive. In



addition, retrofitting streetlights to include a charge port or plug, without undertaking the infrastructure upgrade, would not meet the requirements of the legislation that stations provide Level 2 charging, be capable of charging more than one vehicle simultaneously, and collect the required data to be included in an annual report.

#### Lower Fines for Parking Violations at EV Chargers

DDOT did not adjust the fines associated with parking violations at charging stations because they are designed to encourage proper and efficient use of the charging station and, as proposed, represent an overall decrease from the existing fines. Currently, vehicles parked for more than four (4) hours between 6:00a.m. and 10:00p.m. at a charger are subject to a fine of one hundred dollars (\$100); the violation within the proposed rulemaking reduces the hours of enforcement to those between 9:00a.m. and 8:00p.m. and lowers the fine for parking longer than four (4) hours to thirty dollars (\$30).

#### “While plugged-in” versus “While-charging”

DDOT maintained the violation as “No parking except for an electric vehicle while plugged in” because the language “while charging” renders a vehicle eligible for a citation immediately upon reaching a full charge and, thus, no longer actively charging; additionally, parking enforcement officers can more easily determine if a vehicle is plugged-in than they can tell if a vehicle is actively charging, especially among a network with multiple charging vendors. Comments supportive of the language “while charging” claimed that bad actors could unplug vehicles to disrupt their charging sessions; however, data at existing stations does not indicate that that is a problem.

#### EV Chargers at Emergency and Rush-hour Restricted Curbsides

DDOT will not permit the installation of an EV charger at curbside spaces with rush-hour restrictions or along corridors designated as emergency routes because impeding the flow of traffic in these two circumstances is not safe. The potential for a vehicle to violate these restrictions creates an undue safety hazard greater than the public benefit that a station may provide. Additionally, that public benefit is diminished by being sited at locations with rush hour and emergency restrictions that reduce the number of available hours a vehicle may be charging. This policy is consistent with that of other DDOT programs such as point-to-point and reserved carsharing; point-to-point carsharing vehicles may not be parked at curbsides with such restriction at any time and reserved carshare companies may not apply to reserve a space where rush-hour restrictions are posted.

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, no later than thirty (30) days after the publication of this notice in the D.C. Register, with Anthony C. Willingham, Policy Analyst, Policy and Legislative Affairs Division, Office of the Director, 55 M Street S.E., 7th Floor, Washington, D.C. 20003. Comments may also be sent electronically to [publicspace.policy@dc.gov](mailto:publicspace.policy@dc.gov). Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation’s web site at [ddot.dc.gov](http://ddot.dc.gov).

**Chapter 24, STOPPING, STANDING, PARKING AND OTHER NON-MOVING VIOLATIONS, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:**

**Section 2406, PARKING PROHIBITED BY POSTED SIGN, is amended as follows:**

**Subsections 2406.14 through 2406.17 are repealed.**

**Subsections 2406.21 through 2406.29 are added to read as follows:**

- 2406.21 The Director is authorized to establish reserved on-street parking spaces for the exclusive use of charging electric vehicles (“electric vehicle charging spaces”) and to reserve space on the sidewalk and street for electric vehicle charging stations and associated equipment, through the issuance in accordance with 24 DCMR 226 of a Public Space Occupancy Permit to a charging station vendor.
- 2406.22 An electric vehicle charging space established pursuant to § 2406.14 shall not:
- (a) Extend more than twenty feet (20') in length;
  - (b) Be located where parking is currently prohibited including blocks with rush hour and snow emergency restrictions; or
  - (c) Be located at a metered space reserved for individuals with disabilities, unless the metered space is relocated at the cost of the applicant and approved by DDOT.
- 2406.23 For every two (2) charging stations installed in the Central Business District by a charging station vendor, seven (7) charging stations, each serving at least two (2) spaces, must be installed outside the Central Business District by the charging station vendor until the charging station vendor has installed one (1) electric vehicle charging station, serving at least two (2) spaces, in each ward.
- 2406.24 A vendor’s permit application for its fifteenth (15<sup>th</sup>) or later charging station shall not be approved unless the vendor has installed and maintains one (1) electric vehicle charging station, serving at least two (2) spaces, in each ward.
- 2406.25 An electric vehicle charging station shall:
- (a) Be located outside of a tree box;
  - (b) Be located ten feet (10') or more from a fire hydrant;
  - (c) Be located twenty-five feet (25') or more from a marked or unmarked intersection;
  - (d) Be located so that it does not protrude into a roadway or a bike lane;

- (e) Be so located as to ensure compliance with the minimum pedestrian clearance widths as set forth in the District Department of Transportation Design and Engineering Manual; and
  - (f) Display the contact information of the vendor to report any issues.
- 2406.26 Electric vehicle supply equipment placed on a sidewalk that supplies an on-street electric vehicle charging station shall not interfere with the minimum pedestrian clearance widths as set forth in the District Department of Transportation Design and Engineering Manual;
- 2406.27 Cords, cables, and connector equipment of a charging station shall not be placed in such a manner as to extend across the path of travel within the sidewalk or walkway whether or not in use by an electric vehicle
- 2406.28 The following rules shall apply to the use by the public of electric vehicle parking spaces and charging stations and violation of this subsection shall be subject to the fines set forth in § 2601:
- (a) Parking in electric vehicle charging spaces is permitted only for electric vehicles and plug-in hybrids and only in accordance with the guidelines provided on the charging station.
  - (b) An electric vehicle may park in an electric vehicle charging space only while the vehicle is plugged in to the charging station.
  - (c) An electric vehicle may park in an electric vehicle charging space for no more than a total of four (4) hours between 9:00 a.m. and 8:00 p.m. on any calendar day.
  - (d) A vehicle occupying an electric vehicle charging space shall pay any applicable charging fee required by the charging station vendor.
  - (e) In addition to all other applicable fees, a person parking a vehicle an electric vehicle charging space shall be assessed a one dollar (\$1.00) per hour fee for the use of public space while charging the vehicle and ten dollars (\$10.00) per hour while not charging between 9:00 a.m. and 8:00 p.m. on any calendar day.

**Chapter 26, CIVIL FINES FOR MOVING AND NON-MOVING INFRACTION, OF Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:**

**Section 2600, CIVIL FINES FOR MOTOR VEHICLE MOVING INFRACTIONS, is amended as follows:**

**Subsection 2600.1 is amended as follows:**

The following infraction under the category of “Right-of-way,” is repealed:

Stopping, standing, or parking a vehicle in a bicycle lane or shared use path      \$150.00  
 [§ 2405.1]

**Section 2601, PARKING AND OTHER NON-MOVING INFRACTIONS, is amended as follows:**

**The chart set forth in subsection 2601.1 is amended as follows:**

**The section labeled “INFRACTION (Regulatory/Statutory Citation)” is amended as follows:**

The following row is inserted after the row labeled “Barricade, in front of [§ 2405.2(h)]:”

|                                                                                         |          |
|-----------------------------------------------------------------------------------------|----------|
| Bicycle lane or shared use path, stopping, standing, or parking a vehicle in [§ 2405.1] | \$150.00 |
|-----------------------------------------------------------------------------------------|----------|

The infraction “No parking except for an electric vehicle while being charged [§ 2406.14]” is amended to read as follows:

|                                                                                           |          |
|-------------------------------------------------------------------------------------------|----------|
| No parking except for an electric vehicle while plugged in [§§ 2406.14 (b), 2406.14 (c),] | \$100.00 |
|-------------------------------------------------------------------------------------------|----------|

The following row is inserted after the row labeled “Parallel, fail to park (except where permitted) [§ 2400.1]”:

|                                                                                                                                                                                                                    |         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| Plugged in electric vehicle remaining for more than four (4) hours between 9:00 a.m. and 8:00 p.m. Monday through Sunday at an on-street parking space reserved for charging vehicles [§ 2406.14 (b), 2406.14 (c)] | \$30.00 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|

The following row is repealed:

|                                                                                                                                                                                  |           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| Vehicle remaining for more than four (4) hours between 6:00 a.m. and 10:00 p.m. Monday through Saturday at an on-street parking space reserved for charging vehicles [§ 2406.16] | \$ 100.00 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|

**Chapter 2, RENTAL OF PUBLIC SPACE, OF Title 24 DCMR, PUBLIC SPACE AND SAFETY, is amended as follows:**

**Section 225, PUBLIC SPACE PERMIT FEES, is amended as follows:**

**Subsection 225.1 is amended by amending paragraph (r) to read as follows:**

**(r) Charging station:**

|                                                                                                      |              |
|------------------------------------------------------------------------------------------------------|--------------|
| Installation of charging station- reserving the equivalent of 2 parking spaces for electric vehicles | \$2,400/year |
|------------------------------------------------------------------------------------------------------|--------------|

**Chapter 33, PUBLIC RIGHT-OF-WAY OCCUPANCY PERMITS, of Title 24 DCMR, PUBLIC SPACE AND SAFETY, is amended as follows:**

**Section 3399, DEFINITIONS, is amended as follows:**

**Subsection 3399.1 is amended as follows:**

The following definitions are added after the definition of “Dockless vehicle operating company”:

**Electric Vehicle** - a vehicle that is propelled by an electric motor and is capable of being recharged from an external source of electricity.

**Electric Vehicle Charging Station** - a publicly accessible facility or equipment that is located in the public right-of-way, including any public space in the District, and is used to charge the battery or other energy storage device of an electric vehicle.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
CONSTRUCTION CODES COORDINATING BOARD**

**SECOND NOTICE OF EMERGENCY RULEMAKING**

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2018 Repl.)) and Mayor's Order 2009-22, dated February 25, 2009, as amended, hereby gives notice of the adoption of the following amendments, on an emergency basis, to Chapter 9 (Fire Protection Systems) of Subtitle A (Building Code Supplement of 2017), and Chapter 9 (Fire Protection Systems) of Subtitle H (Fire Code Supplement of 2017), of Title 12 (District of Columbia Construction Codes Supplement of 2017) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessitated by the immediate need to revise Section 906.1 of the District of Columbia Building Code (2017) and Section 906.1 of the District of Columbia Fire Code (2017) (together the "Codes") for fire safety reasons, since Section 906.1 in the Codes contains an exemption that would allow removal of portable fire extinguishers from residential and other occupancies contrary to model code provisions. The subject amendment will conform Section 906.1 to the International Building Code (2018 edition) and the International Fire Code (2018 edition) published by the International Code Council.

A Notice of Emergency and Proposed Rulemaking was adopted on May 29, 2020 and was published in the *D.C. Register* on June 5, 2020 at 67 DCR 006972. No comments were received from the public regarding the first rulemaking. The first rulemaking remained in effect for one hundred twenty (120) days after the date of adoption and expired on September 26, 2020. This second emergency rulemaking was adopted on September 25, 2020, and shall remain in effect for one hundred twenty (120) days after the date of adoption, expiring January 23, 2021, unless earlier superseded by the publication of a final rulemaking. This second emergency rulemaking is required to prevent a lapse in coverage from the first emergency rulemaking.

To clearly show the changes being made to the Codes, additions are shown in underlined text and deletions are shown in ~~striketrough~~ text.

The Chairperson also hereby gives notice of the intent to take final rulemaking action to adopt this amendment. Pursuant to Section 10(a) of the Act, the amendment will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review, and final rulemaking action will not be taken until the later of thirty (30) days after the date of publication of this notice in the *D.C. Register* or Council approval of the amendment.

Title 12 DCMR, the DISTRICT OF COLUMBIA CONSTRUCTION CODES SUPPLEMENT OF 2017, is amended as follows:

Chapter 9, FIRE PROTECTION SYSTEMS, of 12-A DCMR, BUILDING CODE SUPPLEMENT OF 2017, is amended as follows:

Section 906, PORTABLE FIRE EXTINGUISHERS, § 906.1, is amended as follows:

## 906 PORTABLE FIRE EXTINGUISHERS

*Strike the exception to Section 906.1 Item 1 in the International Building Code in its entirety and insert new exceptions to Section 906.1 Item 1 in the Building Code in its place to read as follows:*

Strike Section 906.1 in the International Building Code in its entirety and insert a new Section 906.1 in the Building Code in its place to read as follows:

**906.1 Where required.** Portable fire extinguishers shall be installed in all of the following locations:

1. In Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

### Exceptions:

- ~~1. In new and existing Group A, B, E and R occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~
- ~~2. 1. In Group R-2 occupancies, which are not equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each dwelling unit is provided with a portable fire extinguisher having a minimum rating of 1-A:10-B:C.~~
2. In Group E occupancies, portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each classroom is provided with a portable fire extinguisher having a minimum rating of 2- A:20-B:C.
3. Within 30 feet (9144 mm) distance of travel from of commercial cooking equipment and from domestic cooking equipment in Group I-1; I-2, Condition 1; and R-2 college dormitory occupancies.
4. In areas where flammable or *combustible liquids* are stored, used or dispensed.
5. On each floor of structures under construction, except Group R-3 occupancies, in

accordance with Section 3315.1 of the *Fire Code*.

6. Where required by the *Fire Code* sections indicated in Table 906.1.
7. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the *fire code official*.

[No Change to Table 906.1]

**Chapter 9, FIRE PROTECTION SYSTEMS, of 12-H DCMR, FIRE CODE SUPPLEMENT OF 2017, is amended as follows:**

**Section 906, PORTABLE FIRE EXTINGUISHERS, § 906.1, is amended as follows:**

## **906 PORTABLE FIRE EXTINGUISHERS**

~~Strike the exception to Section 906.1 Item 1 in the International Fire Code in its entirety and insert new exceptions to Section 906.1 Item 1 in the Fire Code in its place to read as follows:~~

Strike Section 906.1 in the International Fire Code in its entirety and insert new Section 906.1 in its place in the Fire Code to read as follows:

**906.1 Where required.** Portable fire extinguishers shall be installed in all of the following locations:

1. In Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

### **Exceptions:**

- ~~1. In new and existing Group A, B, E and R occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~
  - ~~2.1. In Group R-2 occupancies, which are not equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each *dwelling unit* is provided with a portable fire extinguisher having a minimum rating of 1-A:10-B:C.~~
  2. In Group E occupancies, portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each classroom is provided with a portable fire extinguisher having a minimum rating of 2- A:20-B:C.
2. Within 30 feet (9144 mm) distance of travel from of commercial cooking equipment and from domestic cooking equipment in Group I-1; I-2, Condition 1; and R-2 college dormitory occupancies.



3. In areas where flammable or *combustible liquids* are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 3315.1.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the *fire code official*.

[No Change to Table 906.1]

**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 adoption, on an emergency basis, of a new Chapter 65 (Transition Planning Eligibility, Provider Certification, and Service Standards), to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations.

The Department, in partnership with the Department of Health Care Finance, submitted a Section 1115 Behavioral Health Transformation Demonstration Program (demonstration program) application to the Centers for Medicare and Medicaid Services on June 3, 2019 and received federal approval on November 6, 2019. Under the demonstration program, the District received authority to provide new behavioral health services reimbursed by the Medicaid program between January 1, 2020 and December 31, 2024, including for transition planning service. To comply with the demonstration program, the Department must establish transition planning provider certification requirements and service and eligibility standards. This service will connect individuals experiencing a behavioral health-related hospitalization or substance use disorder residential treatment stay to continued treatment and support services ahead of their discharge in order to promote recovery and prevent avoidable readmissions. The Department anticipates that this service will become effective under the demonstration program beginning in October 2020. Further information on the demonstration program is available at <https://dhcf.dc.gov/1115-waiver-initiative>.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of District residents. This 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 be effective immediately to begin appropriate work.

The emergency rulemaking was adopted and became effective on September 28, 2020. The emergency 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*.

**A new Chapter 65, TRANSITION PLANNING ELIGIBILITY, PROVIDER CERTIFICATION, AND SERVICE STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is added to read as follows:**

**CHAPTER 65            TRANSITION            PLANNING            ELIGIBILITY,            PROVIDER  
CERTIFICATION, AND SERVICE STANDARDS**

**6500            GENERAL PROVISIONS**

- 6500.1        The Department of Behavioral Health (Department) is the state authority with the responsibility to plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District. The Department is also responsible for arranging for authorized, publicly-funded behavioral health services and supports for the residents of the District.
- 6500.2        The purpose of these rules is to establish the transition planning service, including client/consumer eligibility, provider certification requirements, and service standards.
- 6500.3        No person or entity shall provide the transition planning service to clients/consumers eligible for the service under this chapter unless first certified by the Department in accordance to this chapter.
- 6500.4        Each transition planning provider shall meet and adhere to the terms and conditions of its Medicaid Provider Agreement with the Department of Health Care Finance (DHCF).

**6501            ELIGIBILITY FOR TRANSITION PLANNING SERVICE**

- 6501.1        To be eligible for the Medicaid-funded transition planning service, individuals shall meet the following requirements:
- (a)        Be:
- (1)        A child or youth with mental health problems, as defined in D.C. Official Code § 7-1131.02(1F);
- (2)        An adult with mental illness as defined in D.C. Official Code § 7-1131.02(24); or
- (3)        An individual with a substance use disorder (SUD), as defined in Subsection 6301.1 of Chapter 63 of this subtitle;
- (b)        Be a *bona fide* resident of the District, as defined in D.C. Official Code § 7-1131.02(29);
- (c)        Be enrolled in Medicaid or be eligible for enrollment and have an application pending;

- (d) Be experiencing an institutional treatment stay described in § 6501.2; and
  - (e) Not be enrolled in any one of the following District programs:
    - (1) Medicaid managed care;
    - (2) Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities, as set forth in Title 29 DCMR Chapter 42;
    - (3) Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities, as set forth in Title 29 DCMR Chapter 19;
    - (4) DC Health Home, as set forth in Title 22-A DCMR Chapter 25; or
    - (5) My Health GPS, as set forth in Title 29 DCMR Chapter 102.
- 6501.2 An individual meeting the criteria described in § 6501.1 shall be eligible for the transition planning service if they are experiencing an institutional stay in an inpatient hospital or residential SUD treatment setting related to a primary mental health or SUD diagnosis, and the individual is within thirty (30) calendar days of being discharged from the:
- (a) Inpatient hospital setting into an outpatient or community-based setting, or SUD residential treatment setting; or
  - (b) SUD residential treatment setting into an outpatient or community-based setting, or a lower level SUD residential treatment setting.
- 6501.3 For new enrollees and those enrollees whose Medicaid eligibility has lapsed:
- (a) There is an eligibility grace period of ninety (90) calendar days from the date of first service for new enrollees or from the date of eligibility expiration for enrollees who have a lapse in coverage, until the date the Department of Human Services' Economic Security Administration (ESA) makes an eligibility or renewal determination;
  - (b) In the event the client/consumer appeals a denial of eligibility or renewal by the ESA, the Director of the Department of Behavioral Health (the Director) may extend the ninety (90) calendar day eligibility grace period until the appeal has been exhausted. The ninety (90) calendar day eligibility grace period may also be extended at the discretion of the Director for other good cause shown; and
  - (c) Upon expiration of the eligibility grace period, the transition planning service provided to the client/consumer is no longer reimbursable by Medicaid. Nothing in this section alters the District's timely-filing requirements for claim submissions.

**6502 PROVIDER CERTIFICATION PROCESS**

- 6502.1 The Department shall utilize the certification process to thoroughly evaluate the applicant's capacity to provide a high-quality transition planning service in accordance with this Chapter and the needs of the District's behavioral health system.
- 6502.2 Each applicant seeking certification as a transition planning provider shall submit a certification application to the Department in the format established by the Department. A certified transition planning provider seeking renewal of certification shall submit an application at least ninety (90) calendar days prior to expiration of its current certification. The existing certification of a provider that has submitted a timely application for renewal of certification shall continue until the Department renews or denies renewal of the certification.
- 6502.3 Certification shall be considered terminated if the transition planning provider:
- (a) Fails to submit a complete certification application ninety (90) calendar days prior to the expiration date of its current certification;
  - (b) Voluntarily relinquishes certification; or
  - (c) Terminates operations.
- 6502.4 Upon receipt of a certification application, the Department shall review the certification application to determine whether it is complete. If a certification application is incomplete, the Department shall return the incomplete application to the applicant. An incomplete certification application shall not be regarded as a certification application. The Department shall not take further action to issue certification unless a complete certification application is submitted within ninety (90) calendar days prior to the expiration of the applicant's current certification.
- 6502.5 Following the Department's acceptance of the certification application, the Department shall review the application and may conduct a survey to determine whether the applicant meets the certification standards described in this chapter. The Department shall have access to all records necessary to verify compliance with certification standards and may conduct interviews with staff, others in the community, and clients/consumers served.
- 6502.6 The Department may conduct announced or unannounced surveys at any time during the period of certification.
- 6502.7 Applicant or transition planning provider interference with a survey, submission of false or misleading information, or lack of candor by the applicant or provider shall be grounds for an immediate suspension of any prior certification, or denial of a new certification application.

- 6502.8 A Statement of Deficiency (SOD) is a written notice to an applicant or existing transition planning provider identifying non-compliance with certification standards. The intent of the SOD is to provide:
- (a) Applicants with an opportunity to correct minor deficiencies during the certification application process; or
  - (b) Existing certified providers with an opportunity to correct minor deficiencies at any time to avoid decertification and disruption of services.
- 6502.9 The Department will not normally issue an SOD to applicants who fail to demonstrate compliance with certification standards. The Department will normally consider the applicant's failure to comply with the initial certification requirements as evidence that the applicant is ill-prepared to assume the responsibilities of providing the transition planning service to District residents and deny the application.
- 6502.10 When utilized, the SOD shall describe the areas of non-compliance, suggest actions needed to bring operations into compliance with the certification standards, and establish a timeframe of no more than ten (10) business days for the applicant's or existing transition planning provider's submission of a written Corrective Action Plan (CAP).
- 6502.11 The issuance of an SOD is a separate process from the issuance of a Notice of Infraction (NOI). NOIs shall be issued promptly upon observation of violations of this chapter, especially when they are recurrent, endanger client/consumer or staff health or safety, or when there is a failure to comply with core requirements of this chapter.
- 6502.12 The Department is not required to utilize the SOD process. The Department may immediately deny certification or proceed with decertification.
- 6502.13 An applicant or certified transition planning provider's CAP shall describe the actions to be taken and specify a timeframe for correcting the areas of non-compliance. The CAP shall be submitted to the Department within ten (10) business days after receipt of the SOD from the Department, or sooner if specified in the SOD.
- 6502.14 The Department shall, within ten (10) business days after receipt, notify the applicant or certified provider whether the CAP is accepted.
- 6502.15 The Department may only issue certification after the Department verifies that the applicant or certified transition planning provider has remediated all of the deficiencies identified in the CAP and meets all the certification standards in this chapter.
- 6502.16 A determination to grant certification shall be based on the Department's review and validation of the information provided in the application, as well as any survey findings, any CAP, and the provider's compliance with this chapter.
- 6502.17 Certification as a transition planning provider shall be for one (1) calendar year for new applicants and two (2) calendar years for existing providers seeking renewal.

Certification shall start from the date of issuance of certification by the Department, subject to the provider's continuous compliance with these certification standards. Certification shall remain in effect until it expires, is renewed, or is revoked pursuant to this chapter.

- 6502.18 Certification is not transferable to any other organization.
- 6502.19 A person or entity that applies for certification during an open application period as published in the District of Columbia Register may appeal the denial of certification under this subsection by utilizing the procedures contained in §§ 6504.3 and 6504.4. The Department shall not accept any applications for which a notice of moratorium is published in the District of Columbia Register.
- 6502.20 In the event that a certification application is under review while a moratorium is put in place, the Department shall continue to process the application for a time period of no more than thirty (30) calendar days. If, after thirty (30) calendar days, the application is deemed incomplete, the applicant shall be granted ten (10) business days to resolve all items of incompleteness. Any items not resolved or provided by the due date shall result in the incomplete application being returned to the applicant and the Department shall take no further action to issue certification. The applicant shall then wait until the moratorium is lifted to submit any subsequent certification application.
- 6502.21 Nothing in these rules shall be interpreted to mean that certification is a right or an entitlement. New certification as a provider depends upon the Director's assessment of the need for additional transition planning providers.
- 6502.22 The transition planning provider shall notify the Department within two (2) business days of any changes in its operations that affect the provider's continued compliance with these certification standards, including changes in:
- (a) Ownership or control;
  - (b) Staff rendering transition planning services; and
  - (c) Any affiliation and referral arrangements.
- 6502.23 A provider shall immediately report to the Department any criminal allegations involving provider staff.

### **6503 EXEMPTIONS FROM CERTIFICATION STANDARDS**

- 6503.1 Upon good cause shown, the Department may exempt an applicant or current transition planning provider from a certification standard, if the exemption does not:
- (a) Jeopardize the health and safety of clients/consumers and/or staff;
  - (b) Violate clients'/consumers' rights; or

(c) Otherwise conflict with the purpose and intent of this chapter.

6503.2 If the Department approves an exemption, such exemption shall end on the expiration date of the provider's certification or on an earlier date if specified by the Department; unless the provider requests renewal of the exemption prior to expiration of its certification or the earlier date set by the Department.

6503.3 The Department may at any time revoke an exemption if it determines that the exemption may jeopardize the health, safety, or welfare of the clients/consumers served, staff, volunteers, and/or the general public.

6503.4 All requests for an exemption from certification standards shall be submitted in writing to the Department.

#### **6504 DENIAL OR DECERTIFICATION PROCESS**

6504.1 The Director may deny initial certification if the applicant fails to comply with any certification standard or the application fails to demonstrate the applicant's capacity to deliver a high-quality transition planning service on a sustained and regular basis.

6504.2 An applicant may make minor corrections and substitutions to its application during the certification process. However, evidence of one (1) or more of the following shall constitute good cause to deny the application for certification when the circumstances demonstrate deliberate misrepresentations, organizational instability, or the lack of preparedness or capacity to meet and sustain compliance with this chapter:

- (a) An incomplete application;
- (b) False information provided by applicant or contained in an application;
- (c) One or more changes to an organizational chart during the application process;
- (d) The lack of demonstrated experience providing transition planning services by the applicant's clinical leadership, practitioners, or staff;
- (e) An applicant's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future;
- (f) An applicant's failure to respond in a timely manner to the Department's requests for information; and
- (g) History of poor performance.

6504.3 Within fifteen (15) business days of the date on the certification denial, an applicant may make a request for an administrative review of the decision from the Director. Each request for an administrative review shall be in writing and contain a concise statement of the reason(s) why the applicant asserts that the certification denial was in error and any relevant supporting documentation.



- 6504.4 The Director shall complete the administrative review within fifteen (15) business days of receipt of the applicant's request, to determine whether the certification denial complied with this subsection. The Director shall issue a written decision and provide a copy to the provider. The Director's decision shall be final and not subject to further appeal.
- 6504.5 An applicant and its executive leadership shall be prohibited from reapplying for certification for twelve (12) months following the date of the initial denial or, if applicable, the date of the denial pursuant to the Director's administrative review.
- 6504.6 The Department shall decertify existing transition planning providers who fail to comply with the certification requirements contained in this chapter. Evidence of one (1) or more of the following shall constitute good cause to decertify:
- (a) An incomplete recertification application;
  - (b) False information provided by provider or contained in a recertification application;
  - (c) High staff turnover where there are two (2) or more changes made to the leadership staff within a certification period, demonstrating organizational instability;
  - (d) One or more documented violations of the certification standards during the certification period that evidence a provider's lack of capacity to meet and sustain compliance with this chapter;
  - (e) Claims audit error rate in excess of twenty-five percent (25%);
  - (f) Poor quality of services;
  - (g) A provider's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future, as evidenced by an inability to pay all staff, or an inability to provide at least ninety (90) calendar days of running capital as dictated by the provider's monthly operating budget; or
  - (h) Failure to cooperate with Department investigations or lack of timely response to information requests.
- 6504.7 Nothing in this chapter requires the Director to issue an SOD or an NOI prior to decertifying a transition planning provider. If the Director finds that there are grounds for decertification, the Director shall issue a written notice of decertification setting forth the factual basis for the decertification, the effective date, and the provider's right to request an administrative review.
- 6504.8 Within fifteen (15) business days of the date on the notice of decertification, the provider may request an administrative review from the Director. Each request for an

administrative review shall be in writing and contain a concise statement of the reason(s) why the provider asserts that decertification should not have occurred and any relevant supporting documentation.

- 6504.9 The Director shall complete the administrative review within fifteen (15) business days of receipt of the provider's request, to determine whether the decertification complied with this subsection. The Director shall issue a written decision and provide a copy to the provider.
- 6504.10 If the Director denies the appeal and approves the decertification, the provider may within fifteen (15) business days of receipt of the Director's written decision request a hearing under the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501, *et seq.* The administrative hearing shall be limited to the issues raised in the administrative review request. The decertification shall be stayed pending resolution of the hearing.
- 6504.11 Upon decertification, the transition planning provider and its executive leadership shall be prohibited from reapplying for certification for a period of two (2) years following the later of the date of the decertification letter or the date of the decertification order (if applicable). If a provider reappplies for certification, the provider shall reapply in accordance with the established certification standards and show evidence that the grounds for the revocation have been corrected.

## **6505 NOTICES OF INFRACTION**

- 6505.1 The Department may issue an NOI for any violation of this chapter. The fine amount for any NOI issued under this chapter shall be as follows:
- (a) For the first (1<sup>st</sup>) offense, five hundred dollars (\$500.00);
  - (b) For the second (2<sup>nd</sup>) offense, one thousand dollars (\$1,000.00);
  - (c) For the third (3<sup>rd</sup>) offense, two thousand dollars (\$2,000.00); and
  - (d) For the fourth (4<sup>th</sup>) and subsequent offenses, four thousand dollars (\$4,000.00).
- 6505.2 The administrative procedure for the appeal of an NOI issued under this chapter shall be governed by 16 DCMR §§ 3100 *et seq.*

## **6506 PROVIDER DISCONTINUATION OF SERVICES**

- 6506.1 A transition planning provider shall provide written notification to the Department at least ninety (90) calendar days before its discontinuation of the transition planning service, or immediately upon knowledge of an impending discontinuation of service less than ninety (90) calendar days in the future. This notification shall include plans for continuity of care for current clients/consumers and preservation of clients'/consumers' records.

- 6506.2 The Department shall review the continuity of care plan and make recommendations to the provider. The provider shall incorporate all Department recommendations necessary to ensure a safe and orderly transfer of care.
- 6506.3 Discontinuation of the transition planning service does not absolve a provider from its legal responsibilities regarding the preservation and storage of client/consumer records as described in §§ 6509.6, 6509.8, and 6509.9, and all other applicable Federal and District laws and regulations. A provider shall take all necessary and appropriate measures to ensure client/consumer records are preserved, maintained, and made available to the clients/consumers upon request after discontinuation of services.

### **6507 GENERAL TRANSITION PLANNING PROVIDER STANDARDS**

- 6507.1 No person or entity shall apply for certification, and no transition planning provider shall apply for recertification or be permitted to maintain certification as a transition planning provider, if they are:
- (a) Not enrolled in the District's Medicaid program, in accordance with the requirements of Title 29 Chapter 94, as a(n):
    - (1) Mental Health Rehabilitation Services (MHRS) provider;
    - (2) Adult Substance Abuse Rehabilitative Services (ASARS) provider;
    - (3) Free Standing Mental Health Clinic (FSMHC); or
    - (4) Federally Qualified Health Center (FQHC); or
  - (b) Subject to exclusion, suspension, termination, or sanction(s) as set forth in Title 29 DCMR Chapter 13 and Title 29 DCMM Chapter 94.
- 6507.2 An applicant for initial certification as a transition planning provider shall demonstrate meeting, at the time of application submission, the following standards:
- (a) Provides health home services pursuant to either Title 22-A DCMR Chapter 25 or Title 29 DCMR Chapter 69 or renders care coordination services;
  - (b) Has at least three (3) years of experience providing mental health or SUD treatment services to a minimum of three hundred (300) individuals per calendar year in the DC metropolitan area;
  - (c) Within the six (6) years prior to application submission, has assisted with the discharge of at least one hundred (100) individuals with complex needs from inpatient or residential mental health or SUD treatment settings, and achieved a thirty (30)-day readmission rate that does not exceed twenty percent (20%) for mental health or SUD-related admissions;

- (d) Within the six (6) months prior to application submission, for the population served by the applicant, the applicant rendered transition support, case management, or care coordination services to at least eighty percent (80%) of individuals who had inpatient or residential mental health or SUD treatment admissions; and
  - (e) As evidenced by summary data from anytime within the previous (3) calendar years, the ability to track and monitor:
    - (1) The number of clients/consumers who have transitioned to a higher or lower level of care for treatment of a mental health or SUD diagnosis, including admissions to an inpatient or residential treatment setting; and
    - (2) The responses to or outcomes of the inpatient or residential mental health or SUD treatment admissions.
- 6507.3 A transition planning provider shall render the service to individuals in all three (3) populations described in § 6501.1(a), for whom the provider receives a referral. Circumstances in which a provider shall be exempt from the requirement to render the service are when:
- (a) The referred individual does not consent to receive the transition planning service; or
  - (b) The referred individual is discharged from the institution or leaves the institution against medical advice, prior to the transition planning provider having initiated contact with the discharging institution in the time-frame specified in § 6507.4.
- 6507.4 Upon notification of a referral, a transition planning provider shall contact the discharging institution in the following time-frame:
- (a) If the provider is notified before 3:00 p.m., the provider shall contact the institution on the same day; and
  - (b) If the provider is notified at 3:00 p.m. or after, the provider shall contact the institution by 10:00 a.m. the next day.
- 6507.5 A transition planning provider shall respond to referrals and render services, as appropriate, seven (7) days per week, three hundred sixty-five (365) days per year. The provider shall at a minimum be available to respond to client/consumer and discharging entity communications during the hours of 8:15 a.m.-5:00 p.m. The provider shall respond on the same day if such communication was received before 3:00 p.m. or by 10:00 a.m. the next day if the communication was received at 3:00 p.m. or after.
- 6507.6 A transition planning provider shall operate according to all applicable Federal and District laws and regulations relating to fraud, waste, and abuse in health care and the Medicaid program. A provider's failure to report potential or suspected fraud, waste,

or abuse may result in sanctions or exclusion from participation as a transition planning provider. Each transition planning provider shall:

- (a) Cooperate and assist any Federal or District agency charged with the duty of identifying, investigating, or prosecuting suspected fraud, waste, or abuse;
- (b) Provide the Department with regular access to the provider's medical and billing records, including electronic medical records, within twenty-four (24) hours of a Departmental request, or immediately in the case of emergency;
- (c) Be responsible for promptly reporting suspected fraud, waste, or abuse to the Department, taking prompt corrective actions, and cooperating with DHCF or other governmental investigations; and
- (d) Ensure that none of its practitioners have been excluded from participation as a Medicaid or Medicare provider. If a practitioner is determined to be excluded by the Center for Medicare and Medicaid Services (CMS), the provider shall notify the Department immediately.

- 6507.7 A transition planning provider shall comply with all Federal and District laws and regulations related to administrative practice ethics, including but not limited to, the False Claims Act, 31 U.S.C. §§ 3729-3733; the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b; the Physician Self-Referral (Stark) Law, 42 U.S.C. § 1395nn; and the Exclusion Statute, 42 U.S.C. § 1320a-7.
- 6507.8 A transition planning provider shall have the necessary operational capacity to submit claims, document information on services provided, and track payments received with applicable Department and DHCF requirements.
- 6507.9 A transition planning provider shall participate through a formal agreement with a registered Health Information Exchange (HIE) entity of the DC Health Information Exchange (DC HIE), defined in Title 29 DCMR Chapter 87.
- 6507.10 A transition planning provider shall incorporate the service into the quality improvement and quality assurance policies and procedures required under its respective FSMHC, MHRS, or SUD provider certification, or the applicable Federal and District laws, regulations, and policies governing FQHCs.
- 6507.11 A transition planning provider shall incorporate the service into the liability insurance coverage required under its respective FSMHC, MHRS, or SUD provider certification, or the applicable Federal and District laws, regulations, and policies governing FQHCs.
- 6507.12 A transition planning provider shall follow the same corporate compliance and fiscal management standards and business record-keeping procedures as required under its respective FSMHC, MHRS, or SUD provider certification, or the applicable Federal and District laws, regulations, and policies governing FQHCs.

**6508 CLIENT/CONSUMER RIGHTS AND PROTECTIONS**

- 6508.1 Each transition planning provider shall establish and adhere to policies and procedures related to client/consumer rights and protections, including obtaining informed consent from clients/consumers and addressing complaints and grievances (Client/Consumer Rights Policy). The transition planning provider shall ensure that the Client/Consumer Rights Policy establishes requirements for compliance with all applicable Federal and District laws and regulations, including but not limited to:
- (a) 22-A DCMR Chapter 1, 22-A DCMR § 301.3, and 22-A DCMR § 306, when rendering services to individuals with a primary mental health diagnosis; and
  - (b) 22-A DCMR §§ 6320.1(a) through 6320.1(k), 6320.1(n) through 6320.1(w), 6320.2 through 6320.4, and 6320.6 when rendering services to clients with a primary SUD diagnosis.
- 6508.2 Each transition planning provider shall establish and adhere to policies and procedures to ensure clients'/consumers' right to access services that are culturally appropriate, including through use of adaptive equipment or sign language interpreter or translation services, as appropriate (Language Access Policy). The policy shall comply with the Americans with Disabilities Act of 1990 and Amendment Act of 2010, 42 U.S.C. §§ 12101, *et seq.* and the Language Access Act, D.C. Code §§ 2-1931, *et seq.*
- 6508.3 A transition planning provider shall develop and adopt a "Client/Consumer Choice Policy," which shall establish policies and procedures governing how:
- (a) Clients/consumers shall be informed of the full choice of providers and how to access them as follows:
    - (1) Transition planning providers; and
    - (2) Post-discharge providers for needed treatment services identified during the discharge planning process; and
  - (b) A provider shall accommodate a client/consumer request to receive the transition planning service from a different staff member, if available and to the extent feasible.
- 6508.4 Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to Title 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of the Medicaid-funded transition planning service.
- 6508.5 The following provider policies shall be submitted to the Department for review and approval during the certification and recertification process:
- (a) Client/Consumer Rights Policy;

- (b) Language Access Policy: and
  - (c) Client/Consumer Choice Policy.
- 6508.6 MHRS providers may submit their MHRS “Language Access Policy” to demonstrate compliance with the requirement set forth in § 6508.5(b), if the provider extends the policy to apply to the transition planning service.
- 6508.7 FSMCHs may submit their “Interpreter Policy” to demonstrate compliance with the requirement set forth in § 6508.5(b), if the provider extends the policy to apply to the transition planning service.
- 6509 CONFIDENTIALITY, CONTENTS, AND MANAGEMENT OF CLIENT/CONSUMER RECORDS**
- 6509.1 A transition planning provider shall create and maintain a record that meets the standards described in §§ 6509.3 and 6509.4 for each client/consumer who was referred to them, regardless of whether the provider ultimately delivered a reimbursable service.
- 6509.2 In the event that the provider does not initiate provision of the transition planning service, for reasons described in § 6507.3, the provider shall document the specific reason in the client/consumer record.
- 6509.3 All information related to provision of the transition planning service shall be entered into the client’s/consumer’s record. This shall at a minimum include the following elements, unless not applicable per § 6509.2:
- (a) Complete identification data, including Medicaid number;
  - (b) Emergency contact information;
  - (c) The client’s/consumer’s behavioral health diagnoses and any known physical health diagnoses;
  - (d) The results of any assessments that were completed by the discharging institution or the transition planning provider;
  - (e) The discharge plan, which includes documentation of the needed services and supports identified during the discharge planning process. The discharging institution’s discharge plan, summary, instruction, or other documentation may serve as the discharge plan for purposes of this chapter. If the discharging institution does not create such document for inclusion in the client/consumer record, the transition planning provider shall develop a discharge plan with the necessary information and detail;
  - (f) Documentation of all rendered transition planning service components and related encounter notes meeting the standards set forth in § 6509.4;

- (g) Documentation of any treatment or support services provider(s) with a current relationship with the client/consumer;
- (h) Documentation of all referrals to treatment and support services providers;
- (i) Documentation of correspondence with other medical, human service, social service, educational, and criminal justice entities that pertain to a consumer's/client's treatment and recovery;
- (j) For children and youth, documentation of family member or guardian involvement in the transition planning service or a statement of reasons why it was not indicated or that the provider was unable to secure participation;
- (k) The client's/consumer's consent to the transition planning service;
- (l) The signed Consumer Rights or Client's Rights Statement, whichever is applicable;
- (m) Documentation that the client/consumer received the transition planning provider's notice of privacy practices; and
- (n) Signed confidentiality forms and releases to permit the transition planning provider to obtain /or release information.

6509.4 Encounter notes shall sufficiently document in writing each activity conducted involving a transition planning service component. At a minimum each note shall consist of:

- (a) A dated, timed, and authenticated entry with the author identified, that includes the date, duration, and actual beginning and ending time (denoting a.m. or p.m.) during which the service component was rendered; entered by the person providing the service. The provider shall ensure all entries are authenticated by a process that verifies the author's identity (e.g., a unique log-in used only by the author);
- (b) Name, title, credentials, and signature of the person providing the service component;
- (c) The specific service component rendered;
- (d) A description of each encounter or activity sufficient to document that the service component was provided, and is in support of the needs identified in the discharge plan;
- (e) A description of the client/consumer response to the encounter when the service component involves direct client/consumer contact; and



- (f) The setting or means by which the service component was rendered (e.g., in person, telephonically, via email).
- 6509.5 A transition planning provider shall utilize an electronic health records system to document the services provided to clients/consumers.
- 6509.6 Each provider shall develop and implement a “Confidentiality and Release of Information Policy” that describes the policies and procedures for storing and managing client/consumer information in compliance with the confidentiality requirements contained in all applicable Federal and District laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA) (45 CFR Parts 160 and 164), the D.C. Mental Health Information Act (D.C. Code §§ 7-1201.01 *et seq.*), and 42 CFR. Part 2. This shall include policies and procedures for requiring the provider to:
- (a) Encourage consumers/clients to authorize the disclosure of protected behavioral health information to other health care and human services providers to facilitate access to and coordinate treatment and support services;
  - (b) Advise each client/consumer of the provider’s notice of privacy practices;
  - (c) Give mental health consumers the opportunity to opt-out of disclosures in accordance to the District of Columbia Mental Health Information Act, D.C. Code § 7-1203.01 and document the consumers’ decisions; and
  - (d) Secure all records in a manner that provides protection from unauthorized disclosure, access, use, or damage.
- 6509.7 The Confidentiality and Release of Information Policy shall be submitted to the Department for review and approval during the certification and recertification process.
- 6509.8 A transition planning provider shall have in place back-up and redundant systems and measures to prevent the loss of data, enable data recovery, and safeguard client/consumer records in the event of operator or equipment failure, natural disasters, power outages, and other emergency situations.
- 6509.9 A transition planning provider shall retain each client/consumer record in accordance with the following requirements:
- (a) When the client/consumer is an adult, for at least ten (10) years after the date of the last encounter;
  - (b) When the client/consumer is a minor, for at least ten (10) years after the minor has reached the age of eighteen (18) years; and
  - (c) In case of litigation or adverse audit findings, until all such litigation or adverse audit findings have been resolved, or in accordance with the timeframes described in (a) and (b), whichever is later.

**6510 TRANSITION PLANNING STAFFING AND SUPERVISION STANDARDS**

- 6510.1 A transition planning provider shall have the necessary expertise to deliver a high-quality service to eligible individuals in each of the three (3) populations described in § 6501.1(a).
- 6510.2 A transition planning provider shall follow best practices in case management and care coordination, including ensuring that the staff rendering the transition planning service can:
- (a) Establish rapport quickly and communicate effectively with clients/consumers, family members, natural supports, and providers;
  - (b) Function effectively as a member of a multi-disciplinary team;
  - (c) Conduct brief, evidenced-based, and developmentally appropriate screenings and conduct or arrange for more detailed assessments when indicated;
  - (d) Create or implement integrated service plans for access to the array of linked services, and ensure exchange of information among clients/consumers, family members, natural supports, and providers;
  - (e) Provide services in a culturally competent manner;
  - (f) Effectively navigate the local system of healthcare delivery, coverage, and financing; and
  - (g) Use information technology to support integrated service delivery and information exchange.
- 6510.3 A transition planning provider shall establish and adhere to policies and procedures for selecting and hiring staff (Staff Selection Policy) that comply with the Staff Selection Policy requirements set forth in 22-A DCMR Chapter 34. FSMHCs, and MHRS and ASARS providers are deemed to be in compliance with this requirement, if they incorporate the transition planning service into the staff selection policies required under their respective FSMHC, MHRS, or SUD provider certifications.
- 6510.4 A transition planning provider shall follow the same personnel records and management policies required under its respective FSMHC, MHRS, or SUD provider certification, or the applicable Federal and District laws, regulations, and policies governing FQHCs.
- 6510.5 A transition planning provider shall establish a written plan for organizational onboarding and staff training and development, which reflects the training and performance improvement needs of its employees. The plan shall at a minimum include culturally competent training and onboarding activities in the following core areas:

- (a) The provider's approach to service provision, including philosophy, goals, and methods;
  - (b) The staff member's specific job description and role in relationship to other staff;
  - (c) Policies and procedures governing infection control, protection against exposure to communicable diseases, and the use of universal precautions;
  - (d) Laws, regulations, and policies governing confidentiality of client/consumer information and release of information, including the D.C. Mental Health Information Act HIPAA, and 42 CFR Part 2;
  - (e) Laws, regulations, and policies governing reporting abuse and neglect;
  - (f) Consumer/client rights; and
  - (g) Other trainings, as deemed necessary by the Department.
- 6510.6 A transition planning provider shall establish and adhere to written job descriptions for all positions, including at a minimum the role, responsibilities, reporting relationships, and minimum qualifications for each position, as well as any ongoing training requirements. The minimum qualifications for each position shall be appropriate for the scope of responsibility and any clinical practice described for each position.
- 6510.7 A transition planning provider shall follow the same policies and procedures for periodic staff performance evaluations as required under its respective FSMHC, MHRS, or SUD provider certification, or the applicable Federal and District laws, regulations, and policies governing FQHCs.
- 6510.8 Individuals who meet the following criteria shall be qualified to render the transition planning service when under supervision of a clinician described in § 6510.9, in accordance with applicable laws and regulations:
- (a) Individuals who are:
    - (1) Certified Recovery Coaches;
    - (2) Certified Peer Specialists; or
    - (3) Hold at least a bachelor's degree from an accredited college or university in social work, counseling, psychology, or closely related field; and
  - (b) Have at least at least two (2) years of relevant, qualifying full-time-equivalent experience in human service delivery;

- (c) Demonstrate skills in developing positive and productive community relationships;
- (d) Have the ability to negotiate complex service systems to obtain needed services and resources for individuals; and
- (e) Are trained within six (6) months of hiring and every other year thereafter in:
  - (1) The ASAM Criteria;
  - (2) The latest versions of the Diagnostic and Statistical Manual of Mental Health Disorders (DSM);
  - (3) Motivational Interviewing; and
  - (4) The Transtheoretical Model.

6510.9 Individuals who meet the following criteria shall be qualified to supervise individuals described in § 6510.8, as well as render the transition planning service themselves, in accordance with applicable scope of practice and supervision regulations:

- (a) Be one of the following independently licensed clinician types:
  - (1) Physician;
  - (2) Psychologist;
  - (3) Licensed independent clinical social worker (LICSW);
  - (4) Advanced Practice Registered Nurse (APRN);
  - (5) Licensed professional counselor (LPC); or
  - (6) Licensed marriage and family therapist (LMFT); and
- (b) Have:
  - (1) A minimum of three (3) years of experience in behavioral health care delivery; and
  - (2) Demonstrated knowledge in navigating local resources and systems in serving consumers/clients with mental health and/or substance use disorders.

6510.10 Clinicians acting as supervisors shall provide clinical support and clinical and administrative oversight in accordance with applicable scope of practice and supervision regulations. For consumers/clients who have more complex needs and multi-system involvement, the supervisor may need to become directly involved in the provision of transition planning service components.

- 6510.11 If the transition planning service is to be rendered by individuals described in § 6510.8, a provider shall develop and establish policies and procedures related to supervision (Supervision Policy) in accordance with applicable scope of practice and supervision regulations, which shall require:
- (a) Supervisor-Supervisee Written Agreements developed with participation of both the supervisor and supervisee, that include the following information:
    - (1) Supervision frequency, length, format, and purpose;
    - (2) How the supervisor shall evaluate the supervisee's performance and the individual goals designed to improve the performance; and
    - (3) The supervisor and supervisee's rights and responsibilities in supervision;
  - (b) Supervisors to document supervision sessions and include at a minimum the following information:
    - (1) Date, length, and format of session (i.e., group or individual);
    - (2) Name and signature of the supervisor; and
    - (3) Highlights and needed follow-up;
  - (c) A minimum of four (4) hours of supervision to full-time employees per month, prorated to two (2) hours minimum for part time-employees (working twenty (20) hours or less per week);
  - (d) The content of discussions to be related to service delivery and outcomes and include a review of clinical records to ensure they are current, appropriate, and complete;
  - (e) A supervisor-supervisee staffing ratio that meets the following requirements:
    - (1) One (1) supervisor shall have no more than ten (10) full-time supervisees or twelve (12) part-time/full-time supervisees; and
    - (2) The mix within supervisor-supervisee and client/consumer assigned ratios shall be adequately distributed to address the complexity of the case, intensity of the service, and staff capacity; and
  - (f) The provider to develop an internal system for supervisee access to a supervisor in the evenings and on weekends, as well as during normal business hours. This shall include circumstances and events that call for direct contact with the supervisor.

6510.12 The following provider policies shall be submitted to the Department for review and approval during the certification and recertification process:

- (a) Staff Selection Policy, if not already deemed in compliance as described in § 6510.3; and
- (b) Supervision Policy.

## **6511 TRANSITION PLANNING SERVICE COMPONENTS**

6511.1 The transition planning service provides individuals not otherwise connected to care coordination or case management programs with similar support prior to being discharged from certain institutional treatment settings into lower levels of care. The transition planning service connects clients/consumers to treatment and support services that promote their recovery and reduce the chances of avoidable inpatient or residential treatment readmissions. The transition planning service consists of activities related to development of a discharge plan, including assessment of the client's/consumer's needs post-discharge, and care coordination and case management related to implementation of the identified needs. Transition planning provider activities, as appropriate and applicable to an individual client/consumer, include, but are not limited to the following:

- (a) Discharge plan development:
  - (1) Participation in the discharging facility's discharge planning process and treatment team meetings;
  - (2) Ensuring participation by the client/consumer (and parent or guardian, if applicable) in the discharge planning, and where appropriate, promoting participation by family members and other natural supports;
  - (3) Promoting participation by providers of needed post-discharge services and supports, if already identified;
  - (4) If not already completed, participating in and/or conducting the following activities using a person-centered planning approach:
    - i. Assessments of clients'/consumers' strengths and challenges, which, if applicable, shall include use of a Department-approved functional assessment tool;
    - ii. Assessments of needed services and supports, e.g., financial (e.g., Supplemental Security Income), environmental (e.g., housing or transportation), medical (e.g., mental health, SUD, or physical health), social (e.g., legal or educational) and emotional; and

- iii. For clients/consumers who have been readmitted following a stay within the past thirty (30) calendar days, in depth reviews or case conferences to inform the discharge planning process and reduce readmission risks and increase the likelihood of obtaining appropriate follow-up care;
- (5) Identifying available resources (e.g., informal, District, or other community resources) to address identified needs;
- (6) Making recommendations on the discharge plan to the rest of discharge planning team;
- (7) Meeting with the client/consumer (and/or family/natural supports, when applicable and appropriate) outside of treatment team meetings to collect information relevant to discharge plan development and establish the transition planning provider as a resource; and
- (8) Ensuring medication reconciliation has been conducted; and
- (b) Collaborating with the discharging facility on and leading activities related to implementation of the discharge plan, such as:
  - (1) Verification that the client's/consumer's insurance covers their medication(s), and that the client/consumer has sufficient medication and prescriptions to bridge the time-period between discharge and a follow-up medication-somatic appointment;
  - (2) Meeting with the client/consumer (and/or family/natural supports, when applicable and appropriate), to:
    - i. Promote understanding of the discharge plan and discuss the status of implementation; and
    - ii. Provide education regarding diagnoses and what to do in case of post-discharge problems;
  - (3) Working with the client/consumer, and parent or guardian when applicable and appropriate, to select post-discharge service providers, based on the client's/consumer's needs;
  - (4) Re-establishing, as appropriate, any pre-existing linkages to providers;
  - (5) Coordinating with the discharging entity to ensure needed health care appointments have been made;
  - (6) Ensuring necessary supports (e.g., transportation) are in place, making arrangements if necessary, for clients/consumers to transfer to lower levels of care or attend post-discharge appointments;

- (7) Engaging in care coordination with the health care providers who will be treating the client/consumer post-discharge;
- (8) Working to ensure that any needed prior authorization(s) for service(s) are in place on the day of the client's/consumer's discharge;
- (9) Coordinating with the discharging entity to assist in acquisition of other needed services and supports, e.g., housing, public benefits; and
- (10) Ensuring post-discharge providers of treatment and supports receive the relevant discharge plan information.

6511.2 In order to be eligible for reimbursement for rendering a transition planning service, the provider shall meet the following requirements:

- (a) The transition planning service components are rendered anytime during the thirty (30) calendar days prior to and/or on the day of the client's/consumer's discharge from an institutional stay that meets the requirements described in § 6501.2;
- (b) For clients/consumers who are discharged within forty-eight (48) hours after the transition planning provider is notified of the need for the service, the provider shall at a minimum render the following service components:
  - (1) Participate in the discharging facility's discharge planning process, including any treatment team meeting(s);
  - (2) Meet with the client/consumer (and/or parent or guardian, when applicable and appropriate), to conduct applicable activities described in §§ 6511.1(a)(7) and 6511.1(b)(2), unless the consumer/client (or parent or guardian) refuses to meet despite having consented to the transition planning service. In such cases the provider shall document the refusal. Any first meeting with the client/consumer shall be in-person, unless not permitted or feasible due to documented, extenuating circumstances; and
  - (3) Conduct implementing activities related to at least one (1) of the needs identified in the discharge plan; and
- (c) For clients/consumers whose discharge occurs more than forty-eight (48) hours after the transition planning provider is notified of the need for the service, the provider shall at a minimum render the following service components:
  - (1) All components described in § 6511.2(b); and
  - (2) If not already completed, participating in and/or leading completion of:



- i. Person-centered assessments of clients'/consumers' strengths and challenges, which, if applicable, shall include use of a Department-approved functional assessment tool; and
- ii. Person-centered assessments of needed services and supports, e.g., financial (e.g., Supplemental Security Income), environmental (e.g., housing or transportation), medical (e.g., mental health, SUD, or physical health), social (e.g., legal or educational) and emotional.

## 6512 MAJOR UNUSUAL INCIDENT REPORTS

6512.1 A transition planning provider shall immediately notify the Department of any major unusual incident that may adversely affect the health, safety, or welfare of the client/consumer to whom they are rendering the transition planning service. The transition planning provider shall submit a completed Department Major Unusual Incident (MUI) Report form to the Department's Division of Incident Management and Investigation email address.

6512.2 In cases where the affected client/consumer is a child or youth, the transition planning provider shall also provide a copy of the completed MUI Report form to the client's/consumer's parent(s) or guardian(s).

6512.3 Major unusual incidents may include the following:

- (a) Death of the client/consumer during the time-period in which the individual is a client/consumer of the transition planning provider;
- (b) Injury to or illness of any client/consumer that requires hospitalization or emergency medical treatment and which occurs while the client/consumer is with the transition planning provider;
- (c) Unauthorized departure of a child or youth client/consumer or any circumstances under which a child or youth client/consumer is deemed unaccounted for or missing during the time-period in which the individual is a client/consumer of the transition planning provider;
- (d) Any traffic accident involving a vehicle rented, owned, maintained, or contracted by the transition planning provider, in which the client/consumer was being transported at the time of the accident; and
- (e) Any other incident involving the client/consumer while they are with the transition planning provider, that requires a response by emergency service personnel, such as police, fire, ambulance, or poison control.

6512.4 In the case of a traffic accident or an incident involving perceived or actual criminal activity, the transition planning provider shall also file a report with the appropriate law enforcement authorities.

- 6512.5 Any transition planning provider staff member who knows or reasonably believes that a child or youth client/consumer is, has been, or is in immediate danger of being abused or neglected shall, as required by the District of Columbia Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code §§ 4-1321.01 *et seq.*), make or cause to be made an immediate oral report to:
- (a) The Child Protective Services Division of the Child and Family Services Administration (CFSA), via the CFSA twenty-four (24) hour Child Abuse and Neglect Hotline; and
  - (b) The Metropolitan Police Department (MPD).
- 6512.6 Any transition planning provider staff member who knows or reasonably believes that an adult client/consumer is or has been in immediate danger of being abused or neglected shall, as required by the Adult Protective Services Act of 1984, effective March 14, 1985 (D.C. Law 5-156; D.C. Code §§ 7-1901 *et seq.*), make or cause to be made an immediate oral report to:
- (a) Adult Protective Services in the Department of Aging and Community Living (DACL), via the twenty-four (24) hour Adult Protective Services Hotline; and
  - (b) MPD.
- 6512.7 In the MUI Report required by this section, the transition planning provider staff member shall include:
- (a) The name, age, sex, household address, and institutional treatment provider address of the client/consumer who is the subject of the report;
  - (b) A statement that the client/consumer who is the subject of the report is receiving services from the transition planning provider;
  - (c) The name, address, and telephone number of the transition planning provider;
  - (d) If the MUI involves an allegation of child abuse, the transition planning provider shall provide the following information:
    - (1) The information that led the transition planning provider staff member to suspect that the client/consumer who is the subject of the report is being or is at risk of being abused or neglected, the nature and extent of the perceived or actual abuse or neglect, and the identity of the person(s) responsible for it;
    - (2) Any other information that may be helpful in establishing whether the client/consumer who is the subject of the report is being or is at risk of being abused or neglected, the cause of the suspected abuse or neglect, and the identity of the person(s) responsible for it;

- (3) To the extent known, the name, age, and sex of each sibling or child living in the same household as the client/consumer who is the subject of the report; and
- (4) To the extent known, the name, age, and sex of each parent, guardian, or other caretaker of the client/consumer.
- (e) The name, title, occupation, and contact information of the transition planning provider staff member making the report;
- (f) Any actions taken by the transition planning provider staff member or the transition planning provider concerning the client/consumer in response to the situation; and
- (g) Any other information required by law.

## 6599 DEFINITIONS

6599.1 When used in this chapter, the following terms shall have the meaning ascribed:

**Adult Substance Abuse Rehabilitative Services (ASARS) Provider** – A provider certified in accordance with 22-A DCMR Chapter 63 who delivers rehabilitative services for SUD as covered by the District’s Medicaid State Plan.

**Advanced Practice Registered Nurse (APRN)** – A person licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)).

**Applicant** – A person or entity that has applied to the Department for certification as a transition planning provider.

**ASAM Criteria** – The American Society of Addiction Medicine (ASAM) Criteria are guidelines for placement, continued stay, transfer, or discharge of individuals with substance use disorder and co-occurring conditions.

**Certification** – The process of establishing that the standards described in this chapter are met; or approval from the Department indicating that an applicant has successfully complied with all requirements for the provision of the transition planning service.

**Certified Peer Specialist** – An individual who has completed the Peer Specialist Certification Program requirements and is approved to deliver peer support services within the District’s public behavioral health network.

**Certified Recovery Coach** – A Certified Recovery Coach is an individual with any DBH-approved recovery coach certification.

**Client** – An individual with an SUD diagnosis who is receiving treatment or support services from a Department-certified provider.

**Clinician** – An individual licensed by the District Department of Health, Health Regulation and Licensing Administration (HRLA) to provide clinical services.

**Consumer** – An individual with a mental health diagnosis who is receiving treatment or support services from a Department-certified provider.

**Department** – The District of Columbia Department of Behavioral Health.

**Director** – The Director of the District of Columbia Department of Behavioral Health.

**District** – The District of Columbia.

**DSM** – The Diagnostic and Statistical Manual of Mental Health Disorders, Fifth Edition (DSM-5), or subsequent versions, used to diagnose and classify behavioral health disorders.

**Family Member** – Individual identified by the client/consumer as a person with whom the individual has a significant relationship and whose participation is important to the individual's recovery.

**Federally Qualified Health Center (FQHC)** – A provider delivering FQHC services in accordance with 29 DCMR Chapter 45.

**Free Standing Mental Health Clinic (FSMHC)** – A provider certified to deliver FSMHC services in accordance with 22-A DCMR Chapter 30.

**Inpatient Hospital Setting** – An acute care hospital providing inpatient hospital services as defined in 42 CFR § 440.10, or a psychiatric hospital that is an institution for mental diseases as defined in 42 CFR § 435.101 and which is providing inpatient hospital services.

**Licensed Independent Clinical Social Worker (LICSW)** – A person licensed as an independent clinical social worker in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Licensed Marriage and Family Therapist (LMFT)** – A person licensed as a marriage and family therapist in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Licensed Professional Counselor (LPC)** – A professional counselor licensed in accordance with Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)).

**Medicaid** – The medical assistance program, as approved by the Federal Centers for Medicare and Medicaid Services (CMS) and administered by the Department of Health Care Finance (DHCF) that enables the District to receive Federal financial assistance for its medical assistance program and other purposes as permitted by law.

**Mental Health Rehabilitation Services Provider (MHRS) Provider** – A provider certified to deliver MHRS in accordance with 22-A DCMR Chapter 34.

**Motivational Interviewing** – Motivational Interviewing (MI) is a directive, client/consumer-centered counseling approach for eliciting behavior change by helping clients/consumers explore and resolve ambivalence.

**Notice of Infraction (NOI)** – An action taken by agencies to enforce alleged violations of regulatory provisions.

**Physician** – A person licensed or authorized to practice medicine pursuant to Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2018 Supp.)).

**Psychologist** – A person licensed to practice psychology in accordance with applicable District laws and regulations.

**Residential SUD Treatment Setting** – An SUD treatment program, including ASAM Levels 3.1, 3.3, 3.5, and 3.7-WM, which houses clients overnight.

**Statement of Deficiency (SOD)** – A written statement of non-compliance issued by the Department, which describes the areas in which an applicant for certification or the certified provider fails to comply with the certification standards pursuant to this chapter.

**SUD Provider Certification** – Having approval from the Department to operate an SUD treatment or recovery support program in the District pursuant to the requirements set forth in 22-A DCMR Chapter 63.

**Transtheoretical Model** – The Transtheoretical Model of behavior change is an integrative theory of therapy that assesses an individual's readiness to act on a new, healthier behavior, and provides strategies or processes of change to guide the individual. The model is composed of constructs such as: stages of change, processes of change, levels of change, self-efficacy, and decisional balance.

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](mailto:trina.dutta@dc.gov), or [DBHpubliccomments@dc.gov](mailto:DBHpubliccomments@dc.gov).

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The State Superintendent of Education, pursuant to the authority set forth in Article II of “An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes”, as amended, effective February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 et seq. (2012 Repl. & 2019 Supp.)); as amended by Section 302 of the “South Capitol Street Memorial Amendment Act of 2012”, effective June 7, 2012 (D.C. Law 19-141, 59 DCR 3083, D.C. Official Code §§ 38-201 et seq. (2012 Repl. & 2019 Supp.)); Mayor’s Order No. 2012-116, dated July 26, 2012; Sections 3(b)(11), 3(b)(15) and 7c of the “State Education Office Establishment Act of 2000”, as amended, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11), 2602(b)(15) and 2609(c)(2) (2012 Repl. & 2019 Supp.)); Section 403 of the “State Board of Education Establishment Act of 2007”, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-2652(a)(14) (2012 Repl.)), and the “Attendance Accountability Amendment Act of 2013”, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-2602(b)(19), hereby gives notice of the adoption, on an emergency basis, of amendments to Title 5 (Education), Subtitle A (Office of the State Superintendent of Education), Chapter 21 (Compulsory Education and School Attendance) of the District of Columbia Municipal Regulations (DCMR), including the replacing subsections 2101.4, 2101.5 and 2101.6 with new language for the 2020-2021 school year and renumbering the remaining subsections accordingly.

The purpose of the emergency and proposed rulemaking is to expand the current attendance regulations to accommodate the remote learning models that public schools in the District of Columbia have adopted to ensure the safety of students, families, and staff in response to the COVID-19 pandemic. Pursuant to D.C. Official Code §38-201, *et. seq.*, education is compulsory for children between the age of five (5) and eighteen (18) in the District of Columbia; schools are required to take, collect and report daily attendance, and make referrals to other District agencies when a defined number of unexcused absences is reached. The response to the COVID-19 pandemic necessitates social distancing procedures that will likely be in place for the 2020-2021 school year. Due to the District of Columbia’s response to COVID-19, students will attend school in-person and via remote learning, when the student not physically present in-person in a traditional classroom environment. The existing regulations for attendance contemplate in-person school attendance only. For the 2020-2021 school year, this emergency and proposed rulemaking outlines how attendance is to be collected regardless of whether a student attends school in-person or remote. The new subsections apply specifically to the 2020-2021 school year and add definitions and requirements that are applicable to the remote learning environment.

Emergency rulemaking action is necessary for the immediate preservation of the public health, safety, welfare, to provide public schools in the District of Columbia with a safe and legal method of taking student attendance while students are engaged in a learning remotely posture necessitated by health and safety concerns related to the COVID-19 public health emergency.

This emergency rulemaking was adopted on August 27, 2020 and became effective on that date. The emergency rulemaking will remain in effect for up to one hundred twenty (120) days after the date of adoption, expiring on December 25, 2020, or upon earlier amendment or repeal by the

State Superintendent of Education or publication of a final rulemaking in the *D.C. Register*, whichever occurs first.

The State Superintendent of Education also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register* and after approval by the Council of the District of Columbia, as specified in Section 501(a) of the Act (D.C. Official Code § 38-275.01(a)).

**Title 5, EDUCATION, Subtitle A, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, Chapter 21, COMPULSORY EDUCATION AND SCHOOL ATTENDANCE, of the DCMR is amended by repealing the regulation in its entirety and replacing it with the following provisions, including replacing subsections 2101.4, 2101.5 and 2101.6 and renumbering the remaining subsection to read as follows:**

**2101 ATTENDANCE RECORDS AND REPORTING**

2101.1 Each educational institution operating in the District of Columbia shall maintain an accurate, contemporaneous, and daily attendance record for each student who is enrolled in or who attends the educational institution.

2101.2 Records shall be maintained as follows:

- (a) The requirement to maintain an attendance record for a student who has completed the enrollment process for an educational institution shall begin on the educational institution's first (1st) official school day and continue throughout the school year, unless the student officially withdraws from the educational institution; fails to attend at least one (1) day of school in the first three (3) weeks of school without notification to the educational institution for such absence; or transfers to another educational institution; and
- (b) Expulsion or suspension of a student during the school year does not relieve the educational institution of the duty to record and report the student's daily attendance for the school year in which the expulsion or suspension occurred until such time as the student officially withdraws from or enrolls in another educational institution; or such time as the educational institution determines that, despite best efforts, it is unable to contact the parent or guardian.

2101.3 The attendance record for each student shall contain the following:

- (a) Dates of enrollment;
- (b) Daily legible or machine-readable records of daily attendance, noting the student as present or absent for a full or partial school day;



- (c) Determination of the nature of each absence as excused, unexcused; suspension-related; or expulsion-related;
- (d) Dates of withdrawal from the educational institution or confirmed transfer to another educational institution, including the name and location of the educational institution to which the student transferred and follow up notation(s) to confirm the child's new placement;
- (e) Dates of each referral to the school-based student support team, the Child and Family Services Agency ("CFSA"), the Court Social Services Division of the Superior Court of the District of Columbia ("Court Social Services"); or the Office of the Attorney General Juvenile Section ("OAG-Juvenile Section") related to absenteeism or truancy;
- (f) Dates of marking periods;
- (g) Dates on which a law enforcement officer enforcing compulsory attendance laws returns the student to the educational institution;
- (h) Daily late arrival time;
- (i) Dates and times of early dismissals from the school day, as authorized by the educational institution;
- (j) Dates and brief description of communications with student, parent(s) or guardian(s) with regard to school attendance and absences, including the record of or a cross-reference to the record documenting:
  - (1) Contact with parents, guardians, or other primary caregivers; and
  - (2) Interventions, services, and service referrals related to absences other than those listed in subparagraph (d);
- (k) Underlying causes for student's absenteeism or truancy as determined by the school-based student support team;
- (l) Action plans and strategies implemented by the school-based student support team to eliminate unexcused absences; and
- (m) Services utilized by the student to reduce unexcused absences.

2101.4 For the school year 2020-21:

- (a) The following definitions shall apply notwithstanding definitions set forth in §2199.1

Absent- A student is considered absent when the student is not in attendance at expected periods of instruction at the educational institution in which the student was enrolled or in attendance at a school-approved activity.

In Person- Instruction that takes place when the student is physically present and is delivered by the school in which the student is enrolled.

One-on-one contact- Contact between the student’s school of enrollment and a school official that authenticates the identity of the student when contact cannot otherwise be made in person.

Present- A student is considered present when the student is in attendance at expected periods of instruction at the educational institution in which the student was enrolled or in attendance at a school-approved activity.

Remote(ly)- Instruction that takes place with the student not physically present and delivered by the school in which the student is enrolled.

(b) For school year 2020-21, the attendance record for each student shall contain:

- (1) The contents of 2101.3 except (b); and
- (2) Daily legible or machine-readable records of daily attendance, noting the student as present or absent when the student attends school in-person or remotely in accordance with the local education agency’s policy on remote attendance prescribed in 2101.5.

2101.5 For school year 2020-21, an educational institution shall abide by its local education agency’s policy defining whether a student is present or absent in a remote setting.

(a) The local education agency’s policy shall include the following:

- (1) In the instance the educational institution is using a learning management system, the requirements the student must meet to authenticate the student’s identity and the student’s expected level of engagement using the learning management system to be considered present when attending school remotely; and/or
- (2) In the instance the educational institution is not using a learning management system, the manner in which the educational institution will:

- (i) Make one-on-one contact with the student daily to authenticate presence;
  - (ii) The medium(s) used to make one-on-one contact with the student daily to authenticate presence; and
  - (iii) The required engagement to constitute present when attending school remotely.
  
- 2101.6 A local education agency must provide its policy defining whether a student is present or absent when attending school remotely when seeking any modification to the requirements for a school year prescribed in 2100.3 to the Office of the State Superintendent (OSSE) for approval.
  
- 2101.7 Prior to the beginning of each school year, an educational institution shall designate an attendance monitor(s) to be responsible for collecting, maintaining, and reporting the attendance data required for each student consistent federal and District requirements. An attendance monitor shall:
  - (a) Ensure timely submission of attendance in conformance with this chapter; and
  - (b) Submit corrected attendance records via an automated, electronic feed, or such other format; and provide any corrections to attendance records within fifteen (15) business days of submission; and
  - (c) Timely respond to requests for clarification of submitted attendance records.
  
- 2101.8 The name and contact information of the designated attendance monitor shall be reported by the educational institution prior to the first (1st) official school day of each school year to OSSE and posted in a conspicuous space on the educational institution's website.
  
- 2101.9 Within sixty (60) days after the completion of each school year, an educational institution shall submit to OSSE the report described in D.C. Official Code § 38-203(i). Such report shall include attendance information in aggregate form, excluding individual student data.
  
- 2101.10 Prior to the beginning of each school year, OSSE shall issue a report including the following information:
  - (a) Truancy rates for each educational institution;

- (b) Progress in improving attendance and reducing truancy for each educational institution; and
  - (c) Each educational institution's compliance with key attendance and truancy requirements.
- 2101.11 An educational institution shall maintain attendance records as part of the student's permanent record and for such periods of time as may be otherwise specified by applicable laws and regulations.
- 2101.12 Within two (2) business days after each occurrence of a student's tenth (10th) unexcused absence during a school year, the educational institution shall:
  - (a) [REPEALED];
  - (b) Send the student's parent a letter, under signature of the Chief of the Metropolitan Police Department, notifying the parent that he or she may be in violation of the school attendance requirements and subject to prosecution under District of Columbia laws; and
  - (c) Notify OSSE of the student's ten (10) days of the unexcused absence.
- 2101.13 Upon notification from the educational institution under § 2101.12, OSSE shall provide the parent with a copy of the Truancy Prevention Resource Guide published by OSSE.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register* via email addressed to: [osseccomments.proposedregulations@dc.gov](mailto:osseccomments.proposedregulations@dc.gov); or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Renee Lee re: Attendance Regulations, 1050 First Street, NE 3rd Floor, Washington, DC 20002. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at [www.osse.dc.gov](http://www.osse.dc.gov).

## DEPARTMENT OF HEALTH CARE FINANCE

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2019 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 42 (Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities) and Chapter 50 (Medicaid Reimbursement for Personal Care Aide Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The current 1915(c) Home and Community-Based Services (HCBS) Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for a five (5)-year renewal period beginning April 4, 2017. CMS approved a subsequent waiver amendment, effective July 1, 2018. On August 7, 2020, DHCF submitted an updated EPD Waiver amendment request with a proposed effective date of October 1, 2020.

In accordance with the changes proposed in the submitted request for amendment, this emergency and proposed rulemaking modifies the scope of covered waiver services, clarifies restrictions related to participant enrollment and provider reimbursement, and updates requirements for service providers under the EPD Waiver program. Specifically, these emergency and proposed rules make the following changes to Title 29 DCMR Chapter 42:

Coverage of physical therapy and occupational therapy under the EPD Waiver is removed due to the underutilization of these services by waiver participants. Physical therapy and occupational therapy were added to the EPD Waiver in 2015 to ensure that waiver participants could receive these services on a more frequent and continuous basis than was offered under the state plan benefit. However, to date, waiver participants have not requested physical and occupational therapy in their person-centered service plans, due primarily to the sufficient access to these services under the state plan home health benefit.

Coverage of respite services for eighteen (18) to twenty-four (24) hours per day is removed from the EPD Waiver. Respite services are currently offered to all waiver participants at two (2) different rates: An hourly rate for individuals needing between one (1) and (17) seventeen hours per day and a daily rate for those needing eighteen (18) to twenty-four (24) hours per day. This rulemaking ends waiver coverage of eighteen (18) to twenty-four (24) hours-per-day respite services, a benefit which has not been utilized by waiver participants since November 2015.

Coverage of Personal Emergency Response System (PERS) services is removed from the EPD Waiver. Instead, as proposed in a corresponding rulemaking and State Plan Amendment (SPA), PERS services will be covered as a state plan benefit. Waiver participants will continue to be

eligible for PERS, but as a result of this change, coverage will also be extended to beneficiaries not enrolled in the waiver but for whom PERS is determined necessary. DHCF is also proposing updates to the scope of PERS services to be covered under the state plan, a detailed description of which can be found in the corresponding rulemaking referenced above.

Personal Care Aide (PCA) services for waiver participants is limited to sixteen (16) hours per day. PCA services under the waiver are currently delivered to waiver participants as an extension of the state plan PCA services benefit. State plan PCA services are capped at eight (8) hours per day and PCA services under the waiver are capped at sixteen (16) hours per day; this means that waiver participants can receive up to twenty-four (24) hours of PCA services per day total. This rulemaking changes the designation of PCA under the waiver from an “extended state plan” service to an “other” service, based on the availability of a delivery modality (participant direction) that is different from what is included under the state plan PCA services benefit. The effect of this change is to limit PCA services for waiver participants to sixteen (16) hours per day total. Beneficiaries currently receiving more than sixteen (16) hours per day of PCA services will have no change to the hours of services allotted until otherwise determined by their annual face-to-face reassessment for long term care services and supports.

The daily cap of sixteen (16) combined hours of PCA services and Adult Day Health services is removed for beneficiaries determined eligible for and/or receiving both types of services.

The duplicative reimbursement of PCA services hours for waiver participants residing in assisted living facilities is no longer permitted; the provision allowing assisted living residents to receive additional assistance with activities of daily living through the receipt of waiver PCA services is removed. This rulemaking also clarifies that Medicaid reimbursement will not be made for twenty-four (24) hour skilled care or skilled supervision; removes the fifty (50) bed limit for assisted living facilities; and increases the reimbursement rate for assisted living services to better reflect provider responsibilities and reasonable costs.

The billing process for Community Transition Services (CTS) is updated to include the requirement that an individual be successfully enrolled in the EPD Waiver prior to the submission of a bill for reimbursement for CTS. This rulemaking also reduces the number of days prior to discharge that an individual in a long term care facility is eligible for CTS from one-hundred and twenty (120) days prior to discharge to sixty (60) days prior to discharge.

The language imposing a caseload limit on case managers is revised to clarify that each case manager is limited to a maximum of forty-five (45) cases total, across all case management agencies, at any given point in time. A new provision is also added requiring that the client caseload of each case manager must be commensurate with the number of hours worked per week.

Eligibility criteria is updated to clarify that enrollment in the waiver is restricted to those individuals not currently enrolled in another 1915(c) waiver and that a beneficiary is not permitted to concurrently participate in multiple 1915(c) HCBS waiver programs.

The tuberculosis (TB) testing requirements for direct care staff is modified to align with national standards by replacing the current annual TB testing requirement with a requirement that testing

be done in accordance with the guidelines published by the U.S. Centers for Disease Control (CDC).

This rulemaking also includes corresponding changes to Chapter 50 of Title 29 DCMR, which governs PCA services covered under the State Plan.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of the long-term care services covered under the EPD Waiver. The EPD Waiver services some of the District's most vulnerable residents. The changes included in this emergency and proposed rulemaking collectively enhance service delivery and coordination and ensure the continued access to services under the waiver, thereby making their immediate implementation integral to preserving the health, safety, and welfare of District residents enrolled in the EPD Waiver.

These emergency and proposed rules correspond to a related 1915(c) HCBS waiver amendment, which requires approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Accordingly, the implementation of the changes proposed in this rulemaking shall become effective on October 1, 2020, or on an alternative effective date established by CMS in its approval of the corresponding waiver amendment, whichever is later.

Finally, DHCF is proposing emergency changes to the administration of the Medicaid program to maintain the accessibility of services to Medicaid beneficiaries if the risk of coronavirus disease (COVID-19) or any other public health emergency in the District requires beneficiaries to quarantine or impedes access to the 1915(c) HCBS EPD Waiver or State Plan PCA services. In accordance with recent emergency legislation and Mayor's Order No. 2020-052, DHCF has made changes to EPD Waiver and State Plan PCA service requirements via guidance published in the *D.C. Register* and on DHCF's website during the public health emergency prompted by COVID-19, as declared by the Mayor. To the extent possible, DHCF will offer any additional flexibilities approved by our federal partners to facilitate administration of the EPD Waiver and service authorizations that promote continuity of services during this public health emergency. Providers, beneficiaries, and other stakeholders can find guidance on these changes on DHCF's website at <https://dhcf.dc.gov/page/long-term-care-administration>.

These emergency rules were adopted on September 18, 2020, and shall become effective on October 1, 2020, contingent upon approval of the corresponding waiver amendment by CMS. These emergency rules shall remain in effect for one hundred and twenty (120) days from the adoption date or until January 16, 2021, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

**Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Subsection 4200.1 of Section 4200, GENERAL PROVISIONS: IDENTIFICATION OF SERVICES; PROGRAM RESPONSIBILITIES; AND SERVICE SETTING REQUIREMENTS, is amended to read as follows:**

4200.1 The following Home and Community-Based Services (HCBS) Waiver services are included in the Persons who are Elderly and Individuals with Physical Disabilities waiver (EPD Waiver), consistent with the regulations set forth in this chapter:

- (a) Case management services;
- (b) Personal Care Aide (PCA) services;
- (c) Respite services;
- (d) Homemaker services;
- (e) Chore aide services;
- (f) Assisted living services;
- (g) Environmental Accessibility Adaptation services;
- (h) Adult Day Health services;
- (i) Individual-Directed Goods and Services;
- (j) Participant-Directed Community Supports services; and
- (k) Community transition services.

**Subsections 4201.1, 4201.2, 4201.5, and 4201.6 of Section 4201, ELIGIBILITY, are amended to read as follows:**

4201.1 Individuals shall be deemed eligible for the EPD Waiver prior to the receipt of the services described in this chapter.

4201.2 To be eligible for the EPD Waiver services described in this chapter, a beneficiary shall:

- (a) Require the level of care furnished in a nursing facility as determined by DHCF's Long Term Care Services and Supports contractor using the



standardized face-to-face assessment tool, in accordance with Subsections 4201.4 and 4201.5;

- (b) Agree to participate in the waiver program by signing the Waiver Beneficiary Freedom of Choice form to elect to receive services in home and community-based settings rather than institutional settings;
- (c) Be aged sixty-five (65) or older, or be aged eighteen (18) and older with one (1) or more physical disabilities;
- (d) Not be an inpatient of a hospital, nursing facility, or intermediate care facility in accordance with Subsection 4201.3;
- (e) Be financially eligible for long term care services and supports in accordance with the requirements set forth in Chapter 98 (Financial Eligibility for Long Term Care Services and Supports) of Title 29 DCMR;
- (f) Reside in the District of Columbia in a community setting, such as a natural home or approved Community Residential Facility or EPD Waiver assisted living facility; and
- (g) Not currently be a participant in any other 1915(c) HCBS waiver, including but not limited to the HCBS Waiver for Individuals with Intellectual and Developmental Disabilities) under Chapter 19 of Title 29 DCMR.

4201.5 Completion of the assessment shall yield a final total score determined by adding up the individual scores from the three domains. To be eligible for EPD Waiver enrollment a beneficiary or applicant must obtain a total numerical score of nine (9) or higher on the assessment, which equates to the need for a nursing home level of care.

4201.6 Eligibility for all EPD Waiver services shall be recertified on an annual basis in accordance with any procedures established by the Department of Health Care Finance (DHCF) in this chapter and 29 DCMR § 989.

**Subsections 4202.1 through 4202.3 of Section 4202, APPEAL RIGHTS FOR APPLICANTS/BENEFICIARIES, are amended to read as follows:**

4202.1 Applicants and beneficiaries shall receive advance notice and shall have the opportunity to request a Fair Hearing if:

- (a) They are found ineligible for participation in the EPD Waiver based on the criteria set forth in Subsection 4201.2;

- (b) They are not given the choice between EPD Waiver services or institutional care;
- (c) They are denied the choice of service(s) from a qualified and willing provider in accordance with 42 CFR § 431.51; or
- (d) DHCF or its designee takes action to deny, discontinue, suspend, reduce, or terminate services, or disenroll a beneficiary or applicant from the EPD Waiver program.

4202.2 An EPD Waiver provider shall issue a written notice in cases of intended actions to deny, discontinue, discharge, suspend, transfer, or terminate services to any applicant or beneficiary in accordance with the requirements set forth in Section 4205.

4202.3 The notice required under Subsection 4202.2 must include the following information:

- (a) The intended action;
- (b) The reason(s) for the intended action;
- (c) Citations to the law(s) and regulations supporting the intended action;
- (d) A list of EPD Waiver standards supporting the decision;
- (e) An explanation of the applicant or beneficiary's right to request a hearing;
- (f) The circumstances under which the applicant or beneficiary's current level of services will be continued if a hearing is requested; and
- (g) A copy of the directory of other EPD Waiver providers.

**New Subsections 4202.4 and 4202.5 are added to read as follows:**

4202.4 The notice shall be issued at least thirty (30) calendar days prior to the effective date of the proposed action, except:

- (a) When the intended action is the termination of services based on the applicant or beneficiary's failure to meet eligibility criteria set forth at Subsection 4201.2, in which case the notice shall be issued at least seven (7) calendar days prior to the effective date of the proposed action; or
- (b) As provided in Subsection 4205.17.

4202.5 DHCF or its designee shall issue a written notice in cases where it intends to take action to deny, discontinue, discharge, suspend, or reduce Waiver services, or disenroll applicants or beneficiaries from the EPD Waiver program. The notice shall be issued at least thirty (30) calendar days prior to the effective date of the proposed action and shall state the following information:

- (a) The intended action;
- (b) The reason(s) for the intended action;
- (c) Citations to the law(s) and regulations supporting the intended action;
- (d) An explanation of the individual's right to request a hearing; and
- (e) The circumstances under which the individual's current level of services will be continued if a hearing is requested.

**Section 4204 is amended to read as follows:**

**4204 WRITTEN PERSON-CENTERED SERVICE PLAN REQUIRED**

**Subsection 4204.5 is amended to read as follows:**

4204.5 A Person-Centered Service Plan (PCSP) shall, at a minimum, address and document the following:

- (a) The beneficiary's strengths, risks, and preferences for plan development at the beginning of the written plan including:
  - (1) Consideration of the beneficiary's significant milestones, and important people in the beneficiary's life; and
  - (2) The beneficiary's preferences in order to tailor the plan to reflect any unique cultural or spiritual needs or be developed in a language or literacy level that the beneficiary and representative can understand;
- (b) The beneficiary's goals, including:
  - (1) Consideration of the beneficiary's current employment, education, and community participation along with aspirations for changing employment, continuing education, and increasing level of community participation; and
  - (2) How the goals tie to the amount, duration, and scope of services that

will be provided;

- (c) List of other contributors selected by the beneficiary and invited to engage in planning and monitoring of the PCSP;
- (d) End of life plan, as appropriate;
- (e) Medicaid and non-Medicaid services and supports preferred by the beneficiary, including supports from family, friends, faith-based entities, recreation centers, or other community resources;
- (f) The specific individuals, health care providers, or other entities currently providing services and supports;
- (g) Potential risks faced by the beneficiary and a risk-mitigation plan to be addressed by the beneficiary and his or her interdisciplinary team;
- (h) Approaches to be taken to prevent duplicative, unnecessary, or inappropriate services;
- (i) Assurances regarding the health and safety of the beneficiary, and if restrictions on his or her physical environment are necessary, descriptions and inclusion of the following:
  - (1) Explicit safety need(s) with explanation of related condition(s);
  - (2) Positive interventions used in the past to address the same or similar risk(s)/safety need(s) and assurances that the restriction will not cause harm to the beneficiary;
  - (3) Necessary revisions to the PCSP to address risk(s) or safety need(s), including the time needed to evaluate effectiveness of the restriction, results of routine data collection to measure effectiveness, and continuing need for the restriction; and
  - (4) Beneficiary's or representative's understanding and consent to proposed modification(s) to the restrictions; and
- (j) Components of self-direction (if the beneficiary has chosen self-directed delivery under the *Services My Way* program, set forth in Chapter 101 of Title 29 DCMR).

**Subsection 4204.7 is amended to read as follows:**

- 4204.7 A beneficiary may temporarily access waiver services in the absence of a DHCF approved PCSP under the following circumstances:

- (a) DHCF determines a delay in the receipt of services would put the beneficiary’s health and safety at risk; or
- (b) DHCF determines services are needed to effectuate a timely discharge from a hospital or nursing facility.

**Section 4205 is amended to read as follows:**

**4205 DISCHARGE, SUSPENSION, TRANSFER, TERMINATION, AND DISENROLLMENT**

**Subsections 4205.1 through 4205.6 are deleted in their entirety.**

**Subsection 4205.11 is amended to read as follows:**

4205.11 Conditions for authorization of a discharge or transfer consist of the following:

- (a) A beneficiary is unsatisfied with the services delivered by a specific provider;
- (b) The provider is unable to meet the needs of the beneficiary; if a service provider is requesting the discharge or transfer, the provider has demonstrated compliance with all requirements set forth in Subsection 4205.12; or
- (c) The behavior of a beneficiary poses an immediate threat to the safety and well-being of the waiver provider or provider’s staff.

**Subsection 4205.13 is amended to read as follows:**

4205.13 DHCF, a case manager, or a provider may suspend the services of a beneficiary when:

- (a) The beneficiary’s behavior poses a risk to the staff, and interventions have not successfully addressed the behavior; or
- (b) The beneficiary prohibits access to provider-related visits.

**Subsection 4205.15 is amended to read as follows:**

4205.15 In addition to the requirements specified in Subsection 4205.16, the provider shall take the following administrative actions before effectuating a discharge, transfer, suspension, or service termination:

- (a) Issue written notice pursuant to Subsections 4202.2 – 4202.4;
- (b) Arrange for alternative services prior to effectuating the discharge, transfer, suspension, or service termination;
- (c) Provide the beneficiary and DHCF (at [DHCFLTCAProvider@dc.gov](mailto:DHCFLTCAProvider@dc.gov)) with a copy of the plan identifying alternative services and include timelines describing when the alternative services will be put in place;
- (d) Notify DHCF, DC Health’s Health Regulation and Licensing Administration (HRLA), and Adult Protective Services if the provider believes that the beneficiary’s health is at risk as a result of the discharge, transfer, suspension, or service termination; and
- (e) In the case of transfers, including transfers to a new case management agency, ensure that an agreement between the transferring agency and receiving agency is executed before the transfer is executed.

**A new Subsection 4205.17 is added to read as follows:**

4205.17 If the behavior of a beneficiary, or the environment in which services are being provided, poses an immediate threat to the safety and well-being of the provider or provider’s staff, the provider has the right to immediately suspend the beneficiary’s services or discharge the beneficiary.

**Section 4207 is amended to read as follows:**

**4207 RECORDS AND CONFIDENTIALITY OF INFORMATION**

**Section 4210 is amended to read as follows:**

**4210 REIMBURSEMENT: CASE MANAGEMENT SERVICES**

**Subsections 4210.1 and 4210.3 are amended to read as follows:**

4210.1 Case management services shall be reimbursed on a per member per month (PMPM) basis.

4210.3 In order for a case management agency to receive reimbursement for case management services, each case manager must perform case management duties either on a full-time or on a part-time basis, in accordance with the following:

- (a) At any point in time, a case manager shall be assigned no more than forty-five (45) persons total (inclusive of Medicaid and non-Medicaid beneficiaries) across all case management agencies; and

- (b) The caseload of each case manager must be commensurate with the number of hours worked per week.

**Section 4211 is amended to read as follows:**

**4211 REIMBURSEMENT: PERSONAL CARE AIDE (PCA) SERVICES**

**Section 4212, REIMBURSEMENT RATES: PERSONAL EMERGENCY RESPONSE SERVICES (PERS), is deleted in its entirety.**

**Section 4213 is amended to read as follows:**

**4213 REIMBURSEMENT: RESPITE SERVICE**

**Subsections 4213.3 through 4213.7 are amended to read as follows:**

- 4213.3 Effective July 1, 2020, DHCF reimbursement for respite services shall be limited to a total of seventeen (17) hours per day per beneficiary.
- 4213.4 Consistent with Section 4232, respite services shall be limited to a total of four hundred and eighty (480) hours per year per beneficiary unless the need for additional services is prior authorized by DHCF or its designee.
- 4213.5 DHCF shall not reimburse a provider of respite services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian, with the exception of parents of adult children. Non-legally responsible relatives, including parents of adult children, may provide and be reimbursed for respite services provided they meet the requirements of Section 4231.
- 4213.6 DHCF shall not reimburse for the cost of room and board except when provided as part of respite care furnished in a facility approved by the District of Columbia that is not a private residence.
- 4213.7 When respite is provided in a facility, including an Assisted Living Facility, group home, or other Community Residential Facility, the facility must meet all HCBS setting requirements consistent with Section 4200.

**Section 4214 is amended to read as follows:**

**4214 REIMBURSEMENT: HOMEMAKER SERVICES**

**Subsection 4214.3 is amended to read as follows:**

4214.3 DHCF shall not reimburse a provider of homemaker services for services provided by the waiver beneficiary's spouse, or other legally responsible relative or court-appointed guardian, with the exception of parents of adult children. Non-legally responsible relatives, including parents of adult children, may provide and be reimbursed for homemaker services provided they meet the requirements of Section 4233.

**Section 4215 is amended to read as follows:**

**4215 REIMBURSEMENT: CHORE AIDE SERVICES**

**Subsections 4215.4 and 4215.5 are amended to read as follows:**

4215.4 DHCF shall not reimburse a provider of chore aide services for services provided by the waiver beneficiary's spouse or other legally responsible relative or court-appointed guardian, with the exception of parents of adult children. Non-legally responsible relatives, including parents of adult children, may provide and be reimbursed for chore aide services provided they meet the requirements of Section 4235.

4215.5 Chore aide services shall not be reimbursed by DHCF unless the agency or business provides documentation of pre- and post-cleaning activities as referenced in Subsection 4235.10.

**Section 4216 is amended to read as follows:**

**4216 REIMBURSEMENT: ASSISTED LIVING SERVICES**

**Subsections 4216.3 through 4216.6 are amended to read as follows:**

4216.3 The reimbursement rate shall be an all-inclusive rate for all services provided as set forth in Section 4238.

4216.4 Medicaid reimbursement will not be made for twenty-four (24) hour skilled care or skilled supervision, room and board, costs of facility maintenance, or upkeep and improvement. Covered services shall be in accordance with Section 4238.

4216.5 Beneficiaries may seek subsidies outside of the EPD Waiver to pay for room and board through the Optional State Supplemental Payment Program.

4216.6 DHCF shall not reimburse for any of the following EPD Waiver services when provided concurrently with assisted living services:

- (a) Homemaker services;



- (b) Chore Aide services;
- (c) Respite services;
- (d) Environmental Accessibility Adaptation (EAA) services; or
- (e) PCA services.

**Subsection 4216.7 is deleted in its entirety.**

**Section 4217 is amended to read as follows:**

**4217 REIMBURSEMENT: ENVIRONMENTAL ACCESSIBILITY ADAPTATION (EAA)**

**Section 4218 is amended to read as follows:**

**4218 REIMBURSEMENT: ADULT DAY HEALTH**

**Subsections 4218.2, 4218.4, and 4218.5 are amended to read as follows:**

4218.2 A provider shall not be reimbursed for adult day health services when provided concurrently with the following services:

- (a) Intensive day treatment or day treatment mental health rehabilitative services (MHRS) under the District of Columbia State Plan for Medical Assistance (State Plan);
- (b) Personal Care Aide services;
- (c) Services funded by the Older Americans Act of 1965, approved July 14, 1965 (Pub. L. No. 89-73, 79 Stat. 218); or
- (d) 1915(i) State Plan Option services under the State Plan.

4218.4 Adult day health services shall not be provided for more than eight (8) hours per day, five (5) days per week.

4218.5 Adult day health services may be used in combination or on the same day as PCA services, as long as these services are not billed concurrently or during the same time.

**Subsection 4218.6 is deleted in its entirety.**

**Section 4219, REIMBURSEMENT RATES: PHYSICAL THERAPY, is deleted in its entirety.**

**Section 4220, REIMBURSEMENT RATES: OCCUPATIONAL THERAPY, is deleted in its entirety.**

**Section 4221 is amended to read as follows:**

**4221 REIMBURSEMENT: COMMUNITY TRANSITION SERVICES**

**Subsection 4221.1 is amended to read as follows:**

4221.1 In accordance with Section 4252, reimbursement for the household set up items specified under Subsection 4252.2 shall not exceed five thousand dollars (\$5,000) per Waiver period and shall only be reimbursed beginning sixty (60) calendar days before a beneficiary's discharge and up to six (6) months after discharge from an institution or long term care facility.

**Subsections 4222.11 and 4222.14 of Section 4222, PROVIDER REQUIREMENTS: GENERAL, are amended to read as follows:**

4222.11 Each provider of waiver services shall establish and implement a process to ensure that each beneficiary has:

- (a) Been informed of and given his or her freedom of choice in the selection of all qualified service providers;
- (b) Been informed of his or her rights and responsibilities under the waiver program; and
- (c) Been informed, upon initial enrollment and on an annual basis thereafter, on the recognition and prevention of abuse, neglect, and exploitation, including how to safely report concerns.

4222.14 All case managers, Adult Day Health providers, Assisted Living providers, Community Residence Facility providers, and Home Care Agencies providing EPD Waiver services shall complete mandatory training in Person-Centered Thinking, Supported Decision-Making, and Supported Community Integration.

**Subsections 4223.1 through 4223.8 of Section 4223, SPECIFIC PROVIDER REQUIREMENTS: CASE MANAGEMENT SERVICES, are amended to read as follows:**

4223.1 Each individual providing case management services shall meet the following requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Be a United States citizen or alien who is lawfully authorized to work in the United States;
- (c) Provide proof by submitting photocopies of the supporting documents for the Immigration and Naturalization Service's Form I-9 requirements;
- (d) Be able to read and write English;
- (e) Be acceptable to the beneficiary using the Waiver service;
- (f) Confirm, in accordance with published CDC guidelines, that he or she is free of active tuberculosis by undergoing a purified protein derivative skin test;
- (g) Confirm, on an annual basis, that he or she is free of communicable diseases by undergoing an annual physical examination by a physician, and obtaining written and signed documentation from the examining physician that confirms he or she is free of communicable diseases; and
- (h) Provide to each case management service provider for whom he or she works:
  - (1) Evidence of acceptance or declination of the Hepatitis vaccine; and
  - (2) A completed DHCF Conflict-Free Case Management Self-Attestation Form described in Subsection 4223.2.

4223.2 Effective March 25, 2016, except as provided in Subsection 4223.3, an individual providing case management services, who is employed or under contract to an EPD Waiver case management service provider shall self-attest to meeting the CMS conflict-free standards in accordance with 42 CFR § 441.301(c)(1)(vi) using the DHCF Conflict-Free Case Management Self-Attestation Form.

4223.3 Under the CMS standards, individual case managers shall not:

- (a) Be related by blood or marriage to the person receiving services, or to any paid caregiver of the person;
- (b) Be financially responsible for the person, or be empowered to make financial or health decisions on the person's behalf;
- (c) Have a financial relationship, defined in 42 CFR § 411.354, with any entity that is paid to provide care for the person; and

- (d) Be employed by any entity that is a provider of a person's PCA services or any other direct services under the EPD Waiver.

4223.4 An individual providing EPD Waiver case management services shall have met the requirements of Subparagraph 4223.1(h)(2) by no later than July 1, 2016.

4223.5 EPD Waiver case management service providers shall ensure they have a copy of the DHCF Conflict-Free Case Management Self-Attestation Form on file for each case manager prior to submission of any claims for case management services provided by that case manager on or before July 1, 2016. DHCF Conflict-Free Case Management Self-Attestation Forms are subject to inspection and audit and must be produced upon request.

4223.6 Individuals conducting case management services shall meet one of the following educational requirements:

- (a) Have a current license in nursing, social work, psychology, counseling, occupational, physical, or speech therapy with a master's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology, and have at least one (1) year of experience working with the elderly or individuals with physical disabilities;
- (b) Have a current license in nursing, social work, psychology, counseling, occupational, physical, or speech therapy with a bachelor's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology, and have two (2) years of experience working with the elderly or individuals with physical disabilities; or
- (c) Have a current license as a Registered Nurse (RN), have an associate's degree in nursing, and have at least three (3) years of experience working with the elderly and individuals with physical disabilities.

4223.7 Case management service providers shall not provide medical, financial, legal, or other services or advice for which they are not qualified or licensed to provide (except for providing referrals to qualified individuals, agencies, or programs).

4223.8 As of March 25, 2016, in accordance with 42 CFR § 441.301(c)(1)(vi), the following providers are not eligible to provide case management services:

- (a) An entity that is a Medicaid provider of PCA services or any other direct services under the EPD Waiver; or

- (b) An entity that has a financial relationship, as defined in 42 CFR § 411.354, with a Medicaid provider of PCA services or any other direct services under the EPD Waiver.

**Subsection 4224.14 of Section 4224, PROGRAM SERVICES: CASE MANAGEMENT SERVICES, is amended to read as follows:**

4224.14 The case manager shall ensure a beneficiary timely completes Medicaid reassessment(s) as part of the annual recertification requirements. This includes, but is not limited to, the following activities:

- (a) Collecting and submitting documentation to DHCF or its designee, such as medical assessments, clinician authorization forms, and case manager evaluation forms;
- (b) Conducting an evaluation of each beneficiary's health status at least once every twelve (12) months or upon a significant change in the beneficiary's health status and completing the case manager evaluation form following each evaluation;
- (c) Assisting the beneficiary in requesting a level of care assessment from DHCF or its designee on an annual basis, or when there is a change in health status, as determined by the evaluation described in Paragraph 4224.14(b);
- (d) Ensuring information is uploaded to DHCF's electronic case management system at least sixty (60) days prior to the expiration of the beneficiary's current certification period;
- (e) Collecting financial eligibility (*i.e.*, income) information from the beneficiary and/or the authorized representative and transmitting it to DHCF or its designee;
- (f) Reevaluating the beneficiary's goals, level of service and support needs, and updating and/or revising the Person-Centered Service Plan (PCSP) to reflect any changes;
- (g) Assessing progress in meeting established goals, as documented in the PCSP, and ensuring that the information is forwarded to DHCF;
- (h) Coordinating any change requests, including adding new services; and
- (i) Following-up with selected service providers within five (5) business days of an approval of services by DHCF or its designee, to ensure services are in place.

**Subsection 4225.1 of Section 4225, CASE MANAGEMENT AGENCY AND CASE MANAGER RESPONSIBILITIES, is amended to read as follows:**

- 4225.1 Case management agencies shall ensure compliance with the following requirements:
- (a) At any point in time, no case manager has a client caseload exceeding forty-five (45) persons total (inclusive of Medicaid and non-Medicaid beneficiaries) across all case management agencies; and
  - (b) The caseload of each case manager is commensurate with the number of hours worked per week.

**Subsection 4226.1 of Section 4226, SPECIFIC PROVIDER REQUIREMENTS: PERSONAL CARE AIDE SERVICES, is amended to read as follows:**

- 4226.1 A personal care aide (PCA) services provider shall meet the provider requirements set forth in Chapter 50 (Medicaid Reimbursement for Personal Care Aide Services) of Title 29 DCMR. These shall include, but shall not be limited to:
- (a) Provider and Personal Care Aide (PCA) qualifications;
  - (b) Staffing and administration requirements; and
  - (c) Notice requirements.

**Section 4227, SPECIFIC ELIGIBILITY REQUIREMENTS: PERSONAL CARE AIDE SERVICES, is amended to read as follows:**

- 4227.1 To be eligible for Medicaid reimbursement of PCA services under the EPD Waiver program, a beneficiary shall have an assessed need for PCA services, as established by the conflict-free face-to-face assessment.

**Subsection 4228.4 of Section 4228, PROGRAM SERVICES: PERSONAL CARE AIDE SERVICES, is amended to read as follows:**

- 4228.4 In accordance with Chapter 50 of Title 29 DCMR, EPD Waiver PCA services shall not be provided in a hospital, nursing facility, intermediate care facility, or any other living arrangement which includes PCA services as a part of its reimbursement rate.

**Subsection 4228.5 is deleted in its entirety.**

**Section 4229, SPECIFIC PROVIDER REQUIREMENTS: PERSONAL EMERGENCY RESPONSE SERVICES (PERS), is deleted in its entirety.**

**Section 4230, PROGRAM SERVICES: PERS, is deleted in its entirety.**

**Subsection 4231.6 of Section 4231, SPECIFIC PROVIDER REQUIREMENTS: RESPITE SERVICES, is amended to read as follows:**

- 4231.6 A Registered Nurse (R.N.) who possesses the following qualifications shall conduct the initial intake assessment:
- (a) Is licensed to practice registered nursing in the District of Columbia in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; [D.C. Official Code §§ 3-1201.01 et seq.](#) (2016 Repl.)), and implementing rules, Chapter 54 (Registered Nursing) of Title 17 DCMR; and
  - (b) Is employed by or contracted for by an approved home care agency.

**Subsections 4232.5 through 4232.8 of Section 4232, PROGRAM SERVICES: RESPITE SERVICES, are amended to read as follows:**

- 4232.5 A unit of Medicaid reimbursable service for respite care shall be one (1) hour spent performing allowable tasks.
- 4232.6 Medicaid reimbursable respite services shall be limited to a maximum of seventeen (17) hours per day and four hundred and eighty (480) hours per year.
- 4232.7 Medicaid reimbursable respite services shall not be billed in combination with or at the same time as PCA services.
- 4232.8 No waiver provider shall receive Medicaid reimbursement for PCA services, other than those provided by the in-home respite staff, during the period of time which respite services are provided.

**Subsections 4233.2 through 4233.6 of Section 4233, SPECIFIC PROVIDER REQUIREMENTS: HOMEMAKER SERVICES, are amended to read as follows:**

- 4233.2 In order to receive Medicaid reimbursement for homemaker services, all individual homemaker service staff shall:
- (a) Be at least eighteen (18) years of age;
  - (b) Be able to successfully communicate with the beneficiary receiving EPD Waiver services;
  - (c) Pass a criminal background check;

- (d) Obtain, and maintain an updated Cardiopulmonary Resuscitation certificate; and
- (e) Meet the qualification and training requirements under Subsection 4233.3 or 4233.4.

4233.3 In order to receive Medicaid reimbursement for homemaker services, a home care agency shall:

- (a) Require that all individual homemaker service staff be certified as a Home Health Aide in accordance with District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), and implementing rules, Chapter 93 of Title 17 DCMR; and
- (b) Meet any ongoing training requirements required under DC Health's Home Health Aide certification requirements.

4233.4 In order to receive Medicaid reimbursement for homemaker services, a business with a general business license issued by the D.C. Department of Consumer and Regulatory Affairs to provide housekeeping services shall require that all individual homemaker staff obtain a minimum of eight (8) hours of training annually in the following areas:

- (a) Beneficiary rights;
- (b) Communicating effectively with beneficiaries enrolled in the waiver;
- (c) Preventing abuse, neglect, and exploitation;
- (d) Controlling the spread of disease and infection;
- (e) Changing linens and bed bug prevention;
- (f) Safe handling of cleaning chemicals (use of gloves, goggles, or masks);
- (g) Handling hazardous waste;
- (h) Blood-borne pathogens and bodily fluids;
- (i) Food preparation, handling, and storage; and
- (j) Instructions on the following:
  - (1) Dusting;



- (2) Maintenance of floors (mopping or vacuuming);
- (3) Trash handling;
- (4) Laundry and safe use of detergents;
- (5) Cleaning the walls and ceiling; and
- (6) Kitchen and bathroom cleaning and maintenance.

4233.5 Supervisory staff employed by the homemaker service provider shall develop a written homemaker service delivery plan, which shall be approved by the beneficiary's case manager prior to implementation.

4233.6 The homemaker service provider shall document each in-home visit and telephone contact in the beneficiary's service delivery plan within thirty (30) calendar days of the visit or contact.

**Subsections 4234.2 and 4234.3 of Section 4234, PROGRAM SERVICES: HOME MAKER SERVICES, are amended to read as follows:**

4234.2 Homemaker staff may perform the following tasks when providing homemaker services:

- (a) Food preparation and storage, which shall consist of any tasks to promote maintaining a tidy kitchen including overseeing the proper storage of any groceries by ensuring that all perishable foods are stored in the freezer or refrigerator.
- (b) General household cleaning such as:
  - (1) Cleaning bathrooms;
  - (2) Vacuuming;
  - (3) Dusting;
  - (4) Mopping floors;
  - (5) Sweeping floors;
  - (6) Bed making;
  - (7) Linen changing;
  - (8) Wiping appliances;

(9) Washing dishes; and

(10) Doing laundry and ironing clothes.

(c) Running errands necessary to maintain the beneficiary in the home, (e.g., shopping for food or essentials needed to clean the home, picking up medicine, or mailing payments for utilities).

4234.3 A unit of service for reimbursement of homemaker services shall be one (1) hour spent performing the allowable task(s).

**Section 4237 is amended to read as follows:**

**4237 SPECIFIC PROVIDER REQUIREMENTS: ASSISTED LIVING SERVICES**

**Subsections 4237.1 and 4237.2 are amended to read as follows:**

4237.1 In order to receive Medicaid reimbursement, each facility providing assisted living services shall be licensed by the Department of Health and comply with the requirements set forth in the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.*) and attendant rules.

4237.2 In accordance with the Department of Health licensure requirements, each assisted living provider shall develop an individualized service plan (Plan of Care) that identifies the services to be included for the beneficiary and ensure that the plan is shared with the beneficiary’s case manager to facilitate coordination of all services received under the EPD Waiver program’s PCSP.

**Section 4238, PROGRAM SERVICES: ASSISTED LIVING SERVICES, is amended to read as follows:**

4238.1 In order to receive Medicaid reimbursement, assisted living services shall be personal care and supportive services that are furnished to beneficiaries who reside in a homelike, non-institutional setting that includes twenty-four (24) hour on-site response capability to meet any scheduled or unscheduled needs of the beneficiaries and to provide supervision, safety, and security.

4238.2 Assisted living services shall include all of the following services, as necessary to meet a beneficiary’s needs, in accordance with his or her written PCSP:

(a) Twenty-four (24) hour supervision and oversight to ensure the well-being and safety of a beneficiary;

- (b) Assistance with activities of daily living and instrumental activities of daily living, such as PCA services, to meet the scheduled and unscheduled service needs of a beneficiary;
- (c) Laundry and housekeeping tasks that a beneficiary is unable to perform and that would otherwise be provided under the Chore Aide or Homemaker services benefit;
- (d) Coordination of social and recreational activities;
- (e) Coordination of activities to enable access to health and social services, including social work, nursing, rehabilitative, hospice, medical, dental, dietary, counseling, and psychiatric services; and
- (f) Coordination of scheduled transportation to community-based activities.

4238.3 Consistent with Subsection 4238.2(e), the assisted living provider shall coordinate the delivery of all services provided by third parties, including but not limited to home care agencies, hospitals, clinics, and Adult Day Health providers.

**Subsection 4239.15 of Section 4239, SPECIFIC PROVIDER REQUIREMENTS: EAA, is amended to read as follows:**

4239.15 EAA service providers shall be exempt from the tuberculosis (TB) testing requirements.

**Subsections 4241.1, 4241.2, and 4241.5 of Section 4241, SPECIFIC PROVIDER REQUIREMENTS: ADULT DAY HEALTH, are amended to read as follows:**

4241.1 In order to receive Medicaid reimbursement, an adult day health provider under the EPD Waiver shall meet the requirements set forth in Chapter 97 (Adult Day Health Program Services) of Title 29 DCMR, including, but not limited to:

- (a) Provider qualifications;
- (b) Program Administration; and
- (c) Staffing requirements.

4241.2 Each adult day health provider under the EPD Waiver shall meet all HCBS setting requirements consistent with Subsection 4200.6 and DHCF's Provider Readiness Review process.

4241.5 The adult day health plan of care shall incorporate the goals and principles of the PCSP and be developed in accordance with the requirements set forth in Chapter 97 of Title 29 DCMR.

**Subsection 4242.2 of Section 4242, PROGRAM SERVICES: ADULT DAY HEALTH, is amended to read as follows:**

- 4242.2 In order to receive Medicaid reimbursement, adult day health services shall include all of the following:
- (a) Medical and nursing consultation services including health counseling to improve and maintain the health, safety, and psycho-social needs of the beneficiary;
  - (b) Individual and group therapeutic activities which may include various social, recreational, and educational activities;
  - (c) Social service supports including consultations to determine the beneficiary's need for services and, guidance through counseling and teaching on matters related to the beneficiary's health, safety, and general welfare;
  - (d) Direct care supports including personal care assistance, and offering guidance in performing self-care and activities of daily living;
  - (e) Instruction on accident prevention and the use of special aides;
  - (f) Medication administration services provided by an RN;
  - (g) Nutrition services; and
  - (h) Coordination of transportation services for therapeutic activities that are scheduled off-site.

**Section 4243, SPECIFIC PROVIDER REQUIREMENTS: PHYSICAL THERAPY, is deleted in its entirety.**

**Section 4244, PROGRAM SERVICES: PHYSICAL THERAPY, is deleted in its entirety.**

**Section 4245, SPECIFIC PROVIDER REQUIREMENTS: OCCUPATIONAL THERAPY, is deleted in its entirety.**

**Section 4246, PROGRAM SERVICES: OCCUPATIONAL THERAPY, is deleted in its entirety.**

**Subsection 4252.6 of Section 4252, PROGRAM SERVICES: COMMUNITY TRANSITION SERVICES, is amended to read as follows:**

4252.6 Community Transition funds shall be utilized for a period not to exceed sixty (60) calendar days before discharge and up to six (6) months after discharge from an institution or long term care facility.

**A new Subsection 4252.7 is added to read as follows:**

4252.7 Claims for reimbursement for Community Transition Services shall not be submitted prior to the beneficiary's enrollment in the EPD Waiver.

**Subsection 4254.6 of Section 4254, INCIDENTS AND COMPLAINTS, is amended to read as follows:**

4254.6 Each service provider shall develop internal policies and procedures regarding incident reporting and investigation that meets the following minimum criteria:

- (a) Notifying DHCF staff via the electronic management system within twenty-four (24) hours or the next business day of an occurrence of a Serious Reportable Incident (SRI) or Reportable Incident (RI);
- (b) Documenting of the incident on an established incident report form in the electronic management system;
- (c) Completing of an internal investigation within five (5) business days of the SRI or RI's occurrence;
- (d) Reporting for all SRIs involving death, neglect, abuse, and theft of consumer personal property occurring at a beneficiary's natural home to Adult Protective Services and DHCF; and
- (e) Informing a beneficiary or responsible party of the outcome of death within three (3) business days of incident investigation closure.

**Section 4299 is amended to read as follows:**

**4299 DEFINITIONS**

When used in this chapter, the following terms and phrases shall have the meanings ascribed below:

**Abuse** - Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the District Medicaid

program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

**Activities of Daily Living (ADLs)** - The ability to bathe, transfer, dress, eat and feed oneself, engage in toileting, and maintain bowel and bladder control (continence).

**Admissions Hold** - A process by which a provider is prohibited from admitting new waiver beneficiaries.

**Advanced Practice Registered Nurse** - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

**Assisted Living Facility** - An entity that shall have the same meaning as set forth in D.C. Official Code § 44-102.01(4).

**Case Management Agency** - An agency under contract with the Department of Health Care Finance to provide case management services to waiver beneficiaries.

**Case Manager** - A staff person from the case management agency who performs case management services.

**Change in Service** - A request to modify the type, amount, duration, or scope of services based on the beneficiary's current level of functioning, which is supported by the assessment tool.

**Chore Aide** - A person who performs tasks intended to place the home environment in a clean, sanitary, and safe condition, and to prepare the home environment for ongoing routine home care services.

**Communicable Disease** - Any disease defined in D.C. Official Code § 7-132 and 22-B DCMR § 299.

**Cueing** - Using verbal prompts in the form of instructions or reminders to assist beneficiaries with activities of daily living.

**Discharge** - A request to release a beneficiary from a particular service provider.

**Environmental Accessibility Adaptation** - Physical adaptations to the home that are necessary to ensure the health, welfare, and safety of the individual, or that enable the individual to function with greater independence in the home, and without which, the individual would require institutionalization.

**EPD Waiver** - The District's 1915(c) Home and Community Based Services Waiver for the Elderly and Persons with Disabilities as approved by the Centers for Medicare and Medicaid Services.

**Family** - Any person related to the beneficiary by blood, marriage, or adoption.

**Fraud** - An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person, including any act that constitutes fraud under federal or District law.

**Home Care Agency** - An entity licensed pursuant to the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*)

**Initiating services** - A request to add services that has been approved as part of a beneficiary's PCSP.

**Licensed Independent Clinical Social Worker** - A person who is licensed or authorized to practice as an independent clinical social worker pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2016 Repl.)).

**Limited English Proficient Individuals** - Individuals who do not speak English as their primary language, and individuals who have a limited ability to read, write, speak, or understand English.

**Medicaid** - A federal-state program established by Title XIX of the Social Security Act, which provides payment of medical expenses for eligible persons who meet income and/or other criteria.

**Natural Home** - A home owned or leased by the beneficiary, the beneficiary's family member or another private individual; the lease/deed must be held by the beneficiary, the beneficiary's family member, or another private individual.

**Participant/Representative-Employer** - The *Services My Way* participant or the participant's authorized representative, as applicable, who performs employer-related duties including recruiting, hiring, supervising and discharging participant-directed workers.

**Person-Centered Service Plan** - Individualized service plan developed by the case manager that identifies the supports and services to be provided to the person enrolled in the Waiver and the evaluation of the person's progress

on an on-going basis to assure that the person's needs and desired outcomes are being met.

**Personal Care Aide** - A person who has successfully completed the relevant jurisdiction's (the person's home state or District of Columbia) established training program and meets the competency evaluation requirements. Tasks include assistance with activities of daily living and instrumental activities of daily living.

**Physical Disability** - A functionally determinable impairment that substantially limits an individual's ability to perform manual tasks, to engage in an occupation, or to live independently, or to walk, see, or hear.

**Physician** - A person who is licensed or authorized to practice medicine pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

**Plan of Care** - A plan prepared by the EPD Waiver service provider that outlines the service delivery plans for the services being delivered by that provider. This is also referred to as a service delivery plan.

**Provider** - Any entity that meets the waiver service requirements, has signed an agreement with DHCF to provide waiver services, and is enrolled by DHCF to provide services to waiver beneficiaries.

**Registered Nurse** - An individual who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*), as amended, or licensed as a registered nurse in the jurisdiction where services are provided.

**Respite Service** - Services that include the provision of assistance with activities of daily living and instrumental activities of daily living for waiver beneficiaries in their home or temporary place of residence in the temporary absence of the primary caregiver. Respite services may also be provided in a Medicaid certified community setting or a group home.

**Suspension** - Ending the delivery of services to a beneficiary for a temporary period not to exceed thirty (30) calendar days.

**Termination** - The discontinuation of services under the Waiver or a disenrollment from the EPD Waiver Program.

**Theft** - Wrongfully obtaining or using the property of another with intent to deprive the other of a right to the property or a benefit of the property or to



appropriate the property to an individual's own use or to the use of a third person.

**Transfer** - A request to move a beneficiary from one service provider to another service provider.

**Vendor** - A corporate entity providing individual-directed goods or services.

**Vendor Fiscal/Employer Agent) Financial Management Services Support Broker Entity** - An entity operating in accordance with 26 USC § 3504 and Rev. Proc. 70-6, as modified by REG-137036 and Rev. Proc. 2013-39, which provides financial management services and information and assistance services to *Services My Way* participants and their representatives, as appropriate.

**Waiver** – See EPD Waiver.

**Waiver Period** - Each five (5) year term for which the Waiver is approved by CMS, beginning with the initial effective date of the Waiver.

**Wrongfully Obtain or Use** - Taking or exercising control over property; making an unauthorized use, disposition, or transfer of an interest in or possession of property; or obtaining property by trick, false pretense, false token, tampering, or deception. The term “wrongfully obtain or use” includes conduct previously known in the District as larceny, larceny by trick, larceny by trust, embezzlement, and false pretenses.

**Chapter 50, MEDICAID REIMBURSEMENT FOR PERSONAL CARE AIDE SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Subsection 5000.2 of Section 5000, GENERAL PROVISIONS, is amended to read as follows:**

- 5000.2 Medicaid reimbursable PCA services support and promote the following goals:
- (a) To provide cueing, safety monitoring, and hands-on assistance during activities of daily living for beneficiaries who are unable to perform one or more activities of daily living; and
  - (b) To encourage home and community-based care as a preferred and cost-effective alternative to institutional care.

**Subsection 5003.6 of Section 5003, PCA SERVICE AUTHORIZATION REQUEST AND SUBMISSION, is amended to read as follows:**

5003.6 PCA services authorized under this chapter may be provided for up to eight (8) hours per day, seven (7) days per week. The amount and scope of PCA services available to individuals deemed eligible for participation in the Elderly or Individuals with Physical Disabilities (EPD Waiver) or Individuals with Intellectual and Developmental Disabilities Waiver (IDD Waiver) are set forth in Chapter 42 and Chapter 19 of Title 29 DCMR, respectively.

**Subsections 5006.7 through 5006.9 of Section 5006, PROGRAM REQUIREMENTS, are amended to read as follows:**

5006.7 PCA services shall be limited to the following:

- (a) Cueing or hands-on assistance with performance of activities of daily living (e.g., bathing, transferring, toileting, dressing, feeding, and maintaining bowel and bladder control);
- (b) Assisting with incontinence, including bed pan use, changing urinary drainage bags, changing protective underwear, and monitoring urine input and output;
- (c) Assisting beneficiaries with transfer, ambulation, and range of motion exercises;
- (d) Assisting beneficiaries with self-administered medications by providing reminders or other verbal cues;
- (e) Reading and recording temperature, pulse, blood pressure, and respiration;
- (f) Measuring and recording height and weight;
- (g) Observing, documenting, and reporting to the supervisory health professional, changes in the beneficiary's physical condition, behavior, and appearance and reporting all services provided on a daily basis;
- (h) Simple meal preparation, such as warming, cutting up, and pouring food or beverages, in accordance with dietary guidelines;
- (i) Assistance with eating;
- (j) Performing tasks related to keeping areas occupied by the beneficiary in a condition that promotes the beneficiary's safety;

- (k) Implementing universal precautions to ensure infection control;
- (l) Accompanying the beneficiary to medical and dental appointments or place of employment and recreational activities if approved in the beneficiary's plan of care;
- (m) Shopping for items that are related to promoting a beneficiary's nutritional status in accordance with dietary guidelines and other health needs as described in the beneficiary's plan of care; and
- (n) Providing safety monitoring to prevent accidents and injuries to the beneficiary in the course of performing activities of daily living.

5006.8 PCA services shall not include:

- (a) Services that require the skills of a licensed professional as defined by the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*);
- (b) Tasks usually performed by chore aides or homemakers, such as cleaning of areas not occupied by the beneficiary, shopping for items not related to promoting the beneficiary's nutritional status and other health needs, and shopping for items not used by the beneficiary; and
- (c) Money management.

5006.9 PCA services shall not be provided in a hospital, nursing facility, intermediate care facility, assisted living facility, or other living arrangement which includes personal care as part of the reimbursed service if the beneficiary has been admitted for care. For outpatient hospital services, emergent care, or circumstances where the beneficiary is being discharged or transitioning to a home-based setting, PCA services may be provided to an eligible beneficiary in circumstances where there is no duplication of PCA services until the time that a beneficiary is admitted for care.

**Subsection 5007.5 of Section 5007, DENIAL, SUSPENSION, REDUCTION, OR TERMINATION OF SERVICES, is amended to read as follows:**

5007.5 If the behavior of a beneficiary, or the environment in which services are being provided, poses an immediate threat to the safety or well-being of the PCA or PCA provider staff, the provider must immediately review the threat and initiate an investigation.

- (a) The provider has the right to immediately discharge the beneficiary or suspend the beneficiary's services for a period not to exceed thirty (30) calendar days.
- (b) A provider that discharges or suspends services for a beneficiary under this subsection remains subject to the requirements set forth at § 5007.9

**Subsection 5009.1 of Section 5009, PERSONAL CARE AIDE QUALIFICATIONS, is amended to read as follows:**

- 5009.1 Each PCA, whether an employee of the Provider or secured through a staffing agency, shall meet the following requirements:
- (a) Obtain or have an existing Home Health Aide certification in accordance with Chapter 93 of Title 17 DCMR;
  - (b) Confirm, consistent with CDC published guidance, that he or she is free from communicable diseases including tuberculosis and hepatitis, by initially undergoing a purified protein derivative test and receiving a hepatitis vaccine during physical examination by a physician, and subsequently obtaining, on an annual basis, written and signed documentation from the examining physician confirming freedom from communicable disease;
  - (c) Provide evidence of current cardio pulmonary resuscitation and first aid certification;
  - (d) Pass a criminal background check pursuant to the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code §§ 44-551 *et seq.*);
  - (e) Pass a reference check and a verification of prior employment;
  - (f) Have an individual National Provider Identifier (NPI) number obtained from National Plan and Provider Enumeration System (NPPES);
  - (g) Obtain at least twelve (12) hours of continuing education or in-service training annually in accordance with the Department of Health's Home Care Agency training requirements under 22-B DCMR § 3915; and
  - (h) Meet all of the qualifications for Home Health Aide trainees in accordance with Chapter 93 of Title 17 DCMR, which includes the following:
    - (1) Be able to understand, speak, read, and write English at a fifth (5<sup>th</sup>) grade level or higher;

- (2) Be knowledgeable about infection prevention, including taking standard precautions; and
- (3) Possess basic safety skills including being able to recognize an emergency and be knowledgeable about emergency procedures.

**Subsections 5015.5 and 5015.6 of Section 5015, REIMBURSEMENT, are amended to read as follows:**

- 5015.5 Reimbursement for PCA services provided as a benefit under the District's Medicaid State Plan shall not exceed eight (8) hours per day, seven (7) days a week, and shall be limited to the amount, duration, and scope of services set forth in the PCA Service Authorization and the plan of care, as described in Section 5003.
- 5015.6 Claims for PCA services submitted by a Provider in any period during which the beneficiary is an in-patient at a health care facility, including a hospital, nursing home, psychiatric facility or rehabilitation program shall be denied except on the day when a beneficiary is admitted or discharged.

**Subsection 5015.9 is deleted in its entirety.**

**Subsection 5015.12 is amended to read as follows:**

- 5015.12 All reimbursable claims for PCA services shall include the NPI numbers for the:
- (a) Billing Provider;
  - (b) Physician or Advanced Practice Registered Nurse (APRN) who ordered the PCA services;
  - (c) Staffing agency, if applicable; and
  - (d) PCA who provided the PCA services, regardless of whether the PCA is an employee of the Provider or is from another staffing agency.

**Section 5099 is amended to read as follows:**

**5099 DEFINITIONS**

When used in this chapter, the following terms and phrases shall have the meanings ascribed below:

**Activities of Daily Living** - The ability to bathe, transfer, dress, eat and feed oneself, engage in toileting, and maintain bowel and bladder control (continence).

**Advanced Practice Registered Nurse** - A person who is licensed or authorized to practice as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2016 Repl.)).

**Authorized representative** – Any person other than a provider:

- (a) Who is knowledgeable about a beneficiary’s circumstances and has been designated by that beneficiary to represent him or her; or
- (b) Who is legally authorized either to administer a beneficiary’s financial or personal affairs or to protect and advocate for his/her rights.

**Cueing** - Using verbal prompts in the form of instructions or reminders to assist persons with activities of daily living.

**Department of Health Care Finance** – The executive agency of the government responsible for administering the Medicaid program within the District of Columbia, effective October 1, 2008.

**Family** - Any person related to the beneficiary by blood, marriage, or adoption.

**Licensed Independent Clinical Social Worker**– A person who is licensed or authorized to practice as an independent clinical social worker pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2016 Repl.)).

**Limited English Proficient** - Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English.

**Order** – A formal, written instruction signed by a physician or APRN in the form of the Prescription Order Form or any successor document supplied by DHCF or its agent.

**PCA Service Authorization Form** – A form that has been developed or approved by DHCF that identifies the amount, duration and scope of PCA services and the number of hours authorized based upon a face-to-face assessment in accordance with § 5003.

**Physician** - A person who is licensed or authorized to practice medicine pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2016 Repl.)).

**Registered Nurse** - A person who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.*), as amended, or licensed as a registered nurse in the jurisdiction where services are provided.

**Significant change** - Changes in a beneficiary's health status that warrants an increase of decrease of supports/services outlined in their plan of care.

**Staffing Agency** – Shall have the same meaning as set forth in the Nurse Staffing Agency Act of 2003, effective March 10, 2004 (D.C. Law 15-74; D.C. Official Code §§ 44-1051.01 *et seq.*).

**Start of Care** – The first date upon which a beneficiary receives or is scheduled to receive PCA services.

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-100  
October 2, 2020

**SUBJECT:** Appointment — Interim Chief Administrative Law Judge, Office of Administrative Hearings

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(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 Rep1.), in accordance with section 7(b)(1) of the District of Columbia Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002, D.C. Law 14-76, D.C. Official Code § 2-1831.04(b)(1), it is hereby **ORDERED** that:

1. **DEBORAH CARROLL**, is appointed as Interim Chief Administrative Law Judge, Office of Administrative Hearings, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-243, dated November 16, 2015.
3. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to September 8, 2020.




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MURIEL BOWSER  
MAYOR

ATTEST:   


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



**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2020-101  
October 2, 2020

**SUBJECT:** Reappointments and Appointment — Lactation Commission

**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 2017-177, dated July 28, 2017, it is hereby **ORDERED** that:

1. The following persons are reappointed to the Lactation Commission for a terms to end April 30, 2023:
  - a. **ANGELA MCCLAIN**, as a social service or community outreach expert member;
  - b. **KANIKA HARRIS**, as a public health expert member;
  - c. **NOELENE JEFFERS**, as a person with background in breastfeeding and lactation studies member; and
  - d. **LAUREN PROPST-RIDDICK**, as a consumer member.
2. **JENNIFER TENDER**, is designated as the Chair of the Lactation Commission, to serve in that capacity at the pleasure of the Mayor.

3. EFFECTIVE DATE: This Order shall be effective *nunc pro tunc* to April 30, 2020.

  
\_\_\_\_\_  
MURIEL BOWSER  
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-102  
October 5, 2020

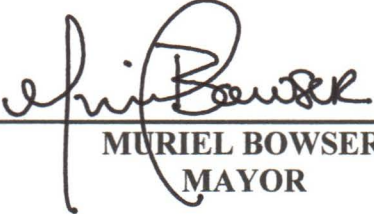
**SUBJECT:** Delegation — Authority to the Director of the Department of General Services to Convey an Easement to the Washington Gas Light Company


**ORIGINATING AGENCY:** Office of the Mayor

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

1. The Director of the Department of General Services (“**Director**”) is delegated the Mayor’s authority to convey to Washington Gas Light Company an easement over Square 5441, Lot 806, which is owned by the District of Columbia, and that certain real property jurisdiction of which was transferred to the District of Columbia for school purposes as recorded in the records of the Office of the Surveyor of the District of Columbia on March 24, 1966, at Subdivision Book 149, page 171, and on March 29, 1946, at Subdivision Book 122, page 143, and in the land records of the National Capital Parks as Land Order No. 289 and Land Record No. 526 (the “**Transfer of Jurisdiction Lots**”) for the purpose of constructing, maintaining, operating, replacing, and repairing a gas line. With respect to the Transfer of Jurisdiction Lots, the authority to execute and convey the easement is subject to any reversionary rights or interests which the United States may have in, or exercise with respect to, the Transfer of Jurisdiction Lots.
2. The Director is delegated the Mayor’s authority to execute all documents necessary to effectuate the easement authorized by paragraph 1 of this Order.
3. The Director may delegate his or her authority under this Order to subordinates under his or her jurisdiction.

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

  
\_\_\_\_\_  
MURIEL BOWSER  
MAYOR

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



**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2020-103

October 7, 2020

**SUBJECT:** Extensions of Public Emergency and Public Health Emergency and Additional Measures in Phase Two of Washington, DC Reopening

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22; in accordance with the Coronavirus Support Congressional Review Emergency Amendment Act of 2020, effective June 8, 2020, D.C. Act 23-328, the Public Health Emergency Authority Additional Extension Emergency Amendment Act of 2020, effective October 5, 2020, D.C. Act 23-411, and any substantially similar subsequent emergency or temporary legislation; section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code § 7-2304; section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002, D.C. Law 14-194, D.C. Official Code § 7-2304.01; section 1 of An Act To Authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939, 53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.*, Mayor's Order 2020-045, dated March 11, 2020, Mayor's Order 2020-046, dated March 11, 2020, Mayor's Order 2020-050, dated March 20, 2020, Mayor's Order 2020-063, dated April 15, 2020, Mayor's Order 2020-066, dated May 13, 2020, Mayor's Order 2020-067, dated May 27, 2020, and Mayor's Order 2020-079, dated July 22, 2020, it is hereby **ORDERED** that:

**I. BACKGROUND**

1. This Order incorporates the findings of prior Mayor's Orders relating to COVID-19.
2. Community transmission of COVID-19 remains throughout the District, though at significantly reduced levels. Over 15,697 District residents have tested positive for COVID-19 and tragically 632 District residents have lost their lives already due to COVID-19. Further, rates of infection, are higher in Maryland and Virginia than in Washington, DC, and due to our porous borders, the regional situation affects the necessity to continue the state of emergency.
3. The District entered Phase Two of its limited reopening on June 22, 2020 based on the Department of Health's (DOH's) evaluation of certain gated criteria, consistent with criteria recommended by the United States Centers for Disease Control and Prevention and DOH's determinations that the District has met applicable metrics that enable us to reduce certain restrictions on businesses, government operations, services, and activities.

4. Mayor's Order 2020-080, dated July 22, 2020, and Mayor's Order 2020-081, dated July 24, 2020, instituted requirements in Phase Two for the wearing of masks in the District of Columbia and to self-quarantine after non-essential travel. Those requirements, and the other requirements in those Orders, remain in effect, except to the extent modified by this Order.
5. Nationwide, the spread of COVID-19 remains a serious threat. Some states, especially those which did not exercise sufficient emergency mitigation measures for a prolonged period of time, are experiencing a rapid rise of cases, strained hospital facilities, and a rising number of COVID-19 related deaths. Without continued extraordinary measures authorized under a state of emergency, as well as community compliance with preventative measures, the progress the District has made in protecting the public health, safety, and welfare would be threatened and likely reversed.
6. The spread of COVID-19 remains an imminent threat to the health, safety, and welfare of District residents that requires the continued need for declarations of a public emergency and public health emergency. In addition, it remains necessary for the District government to take certain actions on accelerated timeframes, and to modify procedures, deadlines, and standards authorized during this declared emergency related to procurement, personnel, disbursements, and other activities to respond to the public emergency and public health emergency and to thoughtfully and safely respond to and recover from the impacts of COVID-19.
7. This Order extends the public emergency and public health emergency declarations in the District of Columbia through December 31, 2020 and issues additional measures for Phase Two of Washington, DC reopening.

## **II. EXTENSIONS OF PUBLIC EMERGENCY AND PUBLIC HEALTH EMERGENCY**

1. By this Order, the public emergency and public health emergency declared by Mayor's Orders 2020-045 and 2020-046, respectively, and extended by Mayor's Orders 2020-050, 2020-063, 2020-066, 2020-067, and 2020-079 are further extended through December 31, 2020.
2. Except as specified below, the provisions of all Mayor's Orders concerning the COVID-19 public health emergency that are currently in effect shall continue to apply through December 31, 2020.

## **III. MODIFIED MEASURES FOR PHASE TWO**

1. Section IV of Mayor's Order 2020-075 is repealed and replaced with the following language:



**“IV. PHASE TWO NONESSENTIAL, NON-RETAIL BUSINESSES**

1. Businesses shall have employees and contractors telework to the extent that is consistent with their current business operations.
2. Businesses are encouraged to develop plans to safely return employees and contractors who are telecommuting to their offices, following guidance from the Department of Health addressing such matters as social distancing, alternating and/or staggering work schedules, and sanitization protocols. The plans shall inform employees of all applicable leave policies.

For example, businesses could alternate and/or stagger cohorts of employees such that only one cohort is in the office at any one time.

2. Sections V.4. and XI.2 of Mayor's Order 2020-075 are repealed.
3. District government agencies may prescribe rules for the permitting and use of their fields and facilities. Individuals and organizations shall follow all rules or guidance prescribed by those District government agencies.
4. Section XI.5.a. of Mayor's Order 2020-075 is amended to strike “outdoor” so that the Department of Parks and Recreation may open indoor pools under the conditions specified in that section.

**IV. ADDITIONAL MEASURES FOR PHASE TWO**

1. District government agencies shall continue to authorize outdoor dining operations. All fees associated with permitting those outdoor dining operations are waived.
2. The Office of the City Administrator, in consultation with the Department of Health and Department of Human Resources, shall continue to establish policies and protocols for the safe return to work, modification of District government services, and deployment of personnel during Phase Two to address the emergency.
3. District government agencies may require individuals utilizing public services in District government facilities to provide identification or information for the individual such as a name and telephone number. Asking for this identification or information is for the sole purpose of facilitating contact tracing and all records shall be destroyed after thirty (30) days.
4. The Director of the Department of Employment Services is delegated the authority vested in the Mayor by section 5b of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7304.02), as added by section 4 of the Coronavirus Support Clarification Emergency Amendment Act of 2020, effective July 7, 2020, D.C. Act 23-332, 67

DCR 8609, to issue public health emergency response grants for job training or certification programs for District residents or District government employees to aide government, businesses, educational, or other organizations affected by the COVID-19 public health emergency. The Director of DOES shall exercise this authority only after consulting with the Deputy Mayor for Education.

**V. SUPERSESION**

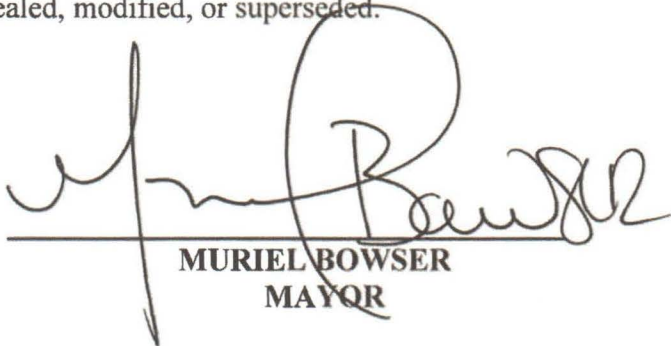
This Order supersedes any Mayor's Order issued during the COVID-19 public health emergency to the extent of any inconsistency.

**VI. ENFORCEMENT**

- 1. Any individual or entity that knowingly violates this Order may be subject to civil and administrative penalties authorized by law, including sanctions or penalties for violating D.C. Official Code § 7-2307, including civil fines or summary suspension or revocation of licenses.
- 2. Official guidance posted on coronavirus.dc.gov may be relied upon by those seeking to understand whether an activity is or is not allowed.
- 3. Guidance issued by the Department of Health and any applicable orders of any regulatory agencies for specific activity related to the public emergency and public health emergency must be followed. Such guidance and directives may be found on coronavirus.dc.gov.

**VII. EFFECTIVE DATE AND DURATION**

The Order shall be effective immediately and shall continue to be in effect through December 31, 2020, or until it is repealed, modified, or superseded.



MURIEL BOWSER  
MAYOR

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



## OFFICE OF THE DISTRICT OF COLUMBIA CLEMENCY BOARD

## NOTICE OF PUBLIC MEETING

The Clemency Board will be holding its meeting on Friday, October 16, 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
4. New Business
  - a. Update from Rulemaking Committee
5. Public Comment
6. Adjournment

**Meeting Link:**

<https://dcnet.webex.com/dcnet/j.php?MTID=ma828ea9af4b8496a0396bd29c4e5bbdb>

**Meeting number (access code):** 172 577 8972

**Password:** gZEkyrjC628

**More ways to join:**

**Join by video system:** Dial [1725778972@dcnet.webex.com](tel:1725778972@dcnet.webex.com)  
You can also dial 173.243.2.68 and enter your meeting number.

**Join by mobile device:** +1-202-860-2110,,1725778972## 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** [1725778972.dcnet@lync.webex.com](tel:1725778972.dcnet@lync.webex.com)

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

**D.C. CRIMINAL CODE REFORM COMMISSION****NOTICE OF PUBLIC MEETING****WEDNESDAY, OCTOBER 7, 2020 AT 10:00 AM  
TELEPHONIC MEETING**

D.C. Criminal Code Reform Commission  
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, October 7, 2020 at 10am. The meeting will be telephonic and members of the public may hear the meeting by calling:

**Dial-in number:** 1-650-479-3208

**Event number / Access code:** 172 159 9924.

The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

**MEETING AGENDA**

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Draft Reports Under Current Review:
  - (A) First Draft of Report #63 – Misrepresentation as a District of Columbia Entity;
  - (B) First Draft of Report #64 – Allowing Dogs To Go At Large;
  - (C) First Draft of Report #65 – Contributing to the Delinquency of a Minor;
  - (D) First Draft of Report #66 – Defense of Self, Others, or Property; and
  - (E) First Draft of Report #67 – Entrapment, Duress, and Mental Disease or Defect Defenses.
- III. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION****NOTICE OF FUNDING AVAILABILITY****NATIONAL SCHOOL LUNCH PROGRAM****FY2021 EQUIPMENT ASSISTANCE GRANT**

**Request for Application Release Date: Friday, October 26, 2020, 3:00 p.m.**

The Consolidated Appropriations Act, 2020, (Public Law 116-94), authorized grants to the Office of the State Superintendent of Education (OSSE), Division of Health and Wellness, for providing equipment assistance to School Food Authorities participating in the National School Lunch Program (NSLP). The District of Columbia has been selected to receive funding in the amount of \$68,306.

**Eligibility and Selection Criteria:** These funds will be available through a competitive grant process to public schools (i.e., schools within the District of Columbia Public Schools), and public charter schools and participating private/non-public schools. Applications will be scored on the following selection criteria: project vision and implementation, project justification, sustainability, benefit to students with disabilities, and budget justification.

These funds will make a significant investment by allowing the purchase of capital equipment used to serve healthier meals, meet the nutritional standards with emphasis on more fresh fruits and vegetables in school meals, improve food safety and expand accessibility to food services.

In order to make the most effective use of these grant funds, equipment requests must address at least one of the following focus areas:

- Equipment that lends itself to improving the quality of school food service meals that meet the dietary guidelines (e.g., purchasing an equipment alternative to a deep fryer or steam ovens that improve quality of prepared fresh or fresh-frozen vegetables)
- Equipment that improves the safety of food served in the school meal programs (e.g., cold/hot holding bags/equipment, dish washing equipment, refrigeration, milk coolers, freezers, blast chillers, etc.)
- Equipment that improves the overall energy efficiency of the school food service operations (e.g. purchase of an energy-efficient walk in freezer replacing an outdated, energy-demanding freezer)
- Equipment that allows sponsors to support expanded participation in a school meal program (e.g., equipment for serving meals in a non-traditional setting or to better utilize cafeteria space)
- Equipment that aides in strategies for adopting smarter lunchrooms (e.g. lunchroom changes that appeals to student population; highlighting convenience, healthy choices, and supporting menu changes to healthier options)

**Length of the Award:** All funds must be expended by September 30, 2022.

**Available Funding for Award:** The District of Columbia has been selected to receive funding in the amount of \$68,306. The estimated number of award ranges from six to eight with the minimum award amount being \$1,000 and the maximum award amount being \$15,000. Determinations regarding the number of competitive grant awards will be based on the quality and number of applications received and available funding. Successful applicants may be awarded amounts less than requested. Grant funds shall only be used to support activities authorized by the relevant statues and included in the applicant's submission.

### **Application Process:**

An external review panel or panels will be convened to review, score, and rank each application for a competitive grant. The review panel(s) will be composed of external neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Each application will be scored against a rubric and applications will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). The State Superintendent or her designee will make all final award decisions. Applications must be submitted by December 4, 2020 at 3:00 p.m. Awards will be announced by January, 2020.

### **Pre-Application Question Period:**

To ensure an equal opportunity for all applicants, OSSE requests that applicants submit questions regarding the RFA electronically to Elysia DiCamillo by 3 p.m. on November 10, 2020. To ensure a fair process, questions submitted after November 10, 2020 will not receive responses. Responses to questions will be published by November 17, 2020.

- Applicants are strongly encouraged to participate in the following webinar information session. A recording of the information session will be available on the OSSE website.
- Pre-application webinar: November 5, 2020 2:00-3:00 pm. Register [here](#).

To receive more information or for a copy of this RFA, please contact:

Elysia DiCamillo  
Office of the State Superintendent of Education  
1050 First Street, NE, 6<sup>th</sup> Floor  
Washington, D.C. 20002  
Telephone: (202) 403-4556  
Email: [Elysia.DiCamillo@dc.gov](mailto:Elysia.DiCamillo@dc.gov)

The Requests for Applications (RFAs) for the competitive grant programs as well as the instructions for completing the Equipment Assistance grant application will be available on OSSE's website at [www.osse.dc.gov](http://www.osse.dc.gov). All applications will be submitted through the Enterprise Grants Management System (EGMS) at [grants.osse.dc.gov](http://grants.osse.dc.gov).

**DEPARTMENT OF ENERGY AND ENVIRONMENT**  
**BUILDING ENERGY PERFORMANCE STANDARDS TASK FORCE**  
**NOTICE OF PUBLIC MEETING**

The Task Force meeting will be held on Tuesday October 13, 2020 from 2:30 p.m. to 4:30 p.m. The meeting will be held virtually. The final agenda and details for joining the meeting will be posted on the Department of Energy and Environment's website at <https://doee.dc.gov/service/building-energy-performance-standards>.

For additional information, please contact: Kate Johnson, Chief, Green Building & Climate Branch, at (202) 299-3355 or [katherine.johnson@dc.gov](mailto:katherine.johnson@dc.gov).

**Meeting Agenda**

1. Administrative Items
2. Deep Retrofit Pathway
3. Prescriptive Pathway – Energy Efficiency Measures
4. Announcements

## DC GREEN FINANCE AUTHORITY

## NOTICE

## REGULAR MEETING OF THE BOARD

DC Green Finance Authority (“DC Green Bank”) will conduct a regular meeting of the Board of Directors, pursuant to the Open Meetings Act, (DC Official Code §2-574(1)).

The date, time and location of the Regular Meeting of the Board of Directors of DC Green Bank shall be as follows:

|                  |                                                                                                                                                                                        |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Date:</b>     | <b>Thursday, October 22, 2020</b>                                                                                                                                                      |
| <b>Time:</b>     | <b>2:00 PM – 3:00 PM</b>                                                                                                                                                               |
| <b>Location:</b> | <b>-Microsoft Teams Videoconference-</b><br><br><b><u>Pre-registration required</u></b><br><br>Email <a href="mailto:info@dgreenbank.org">info@dgreenbank.org</a> for more information |
| <b>Contact:</b>  | <a href="mailto:info@dgreenbank.org">info@dgreenbank.org</a>                                                                                                                           |

**DEPARTMENT OF HEALTH (DC HEALTH)  
NOTICE OF FUNDING AVAILABILITY**

**COMMUNITY HEALTH  
ADMINISTRATION (CHA)  
Request for Grant Applications  
CHA\_PHCCI.09.25.20**

**Perinatal Health Coordinated Care  
Integration Program  
AMENDED**

This notice supersedes notice published September 11, 2020 Vol 67/38.

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<br>Community Health Administration<br><a href="mailto:jean.gamble@dc.gov">jean.gamble@dc.gov</a>                                                                                                                                                                                        |
| Program Description:           | This funding opportunity seeks to pilot mechanisms to:<br><br>1.) Better connect prenatal care to labor and birthing options, with a focus on Wards 7 and 8<br><br><i>and/or</i><br><br>2.) Incorporate the assessment and sharing of social determinants of health at perinatal healthcare visits. |
| Eligible Applicants            | Not-for-profit, for 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:      | Up to 2   |
| Anticipated Amount Available: | \$650,000 |
| Floor Award Amount:           | \$250,000 |
| 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:                                              | <b>Friday, September 25, 2020</b>                                                                                                                                                                                                                                                                                                                                     |
| Pre-Application Meeting (Date)                                 | <b>Friday, October 9, 2020</b>                                                                                                                                                                                                                                                                                                                                        |
| Pre-Application Meeting (Time)                                 | <b>3:30 am to 5:00 pm</b>                                                                                                                                                                                                                                                                                                                                             |
| Pre-Application Meeting Location<br><br>Conference Call Access | Virtual Meeting Link:<br><a href="https://dcnet.webex.com/dcnet/k2/j.php?MTID=t22d0d30fa110c329e047293bf637f037">https://dcnet.webex.com/dcnet/k2/j.php?MTID=t22d0d30fa110c329e047293bf637f037</a><br><br>Password: 1234<br><br>Call-in toll number (US/Canada): 1-650-479-3208<br>United States Toll (Washington D.C.): +1-202-860-2110<br>Access code: 172 184 3139 |
| Letter of Intent Due date:                                     | Not Applicable                                                                                                                                                                                                                                                                                                                                                        |
| Application Deadline Date:                                     | <b>Monday, November 2, 2020</b>                                                                                                                                                                                                                                                                                                                                       |
| Application Deadline Time:                                     | <b>6:00 PM</b>                                                                                                                                                                                                                                                                                                                                                        |
| Links to Additional Information about this Funding Opportunity | DC Grants Clearinghouse<br><a href="http://opgs.dc.gov/page/opgs-district-grants-clearinghouse">http://opgs.dc.gov/page/opgs-district-grants-clearinghouse</a> . DC HEALTH EGMS <a href="https://dcdoh.force.com/GO_ApplicantLogin2">https://dcdoh.force.com/GO_ApplicantLogin2</a>                                                                                   |



**HOWARD UNIVERSITY PUBLIC CHARTER MIDDLE SCHOOL****NOTICE OF REQUEST FOR PROPOSALS/QUOTATIONS****Accounting & Financial Services**

In Compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995, Howard University Public Charter Middle School of Mathematics & Science (HU-MS2) hereby post notice that it will be will be accepting bids for the following services:

**To Provide In house support for Accounting & Financial Services:** to provide In-House Accounting & Financial Support services at Howard University Public Charter School of Mathematics & Science (HU-MS2), for a contract period of **Two years**, with the ability to renew for **Three** more consecutive years. If either party decides to break the contract, two weeks' notice must be given.

Interested parties should email at [info@hu-ms2.org](mailto:info@hu-ms2.org) beginning Friday, October 9, 2020 to receive a copy of the bid package. The deadline for responses to the above-mentioned **items is due Friday, October 23, 2020 by 2:00 pm.** All bids not addressing all areas as outlined in the RFP will not be considered.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF**FORMAL CASE NO. 1017, IN THE MATTER OF THE DEVELOPMENT AND DESIGNATION OF STANDARD OFFER SERVICE IN THE DISTRICT OF COLUMBIA,**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to section 34-802 of the District of Columbia Official Code and in accordance with section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its final tariff action to approve the Potomac Electric Power Company's (Pepco or Company) tariff amendment that updates the Company's Rate Schedules for Electric Service in the District of Columbia.<sup>2</sup> The Commission issued a Notice of Proposed Tariff (NOPT), which was published in the *D.C. Register* on August 28, 2020, giving notice of the Commission's intent to act on Pepco's proposed tariff amendments.<sup>3</sup> No comments were received on the NOPT.

2. On December 17, 2019, Pepco filed its proposed update to its Rider Standard Offer Service (SOS) transmission retail rates. Pepco's proposed tariff amendment updated the retail transmission rates included in the Rider Standard Offer Service "to reflect the current Federal Energy Regulatory Commission (FERC) approved wholesale transmission rates, which went into effect [on] June 1, 2019." Pepco stated that the "updated Network Integrated Transmission Service (NITS) rate is based on the data contained in the 2018 FERC Form 1 for Pepco, which was filed with the FERC on April 2, 2019." In addition, the Company noted that the filed wholesale transmission rate for the Pepco Zone effective June 1, 2019, is approximately \$32,533 per megawatt-year for NITS, including the Southern Maryland Electric Cooperative's (SMECO) formula rate for NITS. Pepco also stated that "[a]ccounting for solely for the Pepco Zone's share of Pepco Zone Schedule 12 Transmission Enhancement Charges (TECs), the wholesale transmission rate for NITS effective June 1, 2019, excluding any amount associated with the SMECO formula rate for NITS, is approximately \$29,869 per megawatt-year." Pepco indicated that "the filed wholesale transmission rate for NITS for SMECO currently in effect is appropriately \$2,665 per megawatt-year."<sup>4</sup>

3. Pepco stated that the current FERC-approved wholesale transmission rates, effective June 1, 2019, include three items: 1) Pepco's and SMECO's FERC-approved formula rates; 2) Transmission Enhancement Charges pursuant to Schedule 12 of PJM Open Access Transmission Tariff; and 3) the FERC Docket No. E105-121-009 Settlement pertaining to the allocation of costs for Regional Transmission Enhancement Projects among transmission owners in PJM. Pepco indicated that the resulting Pepco Zone's Retail Transmission Revenue

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<sup>1</sup> D.C. Official Code §§ 2-505 (2018 Repl.) and 34-802 (2012 Repl.).

<sup>2</sup> *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia ("Formal Case No. 1017")*, Letter from Dennis P. Jamouneau, Assistant General Counsel, Potomac Electric Power Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, filed December 17, 2019 ("Pepco's December 17, 2019 Letter").

<sup>3</sup> 67 DCR 10436-10439 (August 28, 2020).

<sup>4</sup> Pepco's December 17, 2019 Letter and Attachment D.

Requirement has increased from the current revenue requirement of \$71.6 million to \$101.8 million, an increase of roughly \$30.2 million or 42.2 percent.<sup>5</sup>

4. On July 30, 2020, Pepco filed a revised, proposed update to its Rider SOS transmission retail rates tariff, supplementing the Company's original December 17, 2019, tariff amendment. The Company notes that the incorporation of the original three (3) items described above into the Company's transmission rates "remains unchanged" in the July 30, 2020, tariff amendment as compared with the December 17, 2019, tariff amendment. The July 30, 2020, filing does include a fourth additional item, the Procurement Cost Adjustment (PCA)-related transmission retail rate adjustment, which was not included in the original filing. The Company estimates that the net impact (including the impact to the PCA) of this adjustment to a Residential SOS customer using 650 kWh per month is \$2.15 per month.<sup>6</sup>

5. Pepco proposes to amend the following fourteen (14) tariff pages which contain the revised retail transmission rates:

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1  
One Hundred Tenth Revised Page No. R-1  
Superseding One Hundred Ninth Revised Page No. R-1**

**P.S.C.-D.C. No. 1  
One Hundred Tenth Revised Page No. R-2  
Superseding One Hundred Ninth Revised Page No. R-2**

**P.S.C.-D.C. No. 1  
One Hundred Third Revised Page No. R-2.1  
Superseding One Hundred Second Revised Page No. R-2.1**

**P.S.C.-D.C. No. 1  
One Hundred Third Revised Page No. R-2.2  
Superseding One Hundred Second Revised Page No. R-2.2**

**P.S.C.-D.C. No. 1  
Thirty-Third Revised Page No. R-41  
Superseding Thirty-Second Revised Page No. R-41**

**P.S.C.-D.C. No. 1  
Thirty-Second Revised Page No. R-41.1  
Superseding Thirty-First Revised Page No. R-41.1**

**P.S.C.-D.C. No. 1  
Thirty-Second Revised Page No. R-41.2  
Superseding Thirty-First Revised Page No. R-41.2**

<sup>5</sup> Pepco's December 17, 2019 Letter and Attachment B.

<sup>6</sup> *Formal Case No. 1017*, Letter from Dennis P. Jamouneau, Assistant General Counsel, Potomac Electric Power Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, filed July 30, 2020.

**P.S.C.-D.C. No. 1  
Thirty-Second Revised Page No. R-41.3  
Superseding Thirty-First Revised Page No. R-41.3**

**P.S.C.-D.C. No. 1  
Thirty-Second Revised Page No. R-41.4  
Superseding Thirty-First Revised Page No. R-41.4**

**P.S.C.-D.C. No. 1  
Thirty-Second Revised Page No. R-41.5  
Superseding Thirty-First Revised Page No. R-41.5**

**P.S.C.-D.C. No. 1  
Third Revised Page No. R-41.5a  
Superseding Second Revised Page No. R-41.5a**

**P.S.C.-D.C. No. 1  
Thirty-Second Revised Page No. R-41.6  
Superseding Thirty-First Revised Page No. R-41.6**

**P.S.C.-D.C. No. 1  
Thirty-First Revised Page No. R-41.7  
Superseding Thirtieth Revised Page No. R-41.7**

**P.S.C.-D.C. No. 1  
Thirty-First Revised Page No. R-41.8  
Superseding Thirtieth Revised Page No. R-41.8**

6. The Commission, at its regularly scheduled open meeting held on September 30, 2020, took action approving Pepco’s proposed tariff amendment that updates the Company’s Rate Schedules for Electric Service in the District of Columbia by revising the Company’s retail transmission rates, for Rider Standard Offer Service, consistent with the current FERC approved wholesale transmission rates. This amendment will become effective upon publication of this Notice of Final Tariff in the *D.C. Register* and shall be reflected in the billing cycle beginning November 1, 2020.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF**FORMAL CASE NO. 1155, IN THE MATTER OF THE APPLICATION OF THE POTOMAC ELECTRIC POWER COMPANY FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PROGRAM,**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its final action taken on the Potomac Electric Power Company's (Pepco) tariff revisions to update its Plug-in Vehicle – Green Rider – PIV Green, which is being updated based on the most up-to-date market prices and the District of Columbia's Renewable Portfolio Standards.

2. On July 31, 2020, Pepco filed with the Commission a proposed update to its Rider PIV-Green and the rate associated with the Rider PIV-Green.<sup>2</sup> In the filing, Pepco shows the current and proposed Rider PIV-Green and the calculation of the Rider PIV-Green rate. Pepco proposes to amend the following tariff page to reflect the update to its Rider PIV-Green rate.

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1  
(Former) Original Page No. R-57  
(New) First Revised Page No. R-57**

3. In the filing, Pepco proposes to update the rate associated with the Rider PIV-Green from \$0.047170 per kilowatt-hour to \$0.05120 per kilowatt-hour.<sup>3</sup> Pepco requested that the proposed update to its Rider PIV-Green rate be approved and become effective on and after September 1, 2020.

4. On August 21, 2020, the Commission published a Notice of Proposed Tariff (NOPT) in the *D.C. Register* inviting public comments on Pepco's proposed tariff changes.<sup>4</sup> No comments were received in response to the NOPT. Therefore, the Commission, at its Open Meeting on September 30, 2020, took final action approving Pepco's update to its existing Rider PIV-Green, effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

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

<sup>2</sup> *Formal Case No. 1155, In the Matter of the Application of the Potomac Electric Power Company for Approval of its Transportation Electrification Program (Formal Case No. 1155)*, Potomac Electric Power Company's Proposed Rider "PIV-Green" Tariff Update, filed July 31, 2020 (Pepco's Rider Update).

<sup>3</sup> *Formal Case No. 1155*, Pepco's Rider Update at 14.

<sup>4</sup> *67 D.C. Reg. 010055-010056* (August 21, 2020).

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF INQUIRY**FORMAL CASE NO. 1166, IN THE MATTER OF THE INVESTIGATION INTO ENERGY STORAGE AND DISTRIBUTED ENERGY RESOURCES IN THE DISTRICT OF COLUMBIA,**

1. The Public Service Commission of the District of Columbia (Commission) has been prescribed a critical regulatory role that requires the Commission and the utilities we regulate to take into account, in all cases, meaningful steps to achieve the District of Columbia's (District) energy and climate change commitments while ensuring affordable, reliable, and secure electric and natural gas distribution service for all customers.<sup>1</sup> Through various orders, the Commission has evaluated and progressed initiatives that modernize the District's plan to meet targeted energy and climate goals.<sup>2</sup> By Order No. 20364, the Commission directed Commission Staff to initiate a Notice of Inquiry (NOI) to address the issue of ownership of energy storage<sup>3</sup> devices and other distributed energy resources<sup>4</sup> (DERs). Commission Staff is directed to accomplish this task by soliciting public comments and by setting out the recommendations from the Final Working Group Report (Report) in this proceeding, with appropriate modifications.<sup>5</sup> In soliciting public comment, the Commission will consider stakeholders' opinions and solutions offered, decide on the novel regulatory issues related to deployment and growth DERs in the District, and ultimately develop rules around the ownership of DER, thus providing clarity to all market participants.<sup>6</sup> For administrative efficiency, the Commission opens a new case, *Formal Case No. 1166, In the Matter of the Investigation into Energy Storage and Distributed Energy Resources in the District of Columbia*, to consider the issue

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<sup>1</sup> *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability (Formal Case No. 1130)*, Order No. 20364, June 5, 2020, ¶1.

<sup>2</sup> *Formal Case No. 1130*, Order No. 19984, rel. August 2, 2019; Order No. 20286, rel. January 24, 2020; Order No. 20364, rel. June 5, 2020 (Order No. 20364).

<sup>3</sup> Energy storage is defined in 15 DCMR §4099.1 (2019) as a resource capable of absorbing electric energy from the grid, from a behind-the-meter generator, or other DER, storing it for a period of time and thereafter dispatching the energy for use on-site or back to the grid, regardless of where the resource is located on the electric distribution system. These resources include all types of energy storage technologies, regardless of their size, storage medium (e.g., batteries, flywheels, electric vehicles, compressed air), or operational purpose.

<sup>4</sup> Distributed energy resource is defined in 15 DCMR §4099.1 (2019) as a resource sited close to the customer's load that can provide all or some of the customer's energy needs, can also be used by the system to either reduce demand (such as demand response) or increase supply to satisfy the energy, capacity, and/or ancillary service needs of the distribution or transmission system. Types of DER include, but are not limited to: photovoltaic solar, wind, cogeneration, energy storage, demand response, electric vehicles, microturbines, biomass, waste-to-energy, generating facilities, and energy efficiency.

<sup>5</sup> *Formal Case No. 1130*, Final Report V1.0 of the DCPSC MEDSIS Stakeholder Working Group, May 31, 2019; Order No. 20364, ¶ 90, (Final Working Group Report).

<sup>6</sup> *Formal Case No. 1130*, Order No. 20364, ¶17.

of ownership of energy storage devices and other distributed energy resources.

2. The Report was developed by various stakeholders, many of them expressing opposing views. The Energy Storage Association (ESA) advocated for ownership rules to seek to maximize the value of storage.<sup>7</sup> Regulations, according to ESA, should be updated to reflect storage's unique qualities.<sup>8</sup> Fluence, ESA and Tesla recommended that performance requirements that require assets serving grid reliability should be handled through bilateral contracts between a third-party and utility.<sup>9</sup> Most stakeholders conveyed their general agreement that the Commission should classify energy storage by its primary function and regulate it accordingly, and that utilities should be allowed to, among other things: (1) operate energy storage assets in wholesale markets; (2) own front-of-the-meter energy storage assets for providing grid reliability services; (3) control energy storage assets behind-the-meter if they are to be used as a grid reliability asset and only if customers and third-party providers consent to such control; and (4) own solar photovoltaic (PV), wind, biomass, waste-to-energy, cogeneration and/or microturbine assets as long as it is not for the purposes of selling retail electricity to customers.<sup>10</sup> With some exceptions, there is general agreement amongst the stakeholders that utilities should not be allowed to own storage assets behind-the-meter at this time.<sup>11</sup>

3. The Report did not offer a consensus opinion on the issue of ownership of energy storage devices and other DERs, but included additional comments and issues for consideration.<sup>12</sup> For example, the Edison Electric Institute argues that there is no economic or legal basis or justification for preventing utility ownership of behind-the-meter energy storage (or any other resource), and that prohibiting ownership in this manner could ultimately harm consumers, as well as limit the growth of energy storage.<sup>13</sup> NV5 Global Inc. states that allowing utilities to participate in ancillary services wholesale markets opens the door to a pseudo-vertically integrated entity.<sup>14</sup> Further, some stakeholders believe that with the imminent deployment of advanced inverters under the Institute of Electrical and Electronics Engineers 1547-2018 Standard, DERs will increasingly play a dual function by providing services behind the meter as well as to the grid, which will require an adaptation in regulation.<sup>15</sup> The Department of Energy and Environment (DOEE) recommends

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<sup>7</sup> *Formal Case No. 1130*, Final Working Group Report at 105.

<sup>8</sup> *Formal Case No. 1130*, Final Working Group Report at 105.

<sup>9</sup> *Formal Case No. 1130*, Final Working Group Report at 106.

<sup>10</sup> *Formal Case No. 1130*, Final Working Group Report at 108-109.

<sup>11</sup> *Formal Case No. 1130*, Final Working Group Report at 108-109.

<sup>12</sup> The Commission recognizes that stakeholders offered differing opinions relating to a utility's ability to own and operate energy storage in the District. The Commission does not expect to reach a determination on that issue through this NOI. The NOI will assist the Commission in developing rules that relate to operating energy storage in the District.

<sup>13</sup> *Formal Case No. 1130*, Final Working Group Report at 110.

<sup>14</sup> *Formal Case No. 1130*, Final Working Group Report at 110. For a full account of all comments on this matter, see Report, Section 5.2.5 Learning – Stakeholder Input on DCPSC Rules Around Ownership of DERs, at 105-113.

<sup>15</sup> *Formal Case No. 1130*, Final Working Group Report at 109.

that the only DER that requires additional rule-making is storage, because it is not a standard generating asset and provides additional functionality that requires additional regulatory treatment. DOEE believes that other generating assets do not require additional treatment, because this would require a change to the statutory obligations of the Potomac Electric Power Company (Pepco).<sup>16</sup>

4. Given the wide range of varying opinions included in the Report, by this NOI, the Commission invites comments on the issues related to the classification of energy storage, energy storage operation in the wholesale market, ownership of energy storage, behind-the-meter energy storage control, solar PV ownership, and other DERs (i.e. Solar PV, wind, biomass, waste-to-energy, cogeneration, fuel cells, microturbine assets and/or combined facilities such as solar and storage) as well as demand response, as the District moves forward with modernizing its energy delivery system.<sup>17</sup> The Commission expects the commenters to discuss and consider the role that Pepco, the Washington Gas Light Company, and their affiliates play in energy storage and DER deployment in the District.<sup>18</sup>

5. Additionally, the Commission expects commenters to consider actions taken by other jurisdictions. For example, Maryland enacted legislation that requires utilities to develop two energy storage pilot programs. Utilities are required to use two different models from the following methods in their proposals: 1) A utility-only model under which the electric company owns and controls the project for grid reliability and operates it in wholesale markets when it is not providing grid services; 2) A utility and third-party model under which the electric company owns and controls the project for grid reliability and a third party operates it in wholesale markets when it is not providing grid services; 3) A third-party ownership model under which the utility contracts with a project owned by a third party for grid reliability and allows the third party to operate the project owned by a third party for grid reliability and allows the third party to operate in wholesale markets when the project is not providing grid services; and 4) A virtual power plant model under which the utility aggregates, or uses a third-party aggregator, to receive grid services from distributed energy storage projects owned by customers or a third party. The virtual project would be used by customers or the third party for other applications when it is not providing grid services.<sup>19</sup> The Maryland Public Service Commission directed investor-owned electric companies to solicit offers to develop energy storage projects and submit them to the Commission for approval in accordance with the standards and timelines prescribed in the Energy Storage Pilot Project Act. The Maryland Public Service Commission further directed that energy storage project applications address the impact of each project on Maryland's policy goals, including environmental and clean energy objectives and the development of Maryland's retail energy markets.<sup>20</sup>

6. The New Hampshire Public Utilities Commission approved a behind-the-meter

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<sup>16</sup> *Formal Case No. 1130*, Final Working Group Report at 110.

<sup>17</sup> *Formal Case No. 1130*, Order No. 20364, ¶ 27.

<sup>18</sup> *Formal Case No. 1130*, Order No. 20364, ¶ 26.

<sup>19</sup> *Maryland Law creates energy storage pilot program*, American Public Power Association, (May 16, 2019) <https://www.publicpower.org/periodical/article/maryland-law-creates-energy-storage-pilot-program>.

<sup>20</sup> Maryland Public Service Commission Case No. 9619, Order No. 89240, filed August 23, 2019.



(BTM) pilot program on January 17, 2019.<sup>21</sup> As part of the pilot program, the utility was approved to install and lease BTM battery storage to study the impacts on the local grid.<sup>22</sup> There is a “bring your own device” provision that allows for customer ownership, but utility control.<sup>23</sup> Vermont has a similar “bring your own device” pilot program that allows customer ownership of BTM storage.<sup>24</sup> Additionally, the California Public Utility Commission has established a Self-Generation Incentive Program to encourage consumer battery storage ownership.<sup>25</sup> The Commission notes that this is not an all-inclusive summary of other jurisdictional actions and proceedings. The Commission encourages stakeholders to consider similar projects and jurisdictional actions in their recommendations.

7. Before deciding on the regulatory treatment by the Commission of DERs and energy storage, we request that interested persons file comments addressing these additional questions:

- 1) Generally, how should the Commission classify and regulate energy storage? Please provide specific examples of proposed classifications such as generation, distribution transmission or distributed generation assets and other areas to be addressed by potential regulations. Please consider within the discussion the different types of storage (i.e., mechanical, electrical, chemical, and thermal).
- 2) What, if any, regulations should the Commission consider for front-of-the-meter energy storage?
- 3) What, if any, regulations should the Commission consider for behind-the-meter energy storage?
- 4) As the District moves forward with grid modernization what, if any, DERs (i.e., Solar PV, wind, biomass, waste-to-energy, fuel cells, cogeneration microturbine assets and/or combined facilities such as solar and storage) should utilities be encouraged to invest in? How should regulations be structured to incentivize this growth? Please provide specific examples.

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<sup>21</sup> *DE 17-189, Liberty Utilities (Granite State Electric) Corp. d/b/a/ Liberty Utilities Petition to Approve Battery Storage Pilot Program*, Order No. 26,209, (N.H.P.U.C.), filed January 17, 2019 (NH Order).

<sup>22</sup> NH Order at 1.

<sup>23</sup> NH Order at 1.

<sup>24</sup> Green Mountain Power Corporation Bring Your Own Device Program, Second Revised Tariff Sheets 311-314 (June 1, 2020), <https://greenmountainpower.com/wp-content/uploads/2020/06/GMP-BYOD-Tariff-2nd-Revision-6-1-20.pdf>.

<sup>25</sup> *Behind-The-Meter Batteries: Innovation Landscape Brief*, International Renewable Energy Agency (2019), [https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2019/Sep/IRENA\\_BTMBatteries\\_2019.pdf](https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2019/Sep/IRENA_BTMBatteries_2019.pdf).

- 5) What regulations should the Commission consider that will assist in alternative DER deployment in the District? Please provide specific language or examples of proposed regulations, if applicable.
- 6) Should additional provisions be added to the Commission's regulations to further protect consumers and the reliable operation of the distribution system? If yes, please provide specific proposed language.
- 7) Are there any parameters or steps the Commission should consider or implement before approving any potential storage pilot projects?
- 8) Should the Commission, when evaluating potential storage pilot projects, include a benefit/cost analysis? Are there unique features only applicable to storage evaluation in a benefit/cost analysis?

8. Pursuant to Order No. 20364, persons interested in commenting on the issues presented above shall file their comments no later than November 16, 2020, reply comments will not be permitted. Comments may be filed with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, at the Commission's website at [https://edocket.dcpsec.org/public/public\\_comments](https://edocket.dcpsec.org/public/public_comments). Persons with questions concerning this Notice should call the Commission Secretary's Office at 202-626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, October 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](http://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](mailto:lmanley@dcwater.com).

DRAFT AGENDA

- |    |                                                               |                  |
|----|---------------------------------------------------------------|------------------|
| 1. | Call to Order                                                 | Chairperson      |
| 2. | Summary of Internal Audit Activity -<br>Internal Audit Status | Internal Auditor |
| 2. | Executive Session                                             | Chairperson      |
| 3. | Adjournment                                                   | Chairperson      |

**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, October 22, 2020 at 11:00 a.m. The meeting will be held in the Board Room (2<sup>nd</sup> 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](http://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](mailto:linda.manley@dewater.com).

**DRAFT AGENDA**

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|----|--------------------------------------------|-----------------------|
| 1. | Call to Order                              | Committee Chairperson |
| 2. | September 2020 Financial Report            | Committee Chairperson |
| 3. | Agenda for November 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, October 20, 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.dewater.com](http://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 [لمانley@dewater.com](mailto:لمانley@dewater.com).

**DRAFT AGENDA**

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

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

**Application No. 14096-C of Wilson NPB LLC**, pursuant to 11 DCMR Subtitle Y § 705, for a two-year time extension for BZA Order No. 14096-B, approving a special exception under the Zoning Regulations of 1958 from the unused bonus density requirements under § 768, to permit the interior renovation of an existing building in the D-7 Zone District (formerly DD/C-5 Zone District) at premises 529 14th Street, N.W. (Square 254, Lot 53).

**HEARING DATE (14096):** February 8, 1984  
**DECISION DATE (14096):** March 7, 1984  
**ORDER ISSUANCE DATE (14096):** May 22, 1984

**HEARING DATE (14096-A):** July 6, 2016  
**DECISION DATE (14096-A):** July 6, 2016  
**ORDER ISSUANCE DATE (14096-A):** July 8, 2016

**FIRST TIME EXTENSION DECISION DATE (14096-B):** September 19, 2018  
**ORDER ISSUANCE DATE (14096-B):** October 2, 2018

**SECOND TIME EXTENSION DECISION DATE (14096-C):** September 16, 2020

**SUMMARY ORDER ON SECOND REQUEST  
FOR TWO YEAR TIME EXTENSION**

The Underlying BZA Orders

In Order No. 14096-A, the Board approved a modification of the previously-approved plans in Order No. 14096, which, in turn, changed the amount of bonus density previously granted. The Building was constructed pursuant to the plans approved in Order No. 14096, but used less bonus density than the Board found was available pursuant to the bonus incentive system. The bonus density was generated and awarded pursuant to § 768 of the 1958 Zoning Regulations. Order No. 14096-A allowed the Applicant to utilize the remaining excess available bonus density to add approximately 20,500 square feet of gross floor area to the Building. The application was granted on July 6, 2016, and the Board issued its written order, No. 14096-A on July 8, 2016 (Exhibit 3.) Order No. 14096-A took effect on July 18, 2016.

First Request for Two-Year Time Extension. In Application No. 14096-B, the Board approved the request for a two-year extension of BZA Order No. 14096-A. The Board issued Order No. 14096-B on October 2, 2018 to extend the validity of Order No. 14096-A until July 18, 2020. (Exhibit 3.)

First Request for Two-Year Time Extension. The Board granted the Applicant's first request for a two-year time extension in Order No. 14096-B, extending the validity of Order 14096-A through July 18, 2020. (Exhibit 3.)

Second Request for Two-Year Time Extension. On July 16, 2020, the Applicant submitted a request that the Board grant a second two-year extension, extending Order No. 14096-B to July 18, 2022. (Exhibits 1, 4.)

Notice of the Request. Pursuant to Subtitle Y § 705.1(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 4.) The Applicant also served the request on the Office of Planning ("OP"). (Exhibit 4.)

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2C.

ANC Report. ANC 2C did not submit a written report to the record.

OP Report. OP submitted a report recommending approval of the proposed time extension. (Exhibit 7.)

### **Request to Extend the Validity of the Order**

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before expiration of the approval.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that the second request for a two-year time extension to the validity of the Board's approval in Order No. 14096-A, as previously extended by Order No. 14096-B, is hereby **GRANTED**, and the Order shall be valid until **July 18, 2022.**

**VOTE: 4-0-1** (Frederick L. Hill, Lorna L. John, ChriShaun S. Smith, and Peter A. Shapiro to APPROVE; one board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 30, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.



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

**Application No. 20014-A(1) of Addisleigh Park Washington Properties, LLC**, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to the plans approved by BZA Order No. 20014, to allow a redesign and a change in uses in the approved building at premises in the MU-4 Zone at 1803 Rhode Island Avenue, N.E. (Square 4209, Lot 5).

|                                       |                                |
|---------------------------------------|--------------------------------|
| <b>HEARING DATES</b> (20014):         | May 15, 2019 and June 12, 2019 |
| <b>DECISION DATE</b> (20014):         | June 12, 2019                  |
| <b>ORDER ISSUANCE DATE</b> (20014):   | June 19, 2019                  |
| <b>MODIFICATION OF CONSEQUENCE</b>    |                                |
| <b>DECISION DATE</b> (20014-A):       | September 16, 2020             |
| <b>ORDER ISSUANCE DATE</b> (20014-A): | September 23, 2020             |

**CORRECTED<sup>1</sup> SUMMARY ORDER ON REQUEST  
FOR MODIFICATION OF CONSEQUENCE**

Original Application. In Application No. 20014, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by Addisleigh Park Washington Properties, LLC (the “Applicant”) for special exceptions under Subtitle U § 513.1(n) from the prepared food shop requirements of Subtitle U § 512.1(d)(3); under Subtitle C § 1500.3 from the penthouse regulations of Subtitle C § 1500; under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5; under Subtitle C § 909.2 from the loading requirements of Subtitle C § 901.1, under Subtitle G § 1201 from the rear yard requirements Subtitle G § 405.2, and pursuant to Subtitle X, Chapter 10, for an area variance from the floor area ratio requirements of Subtitle G § 402.1. The Board issued Order No. 20014 on June 19, 2019. (Exhibit 48 of the record for Case No. 20014.) The approval was subject to two conditions:

1. The Applicant shall implement the following Transportation Demand Management (“TDM”) plan:
  - a. Identify Transportation Coordinator(s) for the planning, construction, and operations phases of development. The Transportation Coordinator(s) will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and develop, distribute, and market various transportation alternatives and options to the tenants and/or employees;
  - b. Post all TDM commitments on website (if provided by Applicant), publicize availability, and allow the public to see what commitments have been promised;

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<sup>1</sup> Order No. 20014-A incorrectly stated that the original order was issued June 19, 2020 instead of 2019. That error has been corrected in this order and underlined in paragraph one. It is the only change in this corrected order.

- c. Provide bicycle parking beyond what is required by the Zoning Regulations: four additional short-term and three long-term bicycle parking spaces; and
  - d. For the first five years that the building is open, the Applicant shall offer the choice of either an annual Capital Bikeshare or an annual carshare membership to employees.
2. The Applicant shall implement the Applicant's proposed Loading Management Plan ("LMP"):
- a. All delivery vehicles will access the Site via Rhode Island Avenue. In accordance with DDOT's "Truck and Bus Through Routes and Restrictions" map, trucks will not be permitted to use 20th Street, N.E.;
  - b. Delivery trucks unload/load from Rhode Island Avenue, N.E. between 7:00 a.m. and 4:00 p.m. and between 6:30 p.m. and 7:00 p.m. on weekdays. Deliveries will not be permitted between 4:00 p.m. and 6:30 p.m. when rush hour restrictions are in place on weekdays;
  - c. On weekends, deliveries may occur between 7:00 a.m. and 7:00 p.m.;
  - d. Commercial deliveries will typically be made by trucks that are 20 to 30 feet;
  - e. Deliveries made from vehicles larger than 30 feet will need to be scheduled in advance;
  - f. Deliveries are anticipated between the hours of 7:00 a.m. to 4:00 p.m.;
  - g. Trucks will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (engine idling);
  - h. A trash room with dumpsters is located on the Hamlin Street side of the building;
  - i. All trash removal will occur on Hamlin Street;
  - j. It shall be the responsibility of building management to inform all building tenants of this LMP and its conditions;
  - k. The building manager will coordinate delivery schedules with tenants such that more than two deliveries do not occur at a time;
  - l. The LMP may be updated by the property manager once the project is complete, as needed.

Proposed Modification. On June 24, 2020, the Applicant submitted a request for modification of consequence to Order No. 20014. (Exhibit 5.) The Applicant requested to modify the plans to eliminate the first and second floor mezzanines and penthouse and eliminate the bar and introduce two residential uses. The proposal would not result in any additional relief being requested. The Applicant submitted revised plans reflecting these modifications. (Exhibit 17.) The Applicant did not propose any modifications to the Conditions of the Original Order.

Notice of the Request for Modification. Pursuant to Subtitle Y §§ 703.8-703.9 of Title 11 of the DCMR (Zoning Regulations of 2016, the “Zoning Regulations” to which all references are made unless otherwise specified), the Applicant provided proper and timely notice of the request for modification of consequence. (Exhibit 12.)

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission (“ANC”) 5C.

ANC Report. The ANC’s report indicated that at a regularly scheduled, properly noticed public meeting on August 12, 2020, at which a quorum was present, the ANC voted 6-0-0 to support the request. (Exhibit 23.)

OP Report. Office of Planning submitted a report recommending approval of the proposed modification of consequence. (Exhibit 21.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the proposed modification of consequence. (Exhibit 20.)

### **Request for Modification of Consequence**

The Applicant seeks a modification of consequence under Subtitle Y § 703.4 to the plans of BZA Order No. 20014, to allow a redesign and a change in uses in the approved building at premises in the MU-4 Zone.

The Board determines that the Applicant’s request complies with Subtitle Y § 703.4, which defines a modification of consequence as a “proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board.” Based upon the record, the Board concludes that in seeking a modification of consequence, the Applicant has met its burden of proof under Subtitle Y § 703.4.

#### “Great Weight” to the Recommendations of OP

The Board is required to give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8). The Board finds OP’s recommendation that the Board approve the application persuasive and concurs in that judgment.

#### “Great Weight” to the Written Report of the ANC

The Board must give “great weight” to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Y § 406.2) The Board finds the ANC’s recommendation that the Board approve the application persuasive and concurs in that judgment.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of consequence of BZA Order No. 20014 is hereby **GRANTED**. The conditions of BZA Order No. 20014, including the approved Transportation Demand Management and Loading Management Plans, remain unchanged and in effect.

**VOTE: 4-0-1** (Frederick L. Hill, Lorna L. John, Chrishaun Smith, and Peter A. Shapiro to APPROVE; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 25, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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

**Application No. 20270 of 753 Columbia Road NW, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, including waivers of the rear addition requirement of Subtitle U § 320.2(e) and the rooftop architectural element requirement of Subtitle U § 320.2(h), to construct a third story addition and a three-story rear addition and convert the principal dwelling unit into a three-unit apartment house in the RF-1 Zone at premises 753 Columbia Road, N.W. (Square 2890, Lot 117).

**HEARING DATES:** May 6, 2020<sup>1</sup> and September 23, 2020  
**DECISION DATE:** September 23, 2020

**SUMMARY ORDER**

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 36E (Revised); Exhibit 4 (Original).)<sup>2</sup>

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 10, 2020, at which a quorum was present, the ANC voted to support the application (Exhibit 16) and testified in support of the application at the hearing.

OP Report. The Office of Planning submitted a report, dated September 10, 2020, recommending approval of the application. (Exhibit 42.)

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<sup>1</sup> This application was originally scheduled for public hearing on May 6, 2020 but was rescheduled for a virtual public hearing on September 23, 2020, based on the closures and postponements related to the public health emergency declared on March 11, 2020. Notice of the virtual public hearing was provided to the parties and to the property owners within 200 feet of the subject property.

<sup>2</sup> The original application was revised to include waivers from Subtitle U §§ 320.2(e) and (h).

DDOT Reports. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibits 15.) DDOT filed a supplemental report recommending that the Board adopt a condition requiring the Applicant to develop and implement a Tree Preservation Plan for the protection of the Heritage Tree on-site. (Exhibit 30.) However, DDOT later withdrew its request for a condition in light of subsequent developments regarding the Heritage Tree, and indicated that it had no objection to approval of the application. (Exhibit 41.)

Persons in Support. One neighbor testified in support of the application.

### **Special Exception Relief**

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the RF-use requirements of Subtitle U § 320.2, including waivers of the rear addition requirement of Subtitle U § 320.2(e) and the rooftop architectural element requirement of Subtitle U § 320.2(h), to construct a third story addition and a three-story rear addition and convert the principal dwelling unit into a three-unit apartment house in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED REVISED PLANS<sup>3</sup>** at **EXHIBITS 36A1 and 36A2 – UPDATED PLANS – PART 1 and UPDATED PLANS – PART 2.**

**VOTE: 4-0-1** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, and Anthony J. Hood to APPROVE; one Board seat vacant.)

### **BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

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<sup>3</sup> Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

**FINAL DATE OF ORDER:** September 30, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**BZA APPLICATION NO. 20270**

**PAGE NO. 3**

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

**Application No. 20271 of 755 Columbia Road NW, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, including waivers of the rear addition requirement of Subtitle U § 320.2(e) and the rooftop architectural element requirement of Subtitle U § 320.2(h), to construct a third story addition and a three-story rear addition and convert the principal dwelling unit into a three-unit apartment house in the RF-1 Zone at premises 755 Columbia Road, N.W. (Square 2890, Lot 116).

**HEARING DATE:** September 23, 2020

**DECISION DATE:** September 23, 2020

**SUMMARY ORDER**

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 32E (Final Revised); Exhibit 5 (Original).)<sup>1</sup>

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 10, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 16.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 33.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 15.)

**Special Exception Relief**

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<sup>1</sup> The original application was amended to include requested waivers of the rear addition requirement of Subtitle U § 320.2(e) and the rooftop architectural element requirement of Subtitle U § 320.2(h).



The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the RF-use requirements of Subtitle U § 320.2, including waivers of the rear addition requirement of Subtitle U § 320.2(e) and the rooftop architectural element requirement of Subtitle U § 320.2(h), to construct a third story addition and a three-story rear addition and convert the principal dwelling unit into a three-unit apartment house in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS<sup>2</sup>** at **EXHIBITS 32A1 and 32A2 – UPDATED ARCHITECTURAL PLANS – PART 1 and UPDATED PLANS – PART 2.**

**VOTE: 4-0-1** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith and Anthony J. Hood to APPROVE; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 30, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY

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<sup>2</sup> Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Application No. 20276 of Quadrum DC LLC**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle C § 909.2(b) from the loading requirements of Subtitle C § 901.1, and under the penthouse use requirements of Subtitle C § 1500.3(c), to construct a hotel with a cocktail lounge and restaurant in the penthouse in the D-4-R zone at premises 333 G Street, N.W. (Square 529, Lot 50).

**HEARING DATE:** September 23, 2020  
**DECISION DATE:** September 23, 2020

**SUMMARY ORDER**

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 18 (Final Revised); Exhibit 4 (Original).)<sup>1</sup>

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2C.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on February 11, 2020, at which a quorum was present, the ANC voted to support the requested relief under the penthouse use requirements. At a subsequent regularly scheduled, properly noticed public meeting on June 9, 2020, at which a quorum was present, the ANC voted to support the additional requested relief from the loading requirements. (Exhibit 36.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 43.)

DDOT Report. The District Department of Transportation ("DDOT") submitted an initial report indicating that it had no objection to the application. (Exhibit 16.) DDOT subsequently filed a supplemental report to include analysis of the additional requested relief from the loading

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<sup>1</sup> The original application was amended to add special exception relief from the loading requirements of Subtitle C § 901.1.

requirements and indicated that it had no objection to the application. (Exhibit 42.) DDOT recommended that the Board adopt two conditions related to loading management and transportation demand management:

1. Implement the Loading Management Plan as provided in the Applicant's Transportation Statement;
2. Implement the Transportation Demand Management Plan as provided in the Applicant's Transportation Statement.

### **Special Exception Relief**

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle C § 909.2(b) from the loading requirements of Subtitle C § 901.1, and under the penthouse use requirements of Subtitle C § 1500.3(c), to construct a hotel with a cocktail lounge and restaurant in the penthouse in the D-4-R zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS**<sup>2</sup> at **EXHIBIT 19** and with the following **CONDITIONS**:

1. The Applicant shall implement the following Loading Management Plan for the life of the project, unless otherwise specified, as proposed by the Applicant in the July 7, 2020 Transportation Statement:
  - a. A loading dock manager shall be designated by the hotel who will be on duty during delivery hours. The dock manager shall be responsible for coordinating with vendors and retail tenants to schedule deliveries and shall work with the community and neighbors to resolve any conflicts should they arise.

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<sup>2</sup> Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

- b. All loading, delivery, and trash collection activity shall be required to take place within the loading dock remaining on private property at all times.
  - c. All retail tenants shall be required to schedule deliveries that utilize the loading area (any loading operation conducted using a truck 20-feet in length or larger).
  - d. The dock manager shall schedule deliveries using the loading dock such that capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver shall be directed to return at a later time when a berth shall be available so as to not compromise safety or impede alley functionality.
  - e. The dock manager shall monitor inbound and outbound truck maneuvers and shall ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic along the public alley except during those times when a truck is actively entering or exiting a loading berth.
  - f. Trucks that are 30-feet in length or larger shall access the loading facilities from 4th Street NW and exit the site onto 3rd Street NW.
  - g. Service vehicle/truck traffic interfacing with 3rd Street, 4th Street, and G Street NW traffic shall be monitored during peak periods and management measures shall be taken as necessary to reduce conflicts between truck and vehicular movement.
  - h. The dock manager shall monitor the timing of the retail and hotel deliveries to determine if any adjustments need to be made to ensure any conflicts between the retail and hotel loading activities are minimized.
  - i. Trucks using the loading dock shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map ([godcgo.com/freight](http://godcgo.com/freight)).
  - j. The dock manager shall be responsible for disseminating suggested truck routing maps to drivers from delivery services that frequently utilize the development's loading dock. The dock manager shall also distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The dock manager shall also post these materials and other relevant notices in a prominent location within the loading area.
2. The Applicant shall implement the following Transportation Demand Management (TDM) plan for the life of the project as proposed by the Applicant in the July 7, 2020 Transportation Statement:
    - a. The Applicant shall identify the Transportation Coordinator for the planning, construction, and operations phases of development. The Transportation Coordinator shall act as points of contact with DDOT, goDCgo, and Zoning Enforcement. There shall be a Transportation Coordinator for each retail tenant and the hotel.

- b. The Applicant shall provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of hotel staff, and report TDM activities and data collection efforts to goDCgo once per year.
- c. Transportation Coordinators shall develop, distribute, and market various transportation alternatives and options to the employees, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications.
- d. Transportation Coordinators shall receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
- e. Front office and customer-facing staff shall be provided training by goDCgo (either in person or webinar) to learn of the non-automotive options for traveling to the property.
- f. The Applicant shall provide guests with goDCgo's Get around Guide by making it available on the property website and in printed format for front office or customer-facing staff.
- g. The Transportation Coordinator shall subscribe to goDCgo's hospitality newsletter.
- h. The Applicant shall meet ZR16 requirements for showers and lockers for use by employees by providing six showers and 10 lockers.
- i. The Applicant shall meet ZR16 short- and long-term bicycle parking requirements. Long-term bicycle parking will be provided free of charge to all employees. Five short-term and 18 long-term bicycle spaces will be provided.
- j. Long-term bicycle storage rooms shall accommodate non-traditional sized bikes including cargo, tandem, and kids' bikes.
- k. Hotel shall participate in the Capital Bikeshare Corporate Membership program and offer discounted annual memberships to employees.
- l. The Applicant shall post "getting here" information in a visible and prominent location on the website with a focus on non-automotive travel modes. Also, links shall be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, locations of nearby commercial parking garages, and instructions for guests discouraging parking on-street in Residential Permit Parking (RPP) Zones.
- m. The Applicant shall provide comprehensive transportation information and directions on hotel website, including promoting the use of nonautomotive modes of transportation and links to website for goDCgo, Capital Bikeshare, DC Circulator, and the Washington Metropolitan Area Transit Authority.
- n. The Applicant shall provide brochures with information on non-automotive options for traveling to the property available at all times in a visible location in the lobby.
- o. The Transportation Coordinator shall demonstrate to goDCgo that the hotel and retail/restaurant tenants with 20 or more employees are in compliance with the

Transportation Benefits Equity Amendment ACT of 2020 and the DC Commuter Benefits Law, and participate in at least one of the three transportation benefits outlined in the law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future.

- p. The Applicant shall provide employees who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future.
3. The Applicant shall have minor flexibility for refinements to the approved plans, provided that the zoning relief granted by this decision is not increased or affected and any refinements do not create new areas of relief that require further review by this Board, in the following respects:
    - a. The Applicant may vary the final selection of exterior materials, within the color ranges and general material types proposed, pursuant to Commission on Fine Arts and/or Historic Preservation Office staff approval and based on the availability at the time of construction, without reducing the quality of materials.
    - b. The Applicant may make minor refinements to exterior details and materials, including brickwork, belt courses, sills, bases, cornices, railings and trim, window location, size and shape, or any other changes to comply with Commission on Fine Arts and/or Historic Preservation Office staff approval.

**VOTE:** 4-0-1 (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, and Anthony J. Hood to APPROVE; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 29, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING

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THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.



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