

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council passes Resolution 23-529, General Election Preparations Congressional Review Emergency Declaration Resolution of 2020
- D.C. Council passes emergency declaration resolutions on Business Support Grants (23-535), Community Harassment Prevention (23-545), and Fairness in Renting (23-546)
- D.C. Council passes Resolution 23-551, Fiscal Year 2021 Budget Support Congressional Review Emergency Declaration Resolution of 2020
- D.C. Council schedules a public hearing on Bill 23-965, Displaced Workers Right to Reinstatement and Retention Amendment Act of 2020
- D.C. Council schedules a public oversight roundtable on “Unemployment Insurance Programs in the District During the COVID-19 Pandemic”
- Department on Disability Services standardizes vending machine commissions and rates for the District of Columbia’s Randolph-Sheppard Vending Facilities Program
- Department of Health Care Finance amends notice of funding availability for the Telemedicine Innovations in Medication Assisted Therapy “TeleMAT” Grant
- Department of Housing and Community Development announces the recipient of the Nonprofit Capacity Support Grant
- D.C. Zoning Commission eases restrictions on fast food establishments and prepared food shops

DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

A RESOLUTION

23-525

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to require, for the length of the public health emergency and for 90 days thereafter, the tolling of all time periods for holders of a commercial policy of insurance to exercise their rights under the policy or District law for losses covered under the existing policy.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commercial Insurance Claim Tolling Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On July 7, 2020, the Council passed the Commercial Insurance Claim Tolling Emergency Act of 2020, effective July 27, 2020 (D.C. Act 23-343; 67 DCR 9379) (“emergency act”), which expires on October 24, 2020.

(b) On July 7, 2020, the Council passed the Commercial Insurance Claim Tolling Temporary Act of 2020, enacted on August 12, 2020 (D.C. Act 23-396; 67 DCR 9912) (“temporary act”), which is undergoing congressional review and is projected to take effect November 16, 2020.

(c) This emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Commercial Insurance Claim Tolling Congressional Review Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-526

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to provide the Mayor the authority to make a property ineligible for residential parking permits when it is a condition of a zoning order.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “RPP Voluntary Exclusion Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On July 21, 2020, the Council passed the RPP Voluntary Exclusion Emergency Act of 2020, effective August 14, 2020 (D.C. Act 23-385; 67 DCR 9876) (“emergency act”), which expires on November 11, 2020.

(b) On September 22, 2020, the Council passed the RPP Voluntary Exclusion Temporary Act of 2020, passed on 2nd reading on September 22, 2020 (Enrolled version of Bill 23-854) (“temporary act”), which has not yet become law.

(c) This emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the RPP Voluntary Exclusion Congressional Review Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-527

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to provide that expenditures on school-administered theatrical and music performances, including stipends for non-District of Columbia Public Schools employees, shall be allowable expenditures from a school's Student Activity Fund.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Student Activity Fund Theatrical and Music Performance Expenditures Congressional Review Emergency Declaration Resolution of 2020".

Sec. 2. (a) On July 21, 2020, the Council passed the Student Activity Fund Theatrical and Music Performance Expenditures Emergency Act of 2020, effective August 13, 2020 (D.C. Act 23-379; 67 DCR 9859) ("emergency act"), which expires on November 10, 2020.

(b) On September 22, 2020, the Council passed the Student Activity Fund Theatrical and Music Performance Expenditures Temporary Act of 2020, passed on 2nd reading on September 22, 2020 (Enrolled version of Bill 23-856) ("temporary act"), which has not yet become law.

(c) This emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Student Activity Fund Theatrical and Music Performance Expenditures Congressional Review Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-529

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

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

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

Sec. 2. (a) On July 28, 2020, the Council passed the General Election Preparations Emergency Amendment Act of 2020, effective August 13, 2020 (D.C. Act 23-382; 67 DCR 9865) ("emergency act"). The emergency act expires on November 10, 2020.

(b) On September 22, 2020, the Council passed the General Election Preparations Temporary Amendment Act of 2020, passed on temporary basis on September 22, 2020 (Enrolled version of Bill 23-865) ("temporary act"), which has not yet become law.

(c) This congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-530

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Establishment of the Office of the Chief Medical Examiner Act of 2000 to require the Office of the Chief Medical Examiner to investigate all maternal mortalities occurring in the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Investigating Maternal Mortalities Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On July 7, 2020, the Council passed the Investigating Maternal Mortalities Emergency Amendment Act of 2020, effective August 5, 2020 (D.C. Act 23-358; 67 DCR 9663) (“emergency act”), which will expire on November 2, 2020.

(b) On July 21, 2020, the Council passed the Investigating Maternal Mortalities Temporary Amendment Act of 2020, enacted on August 13, 2020 (D.C. Act 23-394; 67 DCR 9907) (“temporary act”). The temporary act is undergoing congressional review and is projected to become law on November 16, 2020.

(c) This congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Investigating Maternal Mortalities Congressional Review Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-531

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to expand the standby guardianship law to enable a parent, legal guardian, or legal custodian who is, or may be, subject to an adverse immigration action or who has been exposed to COVID-19 to make short-term plans for a child without terminating or limiting that person’s parental or custodial rights.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Standby Guardian Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) The previously approved Standby Guardian Emergency Amendment Act of 2020, effective July 27, 2020 (D.C. Act 23-345; 67 DCR 9383), is set to expire on October 6, 2020 (“emergency legislation”).

(b) The corresponding permanent legislation, the Standby Guardian Amendment Act of 2020, passed on 2nd reading on September 22, 2020 (Enrolled version of Bill 23-402) is currently under Mayoral review.

(c) The corresponding temporary legislation, the Standby Guardian Temporary Amendment Act of 2020, enacted on August 12, 2020 (D.C. Act 23-398; 67 DCR 9916), is currently under congressional review and is projected to become law on November 16, 2020 (“temporary legislation”).

(d) There exists an immediate need to enact legislation to prevent a gap in the law so that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation becomes law.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-532

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to provide the taxable properties located in the Adams Morgan Business Improvement District an abatement in full of the Business Improvement District taxes assessed for the period October 1, 2020, through March 31, 2021.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Adams Morgan BID Tax Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) The previously approved Adams Morgan BID Tax Emergency Amendment Act of 2020, effective July 27, 2020 (D.C. Act 23-344; 67 DCR 9381), is set to expire on October 24, 2020 (“emergency legislation”).

(b) The corresponding temporary legislation, the Adams Morgan BID Tax Temporary Amendment Act of 2020, enacted on August 12, 2020 (D.C. Act 23-397; 67 DCR 9914), is under congressional review and is projected to become law on November 16, 2020 (“temporary legislation”).

(c) There exists an immediate need for the District to enact legislation to prevent a gap in the law so that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation becomes law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Adams Morgan BID Tax Congressional Review Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-533

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to symbolically designate 16th Street, N.W., between H Street, N.W., and K Street, N.W., in Ward 2, as Black Lives Matter Plaza.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may cited as the “Black Lives Matter Plaza Designation Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) In response to protests in the District, and across the country, and in recognition of the work that still needs to be done to ensure that Black lives do matter, on June 5, 2020 Mayor Muriel Bowser stated publicly that the portion of 16th Street N.W. between H Street, N.W., and K Street, N.W., should be designated as Black Lives Matter Plaza.

(b) The Council adopted the designation by emergency act in the Coronavirus Support Clarification Emergency Amendment Act of 2020, effective July 7, 2020 (D.C. Act 23-332; 67 DCR 8609), on June 9, 2020, and thereafter on July 14, 2020.

(c) By a separate emergency act, the Council enacted the Black Lives Matter Plaza Designation Emergency Act of 2020, effective July 27, 2020 (D.C. Act 23-337; 67 DCR 9348) (“Emergency Act”), retroactive to June 5, 2020.

(d) Because of its retroactive applicability, the Emergency Act has already expired. The Black Lives Matter Plaza Designation Temporary Act of 2020, enacted on August 12, 2020 (D.C. Act 23-391; 67 DCR 9889) (“Temporary Act”), has not yet completed congressional review.

(e) Emergency legislation is necessary to prevent a gap in the law with respect to the designation of Black Lives Matter Plaza between the Emergency Act and the Temporary Act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Black Lives Matter Plaza Designation Congressional Review Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-534

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to require the Department of Insurance, Securities, and Banking to provide for the licensing of certain entities providing appraisal management services in the District of Columbia, and to require an annual registration fee to be paid by those entities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Appraisal Management Company Regulation Congressional Review Emergency Declaration Resolution of 2020".

Sec. 2. (a) On July 7, 2020, the Council passed the Appraisal Management Company Regulation Emergency Act of 2020, effective July 27, 2020 (D.C. Act 23-341; 67 DCR 9357) ("Emergency Act") which expires on October 7, 2020.

(b) On July 21, 2020, the Council passed the Appraisal Management Company Regulation Temporary Act of 2020, enacted on August 13, 2020 (D.C. Act 23-392; 67 DCR 9891) ("Temporary Act"), which is expected to become law on November 16, 2020.

(c) This identical second round of emergency legislation is necessary to prevent a gap in the law between the expiration of the Emergency Act and the effective date of the Temporary Act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Appraisal Management Company Regulation Congressional Review Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-535

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to establish the Business Support Grant program to provide eligible businesses financial support to aid in their recovery from the public health emergency.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Business Support Grants Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On July 7, 2020, the Council passed the Business Support Grants Emergency Amendment Act of 2020, effective August 7, 2020 (D.C. Act 23-0347; 67 DCR 9394) (“emergency act”), which expires on October 24, 2020.

(b) On July 7, 2020, the Council passed the Business Support Grants Temporary Amendment Act of 2020, enacted on August 12, 2020 (D.C. Act 23-0401; 67 DCR 9951) (“temporary act”), which is undergoing congressional review required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and is projected to take effect November 16, 2020, after the emergency legislation has expired.

(c) This emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency act and the effective date of the temporary act.

(e) Emergency legislation is needed to ensure that local small and disadvantaged firms are provided with immediate financial assistance amidst the ongoing public health emergency.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Business Support Grants Congressional Review Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-536

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To confirm the reappointment of Mr. Charles Nottingham to the Board of Ethics and Government Accountability.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Ethics and Government Accountability Charles Nottingham Confirmation Resolution of 2020".

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

Mr. Charles Nottingham
Rockwood Parkway, N.W.
Washington, D.C. 20016
(Ward 3)

as a member of the Board of Ethics and Government Accountability, established by section 202 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.02), for a term to end July 1, 2026.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-537

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency with respect to the need to approve Contract No. NFPHC-MM-20-PA Modifications between the Not-for-Profit Hospital Corporation and Arnold's Used Office Furniture LLC to provide personal protective equipment to the Not-for-Profit Hospital Corporation during the COVID-19 pandemic, and to authorize payment for the goods received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. NFPHC-MM-20- PA Modifications between the Not-for-Profit Hospital Corporation and Arnold's Used Office Furniture LLC Approval and Payment Authorization Emergency Declaration Resolution of 2020".

Sec. 2. (a) There exists an immediate need to approve Contract No. NFPHC-MM-20- PA Modifications ("Contract") between the Not-for-Profit Hospital Corporation ("Hospital") and Arnold's Used Office Furniture LLC ("Arnold's") to provide personal protective equipment ("PPE") to the Hospital during the COVID-19 pandemic and to authorize payment for the goods received and to be received under this Contract.

(b) On March 11, 2020, the Mayor issued the first COVID-19-related emergency and public health emergency orders. The Hospital's participation in the Mayor's Surge Task Force led to the realization that additional PPE would be needed during the surge.

(c) To meet the District's surge response requirements, PPE was procured from Arnold's through the initial purchase order for \$175,775, effective April 8, 2020, and Modification 1 for \$2,409,770, effective April 24, 2020, for a total Contract value of \$2,585,545. The Hospital elected to purchase a smaller quantity of goods and supplies initially to ensure that the vendor could produce high-quality goods in a timely manner before purchasing additional goods and supplies from the vendor through a subsequent purchase order.

(d) Council approval of the Contract is necessary because it has an aggregate value that exceeds \$1 million in a 12-month period.

(e) Emergency approval of this Contract in the amount of \$2,585,545 is necessary to prevent any impact to the Hospital's provision of vital PPE during this pandemic.

(f) Without Council approval, Arnold's cannot be paid for goods provided and to be provided in excess of \$1 million.

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Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. NFPHC-MM-20 PA Modifications between the Not-for-Profit Hospital Corporation and Arnold's Used Office Furniture LLC Approval and Payment Authorization Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-545

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency with respect to the need to amend the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982 to make it unlawful to deface or burn a religious or secular symbol on any property of another without permission or to place or display on such property a physical impression that a reasonable person would perceive as a threat to physically damage the property of another.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Community Harassment Prevention Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On November 5, 2019, the Council passed the Community Harassment Prevention Second Emergency Amendment Act of 2019, effective November 25, 2019 (D.C. Act 23-168; 66 DCR 15702) (“emergency act”). The emergency act expired on February 23, 2020.

(b) On November 19, 2019, the Council passed the Community Harassment Prevention Second Temporary Amendment Act of 2019, effective March 11, 2020 (D.C. Law 23-67; 67 DCR 3450) (“temporary law”). The temporary law will expire on October 22, 2020.

(c) This new emergency legislation will maintain the provisions of the temporary law while the Committee on the Judiciary and Public Safety considers the permanent legislation.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-546

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency with respect to the need to amend the Rental Housing Act of 1985 to require a housing provider to serve a written notice to vacate on a tenant before evicting the tenant for any reason, to require a housing provider to provide the tenant with notice of the housing provider’s intent to file a claim against a tenant to recover possession of a rental unit at least 30 days before filing the claim, , to require the Superior Court to dismiss a claim brought by a housing provider to recover possession of a rental unit where the housing provider, in cases where a notice to quit or a summons and complaint are served by posting on the leased premise, failed to provide the Superior Court with photographic evidence of the posted service, to provide that no tenant shall be evicted from a rental unit for which the housing provider does not have a current business license for rental housing, to require the Superior Court to seal certain eviction records, to authorize the Superior Court to seal certain evictions records upon motion by a tenant, to provide that a housing provider shall not make an inquiry about, require the prospective tenant to disclose or reveal, or base an adverse action on certain criteria, to require a housing provider to provide written notice to a prospective tenant of the housing provider’s basis for taking adverse action against the prospective tenant, to provide the tenant an opportunity to dispute the information forming the basis of the housing provider’s adverse action; to amend section 16-1501 of the District of Columbia Official Code to provide that the person aggrieved shall not file a complaint seeking restitution of possession for nonpayment of rent in an amount less than \$600; and to declare the sense of the Council that the Superior Court should raise filing fees for eviction cases to \$100.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fairness in Renting Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On March 11, 2020, the Mayor of the District of Columbia issued Mayor’s Order 2020-046, declaring a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents by the spread of COVID-19. That order is currently in effect through October 9, 2020.

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(b) The number of residents effected by COVID-19 and the public health emergency grows each day. Thousands of District residents have lost their employment or face underemployment. A United States Census Pulse Survey found that 37.3% of District residents have lost some level of income during the public health emergency.

(c) Since the Mayor's declaration of a public health emergency in March, the Council has passed several pieces of emergency legislation to provide relief to residents and businesses effected by the pandemic. Among the protections provided through that legislation were several measures tailored to protect vulnerable tenants. The Council has issued a moratorium on residential evictions for the length of the public health emergency, plus 60 days, and required that landlords offer rent payment plans to tenants with outstanding rent accrued during the public health emergency. A tenant with a rent payment plan who is current on both their rent and payments owed under the plan cannot be evicted for non-payment of rent.

(d) Many residents have been able remain in their homes due only to the current moratorium on evictions. When the moratorium is lifted, a number of landlords may take immediate action to evict these tenants with outstanding rent. A recent study estimated that there could be upwards of 39,000 new eviction cases after the District's eviction moratorium is lifted.

(e) Landlords currently face few disincentives to filing to evict a tenant, even where the Court does not ultimately find for the landlord. The cost to file with the Superior Court is currently set at \$15, which is significantly less than other jurisdictions where fees may range from \$50 to nearly \$200. In Virginia, filings fees for eviction cases range from \$120 to up to \$350. The minimal cost to file an eviction claim with the Superior Court discourages landlords from working directly with tenants to address amounts in arrears, even where the rent owed is minimal.

(f) Data from the Superior Court from 2014 through 2018 shows that approximately 12% of all eviction filings were for non-payment of rent in amounts totaling \$600 or less, and 50% of filings were for \$1,000. For the majority of units across the District, the amounts owed are less than even one month's rent. Unfortunately, District law does not distinguish between tenants who owe significant amounts of unpaid rent and those who owe de minimis amounts.

(g) Some District landlords have exploited the low, low cost to file with the Court, filing dozens, if not hundreds, of eviction cases each year. In 2018, just 10 District housing providers were responsible for 40% of all eviction filings in the District. And filing costs have been found to have a direct effect on landlord behavior. A 2020 "Housing Studies" study found that neighborhoods in states that charge higher eviction filings fees had fewer landlords making serial eviction-filings.

(h) When a landlord files with the Superior Court to evict a tenant, the act of filing with the Court—not the Court granting the eviction—creates an eviction record. From 2014 through 2018, only 5.5% of eviction filings in the District resulted in an executed eviction. In these instances, landlords and tenants may have settled out of court. Landlords may have named the wrong tenant in an eviction filing or filed for eviction for underpayment of rent when the tenant

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was not in arrears, due to the landlord's accounting error. Landlords may have wrongfully filed for eviction after a tenant legally withheld rent, objected to an illegal rent increase, or otherwise exercised their tenant rights. In some instances, landlords may even use an illegal eviction proceeding to pressure a tenant to move out. In all these examples—and for every tenant in the 94.5% of eviction filings that did not result in an executed eviction—a permanent eviction record was created the moment the landlord filed with the Court.

(i) Even with a moratorium on evictions for the length of the public health emergency, nothing prevents landlords from filing for an eviction with the Superior Court. Since the start of 2020, there have been over 8,000 eviction filings with the District Court. More than 1,800 of these filings were made during the public health emergency, when the moratorium on evictions was in effect; as a result of the moratorium, those filings are subject to dismissal by the Court. Nevertheless, the very act of filing for eviction has created an eviction record for those tenants.

(j) Currently, District law has no mechanism to provide for eviction records to be sealed or expunged. That means that whenever a landlord files to evict a tenant a permanent court record is created. Even where the Court believes there is a good cause to seal the record, it lacks the statutory authority to do so. As a result, the eviction record—and the harm the record causes—will follow that tenant for the remainder of their lives.

(k) Eviction records can have devastating consequences for tenants: landlords may charge a higher rent based on the perceived risk posed by a prospective tenant or may deny the prospective tenant's rental application outright. When using eviction records to screen clients, landlords typically do not consider whether the landlord was successful in evicting the tenant; rather, the fact that a prior landlord filed for eviction, creating an eviction record for that tenant, is the determinative factor.

(l) The harm caused by eviction records is particularly acute for low income residents and those who have experienced homelessness. In fact, eviction records are one of the primary barriers to housing for vulnerable residents and may exacerbate the financial difficulties that led to the tenant facing eviction in their previous residence.

(m) Of the more than 8,000 eviction filings in the District since the start of 2020, at least 1,800 were in violation of District law. More filings will invariably be filed before the moratorium is lifted, or, in the months following the end of the public health emergency, against tenants with payments plans, in violation of District law. Other filings will target tenants who are facing unprecedented struggles due to the public health emergency. As noted, a recent study estimated that there would be 39,000 new eviction cases after the District's eviction moratorium is lifted. Under current District law, an eviction record will be created for all of these tenants, each of whom may face permanent, drastic harm because they have an eviction record.

(n) Emergency legislation is needed to provide the Superior Court with the authority to seal these and other eviction records, to prohibit housing providers from filing to evict a tenant where non-payment of rent is less than \$600, to set requirements for landlords to provide tenants with notice of information and criteria used to screen tenants, and an opportunity to review and

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appeal such information, and to express the sense of the Council that the Superior Court should raise filing fees for eviction cases to \$100 to ensure that the temporary struggles that residents are facing due to the COVID-19 pandemic do not permanently hamper those residents' ability to find safe, affordable housing.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-547

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency with respect to the need to amend the Legalization of Marijuana for Medical Treatment Initiative of 1999 to remove the limit on the number of plants that a cultivation center may grow.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Medical Marijuana Plant Count Elimination Emergency Declaration Resolution of 2020”.

Sec. 2. (a) The Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.01 *et seq.*) (“Medical Marijuana Act”), established a medical marijuana program in the District. Pursuant to the Medical Marijuana Act, the Department of Health can register qualifying patients to receive access to medical marijuana without fear of government sanction, to the extent possible without a change in federal laws.

(b) Since passage of the Medical Marijuana Act, the Council and Executive have endeavored to improve access to medical marijuana for patients with the enactment of multiple bills and regulations including the Medical Marijuana Expansion Amendment Act of 2014, the Medical Marijuana Omnibus Amendment Act of 2016, the Medical Marijuana Certified Business Enterprise Preference Emergency Amendment Act of 2018, and most recently, the Student Medical Marijuana Patient Fairness Emergency Amendment Act of 2019.

(c) Current law limits the number of plants that a cultivation center may grow (“plant count limit”) to 1,000. This plant count limit was originally 95; the Council raised the limit to 500 plants in 2014, and to 1,000 in 2016, before eliminating it temporarily in 2019 through emergency and temporary legislation, which expired on October 3, 2020.

(d) The rationale for the plant count limit was to protect the medical marijuana program from interference by the federal government, but federal budget language now prohibits the Department of Justice from interfering with state or territorial medical marijuana programs, including in the District.

(e) As a result, there is no longer a reason to maintain an arbitrary plant count limit rather than allow cultivation centers to grow what is required to meet the market need.

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(f) To meet the needs of patients who seek specific strains of medical marijuana or who do not consume medical marijuana by smoking, a greater quantity of medical marijuana is required for the development and provision of unique strains and for production of tinctures, oils, edibles, and other products.

(g) The plant count limit unnecessarily creates a shortage of these products and limits the variety of strains available to patients.

(h) This lack of product puts District of Columbia cultivators and dispensaries at a disadvantage in competition with the underground market as well as with neighboring states with larger medical marijuana programs.

(i) There exists an immediate need to amend existing law to remove the arbitrary limit on the number of plants that a marijuana cultivation center may grow.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Medical Marijuana Plant Count Elimination Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-548

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency with respect to the need to amend the Homeless Services Reform Act of 2005 to reform the Emergency Rental Assistance Program to aid tenants in their recovery from the public health emergency, and to reduce administrative barriers to Emergency Rental Assistance Program payments for tenants in need.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Emergency Rental Assistance Reform Emergency Declaration Resolution of 2020”.

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

(b) The COVID-19 pandemic has led to widespread unemployment and loss of income, particularly in the leisure and hospitality industries, due to business closures. As of August 2020, data from the Bureau of Labor Statistics shows that the unemployment rate in the District is 8.5%, and nearly 40% of all adults in the District report that their household has lost employment income since March 13.

(c) The jobs and income of renters in the District have been impacted by the COVID-19 pandemic. The Census Bureau’s Household Pulse Survey shows that approximately 40% of all adults in renter households are currently unemployed and nearly 43% of all adults in renter households report that the household has lost employment income. In part due to job and income loss, 13% of renter households report that they have fallen behind on their rent payments. The financial strain that these households are facing will not dissipate in the near future and other households may face similar circumstances on the likely long road to economic recovery.

(d) The Emergency Rental Assistance Program (“ERAP”) was created in 2007 to assist low-income residents facing housing emergencies due to the inability to pay overdue rent, a security deposit, or the first month’s rent.

(e) Currently a resident may only be eligible for ERAP if someone in the resident’s household is under the age of 18, a senior, or disabled, and the resident’s income in the last 30

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days does not exceed 125% of the federal poverty level as established by the U.S. Department of Health and Human Services. Additionally, tenant advocates have noted that many of their clients have had to provide unnecessary paperwork that makes it difficult for low-income residents to receive ERAP funds.

(f) Recognizing the need for rental assistance, the Council substantially increased the Fiscal Year 2021 budget for the ERAP program.

(g) To ensure that more tenants are able to apply for assistance, it is necessary to adjust the eligibility criteria and documentation requirements for ERAP, including increasing the income threshold to 40% of area median income, removing requirements that a member of the household be under the age of 18, a senior, or disabled, and streamlining the documentation requirements for residents to be eligible.

(h) The current ERAP rules also cap the amount of money an applicant can receive for rent arrearages to a maximum of \$4,250 unless they meet certain narrow criteria. This maximum amount comes to \$850 a month for the maximum 5 months of back rent, less than half of the median monthly rent for a one-bedroom apartment in the District according to analysis of August 2020 listings by Zumper.

(i) To ensure that ERAP assistance payments can account for true rental costs, it is necessary to increase the maximum amount for rent arrearages to the applicable fair market rent for the Washington-Arlington-Alexandria Metropolitan area based on unit size and zip code. It is also necessary to give the Department of Human Resources the discretion to waive the 5-month cap during, and for a certain period of time after, public health emergencies such as the current one.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-549

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency with respect to the need to establish clear guidelines for allowing on-premises retailers, class C or D, and Convention Center food and alcohol establishments to continue operations outdoors, and to establish safeguards that are in accordance with Phase Two of the District's Reopening to protect residents and visitors while dining at these establishments.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Revised Streatery and Pop Up Locations Programs Clarification Emergency Declaration Resolution of 2020".

Sec. 2. (a) On March 11, 2020, the Mayor issued Mayor's Orders 2020-45 and 2020-46, declaring a public emergency and a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of COVID-19.

(b) As a result of the public health emergency, many District businesses ceased operations in whole or in part. To assist these businesses, while protecting District residents, the Council passed emergency legislation to establish guidelines allowing businesses to return to partial operation.

(c) On May 27, 2020, the Mayor issued Mayor's Order 2020-67 announcing that the District had entered into Phase One of the District's reopening. Among other things, in Phase One, restaurants and taverns were permitted to serve patrons on outdoor public or private spaces. On June 19, 2020, the Mayor issued Mayor's Order 2020-75, announcing that the District had entered into Phase Two of the District's reopening—superseding Mayor's Order 2020-67—and allowing restaurants and taverns to resume serving patrons indoors so long as they comply with the issuance's guidelines.

(d) Despite resuming operations, many alcoholic beverage licensed establishments are struggling financially. Many establishments have ceased operations, resulting in vacant storefronts throughout the District. To aid the struggling establishments, they will be permitted to offer beer, wine, or spirits, on a temporary basis, for on-premises indoor consumption or in closed containers along with at least one prepared food item for carryout or delivery from up to 2 additional locations.

(e) The Mayor's reopening plan allows restaurants and taverns to serve patrons on outdoor public or private space, but many restaurants and taverns in the District do not have

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outdoor public or private spaces on their certificates of occupancy or alcoholic beverage licenses. These establishments will be permitted to register with the Board to offer beer, wine, or spirits sales, on a temporary basis, on expanded or new ground floor or street level outdoor public or private space.

(f) On June 9, 2020, the Council passed the Coronavirus Support Temporary Amendment Act of 2020, enacted on July 7, 2020 (D.C. Act 23-334; 67 DCR 8622), which is still undergoing congressional review. The projected law date for the temporary bill is October 8, 2020. After enacting the temporary bill, the Council passed the Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020, effective August 19, 2020 (D.C. Act 23-405; 67 DCR 10235). The second congressional review emergency bill expires on November 16, 2020. Both bills allow ABC-licensed establishments that register with the Board to offer beer, wine, or spirits for sale on expanded outdoor space and carryout, among other things.

(g) On July 7, 2020, the Council passed the Streatery Program and Pop Up Locations Emergency Amendment Act of 2020, effective July 27, 2020 (D.C. Act 23-346; 67 DCR 9387)(“emergency bill”), which allows alcoholic beverage establishments to offer beer, wine, and spirits for carryout and delivery on a temporary basis from up to 2 additional locations and, if registered with the Board, to sell, serve, and deliver alcoholic beverages on expanded or additional outdoor public or private space. The hours of sale were from 8 a.m. to midnight as well as the hours of carryout and delivery. The emergency bill expires on October 24, 2020.

(h) The Council recognizes that this industry is still in a fragile state and, particularly as we approach the cold weather months, warrants emergency legislation extending the outdoor Streatery Program until December 31, 2021.

Sec. 3. The Council of the District of Columbia determines that the circumstances in section 2 constitute emergency circumstances, making it necessary that the Revised Streatery and Pop Up Locations Programs Clarification Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-551

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 6, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to enact and amend provisions of law necessary to support the Fiscal Year 2021 budget.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2021 Budget Support Congressional Review Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On July 28, 2020, the Council passed the Fiscal Year 2021 Budget Support Emergency Act of 2020, effective August 19, 2020 (D.C. Act 23-404; 67 DCR 10098) (“Emergency Act”), which enacted and amended provisions of law necessary to support the Fiscal Year 2021 Budget and Financial Plan and will expire on October 26, 2020.

(b) On July 28, 2020, the Council passed the Fiscal Year 2021 Budget Support Act of 2020, enacted on August 31, 2020 (D.C. Act 23-407; 67 DCR 10493) (“Permanent Act”), which is substantially similar to the Emergency Act.

(c) The congressional review period for the Permanent Act will create a gap in authority between expiration of the Emergency Act and the effective date of the Permanent Act. A congressional review emergency act is necessary to avoid that gap in the implementation of the Fiscal Year 2021 Budget and Financial Plan.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2021 Budget Support Congressional Review Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

B23-0967 Subcontractor Prompt Payment Amendment Act of 2020

Intro. 10-05-2020 by Councilmembers Bonds, Nadeau, and Cheh and referred to the Committee of the Whole

B23-0968 Reparations Task Force Establishment Act of 2020

Intro. 10-05-2020 by Councilmember McDuffie and referred sequentially to the Committee on Government Operations, and Committee of the Whole

B23-0969 Mid-Atlantic Association of Alpha Phi Alpha Chapters (MAAC) Alpha Phi Alpha Way Designation Act of 2020

Intro. 10-05-2020 by Councilmembers Todd, McDuffie, and R. White and referred to the Committee of the Whole

B23-0970 Creating a Respectful and Open World for Natural Hair (CROWN) Act of 2020

Intro. 10-05-2020 by Councilmembers R. White, McDuffie, Gray, Pinto, T. White, Cheh, Nadeau, Silverman, Grosso, Todd, Allen, and Bonds and referred to the Committee on Government Operations

B23-0972 Hardship Petition Reform Amendment Act of 2020

Intro. 10-08-2020 by Councilmember Bonds and referred to the Committee on Housing and Neighborhood Revitalization

B23-0974 Returning Citizens Cannabis Equity Amendment Act of 2020

Intro. 10-09-2020 by Councilmembers Grosso, T. White, Nadeau, Gray, and R. White and referred to the Committee on Business and Economic Development

B23-0975 Apprenticeship Procurement Incentive Amendment Act of 2020

Intro. 10-13-2020 by Councilmembers R. White, Nadeau, Grosso, and T. White and referred sequentially to the Committee on Labor and Workforce Development, and Committee on Facilities and Procurement

PR23-0989 Construction Codes Fire Safety Amendment Approval Resolution of 2020

Intro. 10-05-2020 by Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

PR23-0990 Sense of the Council to Declare Racism A Public Health Crisis in the District of Columbia Resolution of 2020

Intro. 10-05-2020 by Councilmember McDuffie and referred to the Committee on Health

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

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 23-965, “Displaced Workers Right to Reinstatement and Retention Amendment Act of 2020”

on

Wednesday, November 4, 2020 at 9:00 a.m.

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

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 23-965, “Displaced Workers Right to Reinstatement and Retention Amendment Act of 2020.” The hearing will be held **Wednesday, November 4, 2020, 9:00 a.m.** via Zoom video conference.

The stated purpose of **Bill 23-965** is to amend the Displaced Workers Protection Act of 1994 to ensure that eligible employees who have been displaced by COVID-19 have the opportunity to be reinstated once their employer reopens after the current global pandemic. Industries, such as the hotel industry, have been significantly impacted by the COVID-19 pandemic, leaving many of their employees without jobs for the foreseeable future. While these employees are unionized, their collective bargaining agreement only provides for an 18-month callback period from when their hotels closed (in this case March/April 2020). Given that many hotels are not set to reopen until the pandemic subsides, which will be well into 2021, and that it is predicted that it will take until mid-2022 before the industry largely recovers and is back to near capacity, the 18-month callback will have ended, leaving many eligible employees without any job reinstatement or retention protection. Bill 23-965 seeks to rectify this issue.

Those who wish to testify must email the Committee of the Whole at cow@dccouncil.us, or call Christina Setlow, Deputy Committee Director, at (202) 724-4865, and to provide your name, address, telephone number, organizational affiliation and title (if any) by the close of business **Monday, November 2, 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 hearing 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 or may be left by voice mail (up to 3 minutes) – **which will be transcribed** – by calling (202) 430-6948. Testimony received by 5pm on **Monday, November 2, 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 two 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 18, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

Revised

CHAIRPERSON ELISSA SILVERMAN
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

Unemployment Insurance Programs in the District During the COVID-19 Pandemic

Monday, October 26, 2020, 10:00 am

**Virtual roundtable via Zoom
Broadcast on DC Cable Channel 13 and online at www.dccouncil.us**

Councilmember Elissa Silverman, Chairperson of the Committee on Labor and Workforce Development, announces a public oversight roundtable before the Committee on the District's unemployment compensation program during the COVID-19 pandemic. The roundtable will focus on three topics: (1) DC's short-time compensation (or "shared work") program; (2) Seamlessly transitioning claimants to additional weeks of benefits through the Pandemic Emergency Unemployment Compensation (PEUC) and Extended Benefits (EB) programs; and (3) Clearing the Pandemic Unemployment Assistance (PUA) claims and payment backlog. **Note:** This notice has been revised to specify the topics to be discussed at the roundtable.

Witnesses may use their phone or computer to participate in this virtual roundtable. Those who wish to testify must sign up no later than 5:00 p.m. on Thursday, October 22, 2020 by providing their information using the form available at: <https://forms.gle/hDpzd6XgUZixvbmw6>. Witnesses must provide their name, email address, telephone number, organizational affiliation (if any), and job title (if any), as well whether they require language interpretation or sign language interpretation. Witnesses who require language interpretation or sign language interpretation are asked to complete the form linked above or email the Labor Committee at labor@dccouncil.us as soon as possible, but no later than 5:00 p.m. on Friday, October 16, 2020, stating their need for interpretation and requested language. The Council's Office of the Secretary will fulfill timely requests for language interpretation services; however, requests received later than October 16 may not be able to be fulfilled due to vendor availability.

Those planning to testify are encouraged to submit an electronic copy of written testimony by 12:00 p.m. on Friday, October 23, 2020, so that staff may distribute testimonies to Committee members and staff before the hearing. On Friday, October 23, the Committee will email witnesses who signed up by 5:00 p.m. on Thursday, October 22 to provide them with details about how to participate in the roundtable via the Zoom platform. Only witnesses who have signed up by the deadline will be permitted to participate. Witnesses representing organizations will have five minutes to present their testimony, and other individuals will have three minutes to present their testimony; less time will be allowed if there is a large number of witnesses.

If anyone is unable to testify at the roundtable, written statements will be made a part of the official record. Written statements should be submitted by email to labor@dccouncil.us. Additionally, the public may provide testimony by voice mail by calling (202) 455-0153, stating and spelling the witness's name, stating any organizational affiliation, and speaking slowly to provide a statement to be transcribed and included in the record. The record will close at 5:00 p.m. on Monday, November 9, 2020.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-111567

License Class/Type: B Retail - Grocery

Applicant: Dae Ah LLC

Trade Name: Capital Supreme Market

ANC: 6B03

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

501 4TH ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 11 pm	9 am - 11 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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-075065

License Class/Type: B / Retail - Grocery

Applicant: Giant of Maryland LLC

Trade Name: Giant Food Store #383

ANC: 3F02

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

4303 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	10 am - 10 pm
Monday:	6 am - 10 pm	9 am - 10 pm
Tuesday:	6 am - 10 pm	9 am - 10 pm
Wednesday:	6 am - 10 pm	9 am - 10 pm
Thursday:	6 am - 10 pm	9 am - 10 pm
Friday:	6 am - 10 pm	9 am - 10 pm
Saturday:	6 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-071278

License Class/Type: B / Retail - Grocery

Applicant: Trader Joe's East, Inc.

Trade Name: Trader Joe's # 653

ANC: 2A02

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

2425 L ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	8 am - 10 pm
Monday:	8 am - 10 pm	8 am - 10 pm
Tuesday:	8 am - 10 pm	8 am - 10 pm
Wednesday:	8 am - 10 pm	8 am - 10 pm
Thursday:	8 am - 10 pm	8 am - 10 pm
Friday:	8 am - 10 pm	8 am - 10 pm
Saturday:	8 am - 10 pm	8 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-078255

License Class/Type: B / Retail - Grocery

Applicant: Berhanu and Nega, LLC

Trade Name: Ogden Market

ANC: 1A02

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

1500 OGDEN ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	8 am - 11 pm
Monday:	8 am - 11 pm	8 am - 11 pm
Tuesday:	8 am - 11 pm	8 am - 11 pm
Wednesday:	8 am - 11 pm	8 am - 11 pm
Thursday:	8 am - 11 pm	8 am - 11 pm
Friday:	8 am - 11 pm	8 am - 11 pm
Saturday:	8 am - 11 pm	8 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-060569

License Class/Type: B / Retail - Grocery

Applicant: Giant of Maryland LLC

Trade Name: Giant

ANC: 5C05

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

1050 BRENTWOOD RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	9 am - midnight
Monday:	24 hours -	9 am - midnight
Tuesday:	24 hours -	9 am - midnight
Wednesday:	24 hours -	9 am - midnight
Thursday:	24 hours -	9 am - midnight
Friday:	24 hours -	9 am - midnight
Saturday:	24 hours -	9 am - midnight

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-077233

License Class/Type: B / Retail - Grocery

Applicant: Giant of Maryland, LLC

Trade Name: Giant #384

ANC: 8E04

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

1525 ALABAMA AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	9 am - 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
10/16/2020

Notice is hereby given that:

License Number: ABRA-072580

License Class/Type: B / Retail - Grocery

Applicant: Giant of Maryland, LLC

Trade Name: Giant Food Store #378

ANC: 1A05

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

1345 PARK RD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - midnight	10 am - midnight
Monday:	6 am - midnight	9 am - midnight
Tuesday:	6 am - midnight	9 am - midnight
Wednesday:	6 am - midnight	9 am - midnight
Thursday:	6 am - midnight	9 am - midnight
Friday:	6 am - midnight	9 am - midnight
Saturday:	6 am - midnight	9 am - midnight

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-021578

License Class/Type: B / Retail - Grocery

Applicant: 1807 Corporation

Trade Name: Dupont Market

ANC: 2B01

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

1807 18TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	9 am - 10 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 - 11 pm	9 am - 10 pm
Saturday:	7 am - 11 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-013885

License Class/Type: B / Retail - Grocery

Applicant: Vincent H. Covert

Trade Name: M L K Deli

ANC: 8C03

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

3113 M.L. KING JR., AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 12 am	10 am - 9 pm
Monday:	9 am - 12 am	9 am - 9 pm
Tuesday:	9 am - 12 am	9 am - 9 pm
Wednesday:	9 am - 12 am	9 am - 9 pm
Thursday:	9 am - 12 am	9 am - 9 pm
Friday:	9 am - 12 am	9 am - 9 pm
Saturday:	10 am - 12 am	10 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-081331

License Class/Type: B / Retail - Grocery

Applicant: Broad Branch Market LLC

Trade Name: The Broad Branch Market

ANC: 3G05

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

5608 BROAD BRANCH RD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	9 am - 10 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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-083507

License Class/Type: B / Retail - Grocery

Applicant: District of Columbia CVS Pharmacy, LLC

Trade Name: CVS Pharmacy #2104

ANC: 3F05

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

5013 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	8 am - 10 pm
Monday:	8 am - 10 pm	8 am - 10 pm
Tuesday:	8 am - 10 pm	8 am - 10 pm
Wednesday:	8 am - 10 pm	8 am - 10 pm
Thursday:	8 am - 10 pm	8 am - 10 pm
Friday:	8 am - 10 pm	8 am - 10 pm
Saturday:	8 am - 10 pm	8 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-087729

License Class/Type: B / Retail - Class B

Applicant: STT Management, LLC

Trade Name: U Street Wine and Beer

ANC: 1B12

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

1351 U ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 12 am	10 am - 12 am
Monday:	10 am - 12 am	10 am - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 12 am	10 am - 12 am
Friday:	10 am - 12 am	10 am - 12 am
Saturday:	10 am - 12 am	10 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-091668

License Class/Type: B / Retail - Class B

Applicant: Lodging Concessions, LLC

Trade Name: Hampton Inn-White House Suite Shop (Single Sales Exception)

ANC: 2B06

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

1729 H ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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
10/16/2020

Notice is hereby given that:

License Number: ABRA-091952

License Class/Type: B / Retail - Grocery

Applicant: Giant of Maryland, LLC

Trade Name: Giant #2381

ANC: 6C05

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

300 H ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 -	7 am - 12 am
Monday:	24 Hours -	7 am - 12 am
Tuesday:	24 Hours -	7 am - 12 am
Wednesday:	24 Hours -	7 am - 12 am
Thursday:	24 Hours -	7 am - 12 am
Friday:	24 Hours -	7 am - 12 am
Saturday:	24 Hours - :	7 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-092424

License Class/Type: B / Retail - Grocery

Applicant: YHKims, Inc.

Trade Name: Marbi's Newstand

ANC: 2B05

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

1730 RHODE ISLAND AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 -
Monday:	6:30 am - 6:30 pm	9:00 am - 6:30 pm
Tuesday:	6:30 am - 6:30 pm	9:00 am - 6:30 pm
Wednesday:	6:30 am - 6:30 pm	9:00 am - 6:30 pm
Thursday:	6:30 am - 6:30 pm	9:00 am - 6:30 pm
Friday:	6:30 am - 6:30 pm	9:00 am - 6:30 pm
Saturday:	closed - closed	closed - closed

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-092842

License Class/Type: B / Retail - Grocery

Applicant: Giant of Maryland LLC

Trade Name: Giant #2376

ANC: 6E01

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

1400 7TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 -	7 am - 12 am
Monday:	24 Hours -	7 am - 12 am
Tuesday:	24 Hours -	7 am - 12 am
Wednesday:	24 Hours -	7 am - 12 am
Thursday:	24 Hours -	7 am - 12 am
Friday:	24 Hours -	7 am - 12 am
Saturday:	24 Hours -	7 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-093257

License Class/Type: B / Retail - Class B

Applicant: Argyle Market, LLC

Trade Name: Argyle Market

ANC: 1D01

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

3220 17TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	9 am - 12 am
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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
10/16/2020

Notice is hereby given that:

License Number: ABRA-094207

License Class/Type: B / Retail - Grocery

Applicant: Simply Smiles, LLC

Trade Name: Simply Smiles

ANC: 6D03

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

333 E ST SW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	9 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
10/16/2020

Notice is hereby given that:

License Number: ABRA-094430

License Class/Type: B / Retail - Grocery

Applicant: Abush , LLC

Trade Name: DC Mini Supermarket

ANC: 5E07

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

1828 1ST ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	8 am - 11 pm
Monday:	8 am - 11 pm	8 am - 11 pm
Tuesday:	8 am - 11 pm	8 am - 11 pm
Wednesday:	8 am - 11 pm	8 am - 11 pm
Thursday:	8 am - 11 pm	8 am - 11 pm
Friday:	8 am - 11 pm	8 am - 11 pm
Saturday:	8 am - 11 pm	8 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-094996 License Class/Type: B / Retail-Full Service Grocery

Applicant: MOM'S ORGANIC MARKET INC.

Trade Name: MOM'S Organic Market

ANC: 5D01

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

1501 New York AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9AM - 8PM	10AM - 8PM
Monday:	9AM - 9PM	10AM - 9PM
Tuesday:	9AM - 9PM	10AM - 9PM
Wednesday:	9AM - 9PM	10AM - 9PM
Thursday:	9AM - 9PM	10AM - 9PM
Friday:	9AM - 9PM	10AM - 9PM
Saturday:	9AM - :9PM	10AM - 9PM

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-095375 License Class/Type: B / Retail-Full Service Grocery

Applicant: Giant of Maryland LLC

Trade Name: Giant #2379

ANC: 3C07

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

3336 Wisconsin AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	24 Hrs -	8am - 10pm
Monday:	24 Hrs -	8am - 10pm
Tuesday:	24 Hrs -	8am - 10pm
Wednesday:	24 Hrs -	8am - 10pm
Thursday:	24 Hrs -	8am - 10pm
Friday:	24 Hrs -	8am - 10pm
Saturday:	24 Hrs -	8am - 10pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-096107

License Class/Type: B / Retail - Grocery

Applicant: 4686 MLK, LLC

Trade Name: Fort Drum Market

ANC: 8D04

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

4686 MARTIN LUTHER KING JR AVE SW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 11 pm	9 am - 11 pm
Monday:	9 am - 11 pm	9 am - 11 pm
Tuesday:	9 am - 11 pm	9 am - 11 pm
Wednesday:	9 am - 11 pm	9 am - 11 pm
Thursday:	9 am - 11 pm	9 am - 11 pm
Friday:	9 am - 11 pm	9 am - 11 pm
Saturday:	9 am - 11 pm	9 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-098178

License Class/Type: B / Retail - Grocery

Applicant: Good Food Market, LLC

Trade Name: Good Food Markets

ANC: 5C07

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

2006 RHODE ISLAND AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	9 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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-098903

License Class/Type: B / Retail - Grocery

Applicant: 11th House LLC

Trade Name: Odd Provisions

ANC: 1A07

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

3301 - 3303 11TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	7 am - 10 pm
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
10/16/2020

Notice is hereby given that:

License Number: ABRA-100436

License Class/Type: B / Retail - Grocery

Applicant: Via Umbria, LLC

Trade Name: Via Umbria

ANC: 2E03

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

1525 WISCONSIN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 11:30 pm	7 am - 11:30 pm
Monday:	6 am - 11:30 pm	7 am - 11:30 pm
Tuesday:	6 am - 11:30 pm	7 am - 11:30 pm
Wednesday:	6 am - 11:30 pm	7 am - 11:30 pm
Thursday:	6 am - 11:30 pm	7 am - 11:30 pm
Friday:	6 am - 11:30 pm	7 am - 11:30 pm
Saturday:	6 am - 11:30 pm	7 am - 11:30 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-100526

License Class/Type: B / Retail - Grocery

Applicant: YOSEPH & SEIFE LLC

Trade Name: Upshur Grocery & Deli

ANC: 4C10

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

233 UPSHUR ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	10 am - 9 pm
Monday:	9 am - 10 pm	9 am - 9 pm
Tuesday:	9 am - 10 pm	9 am - 9 pm
Wednesday:	9 am - 10 pm	9 am - 9 pm
Thursday:	9 am - 10 pm	9 am - 9 pm
Friday:	9 am - 10 pm	9 am - 9 pm
Saturday:	9 am - 10 pm	9 am - 9 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-100872 License Class/Type: B / Retail-Full Service Grocery

Applicant: Trader Joe's East Inc

Trade Name: Trader Joe's #622

ANC: 6B02

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

750 Pennsylvania AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	8 am - 10 pm
Monday:	8 am - 10 pm	8 am - 10 pm
Tuesday:	8 am - 10 pm	8 am - 10 pm
Wednesday:	8 am - 10 pm	8 am - 10 pm
Thursday:	8 am - 10 pm	8 am - 10 pm
Friday:	8 am - 10 pm	8 am - 10 pm
Saturday:	8 am - 10 pm	8 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-101367

License Class/Type: B / Retail - Grocery

Applicant: TGW Convenience Store, LLC

Trade Name: A & S Grocery

ANC: 7C07

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

4748 SHERIFF RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	7 am - 9 pm
Monday:	7 am - 9 pm	7 am - 9 pm
Tuesday:	7 am - 9 pm	7 am - 9 pm
Wednesday:	7 am - 9 pm	7 am - 9 pm
Thursday:	7 am - 9 pm	7 am - 9 pm
Friday:	7 am - 9 pm	7 am - 9 pm
Saturday:	7 am - 9 pm	7 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-105196 License Class/Type: B / Retail-Full Service Grocery

Applicant: Trader Joe's East, Inc.

Trade Name: Trader Joe's #621

ANC: 5D01

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

350 Florida AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - :10 pm	8 am - :10 pm
Monday:	8 am - :10 pm	8 am - :10 pm
Tuesday:	8 am - :10 pm	8 am - :10 pm
Wednesday:	8 am - :10 pm	8 am - :10 pm
Thursday:	8 am - :10 pm	8 am - :10 pm
Friday:	8 am - :10 pm	8 am - :10 pm
Saturday:	8 am - :10 pm	8 am - :10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-106962

License Class/Type: B / Retail - Grocery

Applicant: DC Market, Inc.

Trade Name: DC Food Market

ANC: 8A04

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

2200 16TH ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	9 am - 10 pm
Monday:	8 am - 10 pm	9 am - 10 pm
Tuesday:	8 am - 10 pm	9 am - 10 pm
Wednesday:	8 am - 10 pm	9 am - 10 pm
Thursday:	8 am - 10 pm	9 am - 10 pm
Friday:	8 am - 10 pm	9 am - 10 pm
Saturday:	8 am - 10 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-107224

License Class/Type: B / Retail - Grocery

Applicant: B & B Corners Market, LLC

Trade Name: Four Corners Market

ANC: 4D02

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

440 KENNEDY ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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	8 am - 12 am
Monday:	7 am - 12 am	8 am - 12 am
Tuesday:	7 am - 12 am	8 am - 12 am
Wednesday:	7am - 12 am	8 am - 12 am
Thursday:	7am - 12 am	8 am - 12 am
Friday:	7 am - 12 am	8 am - 12 am
Saturday:	7 am - 12 am	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-107382 License Class/Type: B / Retail-Full Service Grocery

Applicant: Trader Joe's East, Inc.

Trade Name: Trader Joe's #620

ANC: 3B02

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

2101 WISCONSIN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	8:00 am - 10:00 pm	8:00 am - 10:00 pm
Monday:	8:00 am - 10:00 pm	8:00 am - 10:00 pm
Tuesday:	8:00 am - 10:00 pm	8:00 am - 10:00 pm
Wednesday:	8:00 am - 10:00 pm	8:00 am - 10:00 pm
Thursday:	8:00 am - 10:00 pm	8:00 am - 10:00 pm
Friday:	8:00 am - 10:00 pm	8:00 am - 10:00 pm
Saturday:	8:00 am - 10:00 pm	8:00 am - 10:00 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-108896

License Class/Type: B / Retail - Class B

Applicant: Menkem, LLC

Trade Name: E Market

ANC: 7D06

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

4202 BENNING RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-109297

License Class/Type: B / Retail - Grocery

Applicant: Pho Viet USA Inc

Trade Name: Pho Viet USA Inc.

ANC: 1B03

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

2628 11TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-109749

License Class/Type: B / 25 Percent

Applicant: Federal Center Hotel Associates LLC

Trade Name: Holiday Inn (Capitol)

ANC: 6D01

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

550 C ST SW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-110419

License Class/Type: B / Retail - Grocery

Applicant: Umesh B. Kattel

Trade Name: Samber Food Store

ANC: 1D04

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

3243 MOUNT PLEASANT ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	9 am - 10 pm
Monday:	8 am - 10 pm	9 am - 10 pm
Tuesday:	8 am - 10 pm	9 am - 10 pm
Wednesday:	8 am - 10 pm	9 am - 10 pm
Thursday:	8 am - 10 pm	9 am - 10 pm
Friday:	8 am - 10 pm	9 am - 10 pm
Saturday:	8 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-111233

License Class/Type: B / Beer and Wine

Applicant: Elharia, Inc.

Trade Name: Nam's Market

ANC: 8A06

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

1327 W ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 12 am	8 am - 12 am
Monday:	8 am - 12 am	8 am - 12 am
Tuesday:	8 am - 12 am	8 am - 12 am
Wednesday:	8 am - 12 am	8 am - 12 am
Thursday:	8 am - 12 am	8 am - 12 am
Friday:	8 am - 12 am	8 am - 12 am
Saturday:	8 am - 12 am	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-112366

License Class/Type: B / Retail - Grocery

Applicant: Capitol Incorporation

Trade Name: Capitol Market

ANC: 5E09

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

2501 NORTH CAPITOL ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-076414

License Class/Type: B Retail - Grocery

Applicant: Park & Song, Inc.

Trade Name: Congress Market

ANC: 6B01

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

421 EAST CAPITOL ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7:30 am - 11 pm	10 am - 10 pm
Monday:	7:30 am - 11 pm	9 am - 10 pm
Tuesday:	7:30 am - 11 pm	9 am - 10 pm
Wednesday:	7:30 am - 11 pm	9 am - 10 pm
Thursday:	7:30 am - 11 pm	9 am - 10 pm
Friday:	7:30 am - 11 pm	9 am - 10 pm
Saturday:	7:30 am - 11 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-090082 License Class/Type: B Retail - Grocery
Applicant: Glen's Garden Market, LLC
Trade Name: Glen's Garden Market
ANC: 2B01

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

2001 S ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	8 am - 10 pm
Monday:	8 am - 10 pm	8 am - 10 pm
Tuesday:	8 am - 10 pm	8 am - 10 pm
Wednesday:	8 am - 10 pm	8 am - 10 pm
Thursday:	8 am - 10 pm	8 am - 10 pm
Friday:	8 am - 10 pm	8 am - 10 pm
Saturday:	8 am - 10 pm	8 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 16, 2020
Protest Petition Deadline: December 21, 2020
Roll Call Hearing Date: January 4, 2021

License No.: ABRA-098589
Licensee: ALFA LLC
Trade Name: Gold Coast Café & Mart
License Class: Retailer’s Class “B” Grocery
Address: 5501 Colorado Avenue, N.W.
Contact: Chrissie Chang: (703) 992-3994

WARD 4 ANC 4C SMD 4C01

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on January 4, 2021 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE

Request to change hours of operation and alcoholic beverage sales.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am – 8pm

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 16, 2020
Protest Petition Deadline: December 21, 2020
Roll Call Hearing Date: January 4, 2021
Protest Hearing Date: March 17, 2021

License No.: ABRA-117277
Licensee: Karaoke Cowboy LLC
Trade Name: Karaoke Cowboy
License Class: Retailer's Class "C" Tavern
Address: 1408 14th Street, N.W.
Contact: Sidon Yohannes: (202) 686-7600

WARD 2

ANC 2F

SMD 2F02

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 January 4, 2021 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on March 17, 2021 at 4:30 p.m.

NATURE OF OPERATION

A new Retailer's Class C Tavern with a seating capacity of 50 and Total Occupancy Load of 80. Summer Garden with 50 seats. Applicant requests an Entertainment and Cover Charge Endorsement to provide live entertainment inside premises and outdoors in Summer Garden.

HOURS OF OPERATION, HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION, AND HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES AND OUTSIDE IN SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-110934

License Class/Type: C Tavern

Applicant: Petworth Cigars, LLC

Trade Name: Petworth Cigars

ANC: 4C07

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

4203 GEORGIA AVE NW, WASHINGTON, DC 20011

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
12/21/2020

A HEARING WILL BE
1/4/2021

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 12 am	10 am - 12 am	4 pm - 12 am
Monday:	10 am - 12 am	10 am - 12 am	4 pm - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am	4 pm - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am	4 pm - 12 am
Thursday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Friday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Saturday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-074845

License Class/Type: B Retail - Grocery

Applicant: Johy Corporation

Trade Name: The Corner Market

ANC: 6C01

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

400 EAST CAPITOL ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 11 pm	9 am - 10 pm
Monday:	7 am - 11 pm	9 am - 10 pm
Tuesday:	7 am - 11 pm	9 am - 10 pm
Wednesday:	7 am - 11 pm	9 am - 10 pm
Thursday:	7 am - 11 pm	9 am - 10 pm
Friday:	7 am - 11 pm	9 am - 10 pm
Saturday:	7 am - 11 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: October 16, 2020
Protest Petition Deadline: December 21, 2020
Roll Call Hearing Date: January 4, 2021
Protest Hearing Date: March 17, 2021

License No.: ABRA-117238
Licensee: Equity 18, LLC
Trade Name: The Lounge
License Class: Retailer’s Class “C” Nightclub
Address: 1212 18th Street, N.W.
Contact: Sidon Yohannes: (202) 686-7600

WARD 2

ANC 2B

SMD 2B06

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 January 4, 2021 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on March 17, 2021 at 1:30 p.m.

NATURE OF OPERATION

A new Retailer’s Class C Nightclub with a seating capacity of 499 and Total Occupancy Load of 499. Summer Garden with 37 seats.

HOURS OF OPERATION FOR INSIDE PREMISES AND OUTSIDE IN SUMMER GARDEN

Sunday through Saturday 8am – 4am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES AND OUTSIDE IN SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-093455

License Class/Type: B Retail-Full Service Gr

Applicant: Trader Joe's East, Inc.

Trade Name: Trader Joe's #662

ANC: 2B09

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

1914 14TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	8 am - 10 pm
Monday:	8 am - 10 pm	8 am - 10 pm
Tuesday:	8 am - 10 pm	8 am - 10 pm
Wednesday:	8 am - 10 pm	8 am - 10 pm
Thursday:	8 am - 10 pm	8 am - 10 pm
Friday:	8 am - 10 pm	8 am - 10 pm
Saturday:	8 am - 10 pm	8 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/16/2020

Notice is hereby given that:

License Number: ABRA-088835

License Class/Type: B Retail - Grocery

Applicant: Aki & Muller Corporation

Trade Name: Wheeler Market

ANC: 8E06

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

4133 WHEELER RD SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
12/21/2020

A HEARING WILL BE HELD ON:
1/4/2021

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 - 10 pm	7 am - 10 pm
Monday:	7 am - 10 pm	7 am - 10 pm
Tuesday:	7 am - 10 pm	7 am - 10 pm
Wednesday:	7am - 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:	7 am - 10 pm	7 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

HISTORIC PRESERVATION REVIEW BOARD**NOTICE OF PUBLIC HEARINGS**

The D.C. Historic Preservation Review Board will hold a public hearing to consider an application to designate the following property a historic landmark in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the property to the National Register of Historic Places:

Case No. 21-01: A. Loffler Provisions Company
3701 Benning Road NE
Square 5044, Lot 807
Affected Advisory Neighborhood Commission: 7F

The hearing will take place at **9:00 a.m. on Thursday, November 19, 2020**. If in-person meetings have been restored, the hearing will take place at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. Given the likelihood of continued online meetings, details for participation will be posted here: <https://planning.dc.gov/node/1176060>

The hearing will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic designation application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates a property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District or Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, NOVEMBER 4, 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

20303
ANC 6C **Application of Government Properties Income Trust LLC,** pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the penthouse restaurant use requirements of Subtitle C § 1500.3(c), and under the capitol security sub-area requirements of Subtitle I § 605.6, to renovate an existing office building into a mixed-use building in the D-3 Zone at premises 20 Massachusetts Avenue, N.W. (Square 626, Lot 78).

WARD ONE

20304
ANC 1A **Application of 721 Kenyon DCBS, LLC,** pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle U § 320.2, including a waiver from Subtitle U § 320.2(e) and 320.2(h), and under Subtitle E § 5201 from the side yard requirements of Subtitle E § 207.3, to construct a third-story and 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 721 Kenyon Street N.W. (Square 2892, Lot 839).

WARD TWO

20305
ANC 2B **Application of Florida 21 LLC,** pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle F § 5201, from the court requirements of Subtitle F § 202.1, to construct a partial fourth-story addition to an existing attached principal dwelling unit and convert it into a 4-unit apartment house in the RA-8 Zone at premises 2152 Florida Avenue, N.W. (Square 66, Lot 828).

WARD ONE

20306
ANC 1B **Application of 1901 13th Street NW LLC,** pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the lot area requirements of Subtitle E § 201.7, to construct an additional apartment in an existing 11-unit apartment house in the RF-1 Zone at premises 1901 13th Street, N.W. (Square 274, Lots 838 and 839).

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WARD THREE

20308 **Application of 4865 MacArthur Landlord, LLC**, pursuant to 11
ANC 3D DCMR Subtitle X, Chapter 9, for a special exception under the use
provisions of Subtitle U § 203.1(g), to establish a continuing care
retirement community in the R-1-B and MU-4 Zones at premises 4865
MacArthur Boulevard, N.W. (Square 1389, Lot 25).

WARD SIX

20310 **Application of Robert and Stefanie Wehagen**, pursuant to 11 DCMR
ANC 6A 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 one-story rear addition to an existing attached flat in the RF-1 Zone at
premises 128 12th Street N.E. (Square 988, Lot 40).

WARD SIX

20311 **Application of Jennifer Duck**, pursuant to 11 DCMR Subtitle X,
ANC 6C Chapter 9, for special exceptions under Subtitle E § 5201 from the rear
addition requirements of Subtitle E § 205.4, and from the lot
occupancy requirements of Subtitle E § 304.1, to construct a two-story
rear addition to an existing attached principal dwelling unit in the RF-1
Zone at premises 646 E Street N.E. (Square 861, Lot 157).

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.

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

Do you need assistance to participate?

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

Do you need assistance to participate?

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

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

French

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

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿Necesita ayuda para participar?

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

Vietnamese

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

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

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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**

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Behavioral Health (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 § 7-1141.07, and the Department of Mental Health Establishment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code §§ 7-1131.04 and 7-1131.12 (2018 Repl.)), hereby gives notice of the adoption of final rulemaking for a new Chapter 30 (Free Standing Mental Health Clinic Certification Standards), of Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The Department is responsible for coordinating and monitoring publicly funded mental health services for the residents of the District of Columbia. Previously, the Department of Health Care Finance (DHCF), upon the recommendation of the Department, certified and monitored Free Standing Mental Health Clinics (FSMHCs) to provide publicly-funded clinic-based mental health services under Title 29 DCMR, Chapter 8. The Department of Behavioral Health Establishment Act of 2013 and Department of Mental Health Establishment Act of 2001 granted the Department of Behavioral Health exclusive authority to certify and regulate FSMHC providers upon promulgation of regulations in accordance with D.C. Official Code §§ 2-501, *et seq.* This rulemaking implements the statutory authority that established the Department as the monitoring and certifying agency for FSMHCs. The chapter also establishes the certification requirements for FSMHCs and services they provide.

On July 3, 2020, a Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* at 67 DCR 8087. The Department did not receive any comments on the emergency and proposed chapter. The Department made only technical changes in: (1) § 3000.3, to clarify that existing FSMHCs must submit new certification applications to the Department by November 2, 2020 and become a certified FSMHC by the Department by March 30, 2021; (2) §§ 3001.1(b), 3001.2(b), and 3008.3(e)(1), to reflect correct, current clinical terminology; (3) § 3003.3, to clarify timeframes for requesting an administrative review of certification denials; (4) § 3003.5, to clarify that Statements of Deficiency and Notices of Infractions are not required prior to decertification; (5) § 3006.4, deleting repetitive language; (6) § 3008.2, to clarify the participation requirements in the District's Health Information Exchange; and (7) §§ 3011.1(k) and 3013, to reflect current terminology for incidents requiring provider reporting to DBH and to accommodate an upcoming change in submission mechanism for reports. This rule was adopted as final on October 9, 2020 and will become effective upon publication in the *D.C. Register*.

Title 22-A DCMR, MENTAL HEALTH, is amended by adding a new Chapter 30 to read as follows:

CHAPTER 30 FREE STANDING MENTAL HEALTH CLINIC CERTIFICATION STANDARDS

- 3000 GENERAL PROVISIONS**
- 3001 ELIGIBLE CONSUMERS**
- 3002 CERTIFICATION PROCESS**
- 3003 DENIAL AND DECERTIFICATION PROCESS**
- 3004 CERTIFICATION REQUIREMENTS: GENERAL**
- 3005 STAFFING AND ADMINISTRATION**
- 3006 PROGRAM MANUAL**
- 3007 RECORDS**
- 3008 MEDICAL RECORDS**
- 3009 INDIVIDUAL PLAN OF CARE**
- 3010 REIMBURSEMENT**
- 3011 COMPLIANCE AND INTEGRITY PROGRAM**
- 3012 AUDITS AND REVIEWS**
- 3013 REPORTING MAJOR UNUSUAL INCIDENTS**
- 3014 NOTICES OF INFRACTION**
- 3099 DEFINITIONS**

3000 GENERAL PROVISIONS

3000.1 Free Standing Mental Health Clinic (FSMHC) services are services provided by behavioral health practitioners within a clinic setting to eligible individuals (consumers) living in the community. The purpose of these rules is to set forth the requirements for:

- (a) Certification by the Department of Behavioral Health (Department) of organizations to provide Free Standing Mental Health Clinic (FSMHC) services;
- (b) Eligibility of individuals to receive treatment at FSMHCs;
- (c) Services to be provided at FSMHCs; and
- (d) Administrative requirements for an FSMHC.

3000.2 A FSMHC shall be certified by the Department in accordance with the rules set forth in this chapter. No person or entity shall operate a FSMHC without a valid FSMHC certification.

3000.3 The transition timeline from the Department of Health Care Finance (DHCF) certification to Department of Behavioral Health certification is as follows:

- (a) Providers who were certified as an FSMHC by the Department of Health Care Finance (DHCF) prior to the publication of the Notice of Emergency and Proposed Rulemaking in the *D.C. Register* may retain certification under DHCF through November 2, 2020.
- (b) All DHCF certifications will expire on November 2, 2020.
- (c) Any provider wishing to continue to provide services as an FSMHC must submit a complete certification application with the Department prior to November 2, 2020 and obtain full certification by the Department by March 30, 2020.
- (d) Failure to complete the certification process within that time frame will result in the loss of certification to provide FSMHC services.
- (e) The Department will grant provisional certification to any existing FSMHC provider that submits a complete certification application by November 2, 2020. The provisional certification will expire upon full certification under this chapter, upon denial or decertification in accordance with this chapter, or the end of the certification window on March 30, 2021, whichever occurs first.

- 3000.4 An FSMHC shall meet the requirements of this chapter in order to obtain certification.
- 3000.5 Each certified FSMHC shall treat all consumers who meet the eligibility guidelines in § 3001.2 and require treatment. An FSMHC that seeks reimbursement for providing services to individuals eligible for local funding under § 3001.2 shall enter into a Human Care Agreement (HCA) with the Department prior to providing any services to those individuals.
- 3000.6 Upon certification, but prior to providing services, each FSMHC shall enter into a Medicaid Provider Agreement with DHCF. All Medicaid reimbursement for FSMHC services shall be through DHCF. All local dollar reimbursement for FSMHC services shall be through an HCA with the Department.
- 3000.7 Entities certified as an FSMHC in accordance with the requirements set forth in this chapter are eligible to apply for certification as a Health Home in accordance with the requirements set forth in 22-A DCMR §§ 2500, *et seq.*
- 3000.8 An FSMHC that is certified as a Health Home is eligible to receive reimbursement for the provision of Health Home services in accordance with the requirements set forth in 29 DCMR §§ 6900, *et seq.*

3001 ELIGIBLE CONSUMERS

3001.1 Consumers eligible for Medicaid-funded FSMHC services must meet the following requirements:

- (a) Are enrolled in Medicaid, or be eligible for enrollment and have an application pending; and
- (b) Are children, youth, or adults with a mental health condition or diagnosis, or at risk of developing a diagnosable mental health condition.

3001.2 Consumers eligible for locally-funded FSMHC services are those individuals who are not eligible for Medicaid or are not enrolled in any other third-party insurance program, except the D.C. Healthcare Alliance or Immigrant Children's Program, and who meet the following requirements:

- (a) Are *bona fide* residents of the District pursuant to D.C. Official Code § 7-1131.02(29);
- (b) Are children, youth, or adults with a mental health condition or diagnosis, or at risk of developing a diagnosable mental health condition; and
- (c) 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.

3001.3 Neither Medicaid nor the Department shall reimburse providers for FSMHC services provided to any consumer that does not meet the eligibility requirements set forth above.

3002 CERTIFICATION PROCESS

3002.1 Subject to the initial transition period in § 3000.3, FSMHC providers shall be certified in accordance with the requirements of this Section.

3002.2 Each applicant seeking certification as an FSMHC shall submit a certification application in the format required by the Department.

3002.3 The Department shall review the certification application upon receipt to determine if it is complete. If a certification application is incomplete, the Department shall return the incomplete certification application to the applicant. An incomplete certification application shall not be regarded as a certification application. The Department shall deny any application that contains false representations or documents and the applicant shall be barred from resubmitting an application for

twelve (12) months.

- 3002.4 Following the Department's review and acceptance of the documentation contained in the certification application, the Department shall determine whether the applicant's services and activities meet the certification standards described in this chapter. The Department shall schedule and conduct an on-site survey of the applicant's services to determine whether the applicant satisfies all certification standards.
- 3002.5 An FSMHC seeking recertification shall submit a recertification application at least ninety (90) calendar days prior to the termination of its current certification. An FSMHC that timely submits a renewal application may continue to provide FSMHC services until the Department takes action to renew or deny renewal of certification.
- 3002.6 The Department may also conduct an on-site survey at the time of certification renewal, or at any other time during the period of certification.
- 3002.7 Upon request, the Department shall be provided access to all FSMHC records, including but not limited to consumer records, claims and billing records, and FSMHC employee records, to verify compliance with certification standards, and may conduct interviews with FSMHC staff. All FSMHCs shall cooperate with the Department's certification and compliance reviews.
- 3002.8 Certification as an FSMHC 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 FSMHC's continuous compliance with these certification standards. Certification shall remain in effect until it expires, is renewed, or is revoked pursuant to § 3003. The Certification shall specify the effective date of the certification and the date the certification expires.
- 3002.9 A Certification is not transferable from one organization to another.
- 3002.10 An applicant or FSMHC that fails to comply with these Department certification standards may receive a Statement of Deficiencies (SOD) from the Department. The SOD shall describe the areas of non-compliance, identify actions needed to bring operations into compliance, and establish a timeframe for the provider's submission of a written Corrective Action Plan (CAP). The Department may, at its discretion, proceed directly to denial or decertification without issuing an SOD when the deficiencies relate to the health or safety of consumers, or constitute a material misrepresentation, fraud, or abuse.
- 3002.11 When the Department issues a SOD, the applicant or FSMHC shall submit a CAP. The 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 no later than (10) business days from the date of receipt of the Department's SOD.

- 3002.12 The Department shall notify the applicant or FSMHC whether the applicant or FSMHC's CAP is accepted within ten (10) business days after receipt. Failure to comply with the CAP shall be grounds for denial or decertification.
- 3002.13 The Department may issue certification after it verifies that the applicant or FSMHC has complied with its CAP and meets all the certification standards.
- 3002.14 These rules do not create any rights or entitlements. Certification as an FSMHC depends upon the Director's assessment of the need for additional providers(s) and availability of funds. No certifications shall be issued during the period of time that the Department has imposed a moratorium via published notice in the *D.C. Register*.
- 3002.15 The Director may deny or revoke certification if the applicant or FSMHC fails to comply with any certification standard, or if the FSMHC fails to maintain a provider agreement with DHCF.
- 3002.16 Certification shall be considered terminated and invalid if the FSMHC fails to apply for renewal of certification with a complete application ninety (90) calendar days prior to the expiration date of the current certification, voluntarily relinquishes certification or goes out of business.
- 3002.17 The FSMHC shall notify the Department within forty-eight (48) hours of any changes in its operation that affect the FSMHC's continued compliance with these certification standards, including changes in:
- (a) Ownership or control;
 - (b) Services;
 - (c) Key clinical staff, *e.g.*, psychiatrist, therapists, or the FSMHC Clinical Administrator; and
 - (d) Any affiliation and referral arrangements.
- 3002.18 Each certification application shall contain the following information:
- (a) A list of the services to be provided, target population for its services and potential referral sources;
 - (b) Identification of the psychiatrist(s) who will provide clinical and administrative direction, and provide direct services;

- (c) Personnel documentation including:
 - (1) Staff roster that includes for each individual the name, position, license/degree, full or part time status, and the services provided. Roster must include a full time Clinical Administrator, although one or more persons may share part time duties to equal full-time coverage.
 - (2) A signed contract for each clinical staff member, or a letter signed by each clinician that attests to his/her intention to become an employee with the organization. Documents must include the time frame of the commitment and the scope of service and responsibilities that will be expected as a condition of employment.
 - (3) Completed background checks on all personnel to ensure none of the individuals employed by, or affiliated with, the administration or governing board or body, if any, are excluded from participation in federal reimbursements or as a District contractor.
 - (4) Completed criminal background checks as outlined in D.C. Official Code § 44-551 and Title 22-B Chapter 47 for all unlicensed individuals employed or contracted with the FSMHC.
 - (5) Completed child protection registry check for all staff.
 - (6) A copy of the current license and resume for each licensed practitioner and a copy of the resume(s) for the designated full-time equivalent Clinical Administrator(s).
- (d) A program manual that contains all policies listed in § 3006;
- (e) An organizational chart that clearly indicates all clinical and administrative positions within the FSMHC.
 - (1) If the FSMHC is contained within a larger parent organization, the chart must clearly show how the FSMHC program fits administratively and clinically into the larger organizational structure; and
 - (2) The chart shall clearly define the agency structure, staff responsibilities, lines of authority, and clinical process flow.
- (f) A job description for the psychiatrist(s) that includes a description of how the psychiatrist(s) will provide clinical and administrative direction for all services provided by the FSMHC.

3003 DENIAL AND DECERTIFICATION PROCESS

3003.1 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 FSMHC services on a sustained and regular basis. The Director may also 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 FSMHC services that will address unmet needs of the behavioral health system.

3003.2 While applicants may make minor corrections and substitutions to their applications 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 FSMHC services consistent with high quality care and privacy standards;
- (e) The lack of demonstrated experience providing FSMHC services by the applicant's clinical leadership, practitioners, or staff;
- (f) An applicant's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future;
- (g) An applicant's failure to timely respond to the Department's requests for information; or
- (h) History of poor performance.

3003.3 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 §§ 3003.1-3003.2. 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 not be allowed to reapply for certification for twelve (12) months following the date of denial.

- 3003.4 The Department shall decertify existing providers who fail to comply with the certification requirements contained in this chapter. Evidence of one or more of the following shall constitute good cause to decertify:
- (a) An incomplete recertification application;
 - (b) False information provided by provider or contained in a recertification application;
 - (c) High staff turnover during the certification period demonstrating organizational instability;
 - (d) One or more documented violations of the certification standards during the certification period that evidence a provider's lack of capacity to meet and sustain compliance with this chapter;
 - (e) Claims audit error rate in excess of twenty-five percent (25%);
 - (f) Poor quality of care;
 - (g) A provider's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future; or
 - (h) Failure to cooperate with Department investigations or lack of timely response to information requests.
- 3003.5 Nothing in this chapter requires the Director to issue an SOD or an NOI prior to decertifying an FSMHC. If the Director finds that there are grounds for revoking an FSMHC's certification, the Director shall issue a written notice of revocation setting forth the factual basis for the revocation, the effective date, and the FSMHC's right to request an administrative review.
- 3003.6 Within fifteen (15) business days of the date on the notice of revocation, the FSMHC may request an administrative review from the Director.
- 3003.7 Each request for an administrative review shall contain a concise statement of the reason(s) why the FSMHC asserts that it should not have its certification revoked and include any relevant supporting documentation.
- 3003.8 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.
- 3003.9 The Director shall issue a written decision and provide a copy to the FSMHC. If the Director approves the revocation of the FSMHC's certification, the FSMHC may, within fifteen (15) business days of the receipt of the Director's written

decision, request a hearing under the D.C. Administrative Procedure Act, effective October 21, 1968 (Pub. L. 90-614, D.C. Official Code §§ 2-501 *et seq.*). The administrative hearing shall be limited to the issues raised in the administrative review request.

- 3003.10 Once certification is revoked, the FSMHC shall not be allowed to reapply for certification for a period of two (2) years following the date of the order of revocation. If an FSMHC reapplies for certification, the FSMHC 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.

3004 CERTIFICATION REQUIREMENTS: GENERAL

- 3004.1 The purpose of certification is to ensure that FSMHC have the necessary qualifications and capacity to provide high quality mental health services to District residents.
- 3004.2 The FSMHC shall conform with Federal and local laws and regulations pertaining to health and fire safety, drug procurement and distribution, disposal of medications and controlled substances, building construction, maintenance and equipment standards, sanitation, and communicable and reportable diseases.
- 3004.3 The FSMHC setting shall have sufficient and appropriate office space to conduct individual and group interventions including intake, therapy, and assessment in such way that the confidentiality of the consumer is maintained and preserved.
- 3004.4 The FSMHC shall operate and provide services in accordance with all applicable provisions of the D.C. Human Rights Act, effective June 28, 1994 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01, *et seq.*).
- 3004.5 The FSMHC shall ensure that all services, as set forth in § 3010.8 of this chapter, are provided by or under the direction of a psychiatrist. Health Home services provided by a FSMHC shall be provided in accordance with requirements set forth in 29 DCMR §§ 6900 *et seq.* and 22-A DCMR §§ 2500 *et seq.*
- 3004.6 The FSMHC shall comply with its Medicaid Provider Agreement and provide services to all eligible consumers who have been determined by the independently licensed behavioral health practitioner to be clinically appropriate to receive services in an outpatient mental health setting.
- 3004.7 The FSMHC shall comply with all requirements of the Health Insurance Portability and Accountability Act (HIPAA) and its implementing regulations, and the D.C. Mental Health Information Act (MHIA), effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1201.01).

3004.8 The FSMHC shall have the technological and administrative capacity to electronically submit claims to DHCF, the Department, and third-party payers.

3004.9 The FSMHC shall provide evidence of Commercial General Liability insurance coverage of at least one million (\$1,000,000.00) per occurrence limits, three million (\$3,000,000.00) aggregate; Bodily Injury and Property Damage including: premises-operations; broad form property damage, Products and Advertising Injury; contractual liability and independent providers. The provider shall maintain Completed Operations coverage for five (5) years following final acceptance of the work performed.

3005 STAFFING AND ADMINISTRATION

3005.1 Each FSMHC shall be staffed with licensed behavioral health practitioners who shall be professionally responsible for the provision of the mental health services delineated in its approved provider agreement.

3005.2 Each FSMHC shall have a psychiatrist on staff who is available on a regular and emergency basis and who shall be responsible for the provision of the mental health services provided by the FSMHC.

3005.3 Each participating FSMHC's approved organizational chart and program manual shall clearly show that its services will be provided by or under the direction of a psychiatrist. The psychiatrist shall spend as much time on site as necessary to ensure consumers are getting services in a safe and efficient manner in accordance with accepted standards of medical care. "Under the direction of a psychiatrist" means the psychiatrist shall:

- (a) Assure that the services provided are medically necessary; and
- (b) Assume professional responsibility for the services provided.

3005.4 The supervision and management of consumer care shall be the responsibility of the psychiatrist, and the psychiatrist shall be available for advice and consultation with the treating staff as often as necessary to ensure adequate supervision and quality of care.

3005.5 Each participating FSMHC shall have a full-time equivalent Clinical Administrator who shall have the authority and responsibility for the conduct of the affairs of the FSMHC, except for those matters committed by the provisions of this chapter to the authority of the psychiatrist. The Clinical Administrator shall be an independently licensed behavioral health practitioner.

3005.6 The Clinical Administrator's qualifications, authority, and duties shall be defined in writing.

3005.7 The organizational chart shall also show relationships between the clinic and outside entities, such as the following:

- (a) The Board of Directors;
- (b) Steering committees;
- (c) Advisory boards; and
- (d) Professional health or service association affiliations.

3006 PROGRAM MANUAL

3006.1 Each FSMHC shall have a current program manual that outlines all of its policies and procedures.

3006.2 The program manual shall, at a minimum, include, the following:

- (a) A mission statement reflecting the goals and mission of the Department;
- (b) The range of services to be provided, and a description of the service delivery model;
- (c) Fee schedules;
- (d) The population to be served;
- (e) Operational schedules;
- (f) Personnel policies as listed in § 3006.3;
- (g) Other policies as listed in § 3006.4;
- (h) Financial and record-keeping procedures;
- (i) Compliance and integrity program that complies with § 3011; and
- (j) Consumer rights statement that complies with the District of Columbia Mental Health Consumer Protection Act, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1231.04).

3006.3 Minimum personnel administration requirements include the following:

- (a) Written job descriptions of all staff positions, procedures for employee hiring, evaluations, grievances, and in-service training;
- (b) A minimum of one (1) hour per week of supervision for all behavioral health

practitioners who deliver services with supervision, as described in § 3010.9, furnished by an independently licensed behavioral health practitioner designated as the supervisor. Supervision shall cover consumer related and other activities;

- (c) An up-to-date listing of professional staff licensure information; and
- (d) Written policies and procedures for emergency care.

3006.4 The program manual shall include the following policies:

- (a) Admission, Waitlist, Transfer, and Discharge Policy, which describes pre-admission, intake, screening, assessment, referral, transfer, and discharge procedures and inform all consumers of the right to freely choose the provider(s) from whom they will receive services;
- (b) Training Policy, which incorporates a written plan for staff development and organizational onboarding, including the training and performance improvement needs of all employees working in the FSMHC;
- (c) Anti-Discrimination Policy, which complies with the D.C. Human Rights Act;
- (d) Billing and Payment Policy, which requires the FSMHC provider to have the necessary operational capacity to verify the eligibility for Medicaid and other third-party payers, submit Medicaid and third-party claims timely and accurately, document information on services provided, and track payments received;
- (e) Care Coordination Policy, which establishes the roles and responsibilities of FSMHC staff in the coordination of care across behavioral health treatment and primary care treatment settings, especially in regards to transitions into or from more intensive levels of care or institutional settings;
- (f) Clinical Records Maintenance and Storage Policy, which at a minimum meets the requirements in § 3007 of this chapter;
- (g) Complaint and Grievance Policy, which establishes a well-publicized complaint and grievance system, including written policies and procedures for handling consumer, family, and practitioner complaints and grievances that conforms to the requirements in 22-A DCMR § 306;
- (h) Consent to Treatment Policy, which shall establish and adhere to policies and procedures for obtaining written informed consent to treatment from consumers which comply with applicable Federal and District laws and

regulations, including 22-A DCMR Chapter 1;

- (i) Cultural Competence Policy, which shall define the set of values, principles, attitudes, policies and demonstrative behaviors that will enable the FSMHC to work effectively cross-culturally;
- (j) Disaster Recovery Plan, which shall establish policies and procedures for maintaining the security and privacy of protected health information and data. Each plan shall also stipulate back-up and redundant systems and measures that are designed to prevent the loss of data and information and to enable the recovery of data and information lost due to disastrous events;
- (k) Infection Control Policy, which shall establish policies and procedures governing infection control that comply with applicable Federal and District laws and regulations, including, but not limited to, the blood borne pathogens standard set forth in 29 CFR § 1910.1030;
- (l) Interpreter Policy, which, at a minimum, requires using a professional interpreter or interpretation service including qualified sign language interpreters in order to effectively communicate with deaf consumers and those with limited English proficiency;
- (m) Medication Storage and Administration Policy, which complies with applicable Federal and District laws and regulations regarding the purchasing, receipt, storage, distribution, dispensing, administering, return, and destruction of medications and require the FSMHC to maintain all medications and prescription blanks in a secured and locked area;
- (n) Consumer Choice Policy, which shall establish policies and procedures governing the means by which consumers shall be informed of the full choices of FSMHC providers and other mental health service providers available;
- (o) On-Call Policy, which shall require the FSMHC to adopt procedures for handling routine, urgent, and emergency situations that include referral procedures to local emergency departments and on-call arrangements for clinical staff and physicians. The policy shall describe the availability of timely access to face-to-face crisis support services, specify how the FSMHC provider will interact and coordinate services with Department-designated crisis and emergency services, and include procedures for triaging consumers who require crisis services or psychiatric hospitalization;
- (p) Staff Performance Review Policy, which shall require at a minimum annual evaluations of clinical and administrative staff performance that includes an assessment of clinical competence, as well as general organizational work

requirements and an assessment of key functions as described in the job description;

- (q) Primary Care Provider Communication Policy, which shall establish policies and procedures governing communication with the consumer's primary care providers, including the FSMHC provider's interface with primary health care providers, managed health care plans, and other providers of mental health services. This policy shall also describe the FSMHC provider's activities which will enhance consumer access to primary health care and the coordination of mental health and primary health care services;
- (r) Quality Improvement ("QI") Policy, which shall describe the objectives and scope of its QI program and require provider staff, consumer and family involvement in the QI program. The QI program shall ensure and measure the following: access and availability of services; coordination of care with behavioral health treatment and primary care treatment settings; compliance with FSMHC certification standards; adequacy, appropriateness and quality of care; efficient utilization of resources; and consumer and family satisfaction with services. The FSMHC shall submit a written report to the Department annually on the outcomes identified in the QI program.
- (s) Consumer Privacy and Release of Information Policy, which shall outline how the FSMHC will protect consumer's health information and ensure compliance with the HIPAA and the MHIA. The program shall develop policies and procedures to disclose protected behavioral health information to other certified providers, primary health care providers, and other health care organizations when necessary to coordinate the care and treatment of its consumers. These procedures shall include participation in the DC Health Information Exchange (DC HIE) pursuant to the requirements set forth in § 3008.2. The program shall advise each consumer of the program's notice of privacy practices that authorizes this disclosure to other providers and shall afford the consumer the opportunity to opt-out of that disclosure in accord with the MHIA. The program shall document the individual's decision;
- (t) Supervision and Peer Review Policy, which shall meet the requirements of § 3006.3(b) and require personnel files of clinical staff working under supervision to contain evidence that the Supervision Policy is observed;
- (u) Bullying Prevention Policy, which conforms to the requirements of 4 DCMR Chapter 15; and
- (v) Plan of Care Policy, which shall adhere to § 3009 of this chapter and follow best industry practices.

3006.5 The Department shall review and approve each FSMHC provider's policies during the certification process. The FSMHC provider shall submit any policies that have been revised to the Department for review and approval during recertification.

3007 RECORDS

3007.1 In order to ensure that the treatment provided and reimbursed by the District is of the highest quality and fully meets all standards for certification and reimbursement, each participating FSMHC shall maintain consumer records and individual plans of care in a manner that will render them amenable to audit and review by authorized Federal, District, and Department personnel.

3007.2 The requirements of § 3007.1 shall comply with mandated access requirements in federal and local law.

3007.3 The participating FSMHC shall maintain, and make immediately available upon request by the Department and local Medicaid personnel, complete financial, claims, and medical records. Failure to cooperate may result in suspension of payment(s), referral to the Medicaid Fraud Control Unit, and termination of the provider's contract.

3007.4 All required financial and treatment records and information shall be properly maintained for a period of at least ten (10) years following the date of treatment for which a claim for reimbursement was made, or the date at which the consumer turns eighteen (18), or until an audit or litigation has been completed, whichever is the latest date.

3007.5 All medical records shall be retained in accordance with Federal and District law.

3008 MEDICAL RECORDS

3008.1 All phases of the consumer's treatment and related information shall be entered in the consumer's medical record.

3008.2 The FSMHC shall use electronic medical records. Each FSMHC shall participate through a formal agreement with a registered health information exchange entity of the DC HIE), defined in Title 29 DCMR Chapter 87. The Department may only waive the requirement to participate in the DC HIE during the initial period of certification.

3008.3 The medical records shall include, but are not limited to, the following:

- (a) Complete identification data, including Medicaid number and other third-party payer information;
- (b) Medical history, initial psychiatric evaluation, psychosocial assessment,

and histories, and, if appropriate, social service and nursing care plans for meeting current and future personal, financial, social, and nursing needs of the consumer;

- (c) A record of a screening for the presence of a co-occurring substance use disorder at intake and upon any treatment plan revision;
- (d) Individual plan of care, completed in accordance with § 3009 of this chapter;
- (e) Psychiatrist's, Physician's Assistant, or APRN's medication orders that shall include:
 - (1) The name of the medications(s);
 - (2) The dosage, route and frequency of administration;
 - (3) The quantity given;
 - (4) The number of refills; and
 - (5) The signature of the authorized staff rendering the service.
- (f) Documentation of all behavioral health-related medical treatment received during treatment at the FSMHC and appropriate encounter notes related to it. Consumers on medications should have, where indicated, routine blood or other examinations to detect irregularities duly recorded;
- (g) Encounter notes, to include sufficient written clinical documentation to support each therapy, service, activity, or session for which billing is made which, at a minimum, consists of:
 - (1) The specific service type rendered;
 - (2) The date, duration, and actual beginning and ending time (denoting a.m. or p.m.) during which the services were rendered;
 - (3) Name, title, credentials and signature of the person providing the services;
 - (4) A description of each encounter or service sufficient to document that the service was provided; and
 - (5) A description of the consumer's response to the intervention.

3009 INDIVIDUAL PLAN OF CARE

- 3009.1 Each FSMHC shall develop an individual plan of care for each consumer. Copies of individual plans of care shall be filed in consumer records.
- 3009.2 The plans of care shall include the following:
- (a) A written assessment of the consumer's current mental condition, co-occurring substance use, and physical co-morbidity;
 - (b) A diagnosis by a licensed behavioral health practitioners able to diagnose in accordance with his or her professional license, using the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM) currently in use by the Department;
 - (c) The names of the behavioral health practitioner(s) involved in the approval and direction of the plan of care;
 - (d) The treatment goals, strengths, challenges, objectives, and interventions;
 - (e) The name and title of other staff who shall participate in carrying out the plan of care; and
 - (f) The independently licensed behavioral health practitioner's certification, by dated signature:
 - (1) Of the medical necessity for all mental health services detailed in the plan; and
 - (2) That outpatient treatment is an appropriate level of care for the identified consumer.
- 3009.3 The plan of care shall be reviewed and amended, as needed in case of a change in the consumer's status and at least annually by the independently licensed behavioral health practitioner. The consumer's continuing need for treatment and medical necessity of treatment shall be clearly documented. The independently licensed behavioral health practitioner shall certify by his or her signature:
- (a) That the review occurred;
 - (b) The medical necessity for all mental health services detailed in the plan; and
 - (c) That outpatient treatment is an appropriate level of care for the identified consumer.

3009.4 The Consumer, and/or the parent or guardian, if applicable, shall sign his or her plan of care.

3010 REIMBURSEMENT

3010.1 In order to be reimbursed, FSMHC services shall be medically necessary, reasonable in duration, and in full compliance with this chapter. A participating FSMHC shall agree to accept as payment in full the amount determined by DHCF or the Department, as appropriate, as the fee for the authorized services provided to Medicaid consumers and other eligible consumers for whom the District of Columbia is reimbursing the provider for services. No additional charge may be made to the consumer, any member of the family, or to any other source.

3010.2 A participating FSMHC shall agree to bill any and all other known third-party payers prior to billing Medicaid or the District.

3010.3 The payment and satisfaction of any FSMHC claim will be from federal and District funds. Any false claims, statements, documents, or concealment of material facts by the FSMHC shall be referred to the DHCF Office of Program Integrity and considered grounds for denial of claims, recoupment of false claims previously paid, and decertification. These remedies are in addition to any other remedies that the law may provide for false claims.

3010.4 DHCF and the Department shall establish rates and reimburse for only those services outlined in § 3010.8 and provided under the direction of a psychiatrist. Reimbursement for Medicaid-funded and locally-funded FSMHC services shall be at the rate contained in the District of Columbia Medicaid fee schedule available online at www.dc-medicaid.com. All future updates to the service codes and rates will be included in the District of Columbia Medicaid fee schedule pursuant to the procedures established in 29 DCMR § 988. Health Home services provided by a FSMHC shall be provided in accordance with the requirements set forth in 29 DCMR §§ 6900 *et seq.* and 22-A DCMR §§ 2500 *et seq.*

3010.5 Treatment-related services, such as information and referral services, charting, internal case conferences, transportation, person and agency conferences, and similar charges shall not be reimbursable under these rules. FSMHCs certified as a Health Home shall be reimbursed for the provision of Health Home services in accordance with the requirements set forth in 29 DCMR §§ 6900 *et seq.* and 22-A DCMR §§ 2500 *et seq.*

3010.6 Recreational therapy shall not be reimbursed as an FSMHC service.

3010.7 Excluding Health Home services provided in accordance with requirements set forth in 29 DCMR §§ 6900 *et seq.* and 22-A DCMR §§ 2500 *et seq.*, a participating FSMHC may be reimbursed for no more than one individual therapy session, one group therapy session, and one psychiatrist visit per person on the same day. Any

other service combinations require prior approval from the Department before service delivery.

3010.8 The following services shall be reimbursable if the independently licensed behavioral health practitioner certifies that the services are medically necessary, a current plan of care outlines the required services, and the services are provided by a behavioral health practitioner acting within applicable Federal and District laws and regulations:

- (a) Diagnostic Evaluation - behavior assessment procedures used to identify the psychological, behavioral, emotional, cognitive, and social factors important to the treatment planning process;
- (b) Psychiatric Diagnostic Evaluation - integrated biophysical assessments, including history, mental status, and recommendations;
- (c) Comprehensive Psychological Testing - up to five (5) hours of psychometric and projective tests with a written report done under the direction of a psychologist;
- (d) Therapy:
 - (1) Individual Psychotherapy - verbal, drug augmented, or other therapy methods provided by a behavioral health practitioner in a face-to-face involvement with one (1) consumer to the exclusion of other consumers and duties. Session length is pursuant to the Current Procedural Terminology (CPT) Manual (most current edition);
 - (2) Family therapy - therapy with or without the consumer and one (1) or more family members present. Verbal or other therapy methods by a behavioral health practitioner in a personal involvement with the consumer and family to the exclusion of other consumers and duties. Session length is pursuant to the CPT Manual (most current edition). The clinic may bill Medicaid only for the Medicaid consumer; and
 - (3) Group therapy - verbal or other therapy methods provided by a behavioral health practitioner in face-to-face involvement with at least three (3) and no more than twelve (12) consumers. Session length is pursuant to the Current Procedural Terminology (CPT) Manual (most current edition);
- (e) Prescription visits - a visit with a physician for review and evaluation of the medication history of the consumer and the writing or renewal of prescriptions as necessary. A minimum of ten (10) minutes shall be allotted to the visit; and

- (f) Family conferences - meeting with the family or other significant persons (school, court, or other agency officials) to interpret or explain: medical, psychiatric, or psychological examinations and procedures; other accumulated data; and advice on how to assist the patient. A minimum of fifty (50) minutes shall be allotted to personal involvement with the family or other significant persons. The FSMHC may bill Medicaid only for the Medicaid patient.

3010.9 Behavioral health practitioners for FSMHC are described below:

	INDEPENDENTLY LICENSED BEHAVIORAL HEALTH PRACTITIONER	LICENSED BEHAVIORAL HEALTH PRACTITIONER AND OTHER BEHAVIORAL HEALTH PRACTITIONER WITH SUPERVISION
Diagnostic Evaluation	<ul style="list-style-type: none"> • Psychiatrist • Psychologist • Licensed Independent Clinical Social Worker (LICSW) • Advance Practice Registered Nurse (APRN) • Licensed Professional Counselor (LPC) • Licensed Marriage and Family Therapist (LMFT) 	<ul style="list-style-type: none"> • Licensed Graduate Social Worker (LGSW) • Licensed Graduate Professional Counselor (LGPC) • Licensed Independent Social Worker (LISW) • Registered Nurse (RN) • Physician Assistant • Psychology Associate • Students, interns, or residents for any of the allowed licenses for examination and assessment
Psychiatric Diagnostic Evaluation	<ul style="list-style-type: none"> • Psychiatrist • APRN 	<ul style="list-style-type: none"> • Physician Assistant
Comprehensive Psychological Testing	<ul style="list-style-type: none"> • Psychologist 	<ul style="list-style-type: none"> • Psychology Associate • Psychology student/intern
Therapy	<ul style="list-style-type: none"> • Psychiatrist • Psychologist • LICSW • APRN • LPC • LMFT 	<ul style="list-style-type: none"> • LGSW • LGPC • LISW • Psychology Associate • Students, interns, or residents for any of the allowed licenses for therapy
Prescription Visits	<ul style="list-style-type: none"> • Psychiatrist 	<ul style="list-style-type: none"> • Physician Assistant

	<ul style="list-style-type: none"> • APRN 	
Family Conferences	<ul style="list-style-type: none"> • Psychiatrist • Psychologist • LICSW • APRN • LPC • LMFT 	<ul style="list-style-type: none"> • LGSW • LGPC • LISW • RN • Psychology Associate • Students, interns, or residents for any of the allowed licenses for therapy

3011 COMPLIANCE AND INTEGRITY PROGRAM

3011.1 Each provider shall establish and adhere to a plan for ensuring compliance with the Medicaid program and this regulation. Each provider shall submit its Corporate Compliance Plan and any modifications thereto to the Department as part of the certification or recertification process. At a minimum, the plan shall:

- (a) Designate an officer or director with responsibility and authority to implement and oversee the operation of the Corporate Compliance Plan;
- (b) Require initial, and, thereafter, quarterly exclusion checks on all employees to ensure no individual is excluded from participation in a federal health care program as found on the Department of Health and Human Services “List of Excluded Individuals/Entities” (<http://oig.hhs.gov/fraud/exclusion.asp>) or the General Services Administration “Excluded Parties List System” (<http://www.wpls.gov>) or the “District of Columbia Excluded Parties List” (<http://ocp.dc.gov/DC/Excluded+Parties+List>) maintained by the District’s Debarment and Suspension Panel;
- (c) Require that all officers, directors, managers, and employees enforce its provisions and receive annual compliance training;
- (d) Include procedures designed to prevent and detect potential or suspected false claims, abuse or fraud in the administration and delivery of FSMHC services;
- (e) Include procedures for the confidential reporting of violations of the Corporate Compliance Plan to the Department, including procedures for the investigation and follow-up of any reported violations;
- (f) Require that the FSMHC conduct annual internal audit using RAT-STATS, a statistical software package provided free of charge by the U.S. Department of Health and Human Services Office of the Inspector General, or other comparable software program. The audit shall utilize statistically

valid and random sampling and identify any overpayments. The error rate for each audit shall be calculated as provided in § 3012;

- (g) Require the FSMHC provide a copy of the internal audit and all supporting documents to the Department and to repay any overpayments identified in the provider's internal audit within sixty (60) days;
- (h) Ensure that the identities of individuals reporting suspected violations of the Corporate Compliance Plan are protected and that individuals reporting suspected violations, fraud, or abuse are not retaliated against;
- (i) Require that confirmed violations of the compliance plan be reported to the Department within twenty-four (24) hours of confirmation;
- (j) Require any confirmed or suspected fraud and abuse under District or Federal law or regulation be reported to the Department;
- (k) Require cooperation with Department investigations of major unusual incidents, consumer deaths related to suicide, and the death of a child or youth consumer; and
- (l) Require data reporting regarding key performance indicators published annually in the *D.C. Register*.

3012 AUDITS AND REVIEWS

- 3012.1 This Section sets forth the requirements for audits and reviews of FSMHC services and provider records. The Department, DHCF, and the D.C. Office of the Inspector General Medicaid Fraud Control Unit, among other entities, may conduct audits and reviews of FSMHC operations, including billing and treatment. The Department and DHCF shall perform regular audits of FSMHC providers to ensure that payments are consistent with efficiency, economy, quality of care, and are made in accordance with Federal and District conditions of payment, including programmatic duties, documentation, and reimbursement requirements under this chapter.
- 3012.2 The audit process shall utilize statistically valid sampling methods when the audit is based on claims sampling. The audit process may review all claims by type, time-period, and/or other criteria established by the Department, DHCF, or other entities. Statistically valid and commonly accepted standards methods for calculating overpayments will be followed.
- 3012.3 If DHCF or the Department denies a Medicaid claim during an audit, DHCF or the Department shall recoup, by the most expeditious means available, those monies erroneously paid to the provider for denied claims, following the process for administrative review as outlined below:

- (a) DHCF and the Department shall issue a joint Notice of Proposed Medicaid Overpayment Recovery (NPMOR), which sets forth the reasons for the recoupment, including the specific reference to the particular sections of the statute, rules, or provider agreement, the amount to be recouped, and the procedures for requesting an administrative review;
- (b) The FSMHC shall have thirty (30) days from the date of the NPMOR to submit documentary evidence and written argument to DHCF against the proposed action;
- (c) The documentary evidence and written argument shall include a specific description of the item to be reviewed, the reason for the request for review, the relief requested, and documentation in support of the relief requested;
- (d) Based on review of the documentary evidence and written argument, DHCF shall issue a Final Notice of Medicaid Overpayment Recovery (FNMOR);
- (e) Within fifteen (15) days of receipt of the FNMOR, the FSMHC may appeal the written determination by filing a written notice of appeal with the Office of Administrative Hearings (OAH), 441 4th Street, N.W., Suite 450 North, Washington, D.C. 20001; and
- (f) Filing an appeal with the OAH shall not stay any action to recover any overpayment.

3012.4

If DHCF or the Department denies a locally-funded claim during an audit, DHCF or the Department shall recoup, by the most expeditious means available, those monies erroneously paid to the provider for denied claims, following the process for administrative review as outlined below:

- (a) The Department shall issue an overpayment demand letter which sets forth the reasons for the recoupment, including specific reference to the particular sections of the statute, rule, or provider agreement, the amount to be recouped and the procedures for requesting an Administrative review;
- (b) The FSMHC shall have thirty (30) days from the date of the demand letter to request an Administrative Review and submit documentary evidence and written argument to DBH against the proposed action;
- (c) The documentary evidence and written argument shall include a specific description of the item to be reviewed, the reason for the request for review, the relief requested, and documentation in support of the relief requested;
- (d) The Department shall conduct an Administrative Review conducted by a group of independently licensed clinicians who have not previously

examined the claims under review. The DBH Director will then make a final determination regarding the claims under review;

- (e) The Department shall mail a written determination relative to the Administrative Review not later than ten (10) days from the date of the written request for review. Any recoupment remaining after the Administrative Review will begin thirty (30) days following the date of the written determination;
- (f) Within fifteen (15) days of receipt, the FSMHC may appeal the written determination by filing a written notice of appeal with OAH; and
- (g) Filing an appeal with the OAH shall not stay any action to recover any overpayment.

3012.5 All participant, personnel, and program administrative and fiscal records shall be maintained so that they are accessible and readily retrievable for inspection and review by authorized government officials or their agents, as requested. DHCF or the Department shall retain the right to conduct announced or unannounced audits or reviews at any time and audits or reviews.

3012.6 All records and documents required to be kept under this chapter and other applicable laws and regulations which are not maintained or accessible in the operating office visited during an audit shall be produced for inspection within twenty-four (24) hours, or within a shorter reasonable time if specified, upon the request of the auditing official.

3012.7 The failure of a provider to release or to grant access to program documents and records to auditors in a timely manner, after reasonable notice by DHCF or the Department to the provider to produce the same, shall constitute grounds to terminate the Medicaid Provider Agreement. This provision in no way limits DHCF's ability to terminate any Medicaid Provider Agreement for any other reason, or for the Department to terminate an HCA for any other reason.

3012.8 As part of the audit process, providers shall grant access to necessary records to verify compliance with certification standards and conditions of payment, including but not limited:

- (a) FSMHC financial records;
- (b) Statistical data to verify costs previously reported;
- (c) Program documentation;
- (d) A record of all service authorization and prior authorizations for services;

- (e) A record for all request for change in services;
- (f) Any records listed in §§ 3008 and 3009 in addition to any other records relating to the adjudication of claims, including, the number of units of the delivered service, the period during which the service was delivered and dates of service, and the name, signature, and credentials of the service provider(s); and
- (g) Any record necessary to demonstrate compliance with rules, requirements, guidelines, and standards for implementation and administration of FSMHC services.

3012.9 Nothing in this rule affects a provider’s independent legal obligation under this chapter and Federal and District law to implement and enforce an internal auditing program that self-identifies overpayments and reimburses DHCF or other payers within sixty (60) days of discovery.

3013 REPORTING MAJOR UNUSUAL INCIDENTS

3013.1 An FSMHC shall immediately notify the Department of any major unusual incident that may adversely affect the health, safety, or welfare of any enrolled consumer by submitting a completed Department Major Unusual Incident (MUI) Report to the Department’s Division of Incident Management and Investigation in the manner specified by the Department.

3013.2 An FSMHC shall also provide a copy of the completed MUI Report form provided to the Department to the consumer’s parent(s) or guardian(s) of each child or youth affected by the major unusual incident.

3013.3 Major unusual incidents may include, but are not limited to, the following:

- (a) Death of a person occurring at the FSMHC;
- (b) Death of a consumer related to suicide;
- (c) Death of a child or youth in treatment at the FSMHC;
- (d) Injury to or illness of any consumer that occurs while the consumer is at the FSMHC that requires hospitalization or emergency medical treatment;
- (e) Damage to the FSMHC or to any FSMHC vehicle or equipment that interferes with the capability of the provider to protect the health, safety and welfare of the children and adults at the FSMHC;

- (f) Outbreak of or a single occurrence of communicable disease at the FSMHC that is required to be reported to DC Health in accordance with Title 22 of the District of Columbia Municipal Regulations;
- (g) Unauthorized departure of an enrolled child or youth consumer or any circumstances under which a child or youth consumer is deemed unaccounted for or missing;
- (h) Any traffic accident involving a vehicle rented, owned, maintained, or contracted by the FSMHC and in which consumers were transported at the time of the accident;
- (i) Any adverse or negative action that the provider takes against an employee, volunteer, or household member related to any substantiated crime against a consumer; and
- (j) Any other incident at the FSMHC that requires a response by emergency service personnel, such as police, fire, ambulance, or poison control.

3013.4 In the case of a traffic accident or an incident involving perceived or actual criminal activity, the FSMHC shall also file a report with the appropriate law enforcement authorities.

3013.5 Any FSMHC staff member who knows or reasonably believes that an enrolled child 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).

3013.6 Any FSMHC staff member who knows or reasonably believes that an enrolled adult consumer is, has been, or is 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. Official 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.

- 3013.7 In the MUI report required by this section, the staff member shall include:
- (a) The name, age, sex, and household address of the consumer who is the subject of the report;
 - (b) A statement that the consumer who is the subject of the report is receiving services at the FSMHC;
 - (c) The name, address, and telephone number of the FSMHC;
 - (d) To the extent known, the name, age, and sex of each sibling or child living in the same household as the consumer who is the subject of the report;
 - (e) To the extent known, the name, age, and sex of each parent, guardian, or other caretaker of the consumer;
 - (f) The information that led the staff member to suspect that the 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;
 - (g) Any other information that may be helpful in establishing whether the 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;
 - (h) The name, title, or occupation, and contact information of the staff member making the report;
 - (i) Any actions taken by the staff member or the FSMHC concerning the consumer in response to the situation; and
 - (j) Any other information required by law.

3014 NOTICES OF INFRACTION

- 3014.1 The Department may issue a Notice of Infraction (NOI) for any violation of this chapter. The fine amount for any NOI issued under this chapter shall be as follows:
- (a) For the first offense five hundred dollars (\$500.00);
 - (b) For the second offense one thousand dollars (\$1,000.00);
 - (c) For the third offense two thousand dollars (\$2,000.00); and
 - (d) For the fourth and subsequent offenses for thousand dollars (\$4,000.00).

3014.2 The administrative procedure for the appeal of an NOI issued under this chapter shall be governed by 16 DCMR §§ 3100 *et seq.*

3099 DEFINITIONS

3099.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Clinical Administrator – an independently licensed behavioral health practitioner, as defined in this chapter, who has the authority and responsibility for the conduct of the affairs of the FSMHC, except for those matters committed by the provisions of this chapter to the authority of the psychiatrist.

Consumer – a person eligible to receive FSMHC services as defined in this chapter.

Free Standing Mental Health Clinic – a formally organized psychiatric clinic furnishing psychiatric services, under the direction of a physician (psychiatrist) who is licensed in the District of Columbia, in a facility not administered by a hospital, but organized and operated to provide mental health services on an outpatient basis.

Independently Licensed Behavioral Health Practitioner – any person who is an APRN, LICSW, LMFT, LPC, psychiatrist, or psychologist, as defined in this chapter.

Medical history – a record of the following information, at a minimum, about the consumer:

- (a) Major surgical procedures that have been performed on the consumer and any related complications;
- (b) Any present, past, or recurring diseases; and
- (c) The consumer’s current medical condition and status, including the names of physician(s) rendering current medications or other ongoing treatments to the consumer.

Licensed Behavioral Health Practitioners – the following practitioners are licensed behavioral health practitioners for the purposes of this chapter.

- (a) “APRN” – a person licensed as an advanced practice registered nurse in accordance with applicable District laws and regulations, and who has psychiatry as a specialty area of practice, works in a collaborative protocol with a psychiatrist, or demonstrates proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery.

- (b) “**LGPC**” – a person licensed as a graduate professional counselor in accordance with applicable District laws and regulations.
- (c) “**LGSW**” – a person licensed as a graduate social worker in accordance with applicable District laws and regulations.
- (d) “**LICSW**” – a person licensed as an independent clinical social worker in accordance with applicable District laws and regulations.
- (e) “**LISW**” – a person licensed as an independent social worker in accordance with applicable District laws and regulations.
- (f) “**LMFT**” – a person licensed as a marriage and family therapist in accordance with applicable District laws and regulations.
- (g) “**LPC**” – a person licensed as a professional counselor in accordance with applicable District laws and regulations.
- (h) “**RN**” – a person licensed as a registered nurse in accordance with applicable District laws and regulations with training and experience in mental health.
- (i) **Physician’s Assistant** – a person licensed as a physician’s assistant in accordance with applicable District laws and regulations, and who works under supervision of a psychiatrist.
- (j) **Psychiatrist** – a physician licensed in accordance with applicable District laws and regulations who has completed a residency program in psychiatry accredited by the Residency Review Committee for Psychiatry of the Accreditation Council for Graduate Medical Education and is eligible to sit for the psychiatric board examination.
- (k) **Psychologist** – a person licensed as a psychologist in accordance with applicable District laws and regulations.
- (l) **Psychology Associate** – a person registered to practice as a psychology associate under the supervision of a licensed psychologist in accordance with applicable District laws and regulations.

Medication Orders – sequential records of all medications prescribed, dispensed, or administered by appropriate clinic staff.

Mental Health Condition – having or being at risk of having a diagnosable mental or emotional disorder which impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria specified within the DSM-5 or the ICD-10 equivalent (or any subsequent revisions), with the exception

of intellectual disability, other developmental disorders, substance use disorders or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness.

Provider – a free standing mental health clinic certified by the Department of Behavioral Health as eligible to provide services under this chapter.

Residents of the District – persons who voluntarily live in the District and have no intention of presently removing themselves from the District. The term “residents of the District” shall not include persons who live in the District solely for a temporary purpose. Residency shall not be affected by temporary absence from and the subsequent return or intent to return to the District. Residency shall not depend upon the reason that persons entered the District, except to the extent that it bears upon whether they are in the District for a temporary purpose.

DEPARTMENT ON DISABILITY SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the District of Columbia Department on Disability Services (DDS), pursuant to the authority set forth in Section 109 of the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264, D.C. Official Code § 7-761.09 (2018 Repl. & 2020 Supp.)), and Mayor's Order 2007-68, dated March 20, 2007, hereby gives notice of the adoption of the following amendments to Chapter 2 (Blind Vendors Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), which governs the Department on Disability Services, Rehabilitation Services Administration (DDS/RSA), and applies solely to the District of Columbia's Randolph-Sheppard Vending Facilities Program (DC-RSVFP).

These final rules create a new Section 205 entitled "Vending Providers" to: (1) revise and standardize the vending machine commissions from vending machines on federal and District of Columbia property provided to the DC-RSVFP by vending company providers; (2) standardize the vending machine commission rates to ensure fair and equitable commission rates for DC-RSVFP's provider community, as the current process wherein rates are individually set with each provider has resulted in often substantial differences in rates for the same unit of service provided across the provider community; (3) standardize the type of information in the full service account summary provided to the DC-RSVFP by the vending company providers; (4) clarify that the vending company providers are to provide and service the vending machines; and (5) ensure vending providers comply with both local and federal healthy vending guidelines.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 21, 2020, at 67 DCR 1962-1965. No comments were received, and no changes have been made for these final rules. These rules were adopted by the Director on October 2, 2020, and shall become final upon publication of this notice in the *D.C. Register*.

Chapter 2, BLIND VENDORS PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended by creating a new Section 205, VENDING PROVIDERS, to read as follows:

205 VENDING PROVIDERS

205.1 Consistent with the scope of appropriate income from vending machines on federal and District of Columbia property described in § 204 and in 34 C.F.R. § 395.32(b)-(d), the District of Columbia Randolph-Sheppard Vending Facilities Program as the state licensing agency shall receive vending machine commissions for authorized services from vending providers at a rate not higher than the provider's customary payment for such services.

- (a) For the following vending machine products, the vending provider shall pay the state licensing agency vending machine commissions at the following rates based on gross sales:

Type of Vending Machine Product	Rate/Unit in machine
Beverage	21 percent/beverage machine
Snack and/or sundry items	13 percent/snack or sundry item machine
Gumball	25 percent/gumball machine

(b) For micro-markets, the vending provider shall pay the state licensing agency vending machine commissions at a rate of twelve and sixth-tenths percent (12.6%) based on gross sales.

205.2 Each vending provider shall pay the state licensing agency a commission of gross sales with no deduction for taxes.

205.3 The vending provider shall pay the vending machine commissions monthly with respect to vending machines filled with beverages, snacks, and/or sundry items; and quarterly with respect to vending machines filled exclusively with gumballs.

205.4 The vending provider shall provide a monthly sales report with a full service account summary with each check for vending machine commission payment and shall include information on the vending machine location, the total gross sales per machine, the total net sales per machine, and the month in which the commission is being paid.

205.5 Each vending machine must be equipped with a non-resettable meter. Meter readings will be taken on at least a monthly basis, and shall be part of the submitted sales report.

205.6 The vending provider agrees to indemnify, defend, and hold harmless the state licensing agency against all claims, demands, liabilities, suits, damages, and costs of every kind and nature whatsoever, including court costs and attorneys' fees arising out of or caused by the provider, its agents, or employees. The provider shall maintain workers' compensation insurance, which shall inure to the benefit of all provider personnel provided hereunder and comprehensive general liability insurance. The provider will furnish the licensing agency with a certificate of insurance providing the aforesaid coverage.

205.7 The vending provider shall ensure timely commission payments to the state licensing agency. If the state licensing agency does not receive payment from the vending provider within ten (10) days of the end of the previous reporting period, the payment shall be considered late a penalty not to exceed five percent (5%) may be assessed against the vending provider.

- 205.8 The state licensing agency shall have the right to conduct audits of all reasonably-aged records at the vending provider's place of business. The vending provider shall provide all records in a timely manner.
- 205.9 The vending provider shall alert the state licensing agency of site management issues at each of the vending facilities on which there is a vending machine serviced by the provider.
- 205.10 Each vending machine will contain, at a minimum, the ability to provide wireless remote monitoring by the state licensing agency twenty-four (24) hours per day, including daily sales transactions of cash or credit card, and an alert system for all malfunctions and status checks of the equipment.
- 205.11 The vending provider must provide vending machines that are able to meet the District of Columbia healthy vending requirements listed in the District of Columbia Workplace Wellness Policy (D.C. Official Code §§ 1-541.01 *et seq.*), the Health and Sustainability Guidelines for Federal Concessions and Vending Operations developed by the United States Department of Health and Human Services and the United States General Services Administration, and the 2013 District of Columbia Energy Conservation Code Supplement (12-I DCMR).
- 205.12 The state licensing agency will evaluate the vending provider's performance to ensure services are performed in accordance with the provisions of this section. In doing so, the state licensing agency may conduct quality assurance inspections at any time.
- 205.13 The state licensing agency shall convene meetings, when necessary, between the vending provider and the host site to resolve any site management issues that may arise.

Section 299, DEFINITIONS, Subsection 299.1, is amended by adding the following definitions:

Energy Conservation Code – a set of guidelines that regulates the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. A full copy of the text may be obtained at [https://codes.iccsafe.org/category/District%20of%20Columbia?year\[\]=Current+Adoption&page=1](https://codes.iccsafe.org/category/District%20of%20Columbia?year[]=Current+Adoption&page=1).

Health and Sustainability Guidelines for Federal Concessions and Vending Operations – guidance developed by the U.S. General Services Administration and the U.S. Department of Health and Human Services to assist federal contractors in maximizing a healthier and sustainable food service by increasing the offering of healthier and sustainable food

choices. A copy of the text can be obtained at <https://gsa.gov/portal/content/104429>.

Micro-market – an unstaffed, self-checkout retail food establishment with an automated payment kiosk that is located within an enclosed building accessible only to employees who work in the building and guests of those employees.

Workplace Wellness Policy – a set of standards requiring healthy food and beverage options in vending machines under District control consistent with D.C. Official Code § 1-541.01 *et seq.*

ZONING COMMISSION FOR THE DISTRICT COLUMBIA
NOTICE OF FINAL RULEMAKING
Z.C. CASE NO. 20-10¹
(Text Amendment – Subtitle U of Title 11 DCMR)
(Restrictions on Fast Food Establishments and Prepared Food Shops)
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 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 eases restrictions on fast food establishments and prepared food shops in the MU Use Group D and E categories in the MU-3, MU-4, MU-17, M-24, MU-25, MU-26, and MU-27 zones, as follows:

- Subtitle U, Use Permissions

- Chapter 5, Use Permissions Mixed Use (MU) Zones

- § 510.1 – removing current limitation of 18 seats for matter of right prepared food shops (MU-Use Group D)
- § 511.1 – adding special exception relief for a fast food establishment (MU-Use Group D)
- § 511.2 – limiting the ban on special exception relief for a fast food establishment to single-tenant detached buildings (MU-Use Group D)
- § 512.1 – removing current limitation of eighteen (18) seats for matter of right prepared food shops (MU-Use Group E) and renumbering alphabetically
- § 513.1 – clarifying the conditions for special exception relief for fast food or food delivery establishments (MU-Use Group E) and correcting cross-references
- § 516.1 – correcting a cross-reference and renumbering alphabetically
- § 518.1 – correcting a cross-reference and renumbering alphabetically

Setdown

On May 1, 2020, the Office of Planning (OP) filed a petition proposing the text amendment.

At its May 11, 2020, public meeting, the Commission voted to grant OP's request to set down the proposed text amendment for a public hearing and authorized flexibility for OP to work with the Office of the Attorney General to refine the proposed text and add any conforming language as necessary.

¹ For Office of Zoning tracking only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 20-10.

Public Hearing

OP filed a pre-hearing report on July 10, 2020, confirming that it had discussed the proposed text amendment with both the Department of Consumer and Regulatory Affairs and the District Department of Transportation (DDOT) and that both agencies supported the text amendment, with DDOT supportive of maintaining the current prohibition on drive-throughs.

At its public hearing on July 21, 2020, the Commission heard testimony from OP in support of the proposed text amendment. No other person or entity testified or submitted comments prior to the hearing.

Proposed Action

At the close of the public hearing, the Commission voted to take **PROPOSED ACTION** and to authorize the publication of a Notice of Proposed Rulemaking:

VOTE (July 21, 2020): **4-0-1** (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, and May, Michael G. Turnbull to **APPROVE**; Peter G. May, not present, not voting)

Notice of Proposed Rulemaking

The Commission published the proposed amendment as a Notice of Proposed Rulemaking (NOPR) in the *D.C. Register* (67 DCR 9223, *et seq.*) on July 31, 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 23, 2020, for the thirty (30)-day review period required by § 492 of the District Charter.

NCPC did not file a report in response within the thirty (30)-day period.

“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).)

As no ANC submitted any report or testified, there is nothing to which the Commission can give great weight.

Final Action

At its public meeting on September 14, 2020, the 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, Anthony J. Hood, Robert E. Miller, 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 U, USE PERMISSIONS

Paragraph (g) of § 510.1 of § 510, MATTER-OF-RIGHT USES (MU-GROUP D), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended to read as follows:

- 510.1 The following uses shall be permitted in MU-Use Group D as a matter-of-right subject to any applicable conditions:
 - (a) Any use permitted as a matter of right in any R, RF, or RA zone ...²
...
 - (f) Daytime care ...
 - (g) Eating and drinking establishments uses, subject to the following conditions:
 - (1) A drive-through or drive-in operation and a food delivery service shall not be permitted; and

² 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.

- (2) A fast food establishment shall not be permitted as a matter-of-right in the MU-3 zone except that fast food establishments with no drive-through shall be permitted in Square 5912, Square 3499 (Lot 3), and Square 3664 (Lot 820) as a matter of right;

(h) Emergency shelter ...

...

Subsection 511.1 of § 511, SPECIAL EXCEPTION USES (MU-GROUP D), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended by deleting paragraphs (c), (h), and (i), by adding a new paragraph (e), by renumbering accordingly, and by revising paragraph (j), to read as follows:

511.1 The following uses in this section shall be permitted in as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section.

- (a) College or university uses ...
- (b) Community-based institutional facilities ...
- (c) Emergency shelter for five (5) to fifteen (15) persons ...
- (d) Entertainment, assembly, and performing arts uses ...
- (e) Fast food establishment, subject to the following conditions:
- (1) The establishment shall be located within a multi-tenant building or shopping center; it shall not be located in a single-tenant detached building;
- (2) No more than thirty percent (30%) of the total gross floor area of the multi-tenant building or shopping center shall be occupied by fast food establishments;
- (3) Any refuse dumpster used by the fast food use shall be housed in a three- (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face nor be within ten feet (10 ft.) of a R, RF, or RA zone;
- (4) The use shall not include a drive-through;
- (5) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;

- (6) The use shall provide sufficient off-street parking, but not less than that required by Subtitle C, Chapter 7, to accommodate the needs of patrons and employees;
 - (7) The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions; and
 - (8) The Board of Zoning Adjustment may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property;
- (f) Gasoline service stations ...
 - (g) Parking, for uses within this chapter ...
 - (h) Retail, large format, subject to ...
 - (i) Service uses permitted as a matter of right ...
 - (j) Utility (basic) uses, subject to the requirements ...
 - (k) Veterinary office or hospital ...

Subsection 511.2 of § 511, SPECIAL EXCEPTION USES (MU-GROUP D), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended to read as follows:

511.2 Any use permitted as a matter of right in MU-Use Group D that does not comply with the required conditions for MU-Use Group D may apply for permission as a special exception, except uses involving the installation of automobile accessories or fast food establishments located in single-tenant detached buildings.

Subsection 512.1 of § 512, MATTER-OF-RIGHT USES (MU-GROUP E), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended by deleting current paragraph (c), by renumbering paragraphs alphabetically, and by revising paragraphs (e) and (k), to read as follows:

512.1 The following uses in this section shall be permitted in MU-Use Group E as a matter of right subject to any applicable conditions:

- (a) Uses permitted as a matter of right in any R, RF, and RZ zones ...
- (b) An animal boarding use located in a basement or cellar space subject to the following:

- (1) The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RF, or RA zone. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within an R, RF, or RA zone. Shared facilities not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use;
 - (2) There shall be no residential use on the same floor as the use or on the floor immediately above the animal boarding use;
 - (3) Windows and doors of the space devoted to the animal boarding use shall be kept closed and all doors facing a residential use shall not be solid core;
 - (4) No animals shall be permitted in an external yard on the premises;
 - (5) Animal waste shall be placed in a closed waste disposal container and shall be collected by a licensed waste disposal company at least weekly;
 - (6) Odors shall be controlled by means of an air filtration or an equivalently effective odor control system; and
 - (7) Floor finish materials and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor shall be impervious and washable;
- (c) Automobile, truck, boat, or marine sales;
 - (d) College or university uses ...
 - (e) Eating and drinking establishment uses, subject to the following conditions:
 - (1) A fast food establishment or food delivery service shall not be permitted within the MU-4, MU-17, MU-24, MU-25, MU-26, or MU-27 zones; and
 - (2) A fast food establishment or food delivery service in all other MU-Use Group E zones, subject to ...
 - (f) Education uses, private;
 - (g) Entertainment, assembly, and performing arts uses ...

- (h) Firearms retail sales establishments ...
- (i) Gasoline service station as an accessory use ...
- (j) Optical transmission node;
- (k) Retail uses, except for large format retail; provided that the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36, may continue, provided that it shall not occupy more than two thousand seventy-eight square feet (2,078 sq. ft.) of the store's gross floor area;
- (l) Service (general) uses ...
- (m) Other accessory uses customarily incidental and subordinate

Subsection 513.1 of § 513, SPECIAL EXCEPTION USES (MU-GROUP E), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended by reordering paragraphs alphabetically and correcting paragraphs (d), (i), and (l), to read as follows:

513.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

- (a) Animal boarding uses not meeting the conditions of Subtitle U § 512.1(b), subject to ...
- (b) Animal care and animal sales uses ...
- (c) Emergency shelter for five (5) to twenty-five (25) persons ...
- (d) Fast food establishments or food delivery service eating and drinking establishments in the MU-4, MU-17, MU-25, or MU-27 zones, subject to the following conditions:
 - (1) If the use is a single tenant in a detached building;
 - (a) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a R, RF, or RA zone, unless separated therefrom by a street or alley; and
 - (b) If any lot line of the lot abuts an alley ...

- (2) Any refuse dumpster used by the establishment shall be housed in a three- (3) sided enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face or be within ten feet (10 ft.) of a R, RF, or RA zone;
- (3) The use shall not include a drive-through;
- (4) The use shall be designed and operated so as not to become objectionable ...
- (5) The use shall provide sufficient off-site parking ...
- (6) The use shall be located and designed so as to create no dangerous ...
- (7) The Board of Zoning Adjustment may impose conditions ...
- (e) Gasoline service station ...
- (f) Massage establishment ...
- (g) Motorcycle sales and repair;
- (h) Parking, for uses within this chapter ...
- (i) Retail uses that do not comply with the conditions of Subtitle U § 512.1(k);
- (j) Retail, large format, subject to the conditions of Subtitle U § 511.1(h);
- (k) Service uses ...
- (l) Utility (basic) uses ...
- (m) Veterinary office or hospital ...
- (n) Any use permitted as a matter of right in MU-Use Group E ...

Subsection 516.1 of § 516, SPECIAL EXCEPTION USES (MU-GROUP F), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended by reordering paragraphs alphabetically and correcting a cross-reference in paragraph (f), to read as follows:

516.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

- (a) An Electronic Equipment Facility (EEF) ...
- (b) Where not permitted as a matter of right, a gasoline service station to be established or enlarged ...
- (c) Enlargement of an existing laundry or dry cleaning establishment ...
- (d) Where not permitted as a matter of right, any establishment that has as a principal use the administration of massages ...
- (e) Public utility pumping station ...
- (f) Retail, large format, subject to the conditions of Subtitle U § 511.1(h); and
- (g) Sexually-oriented business establishment in the MU-9, MU-21, or MU-30 zone, subject to ...

Paragraph (l) of § 518.1 of § 518, SPECIAL EXCEPTION USES (MU-GROUP G), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended to correct a cross-reference, to read as follows:

518.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

- (a) Automobile or motorcycle sales or repair ...
- ...
- (l) Retail, large format, subject to the conditions of Subtitle U § 511.1(h);
- ...

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 16, 2020.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority under sections 103(4), 105, 106(f)(5), 110(c), and 111 of the Short-Term Rental Regulation Act of 2018, effective April 25, 2019 (D.C. Law 22-307; D.C. Official Code § 30-201.01 *et seq.*), section 4(a)(2) of the District of Columbia Consumer Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Official Code § 28-3903(a)(2)), section 101(b) of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code § 47-2851.04(c)(1)), and Mayor’s Order 2020-104, dated October 13, 2020, hereby gives notice of a proposed rulemaking to add a new Chapter 99 (Short-Term Rentals) to Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR); and to amend Chapter 5 (Basic Business License Schedule of Fees) by adding a new Section 518 (Short-Term Rental) and a new Section 519 (Short-Term Rental: Vacation Rental) of Title 17 (Business, Occupations, and Professionals) of the DCMR.

The Short-Term Rental Regulation Act of 2018 creates two (2) new license endorsement categories to a basic business license: “Short-Term Rental” and “Short-Term Rental: Vacation Rental.” Specifically, these rules amend Title 14 of the DCMR by creating a new chapter which establishes the general requirements for short-term rentals and booking services and the procedures for suspension, revocation, and other licensing sanctions. These rules also amend Title 17 of the DCMR to establish the fees to be charged by the Department of Consumer and Regulatory Affairs for the two new license endorsement categories.

Directions for submitting comments may be found at the end of this notice.

Title 14 DCMR, HOUSING, is amended as follows:

A new Chapter 99, SHORT-TERM RENTALS, is added to read as follows:

Chapter 99

SHORT-TERM RENTALS

- 9900 GENERAL PROVISIONS**
- 9901 REQUIREMENTS FOR SHORT-TERM RENTAL**
- 9902 LICENSE APPLICATION**
- 9903 ISSUANCE AND RENEWAL OF LICENSE**
- 9904 EXEMPTION FROM 90-NIGHT LIMIT FOR SHORT-TERM RENTAL OPERATING AS A VACATION RENTAL**
- 9905 REQUIREMENTS FOR BOOKING SERVICES**
- 9906 DENIAL, SUSPENSION, AND REVOCATION OF A LICENSE**
- 9907 NOTICES OF VIOLATION, INFRACTION, OR ORDER**
- 9908 SERVICE OF THE NOTICE OF VIOLATION, INFRACTION, OR ORDER**
- 9909 ANSWERING THE NOTICE OF VIOLATION, INFRACTION, OR ORDER**

9910 PENALTIES
9999 DEFINITIONS

9900 GENERAL PROVISIONS

9900.1 The provisions of this chapter are issued pursuant to the authority under the Short-Term Rental Regulation Act of 2018, effective April 25, 2019 (D.C. Law 22-307; D.C. Official Code § 30-201.01 *et seq.*) and Mayor’s Order 2020-104, dated October 13, 2020.

9900.2 The provisions of this chapter shall be applicable to all short-term rentals as defined by this chapter.

9901 REQUIREMENTS FOR SHORT-TERM RENTAL

9901.1 A short-term rental as defined in § 9911.1 shall require a valid basic business license with a “Short-Term Rental” endorsement, in addition to any other license based on the use of the property that is required by law.

9901.2 A vacation rental as defined in § 9911.1 shall require a valid basic business license with a “Short-Term Rental: Vacation Rental” endorsement, in addition to any other license based on the use of the property that is required by law.

9901.3 A host providing a short-term rental shall have current liability insurance of at least \$250,000, which may be provided by the booking service.

9901.4 A host shall provide each transient guest in a short-term rental a 24-hour accessible telephone number to the host, or to a person who has authority to act on behalf of the host, in the event of an emergency.

9901.5 The property at which the short-term rental is located shall be owned by the host and be the host’s primary residence as defined in § 9911.1.

9901.6 A host of a short-term rental shall, throughout the duration of occupancy by the transient guest:

- (a) Clean the short-term rental between occupancy by different transient guests, including the change of bed linens and towels;
- (b) Conspicuously post within the interior of the short-term rental a written cleaning plan including the change of bed linens and towels;
- (c) Conspicuously post within the interior of the short-term rental a copy of the basic business license with the short-term rental license endorsement;

- (d) Conspicuously post within the interior of the short-term rental a 24-hour accessible telephone number to the host, or to a person who has authority to act on behalf of the host, in the event of an emergency;
- (e) Maintain a working smoke detector outside the sleeping area of the short-term rental and on all habitable floors of the host's primary residence, and provide a working carbon monoxide detector on all habitable floors of the host's primary residence; and
- (f) Provide unobstructed egress from the short-term rental.

9901.7 A host shall not list a short-term rental by using a booking service that does not permit the inclusion of the Short Term Rental or Short Term Rental: Vacation Rental license endorsement number clearly displayed in the listing; provided, that a host shall not be held liable for the failure of a booking service to display a license endorsement number that the host has provided.

9901.8 A host shall retain records of each booking of a short-term rental for a period of two (2) years.

9901.9 The Department may request specific records of bookings in the event that the Department has sufficient information to believe that a need for such records is warranted.

- (a) If the host does not provide the requested records or otherwise respond to the Department's request within thirty (30) days, the Department may issue a subpoena for the requested records. Subpoenas issued under this subsection shall contain the following:
 - (1) The name of the host from whom the records are requested;
 - (2) The person at the Department to whom the documents shall be provided;
 - (3) A detailed list of the specific documents, books, papers, or transactions being requested, if any;
 - (4) The date, time, and place that the host is produce the records specified under subparagraph (3) of this paragraph;
 - (5) A short, plain statement of the host's rights and the procedure for enforcing and contesting the subpoena; and
 - (6) The signature of the Director approving the subpoena request.

- (b) In the case of a refusal to obey a subpoena issued under this section, the Department may petition the Superior Court of the District of Columbia for an order requiring compliance.
- (c) Any host to whom a subpoena has been issued under this subsection may exercise the privileges enjoyed by all witnesses. A host to which a subpoena has been issued may move to quash or modify the subpoena in the Superior Court of the District of Columbia on grounds including:
 - (1) The Department failed to follow or satisfy the procedures set forth in this subsection for the issuance of a subpoena; or
 - (2) Any grounds that exist under statute or common law for quashing or modifying a subpoena.
- (d) The Department shall not impose any penalties on a host for failure to provide the requested report or transactions unless the host fails to timely respond or object to a subpoena from the Department under this subsection, or the host fails to timely comply with any order from the Superior Court of the District of Columbia requiring compliance with the Department's subpoena issued under this subsection.
- (e) The procedures provided for in this subsection shall be in addition to and not in substitution for any other procedures provided by law.

9901.10 Information obtained by the Department pursuant to § 9901.9 shall be confidential and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*); provided, that the Office of the Chief Financial Officer and the Office of the Attorney General may inspect the information for enforcement purposes.

9901.11 A host shall pay all applicable transient lodging taxes, including those imposed under chapters 20 and 22 of Title 47 of the D.C. Official Code. Such taxes may be collected and remitted to the District of Columbia on behalf of the host by a booking service or person.

9901.12 Occupancy in a short-term rental shall be limited to a maximum of eight (8) transient guests, or two (2) guests per bedroom, whichever is greater.

9901.13 Possession of a short-term rental license endorsement shall not affect the collection of any solid waste by the District pursuant to 21 DCMR §§ 700.8 and 700.9.

9902 LICENSE APPLICATION

9902.1 An application for a license issued under this chapter shall be made to the Director on a form prescribed by the Department, except as provided in § 9902.4.

- 9902.2 A host applying for a short-term rental license endorsement shall:
- (a) Provide evidence that he or she complies with the requirements of § 9901;
 - (b) If the short-term rental is at the host's primary residence within a condominium, cooperative, or homeowner association, provide written consent that the condominium, cooperative, or homeowner association permits the operation of a short-term rental;
 - (c) State the number of rental units to be provided by the host on the host's primary residence;
 - (d) Pay the license fee for a short-term rental endorsement as established in 17 DCMR § 518 or a short-term rental: vacation rental endorsement as established in 17 DCMR § 519;
 - (e) Provide evidence of a Certificate of Occupancy or Home Occupation Permit, if required under applicable District zoning laws and regulations; and
 - (f) Submit a Clean Hands Certification issued by the Office of Tax and Revenue.
- 9902.3 Each application shall be signed by the host and shall correctly set forth the information required on the application form.
- 9902.4 A booking service shall post information about license requirements for hosts on its website, may accept applications from hosts on its website, and may facilitate the application process for hosts, provided that all of the requirements under §§ 9902.2 and 9902.3 are satisfied.
- 9903 ISSUANCE AND RENEWAL OF LICENSE**
- 9903.1 A short-term rental license endorsement shall not be issued to any person or entity other than to a host.
- 9903.2 The presence of more than one short-term rental at the host's primary residence shall not require separate license endorsements.
- 9903.3 A host shall not be issued more than one short-term rental license endorsement. A host may hold both a "Short-Term Rental" endorsement and a "Short-Term Rental: Vacation Rental" endorsement simultaneously.
- 9903.4 A host may offer multiple short-term rentals at the host's primary residence, such as a bedroom and an in-law suite, subject to all applicable occupancy limits

contained in Title 11, Title 12, and Title 14 of the District of Columbia Municipal Regulations.

9903.5 A host shall not be issued a short-term rental license endorsement if prohibited by Title 11 of the District of Columbia Municipal Regulations.

9903.6 An inspection of the premises by the Department shall not be a prerequisite for issuance of a short-term rental license endorsement.

9903.7 A short-term rental license endorsement shall be valid for a period of two (2) years from the date of issuance. Upon expiration of the two (2) year period, a short-term rental license endorsement shall be automatically renewed upon payment of the license fee established in 17 DCMR § 518 and 17 DCMR § 519, unless the Department determines that the host is not in compliance with the requirements set forth in this Chapter. A host must update any information required under § 9902.2 that has changed in his or her application.

9904 EXEMPTION FROM 90-NIGHT LIMIT FOR SHORT-TERM RENTAL OPERATING AS A VACATION RENTAL

9904.1 A short-term rental shall operate as a vacation rental for no more than 90 nights cumulatively in any calendar year, unless the host has received an exemption pursuant to this section.

9904.2 A host may submit an application, on a form provided by the Department, requesting an exemption from the 90-night limit in § 9904.1 if:

- (a) The host's employer, or the host's spouse or domestic partner's employer, requires the host, or the host's spouse or domestic partner's employer, to work outside of the District for more than 90 days cumulatively in any calendar year; or
- (b) The host leaves the District to receive treatment for a serious health condition, or to care for a family member who is receiving treatment for a serious health condition, for more than 90 days cumulatively in any calendar year.

9904.3 If the host is claiming an exemption pursuant to § 9904.2(a), the application submitted pursuant to § 9904.2 shall be accompanied by a notarized form, signed by a representative of the host's employer or the host's spouse or domestic partner's employer, listing the location and duration of the work-related assignments outside of the District; provided, that a self-employed host shall submit a signed affidavit attesting that time spent outside the District is work-related and shall provide documentation of the work-related travel.

- 9904.4 If the host is claiming an exemption pursuant to § 9904.2(b), the application submitted pursuant to § 9904.2 shall be accompanied by a notarized form, signed by a representative of the health care provider that is providing treatment to the host or the host's family member, attesting to the need for the host or the host's family member to receive treatment for a serious health condition outside of the District.
- 9904.5 If the Department determines that the application submitted pursuant to § 9904.2 is valid, the Department shall provide the host an exemption from the 90-night limit in § 9904.1, allowing the host to operate a vacation rental for the number of nights equal to:
- (a) For a host claiming an exemption pursuant to § 9904.2(a), the number of days that the host's employer or the host's spouse or domestic partner's employer requires him or her to work outside of the District; or
 - (b) For a host claiming an exemption pursuant to § 9904.2(b), the number of days that the host is outside of the District to receive treatment for a serious health condition or to care for a family member who is receiving treatment for a serious health condition.
- 9904.6 A host shall be required to submit an updated exemption application to the Department upon request and shall notify the Department upon the host's return to the District.
- 9904.7 If the Department issues an exemption to a host pursuant to this section, the Department shall transmit to all booking services on a monthly basis a notification of the number of nights that the host may operate a vacation rental.
- 9904.8 Beginning on July 1, 2021, and every 6 months thereafter, the Department shall list separately on its website:
- (a) The number of exemptions granted in the previous 6 months pursuant to § 9904.2(a); and
 - (b) The number of exemptions granted in the previous 6 months pursuant § 9904.2(b).
- 9904.9 If a host's application requesting an exemption from the 90-night limit in § 9904 is denied, the host may file a written notice of appeal with the Office of Administrative Hearings (OAH).
- 9904.10 All hearings and appeals shall be conducted pursuant to the regulations promulgated by OAH.
- 9904.11 For the purposes of this section, the term:

- (a) “Family member” means:
- (1) A biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or a person to whom a host stands in loco parentis;
 - (2) A biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to a host when the host was a child;
 - (3) A person to whom a host is related by domestic partnership, as defined by section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), or marriage;
 - (4) A grandparent of a host; or
 - (5) A sibling of a host.
- (b) “Health care provider” shall have the same meaning as provided in section 2(5) of the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(5)).
- (c) “Serious health condition” shall have the same meaning as provided in section 101(20) of the Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01(20)).

9905 REQUIREMENTS FOR BOOKING SERVICES

- 9905.1 A booking service shall permit a host to provide a prospective guest with the short-term rental license endorsement number for a short-term rental before booking.
- 9905.2 A booking service shall not book a short-term rental in the District of Columbia within 5 business days upon notice from the Department that the license endorsement for the short-term rental has been suspended or revoked.
- 9905.3 A booking service shall not book a short-term rental that was the subject of notice provided pursuant to § 9905.2, until notified by the Department that the license endorsement for that short-term rental has been reinstated.
- 9905.4 A booking service shall not book a vacation rental for more than 90 nights cumulatively in a calendar year, unless the Department has transmitted to the booking service a notification that the host has received an exemption pursuant to

§ 9904. For the purposes of complying with this subsection, a booking service may assume that an accommodation is a vacation rental if the license provided by the host has a “Short Term Rental: Vacation Rental” endorsement.

9905.5 A booking service shall retain records of all short-term rentals in the District for two (2) years.

9905.6 The Department may request from a booking service a report itemizing transactions or specific transactions for which the booking service charged or received a fee for short-term rentals in the District when sufficient information warrants a need for the report or records as determined by the Department.

- (a) The report or requested transactions shall include the following information for each transaction:
 - (1) The name of the host who provided the short-term rental;
 - (2) The physical address of the short-term rental;
 - (3) The “Short Term Rental” or “Short Term Rental: Vacation Rental” license endorsement number of the short-term rental;
 - (4) The URL at which the short-term rental is listed;
 - (5) The dates for which each transient guest procured use of the short-term rental using the booking service;
 - (6) Whether the short-term rental was booked as a vacation rental; and
 - (7) The rate charged for each short-term rental stay.
- (b) The Department may require this information in an electronic or paper format.
- (c) The report may be requested on a quarterly basis or less frequently as determined by the Department.
- (d) If the booking service does not provide the report or otherwise respond to the Department’s request within thirty (30) days, the Department may issue a subpoena for the report or specified transactions. Subpoenas issued under this subsection shall contain the following:
 - (1) The name of the booking service from which the report or transactions are requested;

- (2) The person at the Department to whom the documents shall be provided;
 - (3) A detailed list of the specific documents, books, papers, or transactions being requested pursuant to § 9905.6(a)(1) – (7);
 - (4) The date, time, and place that the booking service is produce the report or transactions specified under subparagraph (3) of this paragraph;
 - (5) A short, plain statement of the booking service’s rights and the procedure for enforcing and contesting the subpoena; and
 - (6) The signature of the Director or General Counsel approving the subpoena request.
- (e) In the case of a refusal to obey a subpoena issued under this section, the Department may petition the Superior Court of the District of Columbia for an order requiring compliance.
- (f) Any person to whom a subpoena has been issued under this subsection may exercise the privileges enjoyed by all witnesses. A booking service to which a subpoena has been issued may move to quash or modify the subpoena in the Superior Court of the District of Columbia on grounds including:
- (1) The Department failed to follow or satisfy the procedures set forth in this subsection for the issuance of a subpoena; or
 - (2) Any grounds that exist under statute or common law for quashing or modifying a subpoena.
- (g) The Department shall not impose any penalties on a booking service for failure to provide the requested report or transactions unless the booking service fails to timely respond or object to a subpoena from the Department under this subsection, or the booking service fails to timely comply with any order from the Superior Court of the District of Columbia requiring compliance with the Department’s subpoena issued under this subsection.
- (h) The procedures provided for in this subsection shall be in addition to and not in substitution for any other procedures provided by law.

9905.7

Information submitted to the Department pursuant to § 9905.6 shall be considered confidential and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*); provided, that the Office of the Chief Financial Officer and

the Office of the Attorney General, may inspect the information for enforcement purposes.

9905.8 A booking service shall obtain from each host consent to provide the information described in § 9905.6(a) to the Department. Obtaining lawful consent may consist of providing notice to the host that use of such booking service constitutes consent to the Department disclosure. It shall not be a defense to a violation of this section that the booking service did not obtain consent.

9905.9 A booking service shall collect and remit on behalf of hosts all required transient occupancy taxes, as provided under § 9901.11.

9906 DENIAL, SUSPENSION, AND REVOCATION OF A LICENSE

9906.1 The Director may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter for any reason set forth in this chapter or D.C. Official Code § 47-2844.

9906.2 The Director also may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter on any of the following grounds:

- (a) Conviction of the license holder for any criminal offense involving fraudulent conduct arising out of or based on the short-term rental being licensed;
- (b) Willful or fraudulent circumvention by the licensee of any provision of District statute or regulation relating to the short-term rental;
- (c) Employment of any fraudulent or misleading device, method, or practice relating to the short-term rental;
- (d) The making of any false statement in the license application;
- (e) Failure of a host to abide by the requirements set forth in § 9901.8; or
- (f) Failure of a host, after a license has been issued, to allow the Department to inspect for compliance as authorized by law.

9906.3 All qualifications set forth in this chapter as a prerequisite to the issuance of a license shall be maintained for the entire license period. Failure to maintain any qualification for license shall be cause for suspension or revocation of the license.

9906.4 If the Department proposes to deny, suspend or revoke a license, a written notice shall be provided to the applicant or licensee, which states the proposed action and the basis for the proposed action.

- 9906.5 The notice required under § 9906.4 shall advise the applicant or licensee of the right to request a hearing within twenty (20) business days (excluding Saturdays, Sundays, and legal holidays) from the date of the service of the notice.
- 9906.6 For suspensions and revocations, the notice shall advise that the action proposed or recommended will be taken at the expiration of twenty (20) business days after service of the notice unless an appeal is taken.
- 9906.7 For suspensions and revocations, the notice shall be:
- (a) Served personally upon the applicant or licensee, or the applicant's or licensee's agent; or
 - (b) Sent by first class mail to the home or business address of the applicant or licensee, or the applicant's or licensee's agent, appearing on the application or license.
- 9906.8 A notice that is returned by the post office for reason of refusal of the addressee to accept delivery is deemed to have been properly served on the addressee by mail.
- 9906.9 An applicant or licensee may not file a separate application for licensure under this chapter during the appeal process.
- 9906.10 Any applicant or licensee on whom a notice has been served pursuant to § 9906.4 may file a written notice of appeal with OAH.
- 9906.11 All hearings and appeals shall be conducted pursuant to the regulations promulgated by OAH. Any stay of an OAH decision that results in the revocation of a license shall be issued pursuant to the procedures set forth by OAH.
- 9907 NOTICES OF VIOLATION, INFRACTION, OR ORDER**
- 9907.1 The Department may issue a notice of violation, notice of infraction, or order on a respondent imposing a civil fine or other civil penalty, whenever the Department has reasonable grounds to believe the respondent is in violation of this chapter.
- 9907.2 The Department may refer violations of this chapter to the Office of the Attorney General.
- 9907.3 For purposes of determining whether a host is in violation of this chapter, if any part of a listing for a short-term rental claims or suggests that a short-term rental guest will have exclusive use of the host's entire residence during the guest's stay, this shall serve as prima facie evidence that the short-term rental is a vacation rental, notwithstanding the type of license endorsement actually issued.

- 9907.4 Notices and orders shall be in writing in a form prescribed by the Department and shall include:
- (a) The name of the respondent;
 - (b) The address of the host's primary residence or a description of the host's primary residence sufficient for identification;
 - (c) A citation or reference to the provision of this chapter which the respondent has violated;
 - (d) The circumstances giving rise to the violation, including the time and place of the violation;
 - (e) The amount of the civil fine applicable to the violation;
 - (f) A statement that:
 - (1) The fine must be paid within thirty (30) calendar days of the date that the notice has been served on the respondent;
 - (2) The respondent has the right to request a hearing before OAH; and
 - (3) If the respondent fails to pay the fine or request a hearing within thirty (30) calendar days of the date the notice is served on the respondent, a penalty equal to the amount of the fine may be imposed and the respondent's license may be suspended until the fine has been paid; and
 - (g) Any other information that the Department may require.

9908 SERVICE OF THE NOTICE OF VIOLATION, INFRACTION, OR ORDER

- 9908.1 Each notice or order issued under § 9907 shall be served on a respondent by any one of the following methods:
- (a) Personal service on a respondent or a respondent's agent;
 - (b) By electronic mail to the last-known electronic mail address of the person or business to be notified, provided that a copy of the notice or order is posted in a conspicuous place in or about the host's primary residence affected by such notice;
 - (c) Delivering the notice or order to the last known home or business address as identified by the tax records, the business license address, or the corporate registration address of the respondent or the respondent's agent

and leaving it with a person over the age of 16 years old residing or employed therein;

- (d) Mailing the notice or order, via first class mail postage prepaid, to the last known home or business address, as identified by the tax records address, the business license address or the corporate registration address, of the respondent or the respondent's agent; or
- (e) If the notice or order is returned as undeliverable by the Post Office authorities, or if no address is known or can be ascertained by reasonable diligence, by posting a copy of the notice or order in a conspicuous place in or about the host's primary residence affected by such notice.

9909 ANSWERING THE NOTICE OF VIOLATION, INFRACTION, OR ORDER

9909.1 A respondent shall answer a notice or order in accordance with this section within thirty (30) days from the date of service of the notice or order.

9909.2 In response to a notice or order, a respondent shall do the following:

- (a) Answer the notice or order in one of the following ways:
 - (1) Admit the violation or infraction;
 - (2) Admit the violation or infraction with explanation; or
 - (3) Deny the commission of the violation or infraction; and
- (b) Otherwise complete, sign, and date the answer form on the back of the notice.

9909.3 If a respondent admits a violation or infraction, the respondent shall include payment of the fine with the respondent's answer.

9909.4 Payment of the fine shall not relieve the respondent of the obligation to abate the violation or infraction cited in the notice or order.

9909.5 If the respondent admits a violation or infraction with an explanation, the respondent shall state on the notice whether the respondent requests a hearing on the papers or an in-person hearing. OAH may hold an in-person hearing in its sole discretion.

9909.6 If a respondent denies an infraction, OAH may schedule an in-person hearing in accordance with its rules.

9909.7 If a respondent does not answer the notice within thirty (30) calendar days:

- (a) OAH shall issue a default order; and
- (b) A civil penalty equal to the amount of the fine imposed by the notice shall be imposed by OAH in the default order.

9910 PENALTIES

9910.1 A host found to have violated § 9901 shall be liable for a civil penalty of:

- (a) \$250 for the first violation;
- (b) \$500 for a second violation; and
- (c) \$1,000 for a third violation and an automatic revocation of the related short-term rental license endorsement.

9910.2 A booking service found to have violated § 9905 shall be liable for a civil penalty of \$1,000 for each booking transaction made in violation of § 9905.

9999 DEFINITIONS

9999.1 For the purposes of this chapter, the following words and terms shall have the meanings ascribed:

“**Agent**” -- a general agent, employee, registered agent or attorney of the party.

“**Booking service**” -- any person or entity that facilitates short-term rental reservations and collects payment for lodging in a short-term rental.

“**Department**” -- the Department of Consumer and Regulatory Affairs or its successor agency.

“**Director**” -- the Director of the Department of Consumer and Regulatory Affairs, or his or her designee.

“**Host**” -- a natural person who uses a booking service to provide a short-term rental to a transient guest.

“**Primary residence**” -- the property is eligible for the homestead deduction pursuant to D.C. Official Code § 47-850.

“**Short-term rental**” -- paid lodging for transient guests with the host present, unless it is a vacation rental. A short-term rental is not a hotel, inn, motel, boarding house, rooming house, bed and breakfast, or a rental unit within the meaning of section 103(33) of the Rental Housing Act of 1985, effective

July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.03(33)) or section 103(16) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.03(16)). A short-term rental operates within a portion of the host's primary residence, unless it is a vacation rental.

“Transient guest” -- a person who has paid a host for a short-term rental or a vacation rental. A transient guest under this chapter shall not be deemed to be a tenant as defined under either section 103(36) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.03(36)) or section 103(17) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.03(17)).

“Vacation rental” -- a short-term rental that operates within a host's primary residence wherein a transient guest has exclusive use of the host's primary residence during the transient guest's stay and the host is not present on the premises. A vacation rental is subject to additional restrictions, including § 9904.

Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Chapter 5, BASIC BUSINESS LICENSE SCHEDULE OF FEES, is amended as follows:

A new Section 518, SHORT-TERM RENTAL, is added to read as follows:

518 SHORT-TERM RENTAL

518.1 The Director shall charge a fee for a business license category with a Short-Term Rental Endorsement as follows:

- (a) Short-term rental: \$99

A new Section 519, SHORT-TERM RENTAL: VACATION RENTAL, is added to read as follows:

519 SHORT-TERM RENTAL: VACATION RENTAL

519.1 The Director shall charge a fee for business license category with a Short-Term Rental: Vacation Rental Endorsement as follows:

- (a) Short-term rental: vacation rental: \$99

All persons desiring to comment on these proposed regulations should submit comments in writing to Jonathan Kuhl, Chief of External Affairs, Department of Consumer and Regulatory Affairs, via e-mail at Jonathan.Kuhl1@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 695-5306. Copies of the proposed regulations can be obtained at www.dcregs.dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF PROPOSED RULEMAKING****Screen Printing Regulations**

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984 (the “Act”), effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code § 8-101.05 *et seq.* (2013 Repl. & 2019 Supp.)); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4) (2013 Repl.)); and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of the proposal of the following amendments to Chapter 7 (Air Quality – Volatile Organic Compounds and Hazardous Air Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

Proposed Regulatory Amendments

The Department is proposing amendments to 20 DCMR Chapter 7 to add a new section regulating screen printing. Additionally, the Department is proposing to add related definitions and abbreviations to 20 DCMR § 799. This rulemaking establishes emission standards for screen printing operations. Specifically, the rulemaking sets volatile organic compound (VOC) limits for ink, haze removal, and screen reclamation product. The rulemaking also allows for alternative compliance through the installation of a control device that achieves a ninety percent (90%) reduction in VOC emissions.

The Department is also taking comments specifically if any additional method is available to achieve the emission reductions that are achievable through installation of a control device or use of substances with the specific VOC contents listed in the proposal.

Reasonably Available Control Technology

On October 26, 2015, the U.S. Environmental Protection Agency (EPA) promulgated a revised 8-hour primary and secondary ozone National Ambient Air Quality Standards (NAAQS). 80 Fed. Reg. 65292 (October 26, 2015). Under the Clean Air Act (CAA), areas designated as nonattainment for a revised ozone NAAQS and states located in the Ozone Transport Region (OTR) are required to submit, for the approval of the EPA, revisions to the relevant state implementation plan (SIP) to ensure that they comply with all applicable statutory and regulatory requirements. 42 U.S.C. § 7502(b). The District is a part of the OTR and was designated as being in marginal nonattainment for the 2015 Ozone NAAQS. 83 Fed. Reg. 25776, 25795 (June 4, 2018). Since the District is located within the OTR it must comply with the Reasonably Available Control Technology (RACT) requirements.

The requirement to update RACT standards in response to the 2015 ozone NAAQS applies to the two precursor pollutants of ozone, nitrogen oxides (NOx) and volatile organic compounds (VOC). As part of this requirement, the District must review its regulations and determine if it is necessary

to update the existing RACT standards for stationary source categories under its jurisdiction. Screen printing is only considered a source of VOC emissions and was evaluated in that context.

EPA has defined RACT as “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility... In evaluating economic feasibility for RACT determinations, the EPA gives significant weight to economic efficiency and relative cost effectiveness.” 83 Fed. Reg. 62998, 63007, FN 16 (December 6, 2018).

Through analysis of regulations adopted as RACT by other jurisdictions in the OTR, the Department finds that this regulation constitutes RACT for screen printing sources. Thus the Department also proposes to submit the final rulemaking as an amendment to the District’s SIP.

The Department is also taking specific comments related to cost or achievability that may demonstrate whether specific VOC limits in this proposal may or may not constitute RACT.

Chapter 7, AIR QUALITY – VOLATILE ORGANIC COMPOUNDS AND HAZARDOUS AIR POLLUTANTS, of Title 20 DCMR, ENVIRONMENT, is amended as follows:

Section 762, SCREEN PRINTING, is being added follows:

762 SCREEN PRINTING

762.1 Except as provided in § 7XX.2, this section shall apply to any person who owns or operates screen printing operations that emit or have the potential to emit VOC emissions from all screen printing at the premises of fifteen (15) pounds or more per day.

762.2 If part or all of any printing operation involving VOC emissions is not specifically controlled by the requirements of this section, then the VOC-related emission operation or part of the operation shall be governed by the other requirements of this chapter.

762.3 The VOC content of ink shall not exceed the limits in Table I after December 31, 2020:

Table I. Allowable VOC Content of Ink used in Screen Printing

Ink Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Overprint varnish on any substrate	6.03	723
Screen printing on any substrate other than untreated sign paper	3.3	396
Screen printing on untreated sign paper	5.6	671
Specialty inks:		
Acid/etch resist ink	3.3	396

Anoprint ink	3.1	372
Conductive ink	8.0	960
Electroluminescent ink	8.0	960

*VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer’s recommended maximum VOC content, minus water and non-VOC solvents)

762.4 As an alternative to § 7XX.3, compliance with the requirements of § 7XX may be met if a control device is installed and operated pursuant to § 107 of this title that reduces emissions from the screen printing dryer by not less than ninety (90) percent overall.

762.5 The VOC content of any screen reclamation and ink or haze removal product shall not exceed the limits in Table II after December 31, 2020:

Table II. Allowable VOC Content of Screen Reclamation and Ink or Haze Removal Used in Screen Printing

Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Haze Removal	4.0	480
Ink Removal	3.3	390
Screen Reclamation	1.0	120

*VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer’s recommended maximum VOC content, minus water and non-VOC solvents)

762.6 For § 7XX.3 and § 7XX.5:

- (a) The VOC content is by weight and applies to the inks and solutions used in the printing unit, and does not include water; and
- (b) The VOC and percentage water content shall be determined using:
 - (1) Method 24, “Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface,” as updated; or
 - (2) Alternative methods for determining compliance if approved by the Department.

762.7 Ink usage in connection with all forms of screen printing shall be minimized to the extent feasible by routing the flat screens, inking cylinders, or use of other techniques.

- 762.8 All containers holding or conveying VOC-containing materials shall be open only when necessary and openings shall be restricted to the extent feasible.
- 762.9 The leaking of any solvent or solvent-containing materials from any printing unit or associated equipment shall be prohibited.
- 762.10 The storage or disposal of any solvent or solvent-containing material, including waste material, in a manner that will cause or allow its evaporation into the atmosphere shall be prohibited.
- 762.11 To the greatest extent feasible, persons operating printing units and associated equipment shall minimize their use of VOC-containing materials by restricting wasteful usage and by replacing the material with emulsions or other materials.
- 762.12 Any person, owner, or operator subject to this regulation shall maintain the following records for not less than three (3) years, and make the records available to the Department upon request:
- (a) The total monthly consumption of inks, coatings, cleanup materials, and any other materials containing VOC used in conjunction with screen printing; and
 - (b) The VOC content of each ink, coating, cleanup material, or any other material containing VOC that is used at the premises.

Section 799, DEFINITIONS, Subsection 799.1, is amended by adding the following definitions each to be inserted in alphabetical order within the existing list of definitions:

Acid/etch resist ink – a material or compound applied to portions of a product, usually in a pattern, before etching, to protect the covered portions from the action of the chemical solution that removes the surface of the product being etched.

Anoprint ink – a dye or compound that is screen printed on unsealed anodized aluminum before the process of sealing the anodic coating, thus trapping the dye or compound in the anodic coating.

Conductive ink – an ink for the screen printing of electronic circuits or other conductive patterns that permit electric current to flow through the printed line or pattern.

Electroluminescent ink – a transparent conductive coating, phosphor, opaque conductive, or similar compound that is screen printed with the purpose of converting an electrical current directly into light.

Haze removal – the final cleaning stage or process to remove ink residue from a used screen.

Ink removal – removal of excess ink from a used screen.

Screen printing – a process in which printing ink is distributed through a tightly stretched fabric to which a refined form of stencil has been applied and the stencil and mesh openings determine the form and dimensions of the imprint.

Screen reclamation – removal of stencil or ghost image from a used screen.

Untreated sign paper – paper used in screen printing to prepare a temporary, light-weight sign or poster such as grocery store signs that are sensitive to water and water-based inks.

All persons desiring to comment on the proposed rulemaking or its inclusion in the District's SIP should file comments in writing not later than thirty (30) days after publication of this notice in the *D.C. Register*. Comments should be clearly marked "Public Comments: Screen Printing Regulations" and filed with DOEE, Air Quality Division, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Joseph Jakuta, or e-mailed to airqualityregulations@dc.gov. Copies of the above documents may be obtained from DOEE at the same address.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984, D.C. Law 5-48, D.C. Official Code § 44-504(a) (2017 Supp.) (hereinafter “the Act”), and in accordance with Mayor’s Order 98-137, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 35’s operating standards for group homes for persons with intellectual disabilities and to recognize the licensing of participants in the Home and Community-Based Services Waiver Residential Habilitation Service Settings (HCBS), of Subtitle B (Public Health and Medicine), of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the publication of this notice in the *D.C. Register*, and upon completion of the forty-five (45) day Council review period if the Council does not act earlier to adopt or disapprove a resolution approving the rules, pursuant to Section 5(j) of the Act (D.C. Official Code § 44-504(j)).

These proposed rules replace the current regulations on group homes for persons with intellectual disabilities and create operating standards for group homes for persons with intellectual disabilities in the District of Columbia, and address such areas as habilitation, health care, qualifications of staff and recordkeeping.

Title 22 DCMR, HEALTH, is amended as follows:

Chapter 35, GROUP HOMES FOR MENTALLY RETARDED PERSONS, of 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is renamed COMMUNITY RESIDENCE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES (CRFPID), and is amended by repealing the current Chapter 35 in its entirety, and replacing it with a new Chapter 35 to read as follows:

CHAPTER 35

COMMUNITY RESIDENCE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES (CRFPID)

- 3500 GENERAL PROVISIONS**
- 3501 COMPLIANCE AND VARIANCES**
- 3502 ENVIRONMENTAL REQUIREMENTS**
- 3503 HOUSEKEEPING**
- 3504 MEALS AND DINING**
- 3505 BEDROOMS**
- 3506 BATHROOMS**
- 3507 PROGRAM STATEMENT**
- 3508 POLICIES AND PROCEDURES**

- 3509 ADMISSIONS
- 3510 DISCHARGES AND TRANSFERS
- 3511 MANAGEMENT OF OPERATIONS
- 3512 PERSONNEL
- 3513 RESIDENCE DIRECTOR
- 3514 QUALIFIED INTELLECTUAL DISABILITIES PROFESSIONAL (QIDP)
- 3515 STAFF TRAINING
- 3516 DIRECT CARE STAFF RATIOS
- 3517 RECORDKEEPING
- 3518 PROFESSIONAL SERVICES
- 3519 MEDICAL AND NURSING SERVICES
- 3520 HABILITATION AND TRAINING
- 3521 MEDICATIONS
- 3522 BEHAVIOR SUPPORT
- 3523 EMERGENCIES
- 3524 ABUSE AND NEGLECT
- 3525 VENTILATOR SERVICES
- 3599 DEFINITIONS

CHAPTER 35

COMMUNITY RESIDENCE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES (CRFPID)

3500 GENERAL PROVISIONS

- 3500.1 For purposes of this chapter, a group home for persons with intellectual disabilities, as defined in § 2 of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48, D.C. Official Code § 44-501 *et seq.*), shall be known as a Community Residence Facility for Persons with Intellectual Disabilities (CRFPID). CRFPID shall serve as substitute for the term “group home for persons with intellectual disabilities” for the purposes of this chapter.
- 3500.2 Each CRFPID shall comply with Chapter 31 of Title 22B of the District of Columbia Municipal Regulations (DCMR), entitled Licensing of Health Care and Community Residence Facilities. Chapter 31 includes administrative procedures on the issuance and renewal of licenses as well as enforcement actions.
- 3500.3 Each CRFPID shall comply with all applicable Federal and District laws and regulations, including the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978, effective March 3, 1979

(D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*). Providers of Home and Community-Based Waiver Services (HCBS), known as residential habilitation service settings, shall also comply with Subsection 3500.4 of this Chapter.

- 3500.4 Each provider of services under the HCBS shall be certified by the Department of Disability Services (DDS) to be in compliance with Chapter 19 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled Home and Community Based Waiver Services for Individuals with Intellectual and Developmental Disabilities. Each provider of waiver services shall comply with this Chapter, 22B DCMR Chapter 35, in order to obtain and maintain licensure.
- 3500.5 Each CRFPID participating in the HCBS must be certified by DDS at the time of the Department's annual licensure survey.
- 3500.6 Each CRFPID that is certified as an Intermediate Care Facility (ICF) shall not provide HCBS program services.
- 3500.7 Each CRFPID shall comply with the terms of its license, and the number of persons living at the home shall not exceed the number permitted by the license and shall not exceed the statutory limitation of eight (8) people.
- 3500.8 Each CRFPID Residence Director shall abide by all District of Columbia laws and regulations relating to the rights of persons with intellectual disabilities.
- 3500.9 Each CRFPID shall provide recreational activities, community integration and inclusion activities outside the home for all of the persons residing there in accordance with the person's choice as identified through the person-centered assessment process and as documented in the person's Individual Support Plan (ISP).
- 3500.10 Each CRFPID shall have equipment to provide a variety of recreational activities inside the home (including, but not limited to, games, crafts, books, television and radio) and shall maintain such equipment in good repair.
- 3500.11 Persons shall have access to and open their own mail, packages, texts, emails, or any other form of electronic communication, *e.g.* FaceTime or Skype. No mail or other forms of communication shall be read by CRFPID staff unless written permission to do so is granted by the person or his or her representative in the form of a memorandum or ISP documentation.

- 3500.12 Visits by friends, relatives or other persons not paid to be in a CRFPID shall be encouraged and permitted by the CRFPID in accordance with a person’s wishes, provided there is no undue disruption to CRFPID operations, the privacy concerns of other persons, or an assessed need, and the visit is justified in his or her person-centered plan.
- 3500.13 Each CRFPID shall ensure that each person residing there has privacy in his or her personal space, including entrances that are lockable by the person (with staff having keys and approved in the person’s ISP or within other written documentation).
- 3500.14 Each CRFPID shall ensure that each person residing there has control and access to his or her personal funds and bank accounts.
- 3500.15 Each CRFPID shall allow appropriate personnel of the Department of Health (hereinafter “Department”) full access, whether the visit is announced or unannounced, to all CRFPID locations, including access to the persons receiving supports and all records in any form. For purposes of this section, the term ‘records’ includes, but is not limited to, all information relating to the provider, the services and supports being provided, and the persons for whom services are provided; any information which is generated by or in possession of the CRFPID; the information required by the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301 *et seq.*); and any information required by the regulations implementing CRFPID.
- 3500.16 The CRFPID shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosures of fees and payment for services. The CRFPID’s name shall not imply that it is a government entity, or that it is providing services it is not licensed to provide or does not deliver.

3501 COMPLIANCE AND VARIANCES

- 3501.1 Each CRFPID that was licensed before the effective date of these regulations shall have one year to comply with the provisions herein.
- 3501.2 The Director may grant a variance from any of the requirements of these rules, if the applicant can show undue hardship and the variance can satisfy the following conditions:
 - (a) It is not inconsistent with other provisions of the Act;
 - (b) It is not deleterious to the public health and safety; and

- (c) It would not have the effect of permitting a violation of other laws or regulations of the District of Columbia.
- 3501.3 A CRFPID requesting a variance shall submit in writing to the Director, the following:
- (a) The regulatory requirement(s) for which a variance from strict compliance is being requested;
 - (b) Specific justification as to why the CRFPID cannot meet the requirement(s); and
 - (c) Alternative measures provided to ensure quality care and services consistent with these rules.
- 3501.4 The Director shall grant a variance only to the extent necessary to ameliorate an undue hardship and only when compensating factors are present to give adequate protection to the public health without impairing the intent and purpose of these rules.
- 3501.5 If the Director determines that the applicant has not justified undue hardship, he or she shall issue a written proposed denial advising the applicant as to his or her right to a hearing by the Office of Administrative Hearings (OAH) in accordance with OAH rules.
- 3501.6 The Director shall maintain a record, open to inspection by the public, of all variances granted. The record shall contain a complete written explanation of the basis for each variance.

3502 ENVIRONMENTAL REQUIREMENTS

- 3502.1 No CRFPID shall use a name on the exterior of the facility or display a logo which distinguishes it as being different from any other residence in the neighborhood.
- 3502.2 Each CRFPID is a person's home and shall be physically accessible to the person and allow the person access to all common areas. The CRFPID must be integrated in the community and support full access to the greater community.
- 3502.3 A CRFPID is a residential occupancy and may be located in a single or multi-family dwelling.
- 3502.4 Each CRFPID shall be in good general condition in accordance with Section 3503.3.

- 3502.5 Each CRFPID shall be within walking distance of public transportation or demonstrate that it can and does provide accessible transportation to persons, upon reasonable request, to community activities which may include but are not limited to:
- (a) Stores;
 - (b) Restaurants;
 - (c) Movies;
 - (d) Parks;
 - (e) Recreational facilities;
 - (f) Libraries;
 - (g) Post offices;
 - (h) Places of worship; and
 - (i) Other recreational facilities.
- 3502.6 Each CRFPID shall be located away from known sources of loud and irritating noises and hazardous conditions including, but not limited to, noxious smoke and fumes.
- 3502.7 All electrical, plumbing and mechanical equipment shall be kept in safe and operating condition. Fire safety equipment shall include, at a minimum, smoke detectors, carbon monoxide detectors and fire extinguishers, and shall be in good working order.
- 3502.8 Each CRFPID shall ensure that it has at all times a working water supply, trash disposal system and sewage disposal system. The CRFPID shall ensure that recycling, composting and garbage disposal do not create a nuisance or a breeding place for insects and rodents.
- 3502.9 The CRFPID's hot water tank shall be of such size to provide an adequate supply of hot water to the kitchen, bathrooms and laundry. The hot water temperature of all fixtures used by persons residing in the home shall be maintained at a minimum one hundred degrees Fahrenheit (100°F) and not to exceed one hundred and ten degrees Fahrenheit (110°F).
- 3502.10 The CRFPID shall have a central heating and air conditioning system, radiators or electric built-in heaters and/or air conditioning window units

that are installed so as to prevent hazards to persons residing in the home or to room furnishings.

- 3502.11 Active radiators shall be covered to protect persons from burns. Space heaters and kerosene heaters shall be prohibited.
- 3502.12 The physical environment shall be well-ventilated. Temperature inside the CRFPID in all rooms shall be maintained to meet persons' preference. The temperature shall not fall below seventy-two degrees Fahrenheit (72°F) or exceed eighty degrees Fahrenheit (80°F).
- 3502.13 The CRFPID shall ensure that all rooms have adequate lighting. All community space, as defined herein, shall be illuminated sufficiently to meet persons' needs, provided that at a minimum such space shall be illuminated to provide thirty (30)-foot candles of light at floor level.
- 3502.14 Each sliding glass door or transparent panel shall be made of tempered glass and shall be marked conspicuously.
- 3502.15 Space shall be provided for social and recreational purposes including, but not limited to, a living room or recreation room, and a dining area. Space shall also be provided for the activities of daily living, including, but not limited to, a kitchen for cooking and preparing meals, and one or more bathrooms for bathing, toileting and grooming. All space defined in this subsection shall be termed community space for purposes of this chapter.
- 3502.16 Each person living in the CRFPID shall have access to and shall be encouraged to fully utilize all designated community space.
- 3502.17 Community space (excluding kitchens and bathrooms) shall be at least twenty-five (25) square feet per person above the basement level. Renovated lower floors used as recreation or family rooms with a separate outside exit are not considered a basement.
- 3502.18 Each person in an educational program, including but not limited to a school-age student, shall be provided an area within the CRFPID that is quiet and conducive to study. The area shall have appropriate lighting, and shall have a desk or table with one or more chairs of appropriate height for the table or desk and sufficient in number to provide seating for all persons residing in the home who use the area.
- 3502.19 No smoking shall be permitted inside the CRFPID. If smoking is permitted on the premises, the CRFPID shall designate areas where persons may smoke.

3503 HOUSEKEEPING

- 3503.1 Each CRFPID shall ensure that each person residing there has the freedom to furnish and decorate his or her personal space.
- 3503.2 All CRFPID furnishings shall be comfortable, functional and in good repair, and in accordance with the preference of the persons who reside there, as well as appropriate for persons who work in the CRFPID.
- 3503.3 The interior and exterior of each CRFPID shall be maintained in a safe, clean, orderly, attractive, and sanitary manner, and be free of clutter, accumulations of dirt, rubbish, and objectionable odors.
- 3503.4 Floors shall be leveled, free of debris, constructed of non-skid and non-abrasive materials, in good repair and promote mobility. Rugs shall be anchored with a non-slip pad, clean and in good repair.
- 3503.5 Each CRFPID shall be free of insects, rodents and vermin.
- 3503.6 Each CRFPID that is cited by the Department for violation of Subsection 3503.5 shall contract with a licensed exterminator to provide services for elimination of any infestation within seventy-two (72) hours of receipt of written notice by the Department.
- 3503.7 No cleaning agent, bleach, insecticide or any other poisonous, dangerous, or flammable material shall be accessible to a person where access to such substance is contraindicated in the person's ISP.
- 3503.8 Each CRFPID shall provide appropriate procedures, personnel, and equipment in order to ensure sufficient clean linen supplies and the proper sanitary washing and handling of linen and personal clothing of each person.
- 3503.9 Each CRFPID shall provide at a minimum the following linens that are appropriate to the size of the bed, clean, and free from stains or tears, appropriate to the needs and in accordance with the preferences of the person:
- (a) Four (4) sheets;
 - (b) Two (2) pillowcases;
 - (c) Two (2) bath towels;
 - (d) Two (2) hand towels; and

(e) Two (2) washcloths.

- 3503.10 Each CRFPID shall also provide to each person at a minimum one (1) clean blanket and one (1) bedspread that is clean and free from rips, stains or tears, in accordance with the person's preferences, and that is cleaned as necessary and does not present a risk to health or safety.
- 3503.11 Each CRFPID shall maintain two (2) additional spare blankets and bedspreads for every four (4) persons.
- 3503.12 Each CRFPID shall provide a washer and dryer, or make alternative provisions so that each person who wishes to shall have a safe and convenient place to wash and dry personal laundry.
- 3503.13 Each CRFPID shall assure that each person has at least seven (7) changes of clothing appropriate to his or her preferences, age, activities, culture and season.
- 3503.14 Each CRFPID shall provide adequate storage areas for clean and dirty linen and shall ensure that each person's clothing is kept in good condition, laundered, cleaned and is well-fitted. Personal clothing, linens and laundered items shall be kept separately for use by the person to whom they belong and no other person.

3504 MEALS AND DINING

- 3504.1 Each CRFPID shall ensure that each person residing there has access to food at any time, unless there is a restriction based upon assessment, approved by a physician and justified in the person's ISP.
- 3504.2 Each CRFPID shall offer each person a nourishing, well-balanced diet in accordance with dietary guidelines established by the United States Department of Agriculture.
- 3504.3 Menus shall be developed with consideration of average portion sizes for menu items, person preferences, shall be developed on a weekly basis, shall provide a variety of food choices at each meal, and shall be available to persons during mealtimes and otherwise. Each menu shall vary from week to week and adjusted for seasonal changes. Menus shall be available for each person's review. Mealtime protocols containing personal dietary needs shall not be displayed publicly.
- 3504.4 If a person requires a modified diet, it shall be prescribed by a physician and documented in the person's ISP. A "modified diet" is any diet that requires specialized or restricted textures, restricted or increased calories or any other therapeutic restrictions or use of dietary supplements.

- 3504.5 A recommendation by a licensed dietitian for a modified diet shall be reviewed by a physician within five (5) business days, and shall be implemented only if ordered by him or her. If the diet is to be modified based on a medical emergency, the modification must be approved by a physician order within twenty-four (24) hours.
- 3504.6 Any modified diet shall be planned, prepared, and served by staff members who have received instruction and training on modified diets from a licensed dietitian. Subsequent training can be conducted by a licensed health professional trained by a licensed dietitian.
- 3504.7 Modified diets shall be reviewed at least quarterly by a dietitian, and as necessary according to any change in the person's condition. The review shall ensure that each diet provides adequate nutrition.
- 3504.8 All food and drink shall be free from spoilage, contamination and debris.
- 3504.9 The CRFPID shall offer at least three (3) meals per day that are nutritious and suited to the needs and choice of each person, along with the availability of nutritious snacks at the times of a person's choosing. The meals shall be offered at reasonable times as follows:
- (a) There shall not be more than fourteen (14) hours between the time a substantial evening meal is offered and breakfast the following day is offered; and
 - (b) There shall not be more than ten (10) hours between the time breakfast and the evening meal of the same day is offered.
- 3504.10 A person shall not be required to eat at the three regularly scheduled meal times. Any variation from the requirements of Subsection 3504.9 shall be documented in the person's record.
- 3504.11 Each CRFPID shall be responsible for ensuring that meals served away from the CRFPID are suited to the dietary needs of the person as indicated in his or her ISP.
- 3504.12 No person may be denied a meal as a form of punishment.
- 3504.13 Each CRFPID shall provide table service for all persons who can and want to eat at a table, including persons in wheelchairs. The dining room shall have tables and chairs sufficient in number to seat all persons residing in the home who utilize the dining room.

- 3504.14 Each CRFPID shall equip dining areas with tables, chairs, eating utensils, and dishes designed to meet the needs of each person.
- 3504.15 Persons, as needed, shall be provided training to develop eating skills and to use special eating equipment and utensils if such training is indicated in the ISP.
- 3504.16 Each CRFPID shall train the staff in the use of proper mealtime protocols and how to assist persons who require special mealtime protocols or utensils.
- 3504.17 Each CRFPID shall ensure that all direct care staff who prepare, cook or serve food are trained in the storage, preparation and serving of food, the cleaning and care of equipment, and food preparation in order to maintain sanitary conditions at all times.
- 3504.18 Training in food storage and preparation, serving of food, and cleaning and care of equipment shall be done by a certified food protection manager pursuant to 25A DCMR §203, Food and Food Operations.
- 3504.19 There shall be at least a three (3) day supply of perishable food and a five (5) day supply of nonperishable food in the CRFPID based on the menus for both regular and modified diets.
- 3504.20 Dry or staple food items shall be stored at least twelve (12) inches above the floor in a room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents or vermin.
- 3504.21 Each CRFPID shall have and utilize effective procedures for cleaning all equipment and work areas used in the preparation and serving of foods.
- 3504.22 Dishes, eating utensils and cooking equipment shall be cleaned after each meal, appropriately dried and stored to maintain their sanitary condition.
- 3504.23 Hot and cold water, soap, and towels shall be provided in or adjacent to food preparation areas for hand washing.
- 3504.24 Each CRFPID shall serve meals at temperatures in accordance with Title 25A DCMR, Food and Food Operations. If a person requires mealtime assistance, food shall be maintained at serving temperature until assistance is provided. Food that is not promptly consumed shall be refrigerated, if necessary, and reheated.
- 3504.25 Food requiring refrigeration shall be maintained at temperatures in accordance with Title 25A DCMR, Food and Food Operations, until

preparation for consumption or, if appropriate, for consumption while cold.

3504.26 Frozen foods shall be maintained frozen in accordance with Title 25A DCMR, Food and Food Operations until preparation for consumption or, if appropriate, for consumption while frozen.

3504.27 Foods that must be cooked to safe temperatures (including but not limited to raw animal, seafood or plant foods) before consumption, shall be heated and reheated to the temperatures in accordance with Title 25A DCMR, Food and Food Operations.

3505 BEDROOMS

3505.1 Each person's bed shall be located in a room that is designated solely as a bedroom.

3505.2 Each occupied bedroom shall accommodate no more than two (2) people, and measure at least 60 square feet per person in multiple person bedrooms, and at least 80 square feet in single person's bedrooms.

3505.3 Persons who live in the CRFPID shall not share a bedroom with staff or other non-live-in individuals.

3505.4 A room that can only be accessed through a bathroom or another bedroom shall not be used as a bedroom. An attic or basement shall not be used as a bedroom.

3505.5 Each bed shall be placed at least three (3) feet from any other bed.

3505.6 Each bedroom shall be equipped with at least the following items for each person at all times, and must be in accordance with the person's preference:

- (a) Standard single, queen, king or twin-sized bed;
- (b) Clean pillow with appropriate and adequate fill and firmness;
- (c) Drawer space or secure space for personal items;
- (d) Night stand;
- (e) Lamp;
- (f) A clean, supportive mattress that has no rips, no tears, and no broken springs; and

- (g) At least one chair for each person, if appropriate for the person's abilities.
- 3505.7 Each bedroom shall contain at least one closet, and shall have sufficient accessible storage space for each person's personal effects and seasonal personal clothing.
- 3505.8 Bedroom doors and windows shall provide adequate privacy. Windows shall have curtains, blinds or shutters. All blinds, curtains and shutters shall be in good repair.
- 3505.9 Each bedroom shall have at least one external window that shall be appropriately secured to prevent unauthorized entry and to ensure the safety of each person.
- 3505.10 A person who cannot move up and down the steps independently shall not occupy a bedroom on an upper floor unless functioning mechanisms are employed to ensure the person's safety while ascending and descending stairs. Such mechanisms must be functional and employable in the event of an emergency.
- 3505.11 Each person shall have privacy in his or her sleeping and living unit.
- 3505.12 Each bedroom door shall have a functioning lock to which the person and appropriate staff have keys, as identified in the ISP.
- 3505.13 Persons have the freedom to furnish and decorate their sleeping units within the lease or other agreement.

3506 BATHROOMS

- 3506.1 One (1) bathroom consisting of a working toilet, lavatory (sink for hand washing) and bathing facility that is appropriate for the needs of the persons residing in the CRFPID shall be provided for the use of no more than three (3) persons.
- 3506.2 Each bathroom shall have appliances, fixtures or devices which shall be appropriate to the needs of each person who lives and works in the CRFPID, and which shall allow persons in the CRFPID to achieve maximum independence. Appliances, fixtures and devices shall be in good repair.
- 3506.3 Each shared bathroom shall be equipped with adequate light, toilet tissue, paper towels, liquid soap for hand washing, and a mirror, as appropriate to the persons' abilities.

3506.4 A person shall not go through another person's bedroom in order to enter a bathroom. A person shall not go through one bathroom in order to have access to a second bathroom.

3506.5 Bathrooms shall provide adequate privacy. Each tub or shower shall have privacy partitions or curtains. A bathroom shall not have more than one toilet.

3507 PROGRAM STATEMENT

3507.1 Each CRFPID shall have a written program statement that outlines its operating standards and that shall include, at a minimum, the following:

- (a) The philosophy, goals and mission of the CRFPID;
- (b) The maximum number of persons to be served;
- (c) The level of care needed for the persons to be served;
- (d) A description of the supports available to persons (including local community resources);
- (e) Staffing positions and numbers, in ratio, if applicable;
- (f) The sources of referrals of persons;
- (g) The CRFPID's relationship with the person, parents, advocates and legal guardians or other support team members;
- (h) The name(s) of the licensee and Residence Director; and
- (i) Exclusion criteria, if any.

3507.2 The program statement shall be made available for distribution to each person who requests it.

3507.3 The program statement shall be revised as needed, and the Department shall be advised in writing of any change at least thirty (30) days prior to the change.

3507.4 The CRFPID shall only admit those persons whose service needs are consistent with the program statement, and shall not implement services that are inconsistent with its most current service description as set forth in the program statement.

3507.5 The CRFPID shall update the program statement as needed.

3508 POLICIES AND PROCEDURES

3508.1 Each CRFPID shall have on site a written or electronic manual that contains its most current policies and procedures, which shall be as detailed as is necessary to meet the needs of each person served and provide guidance to each staff member.

3508.2 The on-site manual shall have been approved by the management of the CRFPID. The CRFPID management shall review the manual at least annually and revise it as necessary. All policies and procedures shall be in final form and signed and approved by the CRFPID management.

3508.3 The manual shall be available for review and approval by government personnel who have licensing responsibility over CRFPIDs.

3508.4 The CRFPID shall ensure that all staff and contractors are aware of the policies and procedures required by this section and that all policies and procedures are implemented. All employees and contractors shall be kept informed of policy changes that affect the performance of their duties.

3508.5 The manual shall incorporate policies and procedures for at least the following:

- (a) Admission and readmission, which covers admission criteria and exclusions; transfer and discharge; assessments and who shall conduct assessments; services offered; and program planning;
- (b) Appropriate conduct between staff and persons residing in the CRFPIDs, and the monitoring of such conduct;
- (c) Behavior support planning;
- (d) Confidentiality of protected health information;
- (e) Emergencies and safety, which cover fire safety, emergency evacuation, infection control, and continuity of operations planning;
- (f) Protocols for managing affairs related to the death of a person;
- (g) Protocols for medical emergencies, first aid and changes in a person's health status;
- (h) General administration, which covers the organization charts, internal assessment of the quality of care, and fiscal management;

- (i) Grievance procedures indicating how a person is to present complaints, including complaints regarding staff, person's rights and investigation of complaints; procedures must include ability for a person to complain anonymously;
- (j) Health care, which covers treatment of acute and chronic health conditions; ensuring the availability of physician and dental services for preventative treatment and emergencies; and development and implementation of medical care plans in accordance with the person's needs and the ISP;
- (k) People's rights and the formation and composition of a human rights committee in compliance with the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*).
- (l) Maintenance and use of medical and adaptive equipment;
- (m) Medication management, which covers administration of medication, medication administration errors, and medication storage and disposal (in accordance with Section 3521);
- (n) Personnel, which shall include job descriptions and qualifications, staff/person ratios, training and competency evaluations, staff development, health inventories and criminal background checks (in accordance with Section 3512);
- (o) Electronic and manual recordkeeping, including confidentiality, accessibility, security, and retention of records (in accordance with Section 3517);
- (p) Prohibition of mistreatment, neglect or abuse of persons by staff (in accordance with Section 3524);
- (q) Identifying, investigating, managing and reporting of unusual incidents;
- (r) Policies for handling funds of persons receiving services, which shall include:
 - (i) Providing for separate accounting for personal funds and prohibiting comingling of personal and CRFPID funds;

- (ii) Requirements that persons control their own funds whenever possible, be provided training in money management whenever needed, endorse checks made out to them unless a legal guardian or personal representative has been authorized by law to endorse their checks; and
- (iii) Requirements that persons receive receipts of funds unless that person has been deemed by a court to be incompetent, in which case the receipts shall be given to a guardian or personal representative;
- (s) Policies and procedures detailing a Quality Assurance Program in accordance with which the CRFPID shall evaluate its operations, staff, contractors and quality of services; and
- (t) Policies regarding fees, payments, refunds and services, which shall be available at the time of admission. Policies regarding fees related to the HCBS Program shall be determined by DDS.

3509 ADMISSIONS

3509.1 An interdisciplinary team (IDT) shall make the determination of whether to admit a person to the CRFPID. The IDT for purposes of determining admission shall be comprised of at least the following:

- (a) The nursing staff;
- (b) The Qualified Intellectual Disabilities Professional (QIDP) and/or the Residence Director;
- (c) The DDS Service Coordinator (if appropriate); and
- (d) Other members of the person’s support team.

3509.2 Prior to admission, a person’s health, competency or independence levels, training and support needs shall be assessed to determine the appropriateness of the placement in the CRFPID.

3509.3 Any participant of an HCBS program shall have a person-centered service plan developed through a person-centered planning process overseen by the DDS.

3509.4 If the admission is from a source other than DDS, the CRFPID shall complete the assessment and shall address:

- (a) Nature, and onset of diagnosis of disability in addition to duration of disability;

- (b) Social, behavioral, developmental and family history;
- (c) Vocational and educational background;
- (d) Previous interventions and outcomes;
- (e) Financial resources and benefits;
- (f) Health history and current medical needs;
- (g) Legal status, including guardianship;
- (h) Daily living skills;
- (i) Social and family supports; and
- (j) Housing arrangements.

3509.5 Based on the assessment required by subsection 3509.2, the CRFPID shall state in writing the appropriateness of placement in the CRFPID as determined by the needs of the person, and the qualified staff and resources of the CRFPID.

3509.6 The CRFPID shall admit only those persons who are determined through the admission assessment to be candidates for placement in the CRFPID or after other options are explored and proves to be the least restrictive place for the person.

3509.7 The CRFPID shall maintain documentation of the admission assessment and the names of the employee(s) conducting the assessment.

3509.8 A CRFPID may rely on a person's prior ISP to determine the appropriateness of the placement, provided that the prior ISP has been reviewed and updated within the past year.

3509.9 The CRFPID shall conduct a reassessment to determine the appropriateness of the placement when there is a significant change in the medical, behavioral or psychiatric status of the person as determined by a member of the IDT.

3509.10 The CRFPID shall maintain written documentation of each assessment and reassessment. In addition to the update of documentation required by this section, each reassessment shall include the following:

- (a) The date of initial assessment;
- (b) Name, age and gender of the person;

- (c) Address and phone number of the person or parent or guardian, if applicable;
 - (d) Presenting needs including psychiatric/medical problems, current medications and history of medical care; and
 - (e) Name of the screening employee or contractor and his or her experience and qualifications; and
 - (f) The habilitative assessment tool(s) utilized; and findings.
- 3509.11 For persons not admitted, documentation of the assessment shall be retained for at least six (6) months.
- 3509.12 Each CRFPID shall obtain from the person, sponsoring agency or guardian, as appropriate, information about any known health problems or communicable diseases of a person upon his or her being admitted or readmitted.
- 3509.13 Each person who has a communicable disease may be admitted only to a CRFPID that is capable of implementing environmental and hygienic procedures appropriate to the specific disease as prescribed by a physician, which shall include treatment of the condition and prevention of the spread of the disease.
- 3509.14 Each CRFPID shall obtain upon admission for each person a record of all medications the person is currently taking, and other information, including:
- (a) Names and of all prescribed controlled substances;
 - (b) A reason for each medication; and
 - (c) A listing of any known allergies to medication.
- 3509.15 Each CRFPID shall obtain a health inventory screening, conducted by a physician, for each newly admitted person prior to admission if possible but no later than within fifteen (15) days of admission.
- 3509.16 A physical examination shall be documented, signed and dated by the physician and shall include the following:
- (a) Assessment of general physical condition;
 - (b) A complete medical history including allergies, modified diets, medication orders, recent physical complaints and medical conditions, chronic conditions, past serious illnesses and injuries, current and past drug use (including both prescription and illicit

drugs), vaccination history, and any condition that may predispose the person to acquiring or transmitting infectious diseases;

- (c) Treatment for any medical conditions;
- (d) Evaluation for communicable diseases, including tuberculosis and a determination of the Hepatitis B antigen and antibody status of each person relevant to acquiring or transmitting infectious diseases;
- (e) Immunization updates, as needed;
- (f) Evaluation of the need for other testing; and
- (g) Any other test deemed appropriate by the examining physician.

3509.17 The CRFPID shall ensure that each newly admitted person receives a dental examination within one year of admission or as soon as practicable.

3509.18 Each CRFPID shall secure a written report of the health screening that shall provide sufficient information concerning the person’s health to enable the CRFPID to provide appropriate services to meet that person’s needs. The CRFPID shall implement all of the physician’s orders and any physician recommendations approved by the IDT.

3509.19 Persons receiving or in need of hospice care shall not be admitted to a CRFPID. This restriction shall not apply to persons who were admitted to a CRFPID prior to the initiation of or a recommendation for hospice care.

3509.20 Admission policies shall be available for review by each person contemplating residency in the home or his or her authorized representative.

3509.21 A person’s original records shall follow the person and be available at admission.

3510 DISCHARGES AND TRANSFERS

3510.1 A person shall be discharged or transferred from a CRFPID as provided by D.C. Law 2-137; D.C. Official Code §§ 7-1304.11.

3510.2 Each CRFPID shall have written policies which shall specify criteria and procedures for transfer to either a more or less restrictive setting and discharge from a CRFPID.

- 3510.3 Reasons for transfer from a community residence facility shall include, but not limited to, the following:
- (a) The medical needs as determined by a physician;
 - (b) The behavior of the person or other circumstances which pose an imminent danger to the person or other persons in the home; and
 - (c) The determination by the interdisciplinary team that the person's habilitative needs would be better met by another setting.
- 3510.4 Each CRFPID shall plan for voluntary or involuntary transfer or discharge of a person on a non-emergency basis and shall provide the following:
- (a) Thirty (30) days notification to appropriate individuals or sponsoring agencies of reasons for the need to transfer or discharge;
 - (b) Comprehensive relocation assistance and counseling to a person being transferred or discharged;
 - (c) Identification of the person's needs and the corresponding services and programming required in the new setting; and
 - (d) Reason(s) for changing or terminating services.
- 3510.5 Each CRFPID shall document in writing its compliance with this section.
- 3510.6 Transfer of a person for emergency medical treatment may be made by the CRFPID director with appropriate notification to the person's physician.
- 3510.7 Each CRFPID shall have procedures for medical treatment in place which adequately detail the transfer and return process.
- 3510.8 Prior to or at the time of discharge or transfer of a person, the CRFPID shall provide a complete copy of the person's comprehensive record to the new residence or to the sponsoring agency.

3511 MANAGEMENT OF OPERATIONS

- 3511.1 Each CRFPID shall provide adequate administrative support to efficiently meet all the needs of each person and to meet all the requirements of District and federal law as applicable to CRFPIDs.

- 3511.2 The CRFPID shall have a person or persons who oversee the management and operations of the CRFPID and shall ensure compliance with the terms of its license, and is ultimately responsible to the Department for maintaining operating and licensing standards. The names of these persons and their relationship to the CRFPID shall be provided to the Department and the Department shall be notified within forty-eight (48) hours of any change in employment status of these persons.
- 3511.3 If the CRFPID is a participant in the HCBS, it shall have a person or persons responsible for the management of the waiver program and overseeing of the waiver program and responsibilities monitored by the Department on Disability Services or the Department of Health Care Finance. The name(s) shall be provided to the Departments and within forty-eight (48) hours of any change in employment status of these persons.
- 3511.4 Each CRFPID operated by a corporation or partnership shall maintain in an accessible location, a copy of its Articles of Incorporation, Certificate of Authority, or partnership agreement, as applicable.
- 3511.5 Each CRFPID shall have an organizational chart that shows the following:
- (a) The CRFPIDs management as specified in Subsection 3511.2;
 - (b) The personnel who supervise the CRFPIDs programs;
 - (c) The categories of supportive and direct care staff;
 - (d) The lines of authority;
 - (e) The name of the Residence Director/Administrator; and
 - (f) The name of the designated House Manager, if applicable.
- 3511.6 The management shall appoint a Residence Director to whom it shall delegate in writing the authority and responsibility for the administrative direction of the CRFPID and its services. Nothing in this regulation shall prevent the CRFPID from appointing as Residence Director, the QIDP or other senior staff.
- 3511.7 The management shall approve the CRFPID's program statement, policies and procedures, and budget.
- 3511.8 Each CRFPID shall maintain for at least six (6) years documentation of services provided by contractual agreement when such services are in accordance with a person's Individual Support Plan.

- 3511.9 Each CRFPID shall maintain a full and complete accounting of each person's personal funds entrusted to the facility on behalf of the person.
- 3511.10 Each CRFPID licensee shall carry or ensure that the premise carries the following insurance in at least the following amounts:
- (a) Hazard (fire and extended coverage) in the minimum amount of five hundred thousand dollars (\$500,000) per person to protect belongings, with a minimum of one million dollars (\$1,000,000) per CRFPID; and
 - (b) Liability coverage (premises, personal injury, and products liability) in the amount of one million dollars (\$1,000,000) per occurrence; and professional liability in an amount appropriate to the services provided by the CRFPID.
- 3511.11 The CRFPID shall notify the Department in writing of its intent to discontinue services no later than sixty (60) days prior to cessation of services. The CRFPID shall continue to provide all services that are identified in each person's ISP after it has given notice of its intent to cease operations and until each person is appropriately discharged or transferred. The CRFPID shall continue to maintain compliance with all applicable regulations as it is in the process of discontinuing its services.
- 3511.12 All persons and, as applicable, the person's parent guardians, or chosen support team shall be notified of the CRFPID's intent to cease services in writing at least thirty (30) days prior to cessation of services.

3512 PERSONNEL

- 3512.1 Personnel policies which meet the requirements of this section shall be developed according to the CRFPID's particular needs and distributed to each employee. All employees and contractors shall be kept informed of any policy changes that affect the performance of their duties.
- 3512.2 A staffing plan is maintained and includes the following:
- (a) Each CRFPID shall develop and implement a staffing plan that includes the type and responsibilities of all employees and contractors, and reflects the needs of the population served, the type of services offered, the service description, and the number of persons served; and
 - (b) The staffing plan shall describe the supervisory chain for all employees and contractors. Supervision shall be appropriate to the

services provided and shall be a documented plan to ensure there is always an emergency on-call plan to ensure sufficient staff are on duty at all times.

- 3512.3 Each CRFPID staffing plan shall include the following positions:
- (a) The Residence Director, who shall be responsible for the administrative direction of the CRFPID and its services; or
 - (b) A Qualified Intellectual Disabilities Professional (QIDP), who shall have the responsibility for daily oversight of persons and programs. The QIDP can function as the Residence Director; and
 - (c) Direct care staff, who shall be at least eighteen (18) years of age and have a high school diploma or a General Education Diploma (GED).
- 3512.4 In accordance with this chapter each Residence Director who also is employed as a QIDP (and vice versa) shall be qualified as both pursuant to Sections 3513 and 3514, and must perform the applicable duties adequately.
- 3512.5 The CRFPID shall employ sufficient staff and contractors to provide needed direct care and services for every person at the home in accordance with each person's ISP, provided that the CRFPID shall maintain the minimum staff ratios required by this chapter and shall ensure that there is direct care staff on duty and awake on a twenty-four (24) hour basis whenever persons are present in the CRFPID.
- 3512.6 Employees and contractors shall comply, as required, with all licensing requirements of the Department.
- 3512.7 The CRFPID shall provide adequate staffing to ensure that the residence is clean and in good repair. Housekeeping shall not interfere with the delivery of direct care services in accordance with a person's ISP.
- 3512.8 Each CRFPID staff person shall have a written job description which details each of his or her major responsibilities and duties, supervisory control and the minimum knowledge, skills, abilities, experience and/or professional qualifications required. Any person who assumes the responsibilities of any employee position shall meet the minimum requirements of the position as determined by the job description.
- 3512.9 Each Residence Director or QIDP or a designee shall discuss the contents of job descriptions with each employee at the beginning of employment.

- 3512.10 Each employee shall be given a copy of his or her job description to review and sign at the beginning of employment.
- 3512.11 Each job description shall be reviewed annually. Each job description shall be updated and revised when the duties and responsibilities of the job change when those changes occur and are expected to remain with the job.
- 3512.12 Each employee, within ninety (90) days prior to employment and annually thereafter, shall provide certification from a physician attesting that he or she is fit to perform the required duties of the job and is free from any active communicable disease.
- 3512.13 The CRFPID shall comply with and shall not employ a worker who does not comply with District of Columbia standards on criminal background checks as set out in Section 2(b) of the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98, D.C. Official Code § 44-552) and implementing regulations, 22B DCMR Chapter 47. The CRFPID shall obtain enough information from each applicant to comply with criminal background check requirements even if obtaining such information is in addition to information obtained in compliance with Subsection 3512.14. In addition, each CRFPID shall comply with background checks in accordance with applicable federal law and shall not employ a person who has a history of the following:
- (a) Child abuse or abuse of someone under his or her care and supervision, including misappropriation of property;
 - (b) Neglect;
 - (c) Exploitation;
 - (d) Conviction for a sexual offense or violent crime; or
 - (e) A conviction for criminal violation(s) that would indicate behavior potentially harmful to persons.
- 3512.14 Each CRFPID shall obtain from each applicant employment information from the last seven (7) years (if the applicant was in the workforce) or the three (3) most recent employment positions, whichever time period is longer, including the name of the employer, the name of the immediate supervisor, the dates of employment, and the reason for leaving the employment, and shall make reasonable efforts to verify the employment information provided.
- 3512.15 The CRFPID shall maintain a personnel record for each employee and contractor that includes identifying information; professional license, if

applicable, and any adverse actions by licensing bodies; employment history; results of reasonable efforts to secure job-related references and verification of employment history; results of criminal, sexual abuse, and child abuse and neglect background checks; performance evaluations; and any disciplinary actions taken by the CRFPID.

- 3512.16 The CRFPID shall have and implement a written policy that clearly defines and communicates the requirements for the use and responsibilities of students and volunteers including selection and supervision. The CRFPID shall not rely on students and volunteers for direct care services, and the staffing plan shall not include students and volunteers.
- 3512.17 In addition to complying with this section, each CRFPID shall have a Residence Director or QIDP available and accessible at all times.

3513 RESIDENCE DIRECTOR

- 3513.1 A Residence Director shall have the following qualifications:
- (a) He or she shall be at least twenty-one (21) years of age;
 - (b) He or she shall be certified annually by a physician as being in good physical and mental condition, and be free of communicable diseases (unless he or she is under a physician's care for and in compliance with treatment for the prevention of the communicable disease);
 - (c) He or she shall have at least:
 - 1) a bachelor's degree in a behavioral science; or
 - 2) an associate's degree and at least two (2) years of full-time experience working with person's with an intellectual disability; or
 - 3) four years of full-time experience working in a licensed home with persons with an intellectual disability; and
 - (d) He or she shall take at least twelve (12) hours of documented training annually related to the management of CRFPIDs and the support of persons with intellectual disabilities.
- 3513.2 The CRFPID shall inform the Department and any person residing in the home at least thirty (30) days in advance whenever there is a change in the Residence Director, except that such 30-day notice period shall not apply in the event a Residence Director resigns or is terminated with less than

30-days' notice, in which case the Department and any person in the home shall receive notice within twenty-four (24) hours or the next business day or whenever practicable.

3513.3 The Residence Director shall be responsible for the administrative direction of the CRFPID and its services.

3513.4 The Residence Director may deliver direct care to persons no more than fifty (50) percent of his or her time in the home.

3513.5 The Residence Director shall not be employed outside the CRFPID in any position that will create a conflict of interest with his or her responsibilities as a Residence Director.

3513.6 If a Residence Director will be absent from any CRFPID for longer than two (2) weeks, he or she shall designate a person to act as Residence Director who shall be qualified in accordance with the requirements in this chapter for a Residence Director.

3514 QUALIFIED INTELLECTUAL DISABILITIES PROFESSIONAL (QIDP)

3514.1 The QIDP shall oversee the initial admission assessments of persons, participate in the development of the ISP and monitor, integrate and coordinate services.

3514.2 The QIDP shall be one of the following:

- (a) A psychologist with either specialized training in intellectual disabilities or one (1) year of experience in treating persons with intellectual disabilities;
- (b) A physician licensed to practice medicine in the District, and with either specialized training in intellectual disabilities or one (1) year of experience in treating persons with intellectual disabilities;
- (c) An educator with a degree in education from an accredited program and with either specialized training or one (1) year of experience in working with persons with intellectual disabilities;
- (d) A social worker with a master's degree from an accredited school of social work and with either specialized training in intellectual disabilities or one (1) year of experience in working with persons with intellectual disabilities;

- (e) A rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification and who has either specialized training in intellectual disabilities or one (1) year of experience in working with persons with intellectual disabilities;
- (f) A therapeutic recreation specialist who is a graduate of an accredited program and who has either specialized training or one (1) year of experience in working with persons with intellectual disabilities;
- (g) A human service professional with at least a bachelor's degree in a human services field (including, but not limited to: sociology, special education, rehabilitation counseling, and psychology) and who has either specialized training in intellectual disabilities or one (1) year of experience in working with persons with intellectual disabilities; or
- (h) A registered nurse with either specialized training in intellectual disabilities or one (1) year experience in working with persons with intellectual disabilities.

3514.3

The QIDP shall have the following responsibility for implementing day to day protocols for the operation of the CRFPID, including but not limited to:

- (a) Management of services and accommodations; direct all facets of the active treatment effort, including the IDT creation of relevant ISPs tailored to meet person needs;
- (b) Effectively coordinate internal and external program services and supports to facilitate the acquisition of person skills and adaptive behaviors;
- (c) Promote competent interactions of residential staff with persons in program implementation and behavior management;
- (d) Ensure implementation of policies, practices, and procedures of the CRFPID; and
- (e) Supervise and direct other employees, except clinicians (e.g. nurses).

3515 STAFF TRAINING

- 3515.1 For each position, orientation training for each new employee shall be complete within thirty (30) days of the date on which each employee begins work in the CRFPID or directly with the person.
- 3515.2 Orientation shall be conducted by persons or entities with specialized training in the subjects to be covered in the orientation.
- 3515.3 Each CRFPID shall maintain a written copy of the orientation training program and materials, including the subjects covered, the number of hours of orientation, and the names and qualifications of the persons conducting the orientation. The written copy shall be available to the Department for review.
- 3515.4 Orientation shall include an overview of intellectual disabilities including, but not limited to, the definition and causes of intellectual disabilities, associated health implications, frequently used medications, and each person's history of care with intellectual disabilities.
- 3515.5 Orientation training shall also cover the following in accordance with each employee's responsibilities and the CRFPID's goals:
- (a) Prevention of abuse, neglect and exploitation;
 - (b) Compliance with the policies and procedures of the CRFPID, including a review and discussion of relevance of them;
 - (c) Compliance with applicable District and Federal laws and regulations;
 - (d) Confidentiality requirements, including a review of HIPAA;
 - (e) Responding to emergencies, including reporting responsibilities, fire safety, vehicle safety evacuation procedures, disaster plans, first aid, CPR and any other emergency protocols;
 - (f) Providing personal care to persons;
 - (g) Nutrition;
 - (h) Meal preparation and food storage;
 - (i) Mealtime protocols;
 - (j) Behavior management;

- (k) Persons rights;
 - (l) Community integration and inclusion;
 - (m) Communication skills and techniques;
 - (n) Adaptive Equipment and assistive technologies;
 - (o) Transfer and mobility procedures;
 - (p) Behavior supports;
 - (q) Sexuality, as indicated by the needs of the person;
 - (r) Infection control and universal precautions for staff and persons;
 - (s) Specialty areas related to the specific needs of the person;
 - (t) Implementing ISPs; and
 - (u) Training of the person in activities of daily living, including the maintenance of oral health and hygiene.
- 3515.6 Each direct care staff shall be currently certified in cardiopulmonary resuscitation (CPR) and First Aid. The CPR certification must be obtained in a classroom setting.
- 3515.7 The CRFPID shall provide on-the-job training as necessary for the performance of job assignments in accordance with the requirements of this section. Employees shall be directly supervised until the Residence Director or QIDP deems that competence in the performance of all job duties has been achieved.
- 3515.8 The CRFPID shall provide to each employee at least twelve (12) hours of annual training in the areas of intellectual disabilities, to include training on protecting persons from abuse, neglect, and mistreatment. The CRFPID shall document in writing each employee's annual training, including the subjects covered and the number of hours of each subject. The CRFPID shall maintain copies of all training materials.
- 3515.9 Each training program agenda and record of staff participation shall be available for review by the Department.

3516 DIRECT CARE STAFF RATIOS

- 3516.1 Each CRFPID shall ensure that adequate qualified staff is on-site to manage and fulfill the needs of persons supported.
- 3516.2 Staffing ratios shall be maintained at the persons supported levels of need but no fewer than the following to the extent that the CRFPID is providing the service in accordance with:
- (a) 1:6 during the waking hours of the day, approximately 6:00 a.m. to 2:00 p.m., when persons remain in the CRFPID during the day;
 - (b) 1:4 during the period of approximately 2:00 p.m. to 10:00 p.m.; and
 - (c) 1:6 during the sleeping hours of the night, approximately 10:00 p.m. to 6:00 a.m.
- 3516.3 Staffing ratios may be changed if there are changes to persons needed supports, or changes in the population residing in the CRFPID.
- 3516.4 Staff is not required to be in the CRFPID when all people are away, provided that a staff person is available or on-call for emergencies that may require a person to return to the CRFPID.
- 3516.5 The CRFPID must provide sufficient support staff so that staff providing direct care to persons is not required to perform support services to the extent that these duties interfere with their primary direct care duties.

3517 RECORDKEEPING

- 3517.1 The CRFPID shall maintain current and accurate records and reports as required by this section.
- 3517.2 Each record shall be kept in a centralized file or stored electronically and made available at any time requested for inspection and review by Department personnel. Any records that are stored off-site must be made available for review in the CRFPID within three (3) hours of request.
- 3517.3 Active and closed records containing any information about persons shall be stored in a locked cabinet or room. A back-up plan, and physical and data security controls shall be implemented for electronic records.
- 3517.4 Each record and report that is required to be kept in accordance with this chapter shall be filed and retained for six (6) years by the CRFPID, unless otherwise specified. Records required to be kept for person's residing in

CRFPIDs shall be maintained for at least six (6) years after the person's discharge or death.

3517.5 The CRFPID shall implement a review process to evaluate both current and closed records for completeness, accuracy and timeliness of entries. The process shall be in writing and shall be available for review by the Department.

3517.6 The CRFPID shall maintain the following records:

- (a) Administrative Records, which shall include:
 - (i) List of current charges and fees for services;
 - (ii) Personnel records for all staff, which includes the following:
 - (A) Identifying information, including name, social security number and if applicable driver's license number;
 - (B) Education and training history;
 - (C) Employment history;
 - (D) Results of the provider credentialing process, including methods of verification of applicable professional licenses or certificates;
 - (E) Results of reference checks and verification of prior employment;
 - (F) Results of criminal background checks;
 - (G) Results of performance evaluations; and
 - (H) Records of any disciplinary actions taken by the CRFPID or any other entity.
 - (iii) Weekly staff schedules, including substitutions;
 - (iv) Disaster plans and procedures and documentation of evacuation drills;
 - (v) Signed agreements or contracts for professional services, if applicable;

- (vi) A current master alphabetical index of all persons serviced by the CRFPID that contains the following information:
 - (A) The person's name;
 - (B) The name, address and phone number of the parent(s), guardian or authorized representative;
 - (C) The referring agency, if applicable, and a contact person at the referring agency;
 - (D) The funding source, if applicable, and a contact person or position at the source;
 - (vii) A log in which emergencies and other unusual occurrences involving persons is recorded;
 - (viii) A complaint log, including the results of any investigation initiated pursuant to a complaint; and
 - (ix) A record of discharges and transfers, including transfer and discharge summaries.
- (b) Persons Clinical and Habilitation Record shall include:
- (i) Identifying information, including name of the person; current residence; social security number; gender; marital status; date of birth; name of parent, guardian or authorized representative; name, address and phone number of emergency contacts; and date of admission to the CRFPID;
 - (ii) All current and former ISPs and Individual Program Plans (IPPs) for the last six (6) years;
 - (iii) A listing of the person's physician and other licensed health care professionals and contact information;
 - (iv) Clinical and habilitation progress notes;
 - (v) Medical records, including physician orders, diagnosis, immunizations, health consultation recommendations, nursing care plans, nursing notes, and nursing services; and
 - (vi) Medication administration record.

- 3517.7 The CRFPID shall ensure that all medical records accurately reflect the person's current condition and are updated as necessary. Any changes made to a person's records shall be signed with the date, by each employee or contractor who makes the entry.
- 3517.8 If a person's records, or components of records, are provided to another CRFPID, agency or hospital during any short-term transfer (such as hospitalization or other emergency placement), the CRFPID shall ensure that the receiving agency manages such records subject to the access, use, and disclosure requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- 3517.9 If there is a medical emergency involving a person, the CRFPID shall ensure that any medical information necessary for the appropriate treatment of the person is available to the treating medical personnel.

3518 PROFESSIONAL SERVICES

- 3518.1 Each person who resides in a CRFPID shall receive the professional service(s) required to meet his or her needs as identified in his or her ISP, and any other care plan or prescription.
- 3518.2 Each person who resides in a CRFPID shall receive professional services from persons of their choice. For those persons who need assistance in choosing a professional service, assistance may be provided by their support group.
- 3518.3 Each CRFPID shall ensure that qualified professional staff reviews and evaluates a person's health status, and carries out and monitors necessary professional interventions, in accordance with the goals and objectives of every ISP.
- 3518.4 Professional services shall include, as applicable, but not be limited to, those services provided by individuals trained, qualified, and licensed as required by District of Columbia law in one or more of the following disciplines or areas of services:
- (a) Medicine;
 - (b) Dentistry;
 - (c) Education;
 - (d) Nutrition;
 - (e) Nursing;

- (f) Occupational or Physical Therapy;
 - (g) Psychology;
 - (h) Social Work;
 - (i) Speech and Language Therapy; or
 - (j) Recreation.
- 3518.5 The CRFPID shall ensure that anyone providing professional services to a person is qualified to provide such services, including ensuring proper licensure and/or certification as required in the District.
- 3518.6 The CRFPID shall maintain on-site proof of current licensure and/or certification for any staff member or professional providing on-site services to a person.
- 3518.7 Professional services shall be provided in accordance with generally accepted professional standards relevant to the service being provided.
- 3518.8 Direct care staff may provide professional services as delegated to them and supervised by a licensed professional and as permitted by District or federal law.
- 3518.9 Professional services shall include diagnosis and evaluation, including identification of developmental levels and needs, treatment services, and services designed to prevent deterioration or further loss of function by the person. Professional services appropriate for each person shall be included in the person's ISP.
- 3518.10 Each professional service provider shall participate in each person's IDT as appropriate to the person's needs, if the person agrees to professional service provider's participation. The ISP shall include the rationale for the selection or exclusion of specific team members.
- 3518.11 Each CRFPID shall ensure that employees who assist in the provision of professional services are properly instructed and trained on the implementation of a person's programs.
- 3518.12 Each professional service and outcomes shall be documented in each person's record.
- 3518.13 Each CRFPID shall obtain from each professional service provider a written report when significant changes occur to warrant revisions to a

person's ISP. In the absence of any significant changes, a written report shall be submitted by each professional service provider no less than once every six (6) months.

- 3518.14 If a person requires professional service (s), the CRFPID shall ensure that arrangements are made within ten (10) calendar days of the identified need.

3519 MEDICAL AND NURSING SERVICES

- 3519.1 Each CRFPID shall ensure a designated primary care physician for each person.

- 3519.2 Each CRFPID shall ensure that all persons have access to appropriate medical and health care providers of their person's choice, subject to the person's health insurance coverage.

- 3519.3 The CRFPID shall ensure appropriate referral and follow-up to meet the routine, chronic and acute health care needs of the person and in accordance with the person's choice of provider.

- 3519.4 The CRFPID must employ or arrange for licensed nursing services appropriate to care for person's health care needs, including persons with medical care plans, using the provider of the person's choice.

- 3519.5 The CRFPID shall ensure that its staff responds immediately to emergencies and provides care and intervention in accordance with the CRFPID's policies and procedures.

- 3519.6 The CRFPID shall ensure that a person's health records include the diagnosis of any current condition, and that any diagnoses are based on relevant, objective and accurate data, and are updated as necessary to reflect the person's current condition.

- 3519.7 Verbal orders shall be transcribed onto a physician order form by a nurse and countersigned and dated by the physician within twenty-four (24) hours for all controlled substances and psychotropic medications, and within ten (10) calendar days for other drugs. The CRFPID shall retain a copy of the signed order in the person's record.

- 3519.8 The CRFPID shall ensure that a person's primary care physician receives reports of recommendations or orders from all other health or medical specialists to whom the person is referred within twenty-four (24) hours or the next business day. The CRFPID shall retain a copy of the signed recommendations or orders in the person's record.

- 3519.9 The person's physician or advanced practice nurse must develop in coordination with licensed nursing personnel a medical care plan of treatment for people, if the physician determines that a person requires twenty-four (24) hours of licensed nursing care. The plan must be integrated in the person's ISP and monitored by the nursing and medical team as appropriate.
- 3519.10 A physician or registered nurse shall implement with other members of the IDT appropriate protective and preventive health measures that include, but are not limited to:
- (a) Training persons and staff as needed in appropriate health and hygiene methods;
 - (b) Control of communicable diseases and infections, including the instruction of other personnel in methods of infection control; and
 - (c) Training direct care staff in detecting signs and symptoms of illness or health condition and basic skills required to meet the health needs of the person.
- 3519.11 The CRFPID must utilize registered nurses as appropriate and as required by District of Columbia law to perform the health services specified in this section.
- 3519.12 If the CRFPID utilizes only licensed practical nurses to provide health services, it must have a formal arrangement with a registered nurse or nurse practitioner to be available for verbal or on-site consultation and supervision to the licensed practical nurse.
- 3519.13 The CRFPID may utilize trained medication employees practicing under the scope of their certification in accordance with Title 17 of the District of Columbia Municipal Regulations Chapter 61 (17 DCMR Chapter 61).
- 3519.14 Non-licensed nursing personnel who work with persons under a medical care plan must do so under the supervision of a licensed nurse or medical physician.
- 3519.15 A registered nurse may only delegate nursing functions to a licensed practical nurse in accordance with the Nurse Practice Act of the District of Columbia. A registered nurse or licensed practical nurse may not delegate nursing functions other than those aspects of care which address activities of daily living to direct support staff.

3520 HABILITATION AND TRAINING

- 3520.1 Each CRFPID shall provide meaningful, and integrated, community-based adult activities for persons to participate in their communities. The CRFPID must optimize, but not regiment, person's initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. This shall include providing support for meaningful daytime activities, employment exploration, as well as building and maintaining relationships.
- 3520.2 If a person is admitted without a current ISP (one that was completed within the past year); the person's support team must develop an ISP and IPP within thirty (30) days of admission.
- 3520.3 If a person is admitted to the CRFPID with a current ISP (one that has been reviewed and updated within the past year), the CRFPID may implement it provided that the ISP is reviewed, approved and updated as necessary by the IDT upon admission. The ISP shall be reviewed, updated and completed within thirty (30) days of admission. The ISP shall be implemented immediately upon the IDT approval.
- 3520.4 The ISP shall be developed by the IDT, and shall include at a minimum, based on the person's choice, the following members: the person; the parent or guardian; supported decision-making authority for the person; the QIDP; and any health care professional relevant to the person's needs as identified through the initial admission assessment or a prior ISP.
- 3520.5 Each ISP shall be used by all staff who plan, provide, or evaluate services for the person.
- 3520.6 The ISP shall include an assessment of the strengths and weaknesses of the person; the preferences of the person; goals and objectives and their target dates; necessary services including, but not limited to, medical, therapeutic, nursing, assistive technology, specialized staffing; and the frequency of services. The ISP shall also include appropriate supports and competency building, skill development, aimed at teaching the person to increase his or her skills and self-reliance which may include, but may not be limited to, the following:
- (a) Eating and drinking (including table manners, use of adaptive equipment, and use of appropriate utensils);
 - (b) Toileting (including use of equipment);
 - (c) Personal hygiene (including washing, bathing, shampooing, brushing teeth, and menstrual care);

- (d) Dressing (including purchasing, selecting, and access to clothing);
- (e) Grooming (including shaving, combing and brushing hair, and caring for nails);
- (f) Health care (including skills related to nutrition, use and self-administration of medication, first aid, care and use of prosthetic and orthotic devices, preventive health care, and safety);
- (g) Communication (including language development and usage, signing, use of the telephone, letter writing, and availability and utilization of communications media, such as books, newspapers, magazines, radio, television, telephone, and such specialized equipment as may be required);
- (h) Interpersonal and social skills;
- (i) Home management (including maintenance of clothing, shopping, meal planning and preparation, and housekeeping);
- (j) Employment and work adjustment and appropriate day programs;
- (k) Mobility (including ambulation, transportation, mapping and orientation, and use of mobility equipment);
- (l) Time management (including use of leisure time and scheduling activities);
- (m) Financial management (including budgeting and banking, management of benefits);
- (n) Academic and pre-academic skills (including development of attention span, discrimination, association, memory, numbers, time, and spatial concepts);
- (o) Motor and perceptual skills (including balance, posture, and gross and fine motor skills);
- (p) Problem-solving and decision-making (including opportunities to experience consequences of decisions);
- (q) Sexuality education;
- (r) Opportunity for social, recreational and religious activities utilizing community resources;

- (s) Behavior management, which shall be consistent with applicable federal and District laws and regulations;
 - (t) Skill building in support of self-determination and self-advocacy; and
 - (u) Personal skills essential for privacy and independence is appropriate for each person.
- 3520.7 The CRFPID shall involve the person, to the extent that he or she is able to participate, in development, review, and revision of the ISP. If the person has been adjudicated to be incompetent, he or she shall be represented by an advocate, guardian or supported decision maker as appropriate or as requested by the person.
- 3520.8 The QIDP and/or Residential Director shall document on each person's ISP monthly to evaluate the progress of the person including determining when the person requires a less restrictive level of care or setting.
- 3520.9 The QIDP and/or Residential Director shall ensure that each person's ISP is updated as needed and approved by the IDT. The CRFPID shall maintain records of any revisions to the ISP, including any reasons for making or not making any changes.
- 3520.10 The CRFPID shall develop an IPP for each person to implement the ISP. All training shall be implemented as prescribed by the ISP.
- 3520.11 The IPP shall contain the following elements:
- (a) Reasons for training and habilitation as identified in the ISP;
 - (b) Measurable objectives for addressing each identified training need, habilitation need and/or goals;
 - (c) Monitoring procedures;
 - (d) Services, supports and frequency to accomplish goals and objectives;
 - (e) Implementation strategies and dates;
 - (f) Target dates for accomplishment of goals and objectives;
 - (g) Estimated duration of training and habilitation; and

- (h) The employees or contractors responsible for coordination, performance and integration of services.
- 3520.12 The ISP shall be signed and dated at a minimum by the person(s) responsible for developing the ISP, and the person or his or her legal representative. If the signature of the person or legal representative is not obtained, the CRFPID shall document the reason.
- 3520.13 The QIDP or Residential Director shall, in the implementation of the ISP, consider each recommendation made by the IDT and consult with professionals or experts as necessary to ensure that implementation of the ISP is accurate.
- 3520.14 The IDT shall review and make modifications as necessary to persons IPP at least every six (6) months or when the person:
- (a) Has successfully completed an objective or objectives identified in the ISP;
 - (b) Is regressing or losing skills already gained;
 - (c) Is failing to progress toward identified objectives;
 - (d) Is being considered for training toward a new objective or objectives;
 - (e) Has a change in his or her health status;
 - (f) Experiences a deterioration in mood or behavior; or
 - (g) Has a change in cognitive skills.
- 3520.15 Each CRFPID shall ensure that habilitation and training programs for persons do the following:
- (a) Utilize the least restrictive circumstances and methods and materials that are culturally normative and appropriate to the chronological age of the person, unless the use of non-normative or non-age appropriate methods and materials is justified in the person's ISP;
 - (b) Provide for direct or consulting services from those professionally qualified persons necessary to assist the staff in conducting training; and
 - (c) Identify other programs and services that are available to the person to supplement the training program.

- 3520.16 Each CRFPID shall ensure that each person is provided an opportunity for placement in an appropriate educational, employment, or daytime training program, to include opportunities for supported work in a competitive, non-disability specific setting. The CRFPID shall include opportunities for each person to participate in choosing the placement as appropriate, and shall ensure that the placement allows for the person's self-management to the extent possible. The placement shall be consistent with the person's ISP.
- 3520.17 Each CRFPID shall develop an activity schedule that is individualized and consistent with what is important to and for the person, as well as to promote opportunities for community integration as indicated in the ISP.
- 3520.18 No person shall be forced or coerced to participate in any activity.
- 3520.19 Each person's activity schedule shall be available to direct care staff and be carried out daily, and shall be reviewed and amended as necessary.

3521 MEDICATIONS

- 3521.1 The CRFPID shall comply with all federal and local laws and regulations relating to controlled substances.
- 3521.2 Drugs shall be administered to persons only by licensed physicians, licensed nurses, or professional licensees whose license or certification authorizes the administration of medication(s).
- 3521.3 A registered nurse or physician shall assess each person's capability to self-administer medications. The assessment shall reflect the person's skills and abilities and shall determine whether technology can be used to promote self-management. Assessment findings shall be available to the IDT for determining the person's training and support needs, in accordance with Subsection 3519.6.
- 3521.4 If the IDT determines that self-medication is an appropriate objective based on the assessment, the CRFPID shall obtain a physician's order indicating that the person may engage in self-medication training.
- 3521.5 All drugs shall be administered in accordance with physician orders.
- 3521.6 All drug orders must be documented on a physician order form, signed and dated by the physician or advanced practice registered nurse within twenty-four (24) hours for all controlled substances and psychotropic medications, and within ten (10) calendar days for other drugs.

- 3521.7 A pharmacist, physician, or advanced practice registered nurse shall review each person's complete drug regimen whenever the drug regimen is changed, to ensure that the person is being provided medication as prescribed.
- 3521.8 The RN or LPN shall report any irregularities in the person's drug regimen to the primary care physician. An "irregularity" is any deviation from the person's prescribed schedule or dosage, and shall be recorded in the person's record.
- 3521.9 The CRFPID shall maintain an accurate medication administration record for each person, including a daily log of all medications administered or refused by the person, and medication not administered due to lack of availability. The log shall identify who administered the medication. Each record shall be kept current and updated as necessary.
- 3521.10 The CRFPID shall maintain in one central location on site all current prescriptions and physician orders.
- 3521.11 Medication requiring refrigeration shall be maintained in a separate and secure medication refrigerator.
- 3521.12 Each medication shall be stored in its original container and shall not be transferred to another container by the CRFPID or taken or used by another person. All medications given to persons to be taken outside of the CRFPID's control (for example, if the person is going home on a visit) must be pre-packaged by a pharmacist.
- 3521.13 Each medication shall be stored under proper conditions of light and temperature as indicated on its label.
- 3521.14 Each CRFPID shall promptly and appropriately dispose prescribed medications that are discontinued by the physician or has reached the expiration date in accordance with Title 22-B DCMR Chapter 5, Safe Disposal of Unused Pharmaceuticals in Health Care Facilities.
- 3521.15 Upon discharge or transfer from a CRFPID, all medications currently prescribed and a copy of the person's medication record shall be given to the person or authorized medical decision maker, or forwarded to any other residential setting to which the person is transferred.
- 3521.16 Any CRFPID to which a person is transferred shall ensure that it receives a copy of the medication record, all medications currently prescribed, and a reconciliation and accounting of all medication.

- 3521.17 In the event of a medication error or drug reaction, the person's physician shall be notified as soon as possible. Any errors or reactions shall be documented in the person's medication record.
- 3521.18 Upon the death of a person, all medication shall be retained by the CRFPID until it has been determined that disposal would be in accord with the investigation and reporting of deaths under the jurisdiction of the Medical Examiner.
- 3521.19 All prescriptions for controlled substances and psychotropic medications shall be written with an expiration date, which shall not exceed thirty (30) days from the date prescribed and in accordance with the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*).
- 3521.20 Medication shall not be used or withheld as a punishment, for the convenience of staff, as a substitute for programs, or in quantities that interfere with the person's habilitation program.
- 3521.21 The CRFPID shall maintain records of receipt and disposition of all controlled substances.

3522 BEHAVIOR SUPPORT

- 3522.1 The CRFPID shall designate and use a specially constituted committee(s) to review, identify, address and monitor person's behavior and their rights that the committee(s) deems at risk. This committee shall be called the Human Rights Committee (HRC).
- 3522.2 The HRC required under this section shall consist of representatives of CRFPID staff, parents, legal guardians, persons as appropriate and qualified individuals who have either experience or training in contemporary practices to change people behavior, and persons with no ownership or controlling interest in the CRFPID.
- 3522.3 Programs approved by the HRC and established by the CRFPID in accordance with this section shall be implemented only with the written informed consent of the person, the person's parent or the person's legal guardian.
- 3522.4 A behavior support plan shall, if necessary, be developed as part of the ISP in response to behavioral or medical needs identified through the habilitative assessment process which shall specify all interventions.

- 3522.5 A CRFPID may use restrictive intervention, through physical and/or pharmacological means only if such intervention is justified and included in a behavior support plan or is otherwise utilized in accordance with this section.
- 3522.6 The behavior support plan shall be developed by a health care provider licensed in psychology or psychiatry, and shall be implemented as prescribed in the ISP.
- 3522.7 The use of restrictive intervention is permitted on a time-limited basis provided that less restrictive methods to safeguard persons and/or property have been attempted and failed or if there is no time to attempt less restrictive methods under one or more of the following conditions:
- (a) When a person's health or safety is at risk;
 - (b) When intervention is court ordered;
 - (c) When health-related protection is ordered by a physician;
 - (d) As a means to protect a person or others from harm; or
 - (e) As a means of preventing the destruction of property.
- 3522.8 A person for whom physical restrictive intervention is being utilized must be visually monitored at all times and the method of at least every five (5) minutes by a staff person trained in the use of the type of intervention used for a maximum duration of thirty (30) minutes. Monitoring shall be documented. The use of restrictive intervention shall be employed for no longer than thirty (30) minutes, and shall be discontinued as soon as the person is stable if less than thirty (30) minutes. is stable if less than thirty (30) minutes.
- 3522.9 The CRFPID shall document the initiation, monitoring and termination of the intervention, including a chronological update of the person's outward mental and physical status.
- 3522.10 Physical intervention shall be used so as not to cause injury to the person, to cause the least possible discomfort and to impose the least possible restriction given its purpose.
- 3522.11 A person for whom restrictive intervention has been employed shall be provided the opportunity for liquid intake and toileting as well as other necessary functions, if needed.

- 3522.12 The CRFPID shall closely monitor any person who has been prescribed psychotropic medications for responses and any adverse consequences. Monitoring shall be documented in writing and accessible to government officials.
- 3522.13 Psychotropic medications may not be given on an as-needed basis (PRN).
- 3522.14 Restrictive intervention cannot be used in lieu of adequate staffing or to discipline a person. The following are prohibited:
- (a) Prevention of contacts and visits with attorney, probation officer, placing agency representative, minister or chaplain;
 - (b) Any action that is humiliating, degrading, harsh, punitive, painful, or abusive that causes undue trauma or deprivation of rights, that is used as a means of coercion, discipline, or retaliation, or that is used solely or primarily for the convenience of staff;
 - (c) Corporal punishment;
 - (d) Subjection to unsanitary living conditions;
 - (e) Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the person's record;
 - (f) Deprivation of appropriate services and treatment;
 - (g) Deprivation of health care;
 - (h) Administration of laxatives, enemas, or emetics except as ordered by a physician or other professional acting within the scope of their license for a legitimate medical purpose and documented in the person's record;
 - (i) Applications of aversive stimuli;
 - (j) Deprivation of drinking water or food necessary to meet a person's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the person's record;
 - (k) Prohibition on contacts and visits with family or legal guardian except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

- (l) Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;
- (m) Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the person's record;
- (n) Mechanical devices used to restrict a person’s movement such as straightjackets, shackles and belted jackets that the person cannot remove;
- (o) Seclusion or time-out rooms;
- (p) The use or application of painful stimuli; and
- (q) The use of any restraint which is not time-limited. Restraints must be removed as soon as the person is no longer an imminent threat to himself or others.

3522.15 The CRFPID shall maintain records documenting any time behavior intervention were used including why it was used, what was done, who was involved, and other information to show compliance with this section.

3523 EMERGENCIES

3523.1 Each CRFPID shall maintain written policies and procedures which address emergency situations, including fire or general disaster, missing persons, serious illness or trauma, and death.

3523.2 The policies and procedures shall include, but not limited to:

- (a) Written plan to evacuate persons from the CRFPID;
- (b) Documentation of contact and coordination with local and federal authorities to determine local risks and community-wide plans to address different disaster and emergency situations;
- (c) Analysis of the CRFPID’s capabilities and potential hazards that could disrupt the normal course of service delivery;
- (d) Specific responsibilities of staff members in an emergency;
- (e) Management of response activities, coordination of logistics, and communications during an emergency;

- (f) Procedures for warning and notifying persons receiving services of an emergency;
 - (g) Evacuation and relocation, if necessary, of persons receiving services;
 - (h) Alerting emergency personnel;
 - (i) Notification to parents and guardians; and
 - (j) Recovery and restoration of services.
- 3523.3 The CRFPID shall review the policy annually to determine whether it is current and adequately addresses potential emergencies. Any revisions will be communicated to employees, contractors and volunteers, and incorporated into future trainings.
- 3523.4 The CRFPID shall develop and implement periodic training on emergency procedures in accordance with Section 3515 for all employees, contractors and volunteers.
- 3523.5 Operable flashlights or battery lanterns shall be readily accessible to employees and contractors that operate between dusk and dawn to use in emergencies.
- 3523.6 Each CRFPID shall maintain written documentation that each employee has been trained in carrying out the policies and procedures set forth in this section.
- 3523.7 Each CRFPID shall ensure that telephones are accessible for emergency purposes, and shall make available near each telephone, emergency numbers which include at least fire and rescue squads, the local police department, the nearest hospital, a poison control center, each person's physician, the Director of Nursing, the Service Coordinator (if applicable) and the Residence Director.
- 3523.8 The CRFPID shall maintain a well-stocked first aid kit which shall be maintained and readily accessible for minor injuries and medical emergencies. Such kit shall be maintained at each service location, and available to employees, volunteers or contractors providing services at the CRFPID or travelling with persons. At a minimum, the kit shall contain a thermometer, bandages, saline solution, band-aides, sterile gauze, tweezers, instant ice-pack, adhesive tape, antibiotic cream, and antiseptic soap.

- 3523.9 Each CRFPID shall ensure that at least one employee or contractor is on duty at all times who holds current certificates, issued by a recognized local, state or national authority, in standard first aid and cardiopulmonary resuscitation (CPR). A registered nurse or physician who holds a current license shall be deemed to have a current certificate in first aid, but not in CPR.
- 3523.10 If there is an unusual incident involving a person, the CRFPID shall promptly notify the person's authorized emergency contact, his or her next of kin if the person has no guardian, or the representative of the sponsoring agency, of the person's status as soon as possible, followed by written notice and documentation no later than twenty-four (24) hours or the next business day after the incident.
- 3523.11 Each CRFPID shall document each unusual incident and enter the follow-up actions into the person's permanent record, which shall be made available for review by authorized people. The record shall include the date and time of the emergency incident, details of the incident, interventions or treatments provided, employees and/or contractors involved, and outcome.
- 3523.12 After a person's death, each CRFPID shall notify promptly the person's guardian or next of kin, the placement agency and the Office of the Chief Medical Examiner.
- 3523.13 In addition to the reporting requirement in Subsection 3523.10, each CRFPID shall notify the Department of any other unusual incident that substantially interferes with a person's health, welfare, living arrangement or well-being or in any other way places a person at risk. Such notification shall be made by telephone immediately when the staff is aware and shall be followed up by written notification within twenty-four (24) hours or the next business day.
- 3523.14 Each CRFPID shall have in place a procedure which describes the process for arranging funeral services and burials and for assuring the notification and involvement of significant others.
- 3523.15 Each CRFPID shall comply with all applicable District of Columbia fire safety requirements as interpreted and enforced by the District of Columbia Fire Chief in accordance with Chapter 31, Title 22B DCMR.
- 3523.16 Each CRFPID shall be free from fire hazards and shall have adequate smoke detectors and working and updated fire extinguishers. The fire extinguishers shall be properly maintained and located as required by the Fire Chief, including at least one (1) all-purpose fire extinguisher, which is a minimum 2A 10BC on each level of the CRFPID.

- 3523.17 Each CRFPID shall have on the premises the following items:
- (a) Written policies and procedures shall be kept readily accessible to staff and persons and shall include the following:
 - (i) The instructions and plans that are to be followed in case of fire;
 - (ii) The persons to be notified;
 - (iii) The location of alarm signals;
 - (iv) The locations of fire extinguishers;
 - (v) The evacuation routes;
 - (vi) The frequency of fire drills;
 - (vii) The assignment of specific tasks and responsibilities to the staff of each shift;
 - (b) Records of the training of all personnel who are to perform the specific tasks designated in the manual described in paragraph (a) of this subsection;
 - (c) Records of fire inspection reports; and
 - (d) Dates of the test of alarm appliances.
- 3523.18 Each CRFPID shall conduct fire drills in order to test the effectiveness of the plan at least once every three months for each shift. An actual evacuation must be documented during at least one drill, each year on each shift.
- 3523.19 Each CRFPID shall maintain records of each fire drill.
- 3523.20 Each CRFPID shall ensure that all personnel on all shifts are familiar with the use of the CRFPID fire protection features.
- 3524 ABUSE AND NEGLECT**
- 3524.1 In addition to the reporting requirement in Subsection 3523.13, each CRFPID shall establish mechanisms for the reporting of complaints alleging the neglect, abuse or mistreatment of any person.

- 3524.2 The CRFPID must comply with all applicable federal, local and relevant agencies requirements for reporting unusual incidents, abuse, neglect, or mistreatment of any person.
- 3524.3 The CRFPID shall immediately notify the Department of all suspected or alleged incidents of abuse, neglect, mistreatment, or exploitation, as well as deaths. The Department shall be notified by telephone immediately, and the CRFPID shall follow-up by written notification to the Department within twenty-four (24) hours or the next business day.
- 3524.4 Any person accused or suspected of abuse or neglect shall immediately be removed from any duties involving direct care of persons.
- 3524.5 If the perpetrator of any alleged, suspected or substantiated abuse or neglect is not known, the CRFPID shall prevent further potential abuse or neglect of person's pending an investigation.
- 3524.6 The CRFPID shall complete an investigation of any alleged incident within five (5) working days unless additional time is requested of and approved by the Department. The result of such investigation shall be reported to the Department within two (2) days of the conclusion of the investigation. A copy of the investigative report shall be provided to the Department upon request. Any substantiated claim of abuse, neglect or mistreatment shall be reported to the appropriate law enforcement entities.
- 3524.7 The CRFPID shall take immediate corrective action in the event that any alleged incident of abuse or neglect is substantiated pursuant to the investigation.

3525 VENTILATOR SERVICES

- 3525.1 The CRFPID may care for ventilator person's in a ventilator care area upon compliance with Title III of the Nursing Home and Community Residence Facility Residents' Protections Act of 1985, effective April 18, 1986, D.C. Law 6-108, D.C. Code § 32-1431 *et seq.* The CRFPID shall notify the Department of all relevant information regarding this service, including the names of the physician and nurses in charge of providing the service.
- 3525.2 Ventilator care shall be supervised by a physician who has special training and experience in diagnosing, treating and assessing problems related to ventilator patients.
- 3525.3 The CRFPID shall ensure that ventilator care services are provided by a sufficient number of qualified staff and that personnel provide ventilator

care services commensurate with their documented training, experience, and competence.

3525.4 As appropriate, ventilator care personnel shall be competent in the following:

- (a) The fundamentals of cardiopulmonary physiology and of fluids and electrolytes;
- (b) The recognition, interpretation and recording of signs and symptoms of respiratory dysfunction and medication side effects, particularly those that require notification of a physician;
- (c) The initiation and maintenance of cardiopulmonary resuscitation and other related life-support procedures;
- (d) The mechanics of ventilation and ventilator function;
- (e) The principles of airway maintenance, including endotracheal and tracheotomy care;
- (f) The effective and safe use of equipment for administering oxygen and other therapeutic gases and providing humidification, nebulization, and medication;
- (g) Pulmonary function testing and blood gas analysis when these procedures are performed within the CRFPID providing ventilator care;
- (h) Methods that assist in the removal of secretions from the bronchial tree, such as hydration, breathing and coughing exercises, postural drainage, therapeutic percussion and vibration, and mechanical clearing of the airway through proper suctioning technique;
- (i) Procedures and observations to be followed during and after extubation; and
- (j) Recognition of and attention to the psychosocial needs of persons, their families and supported decision maker.

3525.5 The CRFPID shall ensure that each ventilator is equipped with an alarm, designed to alert the registered nurse in charge of monitoring the ventilator, on both the pressure valve and the volume valve.

3525.6 In order to operate ventilator services, the CRFPID shall develop a plan of operation approved by the Department which shall include:

- (a) A description of the services to be provided;
- (b) A description of the staffing pattern;
- (c) A description of the qualifications, duties and responsibilities of personnel;
- (d) A quality assurance plan which shall include:
 - (1) Assignment of responsibility for monitoring and evaluating activities;
 - (2) Identification of indicators and appropriate clinical critical criteria for monitoring the most important aspects; and
 - (3) Establishment of thresholds (levels or trends) for the indicators that will trigger evaluation of care;
- (e) Policies and procedures on the following:
 - (1) The transfer or referral of persons who require services that are not provided by the CRFPID;
 - (2) The administration of medicines unique to the needs of the ventilator person;
 - (3) Infection control measures to minimize the transfer of infection in the CRFPID;
 - (4) Pertinent safety practices, including the control of fire and medical hazards; and
 - (5) Protocols for emergency situations.

3525.7 When the ventilator care services are provided by an outside contractor, the CRFPID shall document the following:

- (a) Approve the contractor based on the contractor's credentials, qualifications and experience; and
- (b) Ensure that all contractors:

- (1) Provide services twenty-four hours a day;
- (2) Meet all safety requirements;
- (3) Abide by all pertinent policies and procedures of the CRFPID;
- (4) Provide services in accordance with the law governing the CRFPID;
- (5) Participate in the monitoring and evaluation of persons;
- (6) Participate in the monitoring and evaluation of the appropriateness of services provided as required by the CRFPID's quality assurance program; and
- (7) Ensure that all contractual services are under the supervision of the CRFPID's medical director or the physician employed by the CRFPID to coordinate ventilator care services.

3599 DEFINITIONS

3599.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Abuse – the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or personal anguish.

Advocate – a person who has experience in assuring that persons with intellectual disabilities are treated with respect and dignity and in accordance with all laws and regulations pertaining to the rights of persons with disabilities, and who can independently speak on behalf of persons with intellectual disabilities.

Act – the Health Care and Community Residence Facility, Hospice, Home Care Licensure Act of 1983, effective March 3, 1979 (D.C. Law 5-48, Official Code § 7-1301 *et seq.*).

Advanced Practice Registered Nurse (APRN) – a person licensed to practice registered nursing under the Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*) and Title 17 District of

Columbia Municipal Regulations Chapter 59 (17 DCMR Chapter 59).

Controlled Substance – a drug, substance, or immediate precursor, as set forth in Schedules I through V of Subchapter 2 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901 *et seq.*).

Community Residence Facility for Persons with Intellectual Disabilities (CRFPID) – a community residence facility that provides a home-like environment for at least four (4) but no more than eight (8) related or unrelated individuals who on account of intellectual disabilities require specialized living arrangements, and maintains the necessary staff, programs, support services, and equipment for their care and habilitation. A CRFPID is synonymous with the term “group home for persons with intellectual disabilities” that is utilized by the Act.

Department – the District of Columbia Department of Health (DC Health).

Direct Care Staff – individuals employed to work in the CRFPID who render the day-to-day personal assistance and aid persons in meeting the goals and objectives of their individual program.

Director – Director of the District of Columbia Department of Health (DC Health).

Discharge – the permanent movement of a person to a new CRFPID or another setting which operates independently of the person’s current CRFPID.

Emergency Care – appropriate services in a variety of settings accessible to individuals designed to meet an immediate need and restore or maintain the physical or mental well-being of the person or provider.

Habilitation – the process by which a person is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency. The term includes, but is not limited to, the provision of community-based services.

Health Inventory – health history, including present illnesses and symptoms and physician’s assessment of current health status.

HIPAA – The Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d-9 (2010), which provides protections for health information that is in the possession of the certain covered agencies, including health care facilities.

Immediate (as in reporting)- no delay between staff awareness of the occurrence and reporting to the administrator or other officials in accordance with District of Columbia law unless the situation is unstable in which case reporting should occur as soon as the safety of all persons is assured.

Individual Program Plan (IPP) – a written document for each person, the purpose of which is to implement the ISP.

Individual Support Plan (ISP) – a plan developed for the habilitation of persons.

Intellectual Disability – a condition characterized by a substantial limitation in capacity that manifests before eighteen (18) years of age and is characterized by significantly below average intellectual functioning, existing concurrently with two (2) or more significant limitations in adaptive functioning.

Interdisciplinary Team (IDT) – a group of individuals with special training and experience in the diagnosis and habilitation of persons with intellectual disabilities which has the responsibility of performing a comprehensive evaluation of each person and participating in the development, implementation, and monitoring of the persons individual support plan.

Intermediate Care Facility – in accordance with 42 CFR 435.1009, an institution for persons with intellectual disabilities (or a distinct part of an institution) that:-

1. Is primarily for the diagnosis, treatment, or rehabilitation of the instinctually disabled or persons with related conditions; and
2. Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each person function at this greatest ability.

Level of Need – a comprehensive assessment of the support needs and risk screening for participants in the ICF/IDD and ID/DD Home and Community Based Services Waiver programs.

Licensed Practical Nurse (LPN) – a person licensed to practice practical nursing under the Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*) and Title 17 District of Columbia Municipal Regulations Chapter 55.

Medical Care Plan – a plan of treatment developed by a physician or advanced practice nurse, individually or in coordination with licensed nursing personnel, for persons who are either acutely ill and require licensed nursing care and monitoring temporarily on a 24 hour basis, or persons whose chronic medical conditions require or indicate 24 hour licensed nursing care and monitoring. The physician determines when 24 hour nursing care is required, type of care, scope, duration, and the frequency of treatment ordered.

Mistreatment – behavior or facility practices that result in any type of person exploitation such as financial, physical, sexual, or criminal. Mistreatment also refers to the use of behavioral management techniques outside of their use as approved by the specially constituted committee and facility policies and procedures.

Neglect – failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness. Staff failure to intervene appropriately to prevent self-injurious behavior may constitute neglect. Staff failure to implement facility safeguards, once person to person aggression is identified, may also constitute neglect.

Person/People – a person who has been diagnosed as having an intellectual disability.

Physical Restraint – any manual method or device that the person cannot remove easily and that restricts the free movement or normal functioning of or normal access to a portion or portions of a person's body.

Qualified Intellectual Disabilities Professional (QIDP) – also known as Qualified Developmental Disabilities Professional or QDDP, is someone who implements the day-to-day operations of a community residence facility by overseeing the initial habilitative assessment of a person; develops, monitors, and reviews ISPs, and integrates and coordinates Waiver services.

Registered Nurse (RN) – a person licensed to practice registered nursing under the Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*) and Title 17 District of Columbia Municipal Regulations Chapter 54 (17 DCMR Chapter 54).

Residential Habilitation Service Setting – a community residence facility for persons with intellectual disabilities that is a provider in the Home and Community Based Waiver Services Residential Habilitation Service Settings (HCBS) Program, authorized by 29 DCMR Chapter 19 under the supervision of the Department of Disability Services.

Seclusion – The placement of a person alone in a locked room or in an obviously isolated portion of a room.

Service Coordinator – The DDS staff responsible for coordinating a person’s services pursuant to their ISP and Plan of Care.

Transfer – The temporary movement of a person between CRFPIDs, or the permanent movement of a person between living units of the same CRFPID.

Trained Medication Employee (TME) – a person who is certified in accordance with Title 17 of the District of Columbia Municipal Regulations Chapter 61 (17 DCMR Chapter 61).

Unusual Incident – any occurrence or event which substantially interferes with a person's health, welfare, living arrangement, well-being or in any way places the person at risk. These incidents may include but are not limited to natural disaster or other events which cause damage to the CRFPID or threaten the person, outbreaks of disease, filing of bankruptcy, labor disputes or any event which may interfere with the operation of the CRFPID, allegations or incidents involving neglect, abuse, assault, or sexual assault of a person, sudden death of a person and allegations or incidents of drug possession or distribution by a staff person of the CRFPID.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF SECOND EMERGENCY RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (“Department”), pursuant to the authority under section 205 of the Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020, effective August 19, 2020 (D.C. Act 23-405; 67 DCR 10235 (August 28, 2020)), the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.* (2016 Repl.)), and Mayor’s Order 2020-079, dated July 22, 2020, hereby gives notice of a second emergency rulemaking to amend Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR) to add a new Chapter 107 (Third-Party Food Delivery Platforms).

This second emergency rulemaking amends Title 17 DCMR by creating a new chapter which establishes that third-party food delivery platforms operating within the District must register with the Department during declared a public health emergency. Additionally, these platforms shall not charge a restaurant a commission fee that totals more than fifteen percent (15%) of the purchase price of the online order; and also shall not reduce the compensation paid to delivery service drivers to comply with this requirement.

This second emergency rulemaking is necessary to protect the well-being of the District of Columbia as it responds to the COVID-19 global pandemic. At the outset of the declared public and public health emergency, restaurants were restricted to takeout and delivery offerings, and they continue to operate under sharply restricted capacity limits, conditions which have placed a sudden and severe financial strain on many restaurants. It is in the public interest to take immediate action to maximize restaurant revenue from the takeout and delivery orders that are currently a critical source of revenue for these small businesses to enable restaurants to remain as sources of employment in the District.

A Notice of Emergency Rulemaking was published on June 19, 2020, at 67 DCR 7779. This second emergency rulemaking was adopted on October 2, 2020 and will remain in effect for up to one hundred twenty (120) days from the date of adoption, expiring January 30, 2020.

Chapter 107, THIRD-PARTY FOOD DELIVERY PLATFORMS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is added to read as follows:

- 10700 APPLICABILITY**
- 10701 REGISTRATION REQUIREMENTS**
- 10702 NOTICE TO CUSTOMERS**
- 10703 PROHIBITED CONDUCT**
- 10704 PENALTIES**
- 10799 DEFINITIONS**

10700 APPLICABILITY

10700.1 This chapter applies to applicants for and holders of a registration as a third-party food delivery platform as defined by this chapter, during a public health emergency.

10701 REGISTRATION REQUIREMENTS

10701.1 Any individual, corporation, partnership, or association operating a third-party food delivery platform within the District shall register with the Department as provided in this section.

10701.2 Any third-party food delivery platform operating in the District on June 5, 2020, shall register with the Department within five (5) business days of the effective date of this chapter, and all other third-party food delivery platforms shall register with the Department prior to commencing operations in the District.

10701.3 Each third-party food delivery platform shall apply for registration by completing an online form made available by the Department, which shall include the following information:

- (a) The state in which the platform is licensed to do business and the applicable license number;
- (b) An email address, and a physical address within the District, where papers can be served; and
- (c) Contact information for one or more designated individuals with whom the Department shall be able to communicate at all times for purposes of enforcement and compliance under this title and other applicable laws, including cellphone number(s) and an email address.

10701.4 Each registered third-party delivery platform shall promptly inform the Department of either of the following occurrences in connection with its registration:

- (a) A change in contact information; or
- (b) A materially incorrect, incomplete, or misleading statement in any form it has filed with the Department.

10702 NOTICE TO CUSTOMERS

10702.1 During a public health emergency, a third-party food delivery platform shall, in plain language and in a conspicuous manner, disclose to a customer any commission, fee, or any other monetary payment imposed by the platform on the restaurant as a term of a contract or agreement between the platform and the restaurant in connection with the restaurant’s use of the platform.

10702.2 The disclosure required under § 10702.1 must be provided to the customer at the time a final price is disclosed to the customer for the intended purchase, and intended delivery or pickup, of food from a restaurant through a third-party food delivery platform, and before that transaction is completed by the customer.

10703 PROHIBITED CONDUCT

10703.1 During a public health emergency, a third-party food delivery platform shall not:

- (a) Charge a restaurant a commission fee for the use of the platform's services for delivery or pickup that totals more than fifteen percent (15%) of the purchase price per online order; or
- (b) Reduce the compensation rate paid to a delivery service driver, or garnish gratuities, in order to comply with § 10703.1(a).

10704 PENALTIES

10704.1 A violation of this chapter shall be a civil infraction for purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).

10704.2 A third-party food delivery platform that violates § 10701 of this chapter shall be liable for a Class 2 infraction under 16 DCMR § 3201.1(b).

10704.3 A third-party food delivery platform that violates § 10702 or § 10703 of this chapter shall be liable for a Class 3 infraction under 16 DCMR § 3201.1(c).

10799 DEFINITIONS

10705.1 For the purposes of this chapter, the following words and terms shall have the meanings ascribed:

“Department” -- the Department of Consumer and Regulatory Affairs or its successor agency.

“Online order” – an order placed by a customer through a platform provided by the third-party food delivery service for delivery or pickup within the District.

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

“Purchase price” – the menu price of an online order, excluding taxes, gratuities or any other fees that may make up the total cost to the customer of an online order.

“Restaurant” – shall have the same meaning as provided in D.C. Official Code § 25-101(43).

“Third-party food delivery platform” – any website, mobile application, or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages, from restaurants.

DISTRICT DEPARTMENT OF TRANSPORTATION**THIRD NOTICE OF EMERGENCY RULEMAKING**

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

DDOT is issuing this notice of emergency rulemaking in keeping with the public health emergency extended by Mayor’s Order 2020-075, dated June 19, 2020: Phase Two of Washington, D.C. Reopening. The rulemaking suspends fares so that passengers can enter and exit Circulator buses from the rear door, encouraging physical distancing. A previous emergency rulemaking, introduced by DDOT in keeping with the public health emergency originally declared by Mayor’s Orders 2020-045 and 2020-046, dated March 11, 2020, promulgated similar rules, for similar purposes. That rulemaking was published in the *D.C. Register* on April 17, 2020, at 67 DCR 4403, and expired on July 16, 2020. A second emergency rulemaking, based on Mayor’s Order 2020-075 and published in the *D.C. Register* on September 11, 2020, at 67 DCR 10974, expired on September 30, 2020. That expiration date was based on the assumption that safety precautions enabling the resumption of fare collection would be installed by the end of Fiscal Year 2020. However, those precautions are not yet installed, and Mayor’s Order 2020-075 indicates that physical distancing of riders and drivers on public transportation vehicles is still necessary as more people are now moving around the District and physical distancing is still an important component to reducing the spread of COVID-19.

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

This emergency rule was adopted on October 1, 2020 and became effective immediately. This emergency rule will remain in effect until January 28, 2021, one hundred twenty (120) days from the date it was adopted, or the expiration of Mayor’s Order 2020-075, and any substantially similar successor Mayor’s Order, whichever comes first.

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

1504 TEMPORARY FEE SUSPENSION

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

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF SECOND 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 its intent to adopt, on an emergency basis, Chapter 80 (Certification Standards for Behavioral Health Stabilization Providers), to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

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 psychiatric stabilization and behavioral health outreach services. To comply with the demonstration program, the Department must establish certification requirements for crisis service providers.

The Notice of Second Emergency and Proposed Rulemaking includes certification requirements for the following stabilization programs: (a) Comprehensive Psychiatric Emergency Program (“CPEP”); (b) Psychiatric Crisis Stabilization Programs; (c) Youth Mobile Crisis; and (d) Adult Mobile Crisis and Behavioral Health Outreach. The following is an overview of the programs and services in the chapter:

Section	Program	Services Provided	Brief Description
8025	CPEP	Brief psychiatric crisis visit Extended psychiatric crisis visit Extended observation visit	A CPEP directly provides or ensures the provision of psychiatric emergency services twenty four (24) hours per day, seven (7) days per week for an individual experiencing a behavioral health crisis. A CPEP shall not operate more than sixteen (16) beds.
8026	Psychiatric Crisis Stabilization	Nursing assessments Psychiatric assessments	Psychiatric crisis stabilization services offer therapeutic, community-based, home-like residential treatment for adults living in the community who need support to ameliorate

Section	Program	Services Provided	Brief Description
		Crisis counseling Medication/somatic treatment Discharge planning	psychiatric symptoms, who are voluntary, and are deemed appropriate for residential services in a structured, closely monitored temporary setting.
8027	Adult Mobile Crisis and Outreach	Mobile crisis intervention Behavioral health outreach	Mobile crisis and outreach providers are dispatched to the community where a crisis is occurring to begin providing assessments and treatment. These services are available on-call twenty-four (24) hours per day, seven (7) days per week, and shall serve all who present for services, regardless of insurance status or ability to pay.
8028	Youth Mobile Crisis	Mobile crisis intervention	Youth mobile crisis providers are dispatched into a home or community setting where youth may be experiencing a behavioral health crisis to begin engagement, assessment, and treatment as appropriate. Services can be provided in the community, schools, or other settings. These services are available twenty-four (24) hours per day, seven (7) days per week, and serve all who present for services, regardless of insurance status or ability to pay.

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.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on July 3, 2020 at 67 DCR 008215. In response to the First Emergency and Proposed Rulemaking, the

Department received comments from Catholic Charities of the Archdiocese of Washington, SOME (So Others Might Eat), and Woodley House, Inc. The Department made no changes in this Notice of Second Emergency and Proposed Rulemaking. The emergency rulemaking was adopted and became effective on October 7, 2020. The emergency rules will remain in effect for one hundred twenty (120) days after the date of adoption, until February 4, 2020, 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*.

CHAPTER 80 CERTIFICATION STANDARDS FOR BEHAVIORAL HEALTH STABILIZATION PROVIDERS

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8000 GENERAL PROVISIONS

- 8000.1 The Department of Behavioral Health (“Department”) is the Single State Agency responsible for developing and promulgating rules, regulations, and certification standards for mental health and substance use treatment and recovery providers in the District of Columbia (“District”).
- 8000.2 The purpose of this rule is to set forth the requirements for certification as Department-certified behavioral health stabilization providers. Behavioral health stabilization providers are community-based and treat individuals in the District who are experiencing a behavioral health crisis but who do not require hospitalization.
- 8000.3 The provisions of this chapter apply to all behavioral health stabilization programs, as defined by this chapter unless stated otherwise.
- 8000.4 Each provider shall meet and adhere to the terms and conditions of its Medicaid Provider Agreement with the Department of Health Care Finance (“DHCF”).
- 8000.5 No person or entity shall own or operate a behavioral health stabilization program that offers or proposes to offer behavioral health stabilization services unless certified by the Department pursuant to this chapter.
- 8000.6 The Department shall issue one (1) certification for each provider that is valid only for the programs stated on the certificate. The certificate is the property of the Department and must be returned upon request by the Department.
- 8000.7 The Department’s staff, upon presentation of proper identification, shall enter the premises of a behavioral health stabilization program to conduct announced or unannounced inspections and investigations.

8001 ELIGIBILITY FOR BEHAVIORAL HEALTH STABILIZATION SERVICES

- 8001.1 Providers certified under this chapter shall provide behavioral health stabilization services to any individual who presents in a behavioral health crisis, regardless of insurance status or ability to pay.
- 8001.2 An individual shall meet the following eligibility requirements to receive Medicaid-funded services:
 - (a) Be bona fide residents of the District, as required in 29 DCMR § 2405.1(a); and
 - (b) Be enrolled in Medicaid, or be eligible for enrollment and have an application pending; or
 - (c) For new enrollees and those enrollees whose Medicaid eligibility 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 District's Economic Security Administration ("ESA") makes an eligibility or recertification determination.
- (2) In the event an individual appeals a denial of eligibility or recertification 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, services provided to the individual are no longer reimbursable by Medicaid. Nothing in this section alters the Department's timely-filing requirements for claim submissions.

8001.3 To qualify for locally-funded services, individuals must not be eligible for Medicaid or Medicare, not be enrolled in any other third-party insurance program except the D.C. HealthCare Alliance, or be enrolled in an insurance program that does not cover medically necessary services. All individuals receiving locally-funded services must also 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) An individual who does not meet the income limits in paragraph (a) above may receive treatment services in accordance with the following requirements:
 - (1) The individual must, within ninety (90) days of enrollment for services, apply to the Department of Human Services Economic Security Administration for certification to verify income; and
 - (2) The individual may receive treatment services in accordance with rates determined by the Department.

8002 PROVIDER CERTIFICATION PROCESS

8002.1 The Department shall utilize the certification process to thoroughly evaluate the applicant's capacity to provide high quality behavioral health stabilization services in accordance with this chapter and the needs of the District's behavioral health system.

- 8002.2 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 expiration 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.
- 8002.3 An applicant may apply for certification for one or more of the following program types:
- (a) Comprehensive Psychiatric Emergency Program;
 - (b) Psychiatric Stabilization Program;
 - (c) Adult Mobile Crisis and Outreach Program; or
 - (d) Youth Mobile Crisis Intervention Program.
- 8002.4 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.
- 8002.5 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.
- 8002.6 At the time of initial certification and certification renewal, the Department shall review each certification application and conduct an on-site survey to determine whether the applicant's services and activities meet 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 individuals served. Nothing in this section shall limit the Department's right to conduct on-site surveys at any other time during the certification period.
- 8002.7 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.

- 8002.8 A Statement of Deficiency (“SOD”) is a written notice to a provider identifying non-compliance with certification standards. 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. The Department will not normally issue an SOD to applicants who fail to demonstrate compliance with certification standards. The Department will 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 behavioral health stabilization services to District residents and deny the application.
- 8002.9 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”). The issuance of an SOD is a separate process from the issuance of a Notice of Infraction (“NOI”). NOIs shall be issued promptly upon observation of violations of this chapter, especially when they are recurrent, endanger consumer or staff health or safety or when there is a failure to comply with core requirements of operating a behavioral health stabilization program.
- 8002.10 The Department is not required to utilize the SOD process. The Department may immediately deny certification or re-certification or proceed with decertification.
- 8002.11 An applicant or 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.
- 8002.12 The Department shall notify the applicant or certified provider whether the provider’s CAP is accepted within ten (10) business days after receipt. The Department shall utilize the SOD process at any time to address an applicant or certified provider’s violation(s) of this chapter.
- 8002.13 The Department may only issue its certification after the Department verifies that the applicant or certified provider has remediated all of the deficiencies identified in the CAP and meets all the certification standards in this chapter.
- 8002.14 The Department may grant full or provisional certification to an 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, as well as facility inspection findings, CAPs, and the provider or program’s compliance with this chapter.
- 8002.15 The Department may grant provisional certification to a new provider or program that can demonstrate substantial compliance with these certification requirements and (a) has not previously held a certification issued by the Department or (b) is in the process of securing a facility within the District at the time of application.

- 8002.16 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.
- 8002.17 Full Certification as a behavioral health stabilization 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 these certification standards. 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), and services that the provider is certified to provide.
- 8002.18 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 these certification standards, including changes in ownership or control, changes in service, and changes in its affiliation and referral arrangements.
- 8002.19 Prior to adding a new program during the term of certification, the provider shall submit a certification application describing the program. Upon determination by the Department that the provider is in compliance with certification standards, the Department may certify the provider to provide the new program and its required services.
- 8002.20 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 § 8004. The Department shall not accept any applications for which a notice of moratorium is published in the District of Columbia Register.
- 8002.21 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 to submit any subsequent certification application.
- 8002.22 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 providers(s) and availability of funds.
- 8002.23 Certification shall be limited to the applicant granted the certification and shall be limited to the location and programs as indicated on the certificate. Certification is not transferable to any other organization.
- 8002.24 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.
- 8002.25 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 programs and related services, which is anything that would alter or disrupt services where the individual 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.
- 8002.26 A provider 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.
- 8002.27 A provider shall immediately report to the Department any criminal allegations involving provider staff.

8003 CERTIFICATION: EXEMPTIONS FROM STANDARDS

- 8003.1 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 consumers or staff, violates an individual's rights, or otherwise conflict with the purpose and intent of these rules.
- 8003.2 If the Department approves an exemption, such exemption shall end on the expiration date of the program 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.
- 8003.3 The Department shall revoke an exemption at any time that it determines the exemption is no longer appropriate.

8003.4 All requests for an exemption from certification standards must be submitted in writing to the Department.

8004 DENIAL OR DECERTIFICATION PROCESS

8004.1 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 behavioral health stabilization 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 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 services consistent with high quality care and privacy standards;
- (e) The lack of demonstrated experience providing behavioral health stabilization services by the applicant's clinical leadership, practitioners, or staff;
- (f) An applicant's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future;
- (g) An applicant's failure to timely respond to the Department's requests for information; and
- (h) History of poor performance.

8004.2 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 § 8004.1. 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 and its principals shall

- not be allowed to reapply for certification for twelve (12) months following the date of denial.
- 8004.3 An applicant and its executive leadership shall not be allowed to reapply for certification for twelve (12) months following the date of the initial denial or, if applicable, the date of the denial pursuant to the Director's administrative review.
- 8004.4 The Department shall decertify existing providers who fail to comply with the certification requirements contained in this chapter. Evidence of one or more of the following shall constitute good cause to decertify:
- (a) An incomplete recertification application;
 - (b) False information provided by provider or contained in a recertification application;
 - (c) High staff turnover during the certification period demonstrating organizational instability;
 - (d) One or more documented violations of the certification standards during the certification period that evidence a provider's lack of capacity to meet and sustain compliance with this chapter;
 - (e) Claims audit error rate in excess of twenty-five percent (25%);
 - (f) Poor quality of care;
 - (g) A provider's lack of financial resources to carry out its commitments and obligations under this chapter for the foreseeable future; or
 - (h) Failure to cooperate with Department investigations or lack of timely response to information requests.
- 8004.5 Nothing in this chapter requires the Director to issue a 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.
- 8004.6 The provider may request an administrative review from the Director within fifteen (15) business days of the date on the notice of decertification.
- 8004.7 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.

- 8004.8 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.
- 8004.9 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.
- 8004.10 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.

8005 NOTICES OF INFRACTION

- 8005.1 The Department may issue a Notice of Infraction ("NOI") for any violation of this chapter. The fine amount for any NOI issued under this chapter shall be as follows:
- (a) For the first offense \$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.
- 8005.2 The administrative procedure for the appeal of a NOI issued under this chapter shall be governed by 16 DCMR §§ 3100 *et seq.*

8006 CLOSURES AND CONTINUITY OF CARE

- 8006.1 A provider shall provide written notification to the Department at least ninety (90) calendar days before 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 individuals' records.
- 8006.2 The Department shall review the continuity of care plan and make recommendations to the provider. The plan must include provision for the referral and transfer of individuals, and 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.
- 8006.3 Closure of a program does not absolve a provider from its legal responsibilities regarding the preservation and the storage of individual records as described in § 8022, Storage and Retention of Records, of these regulations and all applicable Federal and

District laws and regulations. A provider must take all necessary and appropriate measures to ensure individuals' records are preserved, maintained, and made available to the individuals upon request after closure of a program.

8006.4 A provider shall be responsible for the execution of its continuity of care plan in coordination with the Department.

8007 GENERAL MANAGEMENT AND ADMINISTRATION STANDARDS

8007.1 Each provider shall be 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 Basic Business License ("BBL") and Clean Hands Certification issued by the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"). The provider shall provide evidence of the BBL and Clean Hands Certification to the Department at certification and recertification.

8007.2 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 and recertification process.

8007.3 All certified providers shall report to the Department in a form and manner prescribed by the Department's policy on adverse events including abuse or neglect of individuals served or any other event that may compromise the health, safety, or welfare of the individuals served.

8007.4 Each provider shall:

- (a) Comply with all applicable Federal and District laws and regulations; and
- (b) Hire personnel with the necessary qualifications to provide behavioral health stabilization services to meet the needs of individuals in crisis.

8007.5 All behavioral health stabilization programs shall operate twenty-four (24) hours per day, seven (7) days per week, year round.

8007.6 Each provider shall have a full time program director with authority and responsibility for the administration and day-to-day operation of the program(s).

8007.7 Each provider shall have a clinical director responsible for the full-time clinical direction and day-to-day delivery of clinical services provided to individuals of the program(s). The clinical director must be a clinician licensed to practice independently in the District of Columbia. The clinical director must be able to supervise other clinical staff.

8007.8 The program director shall devote adequate time and authority to ensure that service delivery complies with all applicable standards set forth in this chapter. The program director and clinical director shall not be the same individual.

- 8007.9 Each provider shall establish and adhere to a Staff Selection Policy for selecting and hiring staff, which shall include but not be limited to:
- (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 child abuse registry checks (for both state of residence and employment). Non-licensed staff shall comply with the criminal background check requirements contained in District Official Code §§ 44-551 *et seq.*;
 - (d) Evidence of quarterly checks to determine whether an individual should be excluded from participation in a Federal health care program as listed on the Department of Health and Human Services List of Excluded Individuals/Entities or the General Services Administration 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.
- 8007.10 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.
- 8007.11 Each provider shall establish and adhere to a Performance Review Policy, which shall require a periodic evaluation of clinical and administrative staff performance, 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.
- 8007.12 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.
- 8007.13 Each provider shall establish and adhere to a training policy in accordance with § 8018 of this chapter.
- 8007.14 Personnel policies and procedures shall apply to all staff and volunteers and shall include:

- (a) Compliance with Federal and District equal opportunity laws, including the Americans with Disabilities Act (42 USC § 12101) and the D.C. Human Rights Act (D.C. Official Code §§ 2-1401.1 *et seq.*);
- (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.

8007.15 Providers shall develop and implement procedures that prohibit the possession, use, and distribution of controlled substances or alcohol by staff during their duty hours, unless medically prescribed and used accordingly. Staff possession, use, or distribution of controlled substances or alcohol during off duty hours that affects job performance shall 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.

8007.16 The provider shall maintain individual personnel records for each person employed by the provider including, 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 Title 22-B, District of Columbia Municipal Regulation, §§ 4700 *et seq.*

8007.17 The provider shall maintain all personnel records during the course of an individual's employment with the provider and for three (3) years following the individual's separation from the provider.

8008 EMPLOYEE CONDUCT

8008.1 All staff shall adhere to ethical standards of behavior in their relationships with individuals as follows:

- (a) Staff shall maintain an ethical and professional relationship with individuals at all times;
- (b) Licensed or certified staff shall 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 individuals that are consistent with this section.

8008.2 No staff, including licensed professionals, support personnel, and volunteers, shall engage in sexual activities or sexual contact with individuals in the program.

8008.3 No staff, including licensed professionals, support personnel, and volunteers, shall engage in sexual activities or sexual contact with individuals formerly served by the program.

- 8008.4 No staff, including licensed professionals, support personnel, and volunteers, shall engage in sexual activities or sexual contact with individuals' relatives or other individuals with whom individuals maintain a close personal relationship.
- 8008.5 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.
- 8008.6 Staff, including licensed professionals, support personnel, and volunteers, shall only engage in appropriate physical contact with individuals in the program and are responsible for setting clear, appropriate, and culturally sensitive boundaries that govern such physical contact.
- 8008.7 No staff, including licensed professionals, support personnel, and volunteers, shall sexually harass any individual. Sexual harassment includes, but is not limited to, sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

8009 QUALITY IMPROVEMENT

- 8009.1 Each provider shall establish and adhere to policies and procedures governing quality improvement ("Quality Improvement Policy").
- 8009.2 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 require provider staff, individual, and family involvement in the QI program.
- 8009.3 The Department shall review and approve each provider's QI program at a minimum as part of the certification and recertification process. The QI program shall submit data to the Department upon request.
- 8009.4 The QI program shall be directed by a coordinator ("QI Coordinator") who has direct access to the Program Director. In addition to directing the QI program's activities as detailed in § 8009.5, the QI Coordinator shall also review unusual incidents, deaths, and other sentinel events; monitor and review utilization patterns; and track individuals' complaints and grievances. The QI Coordinator shall be:
- (a) A Physician;
 - (b) A Psychologist;
 - (c) A Licensed Independent Clinical Social Worker ("LICSW");
 - (d) An Advanced Practice Registered Nurse ("APRN");
 - (e) A Licensed Professional Counselor ("LPC");
 - (f) A Licensed Marriage and Family Therapist ("LMFT");

- (g) A Registered Nurse (“RN”);
- (h) A Licensed Independent Social Worker (“LISW”);
- (i) A Licensed Graduate Professional Counselor (“LGPC”);
- (j) A Licensed Graduate Social Worker (“LGSW”);
- (k) A Certified Addiction Counselor (“CAC”) I or II;
- (l) A 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.

8009.5 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) Close monitoring and review of high volume or repeat utilizers of behavioral health stabilization services;
- (c) Coordination of care with Core Service Agencies (“CSAs”);
- (d) Compliance with all certification standards;
- (e) Adequacy, appropriateness, and quality of care for individuals in the program;
- (f) Efficient utilization of resources;
- (g) Individual and family satisfaction with services; and
- (h) Any other indicators that are part of the Department QI program for the larger system.

8009.6 When the provider identifies a significant problem or quality of service issue, the provider shall notify the Department, act to correct the problem or improve the effectiveness of service delivery, or both, and shall assess corrective or supportive actions through continued monitoring.

8010 FISCAL MANAGEMENT STANDARDS

8010.1 Applicants or providers that are in financial distress and at risk of imminent closure represent a risk both to individuals served by the Department 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 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 recertification that it has adequate resources to operate behavioral health stabilization program. Documented evidence shall include Federal and District tax returns, including Form 990s for non-profit organizations, for the three (3) most recent tax reporting years, and a current financial statement.

- 8010.2 A provider shall have fiscal management policies and procedures and keep financial records in accordance with generally accepted accounting principles.
- 8010.3 A provider shall include adequate internal controls for safeguarding or avoiding misuse of individual or organizational funds.
- 8010.4 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.
- 8010.5 A provider shall have the capacity to determine direct and indirect costs for each type of service provided.
- 8010.6 The provider shall conspicuously post and make available to all a written schedule of rates and charges.
- 8010.7 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.
- 8010.8 Providers shall correct or resolve all adverse audit findings prior to recertification.
- 8010.9 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 individual fund accounts;
 - (f) Arranging credit; and

(g) Applying discounts and write-offs.

8010.10 All business records pertaining to costs, payments received and made, and services provided to individuals shall be maintained for a period of six (6) years or until all audits and ongoing litigations are complete, whichever is longer.

8010.11 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.

8011 ADMINISTRATIVE PRACTICE ETHICS

8011.1 All providers shall operate in an ethical manner, including but not limited to complying with the provisions of this section.

8011.2 A provider shall not offer or imply to offer services not authorized on the certification issued by the Department.

8011.3 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.

8011.4 A provider shall comply with all Federal and District laws and regulations, including but not 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.

8011.5 All employees shall be informed of any policy change that affects performance of duties.

8011.6 All allegations of ethical violations must be treated as major unusual incidents.

8011.7 Any research must be conducted in accordance with Federal law.

8012 PROGRAM POLICIES AND PROCEDURES

8012.1 Each program must document the following:

- (a) Organization and program mission statement, philosophy, purpose, and values;
- (b) Organizational and leadership structure;
- (c) Staffing;
- (d) Relationships with parent organizations, affiliated organizations, and organizational partners;

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

8012.2 Each program shall establish written policies and procedures to ensure each of the following:

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

8012.3 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) Infection control procedures and use of universal precautions, addressing at least those infections that may be spread through contact with bodily fluids;
- (d) Volunteer utilization, recruitment, and oversight;
- (e) Crisis intervention and medical emergency procedures;

- (f) Safety precautions and procedures for participant volunteers, employees, and others;
- (g) Record management procedures in accordance with "Confidentiality of Substance Use Disorder Patient Records" ("42 CFR Part 2"), as applicable, the Health Insurance Portability and Accountability Act ("HIPAA"), the D.C. Mental Health Information Act, this chapter, and any other Federal and District laws and regulations regarding the confidentiality of individuals' records;
- (h) The on-site limitations on use of tobacco, alcohol, and other substances;
- (i) Individuals' rules of conduct and commitment to treatment regimen, including restrictions on carrying weapons and specifics of appropriate behavior while in or around the program;
- (j) Individuals' rights;
- (k) Addressing and investigating major unusual incidents;
- (l) Addressing individuals' grievances;
- (m) Addressing issues of an individual's non-compliance with established treatment regimen and/or violation of program policies and requirements;
- (n) 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");
- (o) Selecting and hiring staff; and
- (p) Quality improvement.

8012.4 Gender-specific programs shall ensure that staff of that specific gender is in attendance at all times when individuals are present in the program.

8013 EMERGENCY PREPAREDNESS PLAN

8013.1 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.

8013.2 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 the individuals served.

8014 FACILITIES MANAGEMENT

- 8014.1 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) Each provider shall comply with applicable provisions of the Americans with Disabilities Act (42 USC § 12101) in all business locations;
 - (d) Each service site shall be located within reasonable walking distance of public transportation;
 - (e) 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
 - (f) Each provider shall annually obtain a written certificate of compliance from the District of Columbia Department of Fire and Emergency Medical Services indicating that all applicable fire and safety code requirements have been satisfied for each facility.
- 8014.2 Each window that opens shall have a screen.
- 8014.3 Each rug or carpet in a facility shall be securely fastened to the floor or shall have a non-skid pad.
- 8014.4 Each hallway, porch, stairway, stairwell, and basement shall be kept free from any obstruction at all times.
- 8014.5 Each ramp or stairway used by individuals in the program shall be equipped with a firmly secured handrail or banister.
- 8014.6 Each provider shall maintain a clean environment free of infestation and in good physical condition.
- 8014.7 Each facility shall be appropriately equipped and furnished for the services delivered.
- 8014.8 Each provider shall properly maintain the outside and yard areas of the premises in a clean and safe condition.
- 8014.9 Each exterior stairway, landing, and sidewalk shall be kept free of snow and ice.

- 8014.10 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.
- 8014.11 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.
- 8014.12 A provider shall ensure that medical waste is stored, collected, transported, and disposed of in accordance with applicable Federal and District laws and guidelines from the CDC.
- 8014.13 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.
- 8014.14 Each facility shall have potable water available for each individual.
- 8014.15 Smoking shall be prohibited inside a program's facility.
- 8014.16 The physical design of the provider's structure shall be sufficient to accommodate staff, individuals receiving services and the program(s). Each location 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.

- 8014.17 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) Individual confidentiality is protected, as required by HIPAA, the D.C. Mental Health Information Act, 42 CFR Part 2, and all other applicable Federal and District laws and regulations.
- 8014.18 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.
- 8014.19 Each facility shall maintain an adequately supplied first-aid kit which:
- (a) Shall be maintained in a place known and readily accessible to individuals in the program and employees; and
 - (b) Shall be adequate for the number of persons in the facility.
- 8014.20 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.
- 8014.21 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.
- 8014.22 Each provider shall have on-site at each facility at least two (2) unexpired doses of naloxone and shall ensure that all staff are trained in how to administer the naloxone.
- 8014.23 A provider shall have an interim plan addressing safety and continued service delivery during construction.
- 8014.24 As part of each certification and re-certification application, the provider shall present the Department permits (including a DCRA building permit) and post-work inspections for all plumbing and electrical work completed at the program facility during the last twelve (12) months.

8015 MEDICATION STORAGE AND ADMINISTRATION STANDARDS

- 8015.1 Controlled substances shall be maintained in accordance with applicable Federal and District laws and regulations.
- 8015.2 Providers shall implement written policies and procedures to govern the acquisition, safe storage, prescribing, dispensing, labeling, administration and self-administration of medication. This section shall include medications individuals bring to the program.
- 8015.3 Any prescription medication that an individual brings to the program shall have a

- record of the prescribing physician's order, including the prescribing physician's approval to self-administer the medication, if applicable.
- 8015.4 No medication brought into the facility may be administered or self-administered until the medication is identified and the attending practitioner's written order or approval is documented in the individual's record.
- 8015.5 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 individual's record as such and countersigned and dated by the prescribing practitioner within twenty-four (24) hours. However, pursuant to District law and regulations, orders for seclusion or restraint shall always be made as written orders.
- 8015.6 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.
- 8015.7 Medication, both prescription and over-the-counter, brought into a facility by an individual that is not approved by the attending practitioner shall be packaged, sealed, stored, and returned to the individual upon discharge.
- 8015.8 The administration of medications, excluding self-administration, shall be permitted only by licensed individuals pursuant to applicable Federal and District laws and regulations.
- 8015.9 Medications shall be administered only in accordance with the prescribing practitioner's order.
- 8015.10 Only a physician, APRN, RN, or PA shall administer controlled substances or injectable drugs, excluding self-administered drugs.
- 8015.11 Program staff responsible for supervising the self-administration of medication shall document consultations with a physician, APRN, RN, or pharmacist, or referral to appropriate reference material regarding the action and possible side effects or adverse reactions of each medication.
- 8015.12 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 self-administered medications.
- 8015.13 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.
- 8015.14 Only staff trained pursuant to the requirements of this chapter shall be responsible for observing the self-administration of medication.
- 8015.15 A program shall ensure that medication is available to individuals as prescribed.
- 8015.16 A program shall maintain records that track and account for all medication, ensuring the following:
- (a) That each individual receiving medication shall have a medication administration record, which includes the individual's name, the name of medication, the type of medication (including 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 each omission and refusal of medication administration;
 - (c) That the medication administration record shall note the amount of medication originally present and the amount remaining after each dose;
 - (d) That documentation of medication administration shall include all over-the-counter drugs administered or self-administered; and
 - (e) That behavioral health stabilization providers who are administering controlled substances, including but not limited to initiating medication assisted treatment ("MAT"), shall follow the requirements of all applicable Federal and District laws and regulations.
- 8015.17 An attending practitioner shall be notified immediately of any medication error or adverse reaction. The staff responsible for the medication error shall complete a major unusual incident report ("MUI"). The provider shall document the practitioner's recommendations and the program's subsequent actions in response to the medication error or adverse reaction in the individual's record.
- 8015.18 A program shall ensure that all medications, including those that are self-administered, are secured in locked storage areas.
- 8015.19 The locked medication area shall provide for separation of internal and external medications.
- 8015.20 A program shall maintain lists of personnel with access to the locked medication area and personnel qualified to administer medication.
- 8015.21 A program shall comply with all Federal and District laws and regulations concerning the acquisition and storage of pharmaceuticals.

- 8015.22 Each individual'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 anyone other than the individual for whom it was originally prescribed.
- 8015.23 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) degrees Fahrenheit.
- 8015.24 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.
- 8015.25 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.
- 8015.26 Where applicable, the program shall implement written policies and procedures for the control of stock pharmaceuticals.
- 8015.27 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.
- 8015.28 A program shall implement written procedures and policies for the disposal of medication.
- 8015.29 Any medication left by the individual at discharge shall be destroyed within thirty (30) calendar days after the individual 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.
- 8015.30 The disposal of all medications shall be witnessed and documented by two (2) staff members.

8016 VEHICLE ENVIRONMENTAL AND SAFETY STANDARDS

- 8016.1 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) Annual verification that all authorized motor vehicle operators have valid, unexpired and unrestricted motor vehicle license to operate assigned vehicles.

8017 FOOD AND NUTRITION STANDARDS

- 8017.1 The provisions of this section apply to any provider that prepares or serves food.
- 8017.2 All programs that prepare food shall have a current Certified Food Protection Manager (“CFPM”) certification from the Department of Health. The CFPM must be present whenever food is prepared and served.
- 8017.3 The provider shall require each CFPM to monitor any staff members who are not certified as CFPMs in the storage, handling, and serving of food and in the cleaning and care of equipment used in food preparation to maintain sanitary conditions at all times.
- 8017.4 The kitchen, dining, and food storage areas shall be kept clean, orderly, and protected from contamination.
- 8017.5 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.
- 8017.6 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.
- 8017.7 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.
- 8017.8 A program providing meals shall clean dishes, cooking utensils, and eating utensils after each meal and store them to maintain their sanitary condition.
- 8017.9 Each facility shall provide hot and cold water, soap, and disposable towels for hand

washing in or adjacent to food preparation areas.

- 8017.10 Each facility shall maintain adequate dishes, utensils, and cookware in good condition and in sufficient quantity for the facility.

8018 PERSONNEL TRAINING STANDARDS

- 8018.1 Behavioral health stabilization 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.

- 8018.2 A behavioral health stabilization provider 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.

- 8018.3 A behavioral health stabilization provider shall have a current written plan for staff development and organizational onboarding, approved by the Department, which reflects the training and performance improvement needs of all employees working in that program. The plan should address the steps the provider will take to ensure the recruitment and retention of highly qualified employees and the reinforcement of staff development through training, supervision, the performance management process, and activities such as shadowing, mentoring, skill testing, and coaching. The plan shall include culturally competent training and onboarding activities in the following core areas:

- (a) The program’s approach to addressing behavioral health stabilization services, 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 individuals’ 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 individual information and release of information, including HIPAA, the D.C. Mental Health Information Act, and 42 CFR Part 2 (as applicable);
- (g) Laws, regulations, and policies governing reporting abuse and neglect;

- (h) Individual rights; and
- (i) Other trainings as directed by the Department.

8019 INDIVIDUALS' RIGHTS AND PRIVILEGES, INCLUDING GRIEVANCES

8019.1 A program shall protect the following rights and privileges of each individual:

- (a) Right to be admitted and receive services in accordance with the District of Columbia Human Rights Act;
- (b) Right to make choices regarding provider, treatment, medication, and advance directives;
- (c) Right to receive prompt evaluation, care, and treatment, in accordance with the highest quality standards;
- (d) Right to receive services and live in a healthy, safe, and clean place;
- (e) Right to be evaluated and cared for in the least restrictive and most integrated environment appropriate to an individual'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 own personal belongings;
- (m) Right to refuse treatment and/or medication;
- (n) Right to give, not give, or revoke already-given consent to treatment, supports, and/or release of information;
- (o) Right to give, not give, or revoke informed, voluntary, written consent of the individual or a person legally authorized to act on behalf of the individual to participate in research; the right to protection associated with such participation; and the right and opportunity to revoke such consent;

- (p) Right to be informed in advance of charges for services;
- (q) Right to be afforded the same legal rights and responsibilities as any other citizen, unless otherwise stated by law;
- (r) Right to request and receive documentation on the performance track record of a program with regard to treatment outcomes and success rates;
- (s) Right to provide feedback on services and supports, including evaluation of providers;
- (t) 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;
- (u) Right to receive written and oral information on individual rights, privileges, program rules, and grievance procedures in a language understandable to the individual;
- (v) Right to access services that are culturally appropriate, including the use of adaptive equipment, sign language, interpreter, or translation services, as appropriate; and
- (w) Right to vote.

8019.2 A provider shall post conspicuously a statement of individual rights, program rules, and grievance procedures. The grievance procedures must inform individuals 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.

8019.3 At the time of admission, staff shall explain program rules, individual's rights, and grievance procedures. Program staff shall document this explanation by including a form, signed by the individual and witnessed by the staff person, within the individual's record.

8019.4 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) The completion of 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 in completion of any inquiries related to individuals' rights conducted by Department staff.

8019.5 Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to § 9508 of Title 29 DCMR in cases of intended adverse action such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded services.

8020 INDIVIDUALS' CHOICE

8020.1 Each provider shall establish and adhere to policies and procedures governing the means by which individuals receiving services shall be informed of the full choices of providers and how to access these services ("Choice Policy").

8020.2 The Department shall review and approve each provider's Choice Policy during the certification and recertification process.

8020.3 The Choice Policy shall comply with applicable Federal and District laws and regulations.

8020.4 Each provider shall:

- (a) Make its Choice Policy available to individuals and their families; and
- (b) Establish and adhere to a system for documenting that individuals and families receive the Choice Policy.

8020.5 The providers' Choice Policy shall ensure that each individual presenting for services is informed that they may choose to have services provided by any certified providers that offer appropriate services for that individual.

8021 RECORDS MANAGEMENT AND CONFIDENTIALITY

8021.1 A program shall create and maintain an organized record for each individual receiving services.

8021.2 All records must be secured in a manner that provides protection from unauthorized disclosure, access, use, or damage in accordance with Federal and District laws and regulations.

8021.3 Each individual's records shall be kept confidential and shall be handled in compliance with HIPAA, the D.C. Mental Health Information Act, and 42 CFR Part 2 (if applicable), and all other Federal and District laws and regulations regarding the confidentiality of an individual's records.

8021.4 Each provider shall have a designated privacy officer responsible for ensuring

compliance with privacy requirements.

- 8021.5 A program shall inform staff and individuals receiving services of this chapter's privacy requirements during orientation.
- 8021.6 A decision to disclose protected health information ("PHI") must comply with Federal and District laws and regulations and shall be made only by the Privacy Officer or his/her designee with appropriately administered consent procedures.
- 8021.7 A program shall ensure its policies and procedures comply with the Department's Privacy Policy and shall implement policies and procedures governing the release of PHI consistent with Federal and District laws and regulations regarding the confidentiality of individual records, including 42 CFR Part 2, the D.C. Mental Health Information Act, and HIPAA.
- 8021.8 A 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 Chapter 87 of Title 29 DCMR.
- 8021.9 For non-SUD programs, the program shall develop policies and procedures to disclose protected behavioral health information to other certified providers, primary health care providers, and other health care organizations when necessary to coordinate the care and treatment of its consumers. These procedures may include entering into an agreement with a health information exchange. The program shall advise each prospective consumer of the program's notice of privacy practices that authorizes this disclosure to other providers and shall afford the consumer the opportunity to opt-out of that disclosure in accord with the District of Columbia Mental Health Information Act, D.C. Official Code §§ 7-1203.01 *et seq.* The program shall document the individual's decision.
- 8021.10 The program director shall designate a staff member to be responsible for the maintenance and administration of records.
- 8021.11 A program shall arrange and store records according to a uniform system approved by the Department.
- 8021.12 A program shall maintain records such that they are readily accessible for use and review by authorized staff and other authorized parties.
- 8021.13 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.

8022 STORAGE AND RETENTION OF RECORDS

- 8022.1 A program shall retain individuals' records (either original or accurate reproductions) until all litigation, adverse audit findings, or both, are resolved. If no such conditions exist, a program shall retain individuals' records for at least ten (10) years after the

individual's discharge.

- 8022.2 Records of minors shall be kept for at least ten (10) years after the minor has reached the age of eighteen (18) years.
- 8022.3 The provider shall establish a Document Retention Schedule with all medical records retained in accordance with Federal and District laws and regulations.
- 8022.4 The provider shall give the individual or legal guardian a written statement concerning individual's rights and responsibilities ("Rights Statement") in the program during orientation. The individual or guardian shall sign the statement attesting that they understand their rights and responsibilities. A provider staff member shall be available to answer an individual or legal guardian's questions about the Rights Statement and to witness the individual's or guardian's signature. This document shall be placed in the individual's record.
- 8022.5 If program records are maintained on computer systems, the 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 HIPAA, the D.C. Mental Health Information Act, 42 CFR Part 2 (if applicable), and all Federal and District laws and regulations regarding the confidentiality of individual records;
 - (d) Limit access to providers who are involved in the care of the individual and who have permission from the individual to access the record; and
 - (e) Create an electronic alert when data is released.
- 8022.6 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 individual access to their own records;

- (d) The provider's policies and procedures shall only restrict an individual's access to their record or information in the record after an administrative review with clinical justification has been made and documented;
- (e) Individuals shall receive copies of their records as permitted under HIPAA, the D.C. Mental Health Information Act, and 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.

8022.7 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.

8023 RECORD CONTENTS

8023.1 As applicable, all records shall include:

- (a) Documentation of the referral and initial screening and its findings;
- (b) The individual's consent to services (if applicable);
- (c) A copy of the FD-12 (if applicable);
- (d) The Rights Statement;
- (e) Documentation that the individual received:
 - (1) An orientation to the program's services, rules, confidentiality practices, and individual's rights; and
 - (2) Notice of privacy practices and opt-out form.
- (f) Confidentiality forms and releases signed to permit the facility to obtain and/or release information;

- (g) Diagnostic interview and assessment record, including any Department-approved screening and assessment tools;
- (h) 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 over-the-counter ("OTC") medications following admissions, any OTCs by product name, dosage, and strength, as well as date(s) medication was administered, discontinued, or changed.
- (i) Assessments and individual treatment plans pursuant to the presenting behavioral health situation and the individual's needs, including crisis diversion or safety plans, if applicable;
- (j) 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 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 individual's record and are identified in the encounter note;
 - (6) A description of each encounter or intervention provided to the individual, which is sufficient to document that the service was provided in accordance with this chapter;
 - (7) A description of the individual's response to the intervention sufficient to show, particularly in the case of group interventions, the individual's unique participation in the service; and

- (8) Provider's observations.
- (k) Documentation of all services provided to the individual as well as activities directly related to the individual's care that are not included in encounter notes;
- (l) Documentation of missed appointments and efforts to contact and reengage the individual;
- (m) Documentation of any personal articles of the consumer held by the provider for safekeeping and any statements acknowledging receipt of the property;
- (n) Documentation of all referrals to other agencies and the outcome of such referrals if known;
- (o) Documentation establishing all attempts to acquire necessary and relevant information from other sources;
- (p) Pertinent information reported by the individual, family members, or significant others regarding a change in the individual's condition and/or an unusual or unexpected occurrence in the individual'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 providers, community providers, human services, social service, and criminal justice entities pertaining to an individual's treatment and follow-up services; and
- (u) Documentation of an individual's legal guardian, as applicable.

8024 BEHAVIORAL HEALTH STABILIZATION PROGRAMS: GENERAL REQUIREMENTS

- 8024.1 All behavioral health stabilization programs shall, at a minimum, assess individuals during intake to determine if the person may suffer from a mental illness or SUD. Assessment shall provide an initial health screening that includes the following, as applicable:
- (a) Presenting problem, including source of distress, precipitating events, associated problems or symptoms, and recent progression;
 - (b) Immediate risks for self-harm, suicide and violence;
 - (c) Substance use history;

- (d) Immediate risks related to serious intoxication or withdrawal;
- (e) Past and present mental disorders, including posttraumatic stress disorder (“PTSD”) 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 an individual is court-ordered to treatment or under the supervision of the Department of Corrections; and
- (h) Employment and housing status.

8024.2 If an individual screens positive for SUD, the provider shall do the following:

- (a) Offer the opportunity for the individual to receive SUD treatment in addition to behavioral health stabilization services, if the provider also offers the applicable services. If the individual declines, the provider shall make referrals for the individual to receive SUD treatment at another qualified provider; or
- (b) If the provider does not offer treatment for SUD, the provider shall ensure the individual is referred to an appropriate SUD provider.

8024.3 A certified provider shall not deny admission for services to an individual because that person is receiving MAT services.

8024.4 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.

8024.5 Behavioral health stabilization facilities’ physical design and structure shall have sufficient area(s) for indoor social and recreational activities.

8024.6 Behavioral health stabilization providers shall comply with all applicable construction codes and housing codes and zoning requirements applicable to the facility, including all Certificate of Occupancy, BBL, and Construction Permit requirements.

8024.7 Each newly established behavioral health stabilization 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. This inspection shall include for District of Columbia Property Maintenance Code (12-G DCMR) and Housing Code (14 DCMR) compliance, 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 the applicant can demonstrate that DCRA performed an onsite inspection of the premises.

- 8024.8 For existing residential behavioral health stabilization programs that are applying for re-certification, the applicants shall also provide proof of current BBLs.
- 8024.9 A provider that offers overnight accommodations shall not operate more beds than the number for which it is authorized by the Department.
- 8024.10 Other than routine household duties, no individual shall be required to perform unpaid work.
- 8024.11 Each residential behavioral health stabilization program shall have house rules consistent with this chapter and that include, at a minimum, rules concerning:
- (a) The use of tobacco and alcohol;
 - (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 individuals 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 or volunteers and individuals served.
- 8024.12 The provider shall give each individual a copy of the program's house rules upon admission.
- 8024.13 Each residential program shall be equipped, furnished, and maintained to provide a functional, safe, and comfortable home-like setting.
- 8024.14 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.
- 8024.15 Each residential program shall permit each individual served 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.
- 8024.16 Each residential facility shall provide individuals with access to reasonable individual storage space for private use.
- 8024.17 Upon an individual's discharge from a residential program, the provider shall return to the individual or their representative any personal articles held by the provider for safekeeping. The provider shall also ensure that the individual is permitted to take all of their personal possessions from the facility. The provider may require the individual

or their representative to sign a statement acknowledging receipt of the property. A copy of that receipt shall be placed in the individual's record.

- 8024.18 Each behavioral health stabilization program shall maintain a separate and accurate record of all funds that the individual's representative or representative payee deposits with the provider for safekeeping. This record shall include the signature of the individual for each withdrawal and the signature of facility staff for each deposit and disbursement made on behalf of an individual served.
- 8024.19 Each residential facility shall be equipped with a functioning landline or mobile telephone for use by individuals served. The telephone numbers shall be provided to residents and to the Department.
- 8024.20 Staff bedrooms shall be separate from resident bedrooms and all common living areas.
- 8024.21 Each facility housing a residential program shall have a functioning doorbell or knocker.
- 8024.22 Each bedroom shall comply with the space and occupancy requirements for habitable rooms in 14 DCMR § 402.
- 8024.23 The provider shall ensure each individual 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 individual served 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.
- 8024.24 Each bed shall be placed at least three (3) feet from any other bed and from any uncovered radiator.
- 8024.25 Each bedroom shall have direct access to a major corridor and at least one window to the outside, unless the Department of Consumer and Regulatory Affairs, 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.

- 8024.26 Each facility housing a residential program shall provide one or more bathrooms for individuals 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, bathtubs, and by the toilets.
- 8024.27 Each residential facility shall provide at least one (1) bathroom for each six (6) occupants in compliance with 14 DCMR § 602.
- 8024.28 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.
- 8024.29 The provider shall ensure each individual's privacy and safety in the bathroom.
- 8024.30 Each residential program shall promote each individual's participation and skill development in menu planning, shopping, food storage, and kitchen maintenance, if appropriate.
- 8024.31 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 the individual's personal clothing.
- 8024.32 Each program shall ensure that every individual has at least three (3) washcloths, two

(2) towels, two (2) sheet sets that include pillow cases, a bedspread, a pillow, a blanket, and a mattress cover in good and clean condition.

- 8024.33 Each blanket, bedspread, and mattress cover shall be cleaned regularly, whenever soiled, and before being transferred from one resident to another.
- 8024.34 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.
- 8024.35 Only individuals and staff members may reside at a facility that houses a residential treatment program.
- 8024.36 Providers shall ensure that individuals can access all scheduled or emergency medical and dental appointments.
- 8024.37 The following provisions apply only to programs with overnight accommodations:
- (a) A program that provides overnight accommodations shall ensure that evening and overnight shifts have at least two (2) staff members on duty. A clinician shall be on-call or on-site at all times.
 - (b) Children and youth under eighteen (18) years of age may not reside at an adult residential treatment facility or visit overnight at a facility not certified to serve parents and children. This information shall be included in the house rules.
 - (c) Each provider shall maintain a current inventory of each individual's personal property and shall provide a copy of the inventory, signed by the individual and staff, to the individual.
 - (d) Each provider shall take appropriate measures to safeguard and account for personal property brought into the facility by a resident.
 - (e) Each provider shall provide the individual, or the individual'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 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.
 - (g) No person who is not an individual served by the program, staff member, or child of an individual served by the program (only in the case of programs for parents and children) may reside at a facility that houses a residential treatment program.

- (h) 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 individuals with nutrition deficiencies or special needs;
 - (3) Coordination with medical personnel, as appropriate; and
 - (4) A nutritional assessment for each individual within three (3) calendar days of admission unless the individual has a current assessment or doctor's order for dietary guidelines.
- (i) The provider shall offer at least three (3) meals per day and between meal snacks that:
 - (1) Are nourishing and well-balanced in accordance with dietary guidelines established by the United States Department of Agriculture;
 - (2) Are suited to the special needs of each individual; and
 - (3) Are adjusted for seasonal changes and allow for the use of fresh fruits and vegetables.
- (j) 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 individuals' review.
- (k) The provider shall retain a copy of each weekly menu 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.
- (l) 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.
- (m) If an individual refuses food or misses a scheduled meal, the provider shall offer appropriate food substitutions of comparable nutritional value.
- (n) If an individual 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 individual 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 individual.

- (o) A residential treatment program providing meals shall implement a written Nutritional Standards Policy that outlines their procedures to meet the dietary needs of the individuals in its program, 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.
- (p) The Nutritional Standards Policy shall include procedures for individuals unable to have a regular diet as follows:
 - (1) Providing clinical diets for medical reasons, when necessary;
 - (2) Recording clinical diets in the individual's record;
 - (3) Providing special diets for individuals' religious needs; and
 - (4) Maintaining menus of special diets or a written plan stating how special diets will be developed or obtained when needed.
- (q) A residential treatment program shall make reasonable efforts to prepare meals that consider the cultural background and personal preferences of the individuals; and
- (r) Meals shall be served in a pleasant, relaxed dining area that accommodates families and children.

8025 COMPREHENSIVE PSYCHIATRIC EMERGENCY PROGRAM (CPEP) REQUIREMENTS

- 8025.1 A comprehensive psychiatric emergency program ("CPEP") shall directly provide or ensure the provision of psychiatric emergency services, which shall include assessments, brief and extended stabilization visits, and extended observation visits for individuals eighteen (18) years of age and older experiencing a behavioral health crisis.
- 8025.2 Psychiatric emergency services shall be provided by the CPEP twenty-four (24) hours per day, seven (7) days per week. Services shall include psychiatric and medical evaluations and assessments which are used to determine the appropriateness of admission to and retention in the CPEP.
- 8025.3 A CPEP shall not operate more than sixteen (16) beds.

- 8025.4 Any person with a need for medical or surgical care or treatment which cannot be provided in the CPEP shall be transported to a hospital for appropriate observation and treatment.
- 8025.5 Each CPEP shall have a full-time program director (“CPEP director”) with authority and responsibility for the direction and day-to-day operation of the program. The CPEP director shall be a board-certified psychiatrist who is licensed to practice independently in the District.
- 8025.6 Each CPEP shall have a full-time clinical director responsible for the clinical direction and day-to-day delivery of clinical services provided to individuals served by the program. The clinical director shall be a clinician licensed to practice independently in the District of Columbia and supervise other clinical staff.
- 8025.7 The CPEP director and clinical director shall devote adequate time and authority 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 CPEP director and clinical director shall not be the same individual.
- 8025.8 Any CPEP certified pursuant to this chapter shall receive and retain voluntary and involuntarily admissions for any person experiencing a behavioral health crisis that is likely to result in serious harm to the person or others and for whom immediate observation, care, and treatment in the CPEP is appropriate. No person may be involuntarily retained in a CPEP for more than twenty-four (24) hours unless the person is admitted to an extended observation bed in accordance with § 8025.16(c).
- 8025.9 The CPEP shall develop a contingency plan with other local affiliated hospitals, emergency medical services, and law enforcement for the diversion of admissions during periods of high demand and overcrowding.
- 8025.10 The CPEP director or their designee may prevent new admissions to the CPEP emanating from emergency medical services, ambulance services, and law enforcement if the program’s ability to deliver quality service would be jeopardized. The CPEP director or their designee shall review the continued necessity for such prevention at least once every twenty-four (24) hours.
- 8025.11 The CPEP shall ensure individuals have access to and receive language access services that meet their individual needs, including written and oral translation appropriate to their specific language, in accordance with Department policies and procedures.
- 8025.12 In order to assure that individuals admitted to the CPEP are adequately supervised and are cared for in a safe and therapeutic manner, the CPEP shall meet each of the following requirements:
- (a) Appropriate professional staff shall be available to assist in emergencies on at least an on-call basis at all times; and
 - (b) A psychiatrist shall be available on-site at all times.

- 8025.13 A CPEP shall continuously employ an adequate number of staff and an appropriate staff composition to carry out its goals and objectives as well as to ensure the continuous provision of sufficient ongoing and emergency supervision. A CPEP shall submit a staffing plan to the Department as part of its certification and recertification process which includes the qualifications and duties of each staff position by title. The staffing plan and its rationale shall be subject to approval by the Department.
- 8025.14 The CPEP shall have on site at all times the following types and numbers of staff:
- (a) At least two (2) board-certified or board-eligible psychiatrists;
 - (b) At least two (2) internists or equivalent physicians;
 - (c) At least three (3) registered nurses;
 - (d) At least two (2) social workers;
 - (e) At least five (5) mental health counselors;
 - (f) A sufficient number of security personnel shall be on duty and available at all times; and
 - (g) The Director may waive the requirements above, if:
 - (1) The CPEP can demonstrate that the volume of service does not require such level of staff coverage; and
 - (2) The CPEP can demonstrate that it can provide adequate coverage by other professional disciplines.
- 8025.15 A CPEP shall only use restraint and seclusion in compliance with all governing Federal and District laws and regulations.
- 8025.16 A CPEP shall provide the following array of visits in accordance with the individual's needs:
- (a) Brief psychiatric crisis visit:
 - (1) A brief psychiatric crisis visit includes a face-to-face interaction between an individual experiencing a behavioral health crisis and CPEP staff operating within the scope of their licensure to determine the services required. It shall include a mental health diagnostic examination, and, as appropriate, treatment interventions on the individual's behalf and a discharge plan. Other activities include medication monitoring, observation, and care coordination with other providers.

- (2) A brief psychiatric crisis visit requires documentation using at least one encounter note explaining the array of services provided during the visit.
 - (3) A brief psychiatric crisis visit may last up to four (4) hours. If an individual cannot be reasonably treated and discharged in less than four (4) hours, the individual shall be admitted to an extended psychiatric crisis visit in accordance with § 8025.16(b).
- (b) Extended psychiatric crisis visit:
- (1) An extended psychiatric crisis visit includes a face-to-face interaction between an individual experiencing a behavioral health crisis and CPEP staff operating within the scope of their licensure to determine the services required. It shall include a psychiatric or mental health diagnostic examination; psychosocial assessment; and medical examination; which results in a comprehensive psychiatric emergency treatment plan and a discharge plan. Other activities include any clinically indicated examinations and assessments as appropriate for the individual's presenting problems, medication monitoring, observation, and care coordination with other providers.
 - (2) An extended psychiatric crisis visit requires documentation using at least one encounter note explaining the array of services provided during the visit.
 - (3) An extended psychiatric crisis visit may last up to twenty-four (24) hours. If an individual cannot be reasonably treated and discharged in that time, the individual shall be admitted to an extended observation visit in accordance with § 8025.16(c).
- (c) Extended observation visit:
- (1) An extended observation visit includes a face-to-face interaction between an individual experiencing a behavioral health crisis and CPEP staff operating within the scope of their licensure to determine the services required. This shall include a psychiatric or mental health diagnostic examination; psychosocial assessment; and medical examination; which results in a comprehensive psychiatric emergency treatment plan and a discharge plan. Other activities include any clinically indicated examinations and assessments as appropriate for the individual's presenting problems, medication monitoring, observation, and care coordination with other providers.
 - (2) An extended observation visit requires documentation using at least one encounter note explaining the array of services provided during the visit.

- (3) An extended observation visit is used for individuals retained in a CPEP for more than 24 hours but not to exceed 72 hours, voluntarily or involuntarily. If an individual cannot be reasonably treated and discharged in that time, the individual shall be transferred to a hospital for inpatient treatment.
- 8025.17 Brief psychiatric visits, extended psychiatric visits, and extended observation visits shall not be billed on the same day as one another.
- 8025.18 The duration of psychiatric emergency services varies with the severity of the individual's symptoms and their response to treatment but shall not last more than seventy-two (72) hours in total at a CPEP.
- 8025.19 Qualified Practitioners of services delivered in accordance with brief psychiatric visits, extended psychiatric visits, and extended observation visits and within their scope of practice are:
- (a) Psychiatrists;
 - (b) Physicians;
 - (c) Psychologists;
 - (d) LICSWs;
 - (e) APRNs;
 - (f) RNs;
 - (g) PAs;
 - (h) LISWs;
 - (i) LPCs;
 - (j) LGSWs;
 - (k) LGPCs;
 - (l) Psychology Associates;
 - (m) Certified Peer Specialists; and
 - (n) Certified Recovery Coaches.
- 8025.20 Credentialed staff shall be permitted to provide CPEP services under the supervision of an independently licensed practitioner.
- 8025.21 Discharge planning shall be conducted for all individuals discharged from a CPEP who

have been determined to require additional mental health services after a brief or extended psychiatric visit and for those persons admitted to extended observation beds who require additional mental health services. Discharge planning criteria shall include at least the following activities prior to discharge from the CPEP:

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

8026 PSYCHIATRIC CRISIS STABILIZATION PROGRAM REQUIREMENTS

- 8026.1 Psychiatric crisis stabilization services offer therapeutic, community-based, home-like residential treatment for persons age eighteen (18) or older living in the community; who are in need of support to ameliorate psychiatric symptoms; who are voluntary; and, based upon a psychiatric assessment conducted on-site, are deemed appropriate for residential services within a structured, closely monitored temporary setting.
- 8026.2 Psychiatric crisis stabilization services shall provide an opportunity for individuals to move out of a stressful situation into a safe and secure therapeutic environment as a diversion from acute psychiatric hospitalization or to maintain stabilization following a hospital stay.
- 8026.3 The programs shall ensure that all referrals are screened by a psychiatrist upon admission and that there is documented evidence of the need for psychiatric crisis stabilization services.
- 8026.4 Upon admission, a program shall submit new or revised Plan of Care, along with a Discharge Plan, to the Department with the authorization request.
- 8026.5 Psychiatric crisis stabilization programs shall provide the following psychiatric stabilization services necessary to assess, treat, medicate, and stabilize residents:
- (a) Comprehensive Nursing Assessment and Plan of Care:

- (1) Programs shall provide a comprehensive nursing assessment within twenty-four (24) hours of admission in order to determine medical necessity for primary health care and coordinate care with the health care provider;
 - (2) A nurse shall perform a daily assessment of all individuals. A nurse shall coordinate development of a new or revised Plan of Care, and monitor that care is rendered as outlined in the Plan. A nurse shall perform medication evaluations, including the administration and monitoring of medications; including obtaining consent to accept medications and educating individuals as to the benefits, risks, and side effects of the medications prescribed;
 - (3) CSAs certified pursuant to Chapter 34 are responsible for coordinating the Plan of Care for individuals enrolled in MHRS. Services provided at a psychiatric crisis stabilization program shall be coordinated with the individual's assigned CSA to ensure continuity of care; and
 - (4) If the individual is not yet enrolled with a CSA, the psychiatric stabilization provider shall work with the Department to get an assigned CSA for the individual and work with the CSA on a new Plan of Care.
- (b) Psychiatric Consultation and Assessment:
- (1) A psychiatrist shall be available for consult by telephone twenty-four (24) hours per day, seven (7) days per week. A psychiatrist shall be available on-site at least part-time (twenty [20] hours per week);
 - (2) A psychiatric assessment shall be performed within twenty-four (24) hours of admission;
 - (3) A psychiatrist shall provide daily psychiatric management for the duration of an individual's stay. A psychiatrist shall conduct a review of an individual's status every forty-eight (48) hours, at a minimum, unless there is a change of status that requires more frequent visits;
 - (4) A psychiatrist shall perform medication evaluations, including the prescribing, monitoring, and titration of medications; including obtaining consent to accept medications and educating individuals as to the benefits, risks, and side effects of the medications prescribed;
 - (5) A psychiatrist shall facilitate admission of individuals to inpatient settings as required; and
 - (6) A psychiatrist shall oversee the clinical care of all individuals served in a psychiatric stabilization program.

- (c) Crisis Counseling: Crisis counseling is immediate and short-term psychological care designed to assist individuals in a behavioral health crisis situation. Crisis counseling focuses on minimizing the stress of the precipitating event, providing emotional support, and improving the individual's coping strategies.
- (d) Medication/Somatic Treatment:
 - (1) Medication/Somatic Treatment services are medical services and interventions including physical examinations; prescription, supervision, or administration of medications; monitoring and interpreting results of laboratory diagnostic procedures related to medications; and medical interventions needed for effective mental health treatment interventions;
 - (2) This includes monitoring the side effects and interactions of medication and the adverse reactions which an individual may experience, and providing education and direction for symptom and medication self-management;
 - (3) Services shall be therapeutic, educational, and interactive with a strong emphasis on group member selection and facilitate therapeutic peer interaction and support as specified in the Plan of Care; and
 - (4) Individuals receiving Medication/Somatic Treatment shall participate in a psychoeducational session to discuss medication side effects, adverse reactions to medications, and medication self-monitoring and management.
- (e) Discharge planning shall be conducted for all individuals discharged from a psychiatric crisis stabilization program. Discharge planning criteria shall include at least the following activities prior to discharge from the program:
 - (1) A review of the person's psychiatric, social, and physical needs;
 - (2) Completion of referrals to appropriate community services providers, where the individual so desires, to address the individual's identified needs;
 - (3) If the individual so desires, the provider shall arrange for appointments with community providers which shall be made as soon as possible after leaving the psychiatric crisis stabilization program. When an appointment for behavioral health services cannot be made within a reasonable period of time, crisis outreach teams or other available stabilization program staff shall continue to provide crisis stabilization services until the initial appointment occurs; and
 - (4) Each individual shall be given the opportunity to participate in the

development of his or her discharge plan. If clinically appropriate, the provider shall immediately and intensely engage the consumer's family and community supports in post-discharge planning. However, no person or family member shall be required to agree to an individual's discharge. The provider shall note any person who objects to the consumer's discharge plan or any part thereof in the consumer's record.

8026.6 Qualified practitioners of psychiatric crisis stabilization services in accordance with this chapter and with their scope of practice are:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) LICSWs;
- (d) APRNs;
- (e) RNs;
- (f) PAs;
- (g) LISWs;
- (h) LPCs;
- (i) Psychology Associates;
- (j) LGSWs; and
- (k) LGPCs.

8026.7 Credentialed staff shall be permitted to provide psychiatric crisis stabilization services under the supervision of an independently licensed practitioner.

8027 ADULT MOBILE CRISIS AND OUTREACH PROGRAMS

8027.1 Mobile crisis and outreach providers, or community response teams ("teams"), shall be dispatched into a home or community setting where a crisis may be occurring to begin the process of assessment and treatment. Teams shall provide acute behavioral health crisis interventions and behavioral health outreach services to individuals in the community while minimizing the individual's involvement as appropriate with law enforcement, emergency room use, or hospitalizations.

8027.2 Crisis intervention services provide rapid response, assessment, and resolution of behavioral health crisis situations that involve children or adults.

- 8027.3 Behavioral health outreach services identify individuals in the community who need behavioral health and other social services. Providers make repeated visits to individuals to build relationships and connect them to needed services.
- 8027.4 Teams shall identify individuals in need of behavioral health services and begin the process of engaging them in treatment, including screening for mental health and substance use service needs, developing rapport, support while assisting with immediate needs, and referrals to appropriate resources. Teams shall assist with connections to treatment, care coordination, and other social services as required. Teams shall also administer First Aid, CPR, and naloxone as appropriate.
- 8027.5 Teams shall be available on-call twenty-four (24) hours per day, seven (7) days per week and shall be staffed with two (2) individuals per team pursuant to § 8027.12. One independently licensed practitioner shall be a member of each team. A psychiatrist shall be available by phone or for in-person assessment as needed and as clinically indicated.
- 8027.6 Teams shall serve all who present for services, regardless of insurance status or ability to pay.
- 8027.7 Teams shall offer services in a community setting, including the individual's home, on the streets, residential facilities, hospitals, and nursing homes, for assessing the individual's immediate behavioral health needs.
- 8027.8 Teams shall include co-response with local law enforcement as appropriate.
- 8027.9 An Officer Agent shall complete an Application for Emergency Hospitalization (FD-12) and follow all FD-12 protocol for individuals who appear to be in imminent danger of harming themselves or others due to mental illness.
- 8027.10 Adult mobile crisis and outreach providers shall ensure all team members participate in the Department's Officer Agent training.
- 8027.11 Adult mobile crisis and outreach programs shall provide the following services:
- (a) Mobile crisis interventions, subject to the following provisions:
- (1) Provide rapid response, assessment, and resolution of behavioral health crisis situations involving adults. Services shall optimize clinical interventions by meeting individuals in home or community settings.
 - (2) Face-to-face or telephonic service provided to individuals involved in an active behavioral health crisis. The provider shall rapidly respond to evaluate and screen the presenting situation, assist in immediate stabilization and resolution, reduce the risk of immediate danger to the individual or others, and ensure necessary referrals for the individual's access to care at the appropriate level.

- (3) Mobile crisis interventions are short-term and provide follow-up stabilization services, including additional therapeutic responses as needed, psychiatric consultation, and referrals and linkages to all medically necessary behavioral health services and supports.
 - (4) Mobile crisis intervention activities shall also include, as appropriate:
 - (A) Screening for eligibility and referral for SUD services;
 - (B) Pre-arrest diversion;
 - (C) Development of a safety plan or crisis diversion plan;
 - (D) Linkage to additional stabilization services;
 - (E) Secure access to higher levels of care; and
 - (F) Assistance identifying natural supports and community supports during a crisis.
 - (5) Mobile crisis intervention services require documentation using at least one encounter note explaining the array of services provided during the service.
- (b) Behavioral health outreach services, subject to the following provisions:
- (1) The behavioral health outreach service shall include an initial evaluation and assessment for individuals in the community who are unable or unwilling to use clinic- or hospital-based services, or for individuals for whom hospitalization is not clinically appropriate. Other activities include linkages to other services or providers; providing emotional support; life skills education; and therapeutic interventions as appropriate.
 - (2) Teams shall offer these services in a community setting, including the individual's home and on the streets.
 - (3) Behavioral health outreach encounters shall also include, as appropriate:
 - (A) Linkage to relevant insurance and public assistance programs;
 - (B) Counseling;
 - (C) Recovery coaching; and/or
 - (D) Screening for eligibility and referral for SUD services.

- (4) Behavioral health outreach services require documentation using at least one encounter note explaining the array of services provided during the service.

8027.12 Qualified practitioners of adult mobile crisis and behavioral health outreach services in accordance with this chapter and with their scope of practice are:

- (a) Physicians;
- (b) Psychologists;
- (c) LICSWs;
- (d) APRNs;
- (e) PAs;
- (f) RNs;
- (g) LISWs;
- (h) LPCs;
- (i) LMFTs;
- (j) LGPCs;
- (k) LGSWs;
- (l) Psychology Associates;
- (m) CACs I and II;
- (n) Certified Peer Specialists;
- (o) Certified Recovery Coaches;
- (p) 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 mental health; or
- (q) An individual with at least four (4) years of relevant, qualifying full-time-equivalent experience in behavioral health 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.

8028 YOUTH MOBILE CRISIS INTERVENTION PROGRAMS

- 8028.1 Youth mobile crisis providers are dispatched into a home or community setting where children or youth may be experiencing a behavioral health crisis to begin assessment and treatment. Providers shall administer acute behavioral health crisis stabilization and psychiatric assessments to children, youth, and their families as necessary. Services shall be provided in the community, schools, or other settings as necessary, while avoiding unnecessary law enforcement involvement, emergency room use, or hospitalizations.
- 8028.2 Providers shall engage children and youth in treatment, including screening for mental health and SUD service needs, developing rapport, support while assisting with immediate needs, and referral to appropriate resources, including longer-term mental health or SUD rehabilitative services. Providers shall assist with connections to treatment, care coordination, and other social services as required.
- 8028.3 Youth mobile crisis provider teams shall be available on-call twenty-four (24) hours per day seven (7) days per week year round. The youth mobile crisis provider teams shall be staffed with two (2) individuals per team in accordance with § 8028.15. Youth mobile crisis provider teams shall maintain sufficient resources and supports for communication and mobile capabilities. One (1) independently licensed practitioner must be available twenty-four (24) hours per day, seven days per week. A psychiatrist shall be available by phone or for in-person assessment as needed and as clinically indicated.
- 8028.4 Youth mobile crisis provider teams shall administer First Aid, CPR, and naloxone as appropriate.
- 8028.5 Youth mobile crisis provider teams shall facilitate linkages to other social services, medical care, and any additional behavioral health services. Youth mobile crisis provider teams shall assist families in enrolling children and youth in any other relevant services in their community.
- 8028.6 Youth mobile crisis provider teams shall serve all who present or are referred for services, regardless of insurance status or ability to pay.
- 8028.7 Youth mobile crisis provider teams shall offer services in a community setting, including the individual's home, on the streets, schools, residential facilities, hospitals, and nursing homes.
- 8028.8 No youth mobile crisis provider team shall transport children or youth. If a parent or caregiver is not available to provide transportation, a youth mobile crisis provider team member shall request emergency medical services transportation.
- 8028.9 An Officer Agent shall complete an Application for Emergency Hospitalization (FD-12) and follow all FD-12 protocol for individuals who appear to be in imminent danger of harming themselves or others due to mental illness.

- 8028.10 In addition to the provider and service requirements in this chapter, youth mobile crisis providers are also responsible to:
- (a) Provide and maintain a crisis hotline to receive crisis calls directly by a live person, twenty-four (24) hours per day, seven (7) days per week;
 - (b) Provide systematic response for crisis call intake, triage, and deployment determinations;
 - (c) Provide and fully document phone support, crisis consultation, information sharing, and follow-up to all calls that are not deployed;
 - (d) Maximize parent and caregiver in crisis intervention and any follow-up;
 - (e) Respond to calls for District youth placed in foster care homes in Virginia and Maryland that are within a fifty (50) mile radius of the District;
 - (f) Provide and document a follow-up contact with the individual within 24 hours of the initial call or deployment;
 - (g) Provide population-appropriate approaches for evaluation and assessment of children and youth experiencing a behavioral health crisis;
 - (h) Implement a standardized crisis assessment tool;
 - (i) Provide specialized clinical training in Crisis Theory, Risk Assessment, and Intervention for staff;
 - (j) Provide a minimum of two (2) Certified Peer Specialists;
 - (k) Attend all trainings the Department determines are relevant to the nature and scope of service;
 - (l) Minimize placement disruption;
 - (m) Provide children, youth, and their families with education on conflict resolution, triggers, coping skills, and problem-solving techniques;
 - (n) Develop a crisis, safety, and continuity of operations plan for deploying teams;
 - (o) Ensure all team members participate in the Department's Officer Agent training;
 - (p) Partner with mental health, substance use, and other community-based providers in the District;
 - (q) Provide access to psychiatric consultation by phone or in-person as needed;

- (r) If the youth is enrolled with a CSA the youth crisis intervention program shall notify the CSA within twenty four (24) hours of the initial call or deployment and collaborate with the CSA thereafter; and
- (s) If the youth is not currently enrolled with a CSA, the program shall facilitate enrollment with a new CSA and initiate further assessment and corresponding treatment as clinically appropriate.

8028.11 Youth mobile crisis intervention programs shall provide the following services:

- (a) Mobile crisis interventions, subject to the following provisions:
 - (1) Mobile crisis interventions provide rapid response, assessment, and resolution of behavioral health crisis situations that involve children, youth, and their families. Services shall optimize clinical interventions by meeting individuals in home or community settings and reducing the risk of immediate danger to the individual or others.
 - (2) A mobile crisis intervention is a short-term, face-to-face, or telephonic service provided to individuals involved in an active behavioral health crisis and consists of any or all of the following activities:
 - (A) Rapid response to evaluate and screen the presenting situation;
 - (B) Therapeutic responses to de-escalate and stabilize the immediate behavioral health crisis;
 - (C) Referrals for the individual's access to appropriate care;
 - (D) Facilitate community tenure while the individual is waiting for a first visit with another provider;
 - (E) Crisis support in schools;
 - (F) Screening for eligibility and referral for SUD services;
 - (G) Psychiatric consultation;
 - (H) Development of a safety plan or crisis diversion plan;
 - (I) Linkage to additional stabilization services; and
 - (J) Assistance identifying natural supports and community supports during a crisis.

8028.12 Youth mobile crisis provider teams shall provide consultation, information, and ongoing follow-up to ensure individuals are provided the supports that best meet their needs. For calls that do not require deployment, the youth mobile crisis provider team

will continue to monitor whether deployment is necessary to prevent further disruption or crisis.

- 8028.13 Youth mobile crisis provider teams shall provide clear information to the caller on deployment availability and status, including estimated time for deployment. Teams shall respond to the scene of a crisis within one hour of the time of the call for sites within the District and up to one hour and forty-five (45) minutes of calls outside of the District.
- 8028.14 For children and youth in CFSA custody, teams shall coordinate with the assigned CFSA social worker, including but not limited to youth in the following situations:
- (a) Children and youth at risk of a placement disruption; and
 - (b) Children and youth at risk of acute care hospitalization.
- 8028.15 Qualified practitioners of adult mobile crisis and behavioral health outreach services in accordance with this chapter and with their scope of practice are:
- (a) Physicians;
 - (b) Psychologists;
 - (c) LICSWs;
 - (d) APRNs;
 - (e) PAs;
 - (f) RNs;
 - (g) LISWs;
 - (h) LPCs;
 - (i) LMFTs;
 - (j) LGPCs;
 - (k) LGSWs;
 - (l) Psychology Associates;
 - (m) CACs I and II;
 - (n) Certified Peer Specialists;
 - (o) Certified Recovery Coaches;

- (p) 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 mental health; or
- (q) An individual with at least four (4) years of relevant, qualifying full-time-equivalent experience in behavioral health 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.

8029 REIMBURSEMENT

- 8029.1 Reimbursement rates using non-Medicaid local funds are equivalent to the reimbursement rates for equivalent services that may be reimbursable by Medicaid, pursuant to rates as established by the Department of Health Care Finance.

8099 DEFINITIONS

8099.1

Adult Substance Abuse Rehabilitative Services (“ASARS”) – The Department’s 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. & 2019 Supp.)).

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

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

Applicant – A program that has applied to the Department for certification as a behavioral health stabilization provider.

Assessment – Gathers information and engages in a process with an individual that enables the provider to determine the presence or absence of mental health or substance use condition. Determines the individual’s readiness for change, identifies individual strengths or problem areas that may affect treatment and recovery, and engages the individual in appropriate treatment.

Behavioral Health Crisis – Unplanned event requiring a response when an individual struggles to manage their psychiatric or substance use related

symptoms without de-escalation or other intervention. Also includes situations in which daily life challenges result in or put at risk of an escalation in symptoms.

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 behavioral health stabilization 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.)).

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

Certified Recovery Coach – A Certified Recovery Coach is an individual with any Department-approved recovery coach certification.

Child and Family Services Agency (“CFSA”) – The District agency responsible for the coordination of foster care, adoption, and child welfare services and services to protect children against abuse or neglect.

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 individual’s Plan of Care, is responsible for identification, coordination, and monitoring of non-SUD-treatment clinical services, and is identified in the individual’s Plan of Care.

Clinician – Individuals licensed by the District Department of Health, Health Regulation and Licensing Administration (“HRLA”) to provide clinical services.

Communicable Disease – Any disease as defined in Title 22-B, § 201 of the District of Columbia Municipal Regulations (“DCMR”).

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

Co-Occurring Disorders – The presence of concurrent diagnoses of SUD and mental illness.

Core Services Agency (“CSA”) – A Department-certified community-based MHRS provider that has entered into a Human Care Agreement with the Department to provide MHRS.

Credentialed Staff – Non-licensed staff who are permitted to provide behavioral health stabilization services or components of behavioral health stabilization services if under the supervision of an independently licensed practitioner in accordance with applicable laws and regulations.

Crisis – An event that significantly jeopardizes an individual’s treatment, recovery, 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 an individual’s active involvement with a program 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.

Episode – A qualifying episode begins with the provider’s initial contact with an individual, either via referral or via outreach. The episode ends with amelioration of the individual’s presenting symptoms or, if clinically appropriate, the transfer of the individual to the recommended level of care.

Facility – Any physical premises which houses one or more behavioral health stabilization programs.

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

Human Care Agreement (“HCA”) – A written agreement entered into by the certified behavioral health stabilization provider and the Department which establishes a contractual relationship between the parties.

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 individual, including the individual, the individual’s CCC, a CAC, the individual’s case manager, 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.)).

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 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.)).

Major Unusual Incidents (“MUI”) – 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 (“CMS”) and administered by DHCF, 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 an individual to prevent, diagnose, or treat 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 individual or treating provider.

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 Health Rehabilitative Services (“MHRS”) – The Department’s rehabilitative services for serious mental illness (“SMI”) as covered by the District’s Medicaid State Plan.

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.

Mobile Crisis Intervention – A home- or community-based service that addresses a behavioral health crisis by using therapeutic communication, interactions, and supporting resources to interrupt and/or ameliorate acute behavioral health distress and associated behaviors.

Notice of Infraction (“NOI”) – An action taken by agencies to enforce alleged violations of regulatory provisions.

Organizational Onboarding – Mechanism through which new employees acquire the necessary knowledge, skills, and behaviors to become effective performers. It begins with recruitment and includes a series of events, one of which is employee orientation, which helps new employees understand performance expectations and contribute to the success of the organization.

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.

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 – A person licensed or authorized to practice 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 entity that provides behavioral health stabilization services as certified by the Department.

Program Director – An individual having authority and responsibility for the day-to-day operation of a behavioral health stabilization program.

Protected Health Information (“PHI”) – Any written, recorded, electronic (“ePHI”), or oral information which either (1) identifies, or could be used to identify, an individual; or (2) relates to the physical or mental health or condition of an individual, provision of health care to an individual, or payment for health care provided to an individual. PHI does not include information in the records listed in 45 CFR § 160.103.

Provider – An entity certified by the Department to administer behavioral health stabilization programs.

Psychiatrist – A person licensed as a psychiatrist 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.)).

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 applicable laws and regulations.

Qualified Practitioner – Staff authorized to provide treatment and other services based on the definition of the service.

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.

Residential Program – Any behavioral health stabilization program which houses individuals overnight; this includes CPEPs and psychiatric crisis stabilization programs.

Screening – A determination of the likelihood that an individual has co-occurring substance use and mental disorders or that their presenting signs, symptoms, or behaviors may be influenced by co-occurring issues. Screening is a formal process that typically is brief and occurs soon after the individual presents for services.

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 individual continues using a substance despite significant substance-related problems. A diagnosis of SUD requires an individual to have had persistent, substance related problem(s) within a twelve (12)-month period in accordance with the most recent version of the DSM.

Treatment – A therapeutic effort to improve an individual’s cognitive or emotional conditions or the behavior of an individual, consistent with generally recognized principles or standards in the behavioral health stabilization field, provided or supervised by a Qualified Practitioner.

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

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

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

The purpose of the amendments to Chapter 7 is to place it into conformity with the Election Worker Residency Requirement Waiver Emergency Amendment Act of 2020 (D.C. Act Number A23-0410), which provides that District government employees who are not District residents or qualified electors may serve as polling place officials.

Emergency action is necessary in order for these amendments to be in place prior to the November 3, 2020 General Election. Accordingly, the Board adopted these rules on an emergency basis at its regular meeting on Wednesday, October 7, 2020. The emergency rules shall remain in effect until Thursday, February 4, 2021 (one hundred and twenty (120) days from the adoption date), unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

Section 704, POLLING PLACE OFFICIALS, is amended to read as follows:

704 POLLING PLACE OFFICIALS

- 704.1 The operations of polling places and ballot counting places shall be conducted by officials designated by the Board.
- 704.2 The official in charge of each polling place shall be known as the Precinct Captain.
- 704.3 The duties of the Precinct Captain may be delegated by the Board or by the Precinct Captain to another official, who shall be known as the Alternate Precinct Captain.
- 704.4 All polling place officials shall be qualified registered electors in the District of Columbia, except that the Board may appoint individuals who are not qualified registered electors to serve as polling place officials, if the individual:
- (a) Is at least sixteen (16) years of age on the day that he or she will be a polling place official;
 - (b) Resides in the District of Columbia; and
 - (c) Is enrolled in or has graduated from a public or private secondary school or an institution of higher education.

- 704.5 For the November 3, 2020 General Election, polling place officials, including precinct captains and polling place workers, who are District government employees are not required to be District residents or qualified electors.
- 704.6 All polling place officials shall:
- (a) Complete at least four (4) hours of training;
 - (b) Receive certification by the Board; and
 - (c) Take and sign an oath of office to honestly, faithfully, and promptly perform the duties of office.
- 704.7 A polling place official's past performance shall be considered before appointing him or her as a polling place official in a subsequent election.
- 704.8 Unless otherwise provided, Board employees working at early voting centers shall have the same authority and duties as the Precinct Captain and other polling place officials.

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

DEPARTMENT OF ENERGY AND THE ENVIRONMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**Critical Areas - Wetlands and Streams**

The Director of the District Department of Energy and Environment, pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code 8-151.01 *et seq.* (2015 Repl. and 2019 Supp.)), the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.01 *et seq.* (2015 Repl. and 2019 Supp.)), the Fisheries and Wildlife Omnibus Amendment Act of 2016 (D.C. Law 21-282; D.C. Official Code § 8-1731.02 *et seq.* (2019 Supp.)); Mayor's Order 2006-61, dated June 14, 2006; and Mayor's Order 2017-281, dated November 1, 2017, hereby gives notice of the intent to adopt an emergency rulemaking to add new Chapters 25 (Critical Area – General Rules) and 26 (Critical Area – Wetlands and Streams) to Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

The Director also gives notice of intent to take final rulemaking action to adopt the amendments following a sixty (60) day public comment period. These emergency rules were adopted on October 7, 2020, became effective on the date of publication in the *D.C. Register*, and will remain in effect for up to one hundred twenty (120) days from the date of adoption or until publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first. Any proposed regulated activity within a wetland or stream that has submitted an application for a water quality certification pursuant to 33 U.S.C. § 1341 before the effective date of these regulations will not be subject to the provisions of Chapters 25 (Critical Area – General Rules) and 26 (Critical Area – Wetlands and Streams) to Title 21 of the District of Columbia Municipal Regulations (DCMR).

Emergency Rulemaking

This emergency rulemaking is necessary for the immediate preservation of the public health, safety, and welfare by preventing further loss of valuable wetland and stream resources that may no longer be protected by federal law and to clarify procedures for District certification of federal permits for discharges into District waters. Section 404 of the federal Clean Water Act (CWA) requires a permit for the discharge of dredged or fill material into waters of the United States. 33 U.S.C. § 1344. These permits are issued by the United States Army Corps of Engineers (Corps). Before issuing a permit, the Corps must obtain a certification from the District pursuant to CWA § 401 that the discharge will comply with the District water quality criteria. 33 U.S.C. § 1341. The Department of Energy and Environment currently certifies permits issued by the United States Army Corps of Engineers for discharges of dredged and fill material into District waters.

Two recent federal rulemakings will significantly curtail the District's ability to protect its aquatic resources through the § 401 certification process. First, the Environmental Protection Agency (EPA) and the Department of the Army have finalized the Navigable Waters Protection Rule, revising the definition of waters of the United States (EPA Docket ID: EPA-HQ-OW-2018-0149, posted April 21, 2020). This rule removes federal protection for ephemeral streams and wetlands that are not adjacent to traditional navigable waters. In addition, on June 1, 2020, EPA finalized

the Clean Water Act Section 401 Certification Rule that will significantly restrict the scope of state review of federal permits for § 401 certification (EPA Docket ID: EPA-HQ-OW-2019-0405-0025, posted August 22, 2019). In light of these changes, this emergency rulemaking is necessary to clarify the District's procedures for certifying federal permits and to ensure continued protection of resources that will no longer require federal permits.

Background

The District's Wetland Conservation Plan Goal is to achieve no net loss of District wetlands, and an eventual net gain of wetland acreage and function. In addition, the Sustainable DC 2.0 Plan includes a goal to plant and maintain an additional one hundred fifty (150) acres of wetlands in targeted conservation opportunity areas, and to reduce threats to seventy-five (75) aquatic species of greatest conservation need. Wetlands and streams provide critical habitat for one hundred thirty-eight (138) out of two hundred and three (203) species of greatest conservation need identified in the District Wildlife Action Plan. In accordance with the Fisheries and Wildlife Omnibus Act of 2016, all wetlands and streams were designated as critical areas to be regulated. These regulations provide for the management and protection of wetlands and streams within the District, especially those that fall outside of federal jurisdiction. These regulations are intended to address challenges unique to an entirely urban jurisdiction, such as mitigation site limitations, and to recognize that natural areas have a finite capacity to tolerate human disturbances. Finally, these regulations will provide transparency to the Department's review of Water Quality Certifications and Wetland and Stream Permits, and a predictable process for applicants.

Based on a District-wide wetland inventory conducted from 2016 to 2017, sixty-six percent (66%) of the District's wetlands are less than a quarter-acre (0.25 acre) in size, and seventy-six percent (76%) are less than a half-acre (0.5 acre) in size. Although many of the District's urban wetlands are small in size, they provide important functions such as flood storage, water quality improvement, and habitat for species of greatest conservation need. Rapid functional assessments performed during the Wetland Conservation Plan inventory indicate that all of the District's wetlands serve important functions even though most are relatively small, and they are often located adjacent to urban development. Wetland functions are a process or series of processes that take place in a wetland and provide ecological and societal benefits. Examples include water quality improvement; flood protection and storage; sediment trapping; nutrient retention and removal; wildlife habitat; habitat for endangered, threatened, and rare species; groundwater recharge and discharge; recreation; and shoreline erosion control. Not all wetlands perform all functions, nor do they perform all functions equally well. Wetland size, geographic location, vegetative composition, soil type, and the quantity and quality of water entering are examples of factors that affect the ability of a wetland to perform functions.

The District's 2020 Wetland Conservation Plan update included the release of the District's Wetland Registry geodatabase, a publicly available map of 92% of the District's wetlands. This planning tool is intended to improve wetland conservation and protection by allowing applicants to scan project areas for potential wetlands and streams to be avoided. Baseline data for each mapped wetland can be accessed by clicking on an individual resource. The Registry data represent approximate locations, do not include every wetland and stream, and do not replace the need for

site-specific wetland and stream delineations or jurisdictional determinations by the United States Army Corps of Engineers.

Permit and Certification Requirements

These regulations will help the District achieve its goal of no net loss of wetlands while creating a clear process for permitting unavoidable impacts to wetlands and streams and ensuring that any lost functions are replaced. Regulated activities that impact wetlands or streams will be permitted with either a federal permit issued by the U.S. Army Corps of Engineers under CWA § 404 and a water quality certification issued by the Department, or a District wetland and stream permit, as applicable. A District wetland and stream permit is required for impacts to wetlands and streams that are not under the jurisdiction of the federal CWA and cumulatively total greater than fifty (50) square-feet in size for a single project. This threshold is consistent with the District's erosion and sediment control permitting requirements.

The Department will issue a permit or certification for a regulated activity only if the Department finds that the proposed project is water-dependent or the proposed project is not water-dependent and has no practicable alternative. The Department will not issue a permit or certification for a regulated activity if it jeopardizes the continued existence of a species of greatest conservation need or results in the destruction or adverse modification of habitat of such species. The District lacks large tracts of undeveloped land suitable for large mitigation sites; therefore, achieving the goal of no net loss will require avoidance and minimization of impacts. Under the proposed regulations, an applicant must take all appropriate and practicable steps during project planning first to avoid and then to minimize impacts to wetlands and streams. While the Department recognizes that preservation of riparian buffers is important to maintaining wetland and stream functions, the Department is only regulating impacts to wetlands and streams in accordance with the authority provided in the Fisheries and Wildlife Omnibus Amendment Act and the Water Pollution Control Act.

These regulations require all temporary impacts to wetlands and streams to be restored to pre-existing conditions, immediately following completion of regulated activities. For those permanent impacts that are allowed under these regulations, the Department will require mitigation to offset the impacts, using one (1) or a combination of four (4) possible methods. In preferred order, these methods are: 1) *creation* of a new wetland; 2) *restoration* of a previously existing wetland or stream; 3) *enhancement* of an existing wetland or stream functions; or 4) *preservation* of an existing wetland or stream. In addition, there are two (2) mechanisms for providing mitigation, in order of preference: 1) permittee-responsible mitigation (the preferred mechanism); and 2) payment into the District of Columbia's Wetland and Stream Mitigation Trust Fund. Permittee-responsible mitigation sites must be located, in preferred order: 1) on-site where the wetland or stream impact(s) will occur; 2) in the drainage basin where the wetland or stream impact(s) will occur; 3) in the sub-watershed where the wetland or stream impact(s) will occur; or 4) outside the watershed where the wetland or stream impact(s) occur, but within the District. This will ensure that development occurs in a manner that adheres to the District's long-standing Wetland Conservation Plan Goal of no net loss, and the eventual overall net gain, of wetland, stream, and riparian buffer functions, acreage, and values. Payment into the District's Wetland and Stream Mitigation Trust Fund may not satisfy U.S. Army Corps of Engineers mitigation requirements.

A functional assessment will be required for each wetland and stream proposed to be impacted by a regulated activity. This will allow the Department to carefully consider the cumulative impacts of regulated activities, improve the ability of the Department to account for losses of functions resulting from regulated activities, and set project-specific mitigation criteria for functional replacement or uplift.

Mitigation is required to offset functional, temporal, and permanent environmental losses resulting from unavoidable impacts associated with regulated activities. Under these regulations, applicants must complete mitigation, to the maximum extent practicable, in advance of or concurrent with the approved regulated activity. Higher mitigation ratios are required to offset temporal losses of stream and wetland functions that will result from regulated activities. Mitigation projects must replace lost wetland or stream functions at a minimum of a 1:1 ratio. Where in-kind functional replacement is not practicable, mitigation ratios will be increased to account for functional loss and to ensure the goal of no net loss and eventual net gain of wetland acreage and function is met.

The success of mitigation projects will be weighed against measurable performance standards. Permittees must monitor mitigation sites for a minimum of five (5) years to ensure the mitigation project is meeting performance standards and to determine if adaptive management is needed. A long-term management plan will be required to ensure long-term sustainability of the resources after performance standards have been achieved.

Given the small size of the majority of the District's wetlands, no *de minimis* threshold has been established for requiring mitigation. However, regulated activities cumulatively totaling two thousand five hundred (2,500) square feet or less in size of impact for a single project may fulfill mitigation requirements through payment into the District's Stream and Wetland Mitigation Trust Fund, in accordance with § 2607.21. Section 2616 of these proposed regulations designated wetlands of special concern that have exceptional ecological value and safeguard the natural diversity of the District's remaining wetlands. Regulated activities within these wetlands will require higher mitigation ratios for those impacts that may be permitted.

Before issuing a wetland or stream permit or water quality certification, DOEE shall provide notice of the intent to issue the permit and the opportunity for a public hearing. The public notice will either be posted on the Federal Register or D.C. Register, or be published for one (1) day in a daily newspaper of general circulation in the District. If Department determines that a comment period would be in the public interest, the public notice may provide an opportunity for the public to review the proposed project and submit written comments about the application.

Title 21 DCMR, WATER AND SANITATION, is amended as by adding a new Chapter 25, CRITICAL AREA – GENERAL RULES, to read as follows:

CHAPTER 25 CRITICAL AREA – GENERAL RULES

2500 SCOPE AND APPLICABILITY
2501 DESIGNATION OF CRITICAL AREAS
2502 INSPECTION
2503 STOP WORK ORDERS
2504 VIOLATIONS AND ENFORCEMENT PROCEDURES
2505 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW
2599 DEFINITIONS

2500 SCOPE AND APPLICABILITY

2500.1 The procedures and requirements of this chapter shall apply to any person conducting an activity regulated by this chapter or by Chapter 26 of Title 21 of the District of Columbia Municipal Regulations (DCMR). Together, these chapters are designated the Critical Area rules.

2501 DESIGNATION OF CRITICAL AREAS

2501.1 The Department of Energy and Environment (DOEE or Department) may designate critical areas by regulation describing the location and extent of the critical areas or the criteria for determining the location and extent of the critical area.

2501.2 The Department designates the following as critical areas within the District:

- (a) Any wetland, as defined in § 2699; and
- (b) Any stream, as defined in § 2699.

2502 INSPECTION

2502.1 The Department may conduct an inspection of an activity regulated under the Critical Area rules to ensure compliance with the rules.

2502.2 The Department or its representative may, at any reasonable time, upon the presentation of appropriate credentials, and with the consent of, the owner, operator, or person in charge:

- (a) Enter premises where a regulated activity subject to the Critical Area rules is located or conducted;
- (b) Access and copy any record, report, or other document or information related to compliance with the Act;

(c) Inspect any site or activity subject to this chapter, including to verify sufficient maintenance; and

(d) Conduct sampling, testing, monitoring, or analysis.

2502.3 A person performing a regulated activity shall communicate with the Department as follows:

(a) Provide preconstruction notification at least seven (7) business days before the start of the regulated or mitigation activity; and

(b) For the completion of the regulated activity or mitigation project, and to request a final inspection, contact the Department at least seven (7) days in advance.

2502.4 The Department may require an additional inspection at a particular stage of construction by specifying that requirement in the permit, or by specifying that it must be included in the approved final site plan or approved mitigation plan.

2502.5 No person may proceed with work past a stage of construction that the Department has identified as requiring an inspection unless:

(a) The Department’s inspector has issued an “approved” or “passed” report;

(b) The Department has approved a permit, certification, or mitigation plan modification that eliminates the inspection requirement; or

(c) The Department otherwise eliminates or modifies the inspection requirement in writing.

2502.6 The Department shall determine whether the work, construction, and maintenance comply with the approved permit, certification, or mitigation plan.

2502.7 The Department may conduct inspections of the site on a periodic or as-needed basis.

2502.8 !! If the Department is denied access to enter or inspect and copy records pursuant to subsection (a) of this section, the Department may apply to the Superior Court for the District of Columbia for a search warrant.

2503 STOP WORK ORDERS

2503.1 The Department may issue a stop work order if it has determined that one (1) or more of the following conditions exists:

- (a) Noncompliance with a notice that requires corrective action;
- (b) Material false statement or misrepresentation of fact in an application that the Department approved for the project;
- (c) During the project, the business license of a contractor or subcontractor is void, has expired, or has been suspended or revoked;
- (d) Work involving an activity regulated under the Critical Area rules is being conducted:
 - (1) In violation of this chapter or Chapter 26;
 - (2) In an unsafe manner; or
 - (3) In a manner that poses a threat to the public health or the environment.

2503.2 A stop work order shall:

- (a) Have immediate effect;
- (b) Be issued in writing; and
- (c) Be provided to:
 - (1) The person who has received an approval under this chapter or the person's authorized representative;
 - (2) The person doing the work; or
 - (3) The person on site who is responsible for the work.

2503.3 The stop work order shall identify the:

- (a) Location of the work;
- (b) Corrective action or cessation required;
- (c) Time period required to complete corrective action;
- (d) Reason for the order;
- (e) Person issuing the order, including telephone contact, and, if available, email or other electronic means of address; and

(f) Steps to be taken to challenge or appeal the order.

2503.4 The stop work order shall be:

(a) Posted at the property; and

(b) Served by registered mail, hand-delivery with certification of service to the person who received approval for the work or that person's agent.

2503.5 No person shall remove a stop work order posted at a site without the Department's written approval.

2503.6 A person who continues work stopped by an order shall be in violation of this chapter for each day on which work is conducted, except for work:

(a) Required immediately to stabilize the activity and place the property in a safe and secure condition;

(b) That the Department orders; or

(c) Required immediately to eliminate an unsafe condition or threat to the public health or the environment.

2504 VIOLATIONS AND ENFORCEMENT PROCEDURES

2504.1 Each instance or day of a violation of each provision of the Critical Area rules shall be a separate violation.

2504.2 Upon identifying a violation of the Critical Area rules, the Department may issue one or more of the following:

(a) A Notice of Violation;

(b) A stop work order;

(c) A compliance order;

(d) An administrative order for costs and expenses;

(e) An Enforcement Notice; or

(f) A Notice of Infraction.

2504.3 The District may seek criminal prosecution if a person violates a provision of the Critical Area rules, to the extent authorized by section 17 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.16).

- 2504.4 The Attorney General for the District may bring a civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction, for civil penalties, damages, cost recovery, reasonable attorney and expert witness fees, and injunctive or other appropriate relief pursuant to sections 18(d) and 19 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.17(d) and 8-103.18), and section 206 of the Fisheries and Wildlife Omnibus Amendment Act of 2016 (D.C. Law 21-282; 8-1731.06).
- 2504.5 As an alternative to a civil penalty, the Department may impose administrative penalties, fines, and fees as sanctions for any violation of the Critical Area rules.
- 2504.6 Except when otherwise required by statute, an administrative civil fine shall be calculated according to the schedule of fines for violations of this chapter that has been approved pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04).
- 2504.7 Administrative adjudication of a Notice of Infraction shall be conducted by OAH, pursuant to its rules and procedures.

2505 ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW

- 2505.1 With respect to a matter governed by the Critical Area rules, a person adversely affected or aggrieved by an action of the Department shall exhaust administrative remedies by timely filing an administrative appeal with, and requesting a hearing before, the Office of Administrative Hearings (OAH) or OAH's successor.
- 2505.2 For the purposes of this chapter, an action of the Department taken with respect to a person shall include any:
- (a) Approval of a permit or certification;
 - (b) Denial of a permit or certification;
 - (c) Compliance order;
 - (d) Administrative order for costs and expenses;
 - (e) Stop work order; or
 - (f) Other action of the Department which constitutes the Department's final decision process and is determinative of a person's rights or obligations.
- 2505.3 For the purposes of this chapter, a Notice of Violation or Enforcement Notice:

- (a) Shall not be an action of the Department that a person may appeal to OAH;
- (b) Shall be responded to within the time specified in the notice, including a written statement containing the grounds, if any, for opposition; and
- (c) Shall not constitute a waiver of compliance or tolling of a period for a fine or penalty.

2505.4 If a person fails to agree to or settle an Enforcement Notice or otherwise denies a claim stated in an Enforcement Notice, the Department may cancel the Enforcement Notice and file a Notice of Infraction (NOI) with OAH for adjudication.

2505.5 A person aggrieved by an action of the Department shall file a written appeal with OAH within the following time period:

- (a) Within fifteen (15) calendar days of service of the notice of the action; or
- (b) Another period of time stated specifically in this section for an identified Department action.

2505.6 The filing of an administrative appeal shall not in itself stay enforcement of an action, except that a person may request a stay according to the rules of OAH.

2505.7 The final OAH decision on an administrative appeal shall thereafter constitute the final, reviewable action of the Department, and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.

2505.8 An action for judicial review of a final OAH decision shall not be a de novo review of OAH’s factual conclusions, but shall be a review of the administrative record alone and not duplicate agency proceedings or hear additional evidence.

2505.9 Nothing in this chapter shall be interpreted to:

- (a) Provide that a filing of a petition for judicial review stays enforcement of an action; or
- (b) Prohibit a person from requesting a stay according to the rules of the court.

2599 DEFINITIONS

2599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act – the Fisheries and Wildlife Omnibus Amendment Act of 2016 (D.C. Law 21-282; D.C. Official Code § 8-1731.02 *et seq.*)).

Certification - certification by the District pursuant to section 401 of the Clean Water Act (33 U.S.C. § 1341) that a federal Clean Water Act Section 404 (33 U.S.C. § 1344) permit or letter of approval issued by the U.S. Army Corps of Engineers complies with the District's laws and regulations.

Critical Area rules – means this chapter and Chapter 26 of the District of Columbia Municipal Regulations.

Critical Areas - means the following areas and ecosystems:

- (a) Areas containing species of local importance;
- (b) Critical aquifer recharge areas;
- (c) Fish and wildlife habitat conservation areas;
- (d) Frequently-flooded areas;
- (e) Wetlands; and
- (f) Areas the Department designates, by rule, as critical areas.

Department – the Department of Energy and Environment, or its successor agency.

District - the District of Columbia

Enforcement Notice – a document that identifies a violation, assesses a proposed civil infraction fine, and provides an opportunity to resolve the matter with the Department prior to adjudication by the OAH.

Maintenance:

- (a) Means activities undertaken to prevent the deterioration, impairment, or need for repair of a serviceable fill area, structure, right-of-way, or land use, including management of vegetation and replacement of structural components.
- (b) Does not include dredging, excavating, or filling, unless such action is conducted in a temporary sediment control structure, wash pond, or roadside ditch.

Mitigation – the restoration, creation, enhancement, or preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts that

remain after all appropriate and practicable avoidance and minimization measures have been taken.

Notice of Infraction – a document identifying a violation and assessing a civil infraction fine that is subject to adjudication by OAH upon request of the recipient.

Person - any individual, partnership, corporation (including a government corporation), trust association, firm, joint stock company, organization, commission, or the District or federal government.

Project - the entire activity on one or more parcels of land, of which a regulated activity is a part, including all proposed and projected phases and sections of land subdivisions.

Regulated activity – any of the following activities that are undertaken or originate in a wetland or stream:

- (a) Removing, excavating, dredging, or filling with soil including sediments, sand, gravel, minerals, organic matter, or materials of any kind;
- (b) Changing, blocking or diverting existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- (c) Disturbing the surface water level or groundwater elevation by drainage, impoundment, diversion, filling, or other means;
- (d) Dumping or discharging or filling with materials;
- (e) Grading or removing materials that would alter existing topography;
- (f) Destroying or removing plant or aquatic life that would alter the character of a wetland;
- (g) Introducing plant or aquatic life that would alter the character of a wetland;
- (h) Diverting, obstructing, or piping water flow from its natural path;
- (i) Conducting sediment or water sampling activities or studies;
- (j) Driving piles, paving, and placing obstructions; and

- (k) Undertaking other activities that change the physical, biological, and chemical integrity of a wetland.

Wetland –

- (a) Means an area that is inundated by tides or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions; and.
- (b) Includes a marsh, swamp, pond, or vernal pool.

Wildlife - any species of a vertebrate or invertebrate animal, excluding domestic species.

Title 21 DCMR, WATER AND SANITATION, is amended as by adding a new Chapter 26, CRITICAL AREA - WETLANDS AND STREAMS, to read as follows:

CHAPTER 26 CRITICAL AREA - WETLANDS AND STREAMS

- 2600 GENERAL PROVISIONS**
- 2601 ACTIVITIES EXEMPT FROM THIS CHAPTER**
- 2602 APPLICATION REQUIREMENTS FOR A DISTRICT WETLAND AND STREAM PERMIT OR A SECTION 401 WATER QUALITY CERTIFICATION**
- 2603 APPLICATION PROCESSING**
- 2604 FEE SCHEDULES FOR DISTRICT WETLAND AND STREAM PERMIT AND WATER QUALITY CERTIFICATION APPLICATIONS**
- 2605 DETERMINING WHETHER A PROPOSED PROJECT IS WATER-DEPENDENT OR HAS NO PRACTICABLE ALTERNATIVE**
- 2606 AVOIDANCE AND MINIMIZATION ANALYSES**
- 2607 MITIGATION**
- 2608 MITIGATION PLAN**
- 2609 BONDING AND SECURITY REQUIREMENTS**
- 2610 IMPLEMENTATION OF APPROVED MITIGATION PLAN, MAINTENANCE, AND MONITORING REQUIREMENTS**
- 2611 DISTRICT WETLAND AND STREAM MITIGATION TRUST FUND PAYMENT**
- 2612 PUBLIC NOTICE AND REVIEW OF WETLAND AND STREAM PERMIT APPLICATIONS**
- 2613 PERMIT AND CERTIFICATION DECISION AND APPEAL**
- 2614 WETLAND AND STREAM PERMIT MODIFICATION**
- 2615 SUSPENSION AND REVOCATION OF PERMIT**
- 2616 WETLANDS OF SPECIAL CONCERN**
- 2699 DEFINITIONS**

2600 GENERAL PROVISIONS

- 2600.1 The purpose of this chapter is to provide for the management and protection of wetlands and streams in the District, consistent with the following:
- (a) The District of Columbia Wetland Conservation Plan, which establishes goals of no net loss in the acreage and function of wetlands, and an eventual overall net gain;
 - (b) The District of Columbia Fisheries and Wildlife Omnibus Act of 2016, which designated wetlands, fish and wildlife habitat conservation areas, and frequently flooded areas as critical areas to be protected, conserved, or enhanced; and
 - (c) The Chesapeake Bay Watershed Agreement of 2014, specifically the goal to restore, enhance, and protect a network of land and water habitats to support fish and wildlife, and to afford other public benefits, including water quality, recreational uses, and scenic values across the watershed.
- 2600.2 No person shall conduct a regulated activity in a wetland or stream unless the activity is exempt under § 2601 or conducted pursuant to a wetland and stream permit or water quality certification in accordance with § 2600.4.
- 2600.3 Notwithstanding any provision of this chapter or Chapter 25, a person who has submitted an application for a water quality certification pursuant to section 401 of the CWA (33 U.S.C. § 1341) before the effective date of these emergency rules shall not be subject to the provisions of this chapter or Chapter 25 for the regulated activity that was the subject of the application.
- 2600.4 A person conducting a regulated activity in a wetland or stream shall obtain one of the following:
- (a) For an activity conducted in a wetland or stream that is also determined to be waters of the United States, a Clean Water Act (CWA) section 404 permit issued by the U.S. Army Corps of Engineers (33 U.S.C. § 1344), and a District water quality certification of that permit under section 401 of the CWA (33 U.S.C. § 1341); or
 - (b) For an activity conducted in a wetland or stream that is not waters of the United States, a District wetland and stream permit issued by the Department.
- 2600.5 The Department shall not issue a wetland and stream permit under this chapter or water quality certification for a regulated activity under section 401 of the CWA unless the applicant demonstrates to the satisfaction of the Department that:

- (a) The proposed project is either water-dependent, or is not water-dependent but has provided justification that no practicable alternative exists under the criteria in § 2605;
- (b) The regulated activity will first avoid and then minimize impacts to wetlands and streams based on consideration of existing topography, vegetation, fish and wildlife resources, and hydrological conditions under the criteria in § 2606; and
- (c) The applicant has developed and implemented or will implement mitigation plans and practices under the criteria in §§ 2607, 2608, 2609, 2610, and 2611.

2600.6 The Department shall not issue a wetland and stream permit or water quality certification for a regulated activity if it:

- (a) Causes or contributes to, after consideration of disposal site dilution and dispersion, violations of any applicable District water quality standard;
- (b) Violates any applicable toxic effluent standard or prohibition under CWA § 307 (33 U.S.C. § 1317); or
- (c) Jeopardizes the continued existence of a species listed as threatened or endangered under the federal Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, or results in the destruction or adverse modification of critical habitat of such species.

2600.7 Unless otherwise specified in a District wetland and stream permit or water quality certification issued by the Department, no regulated activity shall cause or contribute to significant degradation of wetlands or streams, including an individual or cumulative impact that:

- (a) Degrades aquatic or semi-aquatic ecosystem populations, diversity, productivity, or stability;
- (b) Adversely affects the biological, chemical, or physical properties of a wetland or stream;
- (c) Degrades habitat for aquatic or semi-aquatic wildlife, fish, shellfish, or plants; or
- (d) Jeopardizes the continued existence of a species of greatest conservation need or results in the destruction or adverse modification of habitat of such species.

2600.8 Persons conducting regulated activities within wetlands and streams shall:

- (a) Conduct the regulated activity so as not to alter or impact the habitats of species of greatest conservation need;
- (b) Conduct the regulated activity so as not to restrict or impede the passage of normal high water flows;
- (c) Conduct the regulated activity so as not to restrict or impede the movement of wildlife indigenous to the wetland or adjacent water;
- (d) Adhere to time-of-year restrictions as required by the Department under 21 DCMR § 1405;
- (e) Avoid any disturbances in breeding areas for migratory waterfowl and species of greatest conservation need;
- (f) Maintain the hydrologic regime of District waters impacted by the regulated activity;
- (g) Place materials in a location and manner that does not impact surface or subsurface water flow into or out of District waters;
- (h) Use only backfill that is free of waste metal products, debris, toxic material, contaminated material, or any other deleterious substance;
- (i) Place heavy equipment on mats, or suitably design the equipment to prevent damage to wetlands and soil compaction;
- (j) For installation of utility lines or repairs to utility lines, ensure that post-construction grades and elevations of wetlands and stream bed and banks are the same as original grades and elevations;
- (k) Avoid significant individual and cumulative impacts to wetlands of special concern; and
- (l) Manage runoff to prevent discharge of untreated stormwater into District waters.

2601**ACTIVITIES EXEMPT FROM THIS CHAPTER**

2601.1

The following activities are exempt from the permitting requirements of this chapter:

- (a) Any proposed regulated activity conducted by a person who received a federal Clean Water Act (CWA) section 404 permit issued by the U.S. Army Corps of Engineers (33 U.S.C. § 1344), and a District water quality

certification of that permit under section 401 of the CWA (33 U.S.C. § 1341) before the effective date of these regulations;

- (b) Invasive species eradication, mowing, or other forms of weed control in existing public utility rights-of-way;
- (c) Activities that disturb less than fifty square feet (50 ft²) of land and do not impact waters of the United States.

2601.2 The following activities are exempt from the mitigation requirements of this chapter:

- (a) Submerged aquatic vegetation restoration and enhancement activities;
- (b) Stream and wetland enhancement, restoration, and creation activities that are not related to mitigation, provided:
 - (1) The activities do not impact the biological, chemical, or physical properties of the wetland or stream; and
 - (2) The project is not located within a wetland of special concern.
- (c) The installation of floating recreational docks that will be removed within six (6) months of installation.

2601.3 !! A person may perform emergency work to protect life, limb or property, or may perform emergency repairs, prior to obtaining a wetland and stream permit or water quality certification, provided that:

- (a) The person performing the work or repairs notifies the Department by telephone or email within twenty-four (24) hours or the next business day after learning of the condition requiring emergency work or emergency repairs;
- (b) The person submits an application for a District Wetland and Stream Permit or a water quality certification within thirty (30) days of beginning the emergency work or emergency repairs;
- (c) For an activity conducted in a wetland or stream that is also determined to be waters of the United States, the person conducting the activity follows any emergency procedures established by the U.S. Army Corps of Engineers in accordance with 33 C.F.R. § 325.2(e)(4); and
- (d) The person performing the emergency work or emergency repairs completes the work or repairs, and, once the wetland or stream permit or

water quality certification is issued, the person fulfills any mitigation required by the permit or certification.

2602 APPLICATION REQUIREMENTS FOR A DISTRICT WETLAND AND STREAM PERMIT OR A SECTION 401 WATER QUALITY CERTIFICATION

- 2602.1 An applicant seeking a water quality certification shall submit an electronic copy of the signed joint permit application form accessible on U.S. Army Corps of Engineers' website, along with supporting documents that were submitted to the U.S. Army Corps of Engineers for a CWA § 404 Permit, to the Department's submittal database.
- 2602.2 An applicant seeking a District wetland and stream permit shall submit to the Department's submittal database a signed application on a form provided by the Department.
- 2602.3 An applicant for a District wetland and stream permit or water quality certification shall submit the following information to the Department's submittal database, if not previously submitted pursuant to § 2602.1:
- (a) A detailed description of the proposed project including:
 - (1) Project purpose;
 - (2) A description of facilities to be constructed or modified and work to be performed that would impact wetlands, streams, or other District waters;
 - (3) A description of the size and location of the proposed project site;
 - (4) A copy of either the approved jurisdictional determination letter from the U.S. Army Corps of Engineers or the preliminary jurisdictional determination form;
 - (5) The area (in square feet), length (in feet), and type(s) of streams and wetlands proposed to be impacted, including the area or length determined to be waters of the United States; and
 - (6) The applicant's proposed mitigation plan.
 - (b) A wetland and stream delineation report for the site, with supporting documents, that delineates all wetlands and streams within the project vicinity and includes:
 - (1) Wetland determination data forms for each wetland community in accordance with U.S. Army Corps of Engineers 1987 Wetlands Delineation Manual and Regional Supplements, accessible on the

U.S. Army Corps of Engineers' website:
<https://www.nab.usace.army.mil/Missions/Regulatory/Jurisdictional-Determinations>;

- (2) Topographic mapping; and
 - (3) Survey mapping.
- (c) A site plan that includes the following information:
- (1) Wetland boundaries, as marked or flagged in the field, based on field delineation and delineated in accordance with the U.S. Army Corps of Engineers Wetland Delineation Manual and its Regional Supplements;
 - (2) Wetland and upland data point locations delineated in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and Regional Supplements;
 - (3) Stream top-of-bank boundaries and ordinary high water mark boundaries, as marked or flagged in the field, based on field delineation;
 - (4) Locations of springs, seeps, vernal pools, and other aquatic resources;
 - (5) Locations of existing and proposed structures or utilities;
 - (6) Proposed locations of regulated activities and limits of disturbance;
 - (7) Property lines of any parcels impacted by the regulated activity;
 - (8) Locations and number of soil or sediment investigations and any soil or sediment contamination issues;
 - (9) Locations and number of groundwater investigations and any contamination issues; and
 - (10) Locations of project sites on District Flood Insurance Rate Map (FIRM).
- (d) A cross-sectional drawing(s) of each proposed impact area that includes at a minimum:
- (1) Graphic scale;
 - (2) Existing structures;

- (3) Existing and proposed elevations;
 - (4) Limits of wetlands and streams;
 - (5) Flow direction;
 - (6) For non-tidal streams, ordinary high water mark and top-of-bank;
 - (7) For tidal streams, mean low water and mean high water lines;
 - (8) Impact limits; and
 - (9) Location of all existing structures and proposed structures.
- (e) Profile drawing(s) with the information listed in paragraph (d), if required by the Department to demonstrate minimization of impacts;
 - (f) A list of each type of wetland proposed to be impacted, identified by its Cowardin classification, and for each classification of wetland:
 - (1) The area of each proposed wetland impact in square feet; and
 - (2) The total area of all proposed impacts in square feet.
 - (g) A list of individual stream impacts as follows:
 - (1) By length in linear feet to the nearest whole number and by average width in feet to the nearest whole number; and
 - (2) In square feet to the nearest whole number.
 - (h) Representative photographs of the impacted wetland or stream, riparian buffers, data point locations, and project area;
 - (i) A completed environmental impact screening form and review documents, if required by the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Official Code § 8-109.01 *et seq.*), and by 20 DCMR § 7201;
 - (j) Names of adjacent property owners;
 - (k) A photo location map identifying the direction of each photo taken;
 - (l) A functional assessment of the wetlands and streams directly or indirectly, temporarily or permanently impacted by the proposed activity;

- (m) An avoidance and minimization analyses, as specified in § 2606; and
- (n) A mitigation plan, as specified in § 2608.

- 2602.4 The Department may request evidence or certification that material is free from toxic contaminants prior to disposal or use for fill.
- 2602.5 The applicant shall certify the truth, accuracy, and completeness of all the information in the application.
- 2602.6 The application shall be signed by the applicant or, if the applicant is not an individual, by an authorized agent of the applicant.
- 2602.7 If the applicant is not the legal property owner, the application form shall also be signed by the legal property owner or an authorized agent of the owner.
- 2602.8 An applicant shall flag the wetland boundaries in the field in accordance with the Corps of Engineers Wetlands Delineation Manual and its Regional Supplements.
- 2602.9 An applicant shall maintain the boundary flags until the Department and U.S. Army Corps of Engineers have reached a jurisdictional determination decision.
- 2602.10 An applicant for a wetland and stream permit, water quality certification, or a modification of a wetland and stream permit or a water quality certification, shall pay a nonrefundable application fee at the time the applicant submits the application to the Department, as specified in § 2604.
- 2602.11 For purposes of this section, the term “authorized agent” shall mean:
- (a) For a corporation, partnership, limited liability company, association, trust, or other business entity, a governor as defined in D.C. Official Code § 29-101.02; and
 - (b) For the District or federal government, a legally authorized official.

2603 APPLICATION PROCESSING

- 2603.1 An application is complete if:
- (a) It contains all of the information required by §§ 2602, 2605, 2606, 2607, and 2608;
 - (b) The application fees set forth in § 2604 are paid in full; and
 - (c) The Department determines that all the information submitted is sufficient for the Department to process the application.

- 2603.2 If an application is incomplete, the Department may:
- (a) Notify the applicant in writing or through the Department’s submittal database of any items or additional information that are required; or
 - (b) Return the application.

2604 FEE SCHEDULES FOR DISTRICT WETLAND AND STREAM PERMIT AND WATER QUALITY CERTIFICATION APPLICATIONS

- 2604.1 Any person applying for a wetland and stream permit or water quality certification shall pay the fees described in this section.
- 2604.2 The Department shall adjust the fees in this section for inflation annually, using the Urban Consumer Price Index published by the United States Bureau of Labor Statistics. To perform this adjustment, the Department shall increase each fee by the percentage, if any, by which the Urban Consumer Price Index for June of the calendar year exceeds the Urban Consumer Price Index for June of the previous year. Each inflation adjustment shall be posted to the Department’s website.
- 2604.3 An applicant for a permit, water quality certification, or modification of a permit or a water quality certification shall pay the appropriate nonrefundable application fee in Table 1 at the time the applicant submits the application to the Department.

Table 1. DOEE Nonrefundable Application Fees

Wetland and Stream Permit Review and/or Water Quality Certification Review	\$750.00
Minor Permit/Certification Modification (projects with impacts < 5,000 SF)	\$750.00
Major Permit/Certification Modification (projects with impacts ≥ 5,000 SF)	\$1,500.00
Request DOEE to perform Presence/Absence Survey	Desktop Review \$50.00
Request DOEE to perform Presence/Absence Survey	Site Visit \$75.00 for first hour plus \$100 for each additional hour

- 2604.4 An applicant for a permit, water quality certification, or modification of a permit or a water quality certification shall pay the appropriate supplemental fee in Table 2 after the Department has reviewed and commented on the application but prior to the issuance of the permit or certification.

Table 2. Supplemental Fees Based on Proposed Impact

< 5,000 SF	\$1,500.00
≥ 5,000 SF to < ¼ acre	\$3,000.00
≥ ¼ acre to < ½ acre	\$4,500.00
> ½ acre to < ¾ acre	\$6,000.00
≥ ¾ acre to < 1 acre	\$7,500.00
≥ 1 acre	\$9,000.00

2604.5 An applicant for a permit, water quality certification, or modification of a permit or a water quality certification shall pay any appropriate additional fees in Table 3 shall be paid after the Department has reviewed and commented on the application but prior to the issuance of the permit or certification.

Table 3. Additional Fees

Permittee-Responsible Mitigation Plan Review	\$1,580.00
Permittee-Responsible Mitigation Site Inspection/Monitoring for Impacts to PEM ¹ /PSS ² Wetlands and/or Streams	\$3,950.00
Permittee-Responsible Mitigation Site Inspection/Monitoring for Impacts to PFO ³ Wetlands	\$6,900.00
Contaminated soil, sediment, groundwater, or surface water within project site	\$1,300.00

¹PEM - Palustrine emergent wetland
²PSS – Palustrine scrub shrub wetland
³PFO – Palustrine forested wetland

2605 DETERMINING WHETHER A PROPOSED PROJECT IS WATER-DEPENDENT OR HAS NO PRACTICABLE ALTERNATIVE

2605.1 The Department may issue a permit or certification for an activity only if the Department finds that:

- (a) The proposed project is water-dependent; or
- (b) The proposed project is not water-dependent and has no practicable alternative, as specified in this section.

2605.2 The Department will apply the following criteria to determine whether a proposed project is water-dependent:

- (a) Whether an alternate water source is available for use, including surface water or groundwater, that may result in less adverse impacts to wetlands or streams; and
- (b) Whether the use of a wetland or stream would only enhance a project rather than function as an essential element of a project.

2605.3 In determining whether the proposed project requires access to a wetland or stream as a central element of its basic project purpose, the Department will consider whether access could be accomplished at another location that would first avoid, or if avoidance is not possible then minimize, impacts to wetlands or streams.

2605.4 For a multiple-use project that has both water-dependent and non-water dependent features, the Department will determine the features that are water dependent.

2605.5 In determining whether the proposed project is water dependent, the Department may consider, but is not bound by, the applicant's description of the basic project purpose.

2605.6 If the project is not water dependent, the applicant shall demonstrate to the satisfaction of the Department that all practicable alternatives have been analyzed, and that the proposed regulated activity has no practicable alternative.

2605.7 In determining whether the proposed regulated activity has a practicable alternative, the Department may consider the following:

- (a) Whether the basic purpose of the project can be reasonably accomplished using one or more other sites in the same general area as the proposed project that would avoid or reduce impacts on wetlands, streams, and other District waters;
- (b) Whether a reduction in the size, scope, configuration, or density of the proposed project would accomplish the basic purpose of the project;
- (c) Whether an alternative design, including a no-build alternative that would avoid or reduce impacts on wetlands, streams, and other District waters, would accomplish the basic project purpose;
- (d) Whether the applicant has made a good-faith effort to address site constraints such as inadequate zoning, infrastructure, or parcel size that caused an alternative to the proposed regulated activity and project to be rejected; and
- (e) Whether the regulated activity is necessary for the project to meet a demonstrated public benefit.

- 2605.8 In determining whether the basic project purpose can be reasonably accomplished using one or more other sites in the same general area as the proposed project that would avoid or result in less adverse impact to wetlands or streams, as specified in § 2605.7(a):
- (a) The Department may consider the applicant's definition of the general area, but may make an independent determination;
 - (b) The applicant shall prove to the Department's satisfaction that the applicant has examined at least four (4) alternative sites, including a no-action alternative, for the proposed project during the initial planning phase; and
 - (c) The applicant may not exclude an alternative site from consideration during the initial planning phase because it includes or requires an area not owned by the applicant that could reasonably be obtained, used, expanded, or managed to fulfill the basic purpose of the proposed project.
- 2605.9 In determining whether an applicant has made a good-faith effort to address constraints, as specified in § 2605.7(d), the Department may consider any pertinent information, including:
- (a) Correspondence or other written documentation between an applicant and a local authority, including a request for a special exception or other zoning variance;
 - (b) Evidence of efforts to modify the local infrastructure, including future planned expansions or redesign of the project because of a potential impacts to wetlands or streams; and
 - (c) Written documentation of efforts undertaken to acquire another site or to reconfigure the proposed project, such as the reduction of building footprints by compensating vertical expansion or the use of multilevel parking garages to address the constraint.
- 2605.10 In determining whether the regulated activity is necessary for the proposed project to meet a demonstrated public need, as specified in § 2605.7(e), the Department may consider the following:
- (a) Whether the proposed project promotes the public health, safety, or welfare; and
 - (b) The ecological functions of, and economic value associated with, the wetland, stream, or other water to be impacted, including the benefits and economic value provided to the general public by the wetland or stream, and the ability of the wetland or stream to continue to provide those identified functions and benefits to the general public.

2605.11 A permittee shall not change the use of a project determined to be water-dependent to a non-water-dependent use unless the permittee files a new application and receives authorization for the modified use.

2606 AVOIDANCE AND MINIMIZATION ANALYSES

2606.1 The Department may issue a permit or certification for an activity only if the Department finds that the applicant has demonstrated that the regulated activity will avoid, or if avoidance is not feasible, will minimize, impacts to wetlands and streams.

2606.2 When evaluating the extent to which a proposed project will avoid or minimize direct and indirect impacts to wetlands and streams, the Department may consider relevant factors including the following:

- (a) Reduction in acreage of wetlands and streams impacted by a regulated activity;
- (b) Harm to a federally threatened or endangered species or species of greatest conservation need, or to the critical habitat of these species;
- (c) Impact on movement of wildlife indigenous to wetlands and streams;
- (d) Ability of the wetlands or streams to continue to support and provide habitat for those species of wildlife using the area, if the proposed regulated activity were authorized;
- (e) Hydrologic regime of the areas upstream and downstream of the area of impact, including headwaters;
- (f) Functions of the impacted and adjacent wetlands and streams within the watershed, and an analysis of potential impacts of the applicant's action on adjacent wetlands, streams, and other waters within the watershed;
- (g) Passage of normal and expected high flows, the relocation of District waters, and stream diversion;
- (h) Subsurface water and groundwater flow into or out of any wetland area;
- (i) Presence of fish or aquatic wildlife spawning areas, including submerged aquatic vegetation beds;
- (j) Presence of adjacent areas of habitat having significant plant or wildlife function or value;
- (k) Cumulative impact to wetlands, streams, and other District waters;

- (l) The cost of fulfilling potential mitigation requirements based on the proposed project configuration or design versus an alternative project configuration or design;
- (m) The basic project purpose of the proposed project and how the basic project purpose relates to placement, configuration, and density of the wetland;
- (n) The location of any existing structural and natural features that may dictate the placement or configuration of the proposed project;
- (o) The applicant’s efforts to:
 - (1) Modify the size, scope, configuration, or density of the project to avoid and minimize impacts to wetlands and streams;
 - (2) Remove or address site constraints, including zoning, infrastructure, access, and natural features, and otherwise avoid or minimize impacts; and
 - (3) Confine unavoidable impacts to the fringe or periphery of the wetlands and streams.

2606.3 If the Department determines that an applicant has not complied with the requirement to avoid and minimize impacts to wetlands, streams, and other District waters, the Department will provide to the applicant, in writing, its objections to the project.

2606.4 Within six (6) months of receipt of the Department’s objections, the applicant shall submit an amended project proposal addressing the Department’s objections, withdraw the application, or request an extension of time to resubmit an amended project proposal addressing the Department’s objections, unless the Department allows a longer period of time.

2606.5 If the applicant fails to respond to the Department’s objection in accordance with § 2606.4, the statement of objections shall constitute a denial.

2607 MITIGATION

2607.1 The objective of mitigation is to offset functional, temporal, and permanent environmental losses resulting from unavoidable impacts to wetlands and streams authorized by wetland and stream permits and water quality certifications.

2607.2 An applicant must propose and provide justification for an appropriate mitigation project to offset unavoidable impacts to wetlands or streams and obtain the Department’s approval of a mitigation plan in accordance with § 2608.

- 2607.3 Mitigation for wetland and stream impacts is not required for the following regulated activities:
- (a) Activities exempted in § 2601; and
 - (b) Activities which result in temporary impacts to wetlands or streams.
- 2607.4 A mitigation project:
- (a) Shall comply with the District's surface water quality standards;
 - (b) As a source of its hydrology, may only receive stormwater runoff from stormwater management practices required pursuant to chapter 5 of this title or by a permit issued pursuant to CWA § 402 (33 U.S.C. § 1342), provided that the stormwater runoff meets District's surface water quality standards before entering the wetlands or streams; and
 - (c) Shall not be constructed to serve as a stormwater management best management practice for the purpose of compliance with 21 DCMR Chapter 5.
- 2607.5 An applicant shall complete mitigation, to the maximum extent practicable, in advance of or concurrent with the approved regulated activity. The Department may require additional compensatory mitigation to offset temporal losses of stream and wetland functions that will result from the permitted activity.
- 2607.6 The mitigation mechanism shall be permittee-responsible mitigation or, if authorized in accordance with 2607.18, payment into the District of Columbia's Wetland and Stream Mitigation Trust Fund.
- 2607.7 An applicant may perform permittee-responsible mitigation using creation, restoration, enhancement, or preservation of wetlands or streams, or a combination any of those methods.
- 2607.8 Mitigation projects may be located on multiple parcels of land.
- 2607.9 Mitigation projects shall be located:
- (a) In the District;
 - (b) Where they are most likely to successfully replace functions lost as a result of the project, taking into account habitat diversity, habitat connectivity, hydrology, trends in land use, and compatibility with adjacent land uses; and

- (c) According to the following geographic location, in order of priority, unless otherwise determined by the Department:
- (1) On-site where the wetland or stream impact(s) will occur;
 - (2) In the drainage basin where the wetland or stream impact(s) will occur;
 - (3) In the sub-watershed where the wetland or stream impact(s) will occur;
 - (4) In the watershed where the wetland or stream impact(s) will occur;
or
 - (5) Outside the watershed where the wetland or stream impact(s) will occur.

2607.10 Except as provided in §§ 2607.18 the permittee shall install and maintain the mitigation project.

2607.11 In selecting sites for mitigation within geographic regions, an applicant shall avoid, whenever possible, the following types of sites:

- (a) Forested lands;
- (b) Lands known to have soil and groundwater contamination;
- (c) Lands that have or will have limited access for wildlife or aquatic life because of traffic or other human activities;
- (d) Lands that are existing or potential habitat for any species that are:
 - (1) Listed as endangered or threatened by the Department or the U.S. Fish and Wildlife Service; or
 - (2) Considered to be locally unusual, rare, or identified as a species of greatest conservation need in the District Wildlife Action Plan, accessible on the Department's website; and
- (e) A site designed or constructed to remove or treat pollutants from stormwater runoff.

2607.12 The applicant shall calculate mitigation requirements as follows:

- (a) The minimum mitigation ratio, between the area of wetland or stream mitigation and the area of wetlands or streams impacted, shall be 1:1; and

- (b) The mitigation shall:
 - (1) Where appropriate functional or condition assessment methods or other suitable metrics are available, replace lost wetland or stream functions; and
 - (2) Where functional or condition assessment methods or other suitable metrics are not available, mitigate impacts using the mitigation ratios in § 2607.14 and § 2607.15.

2607.13 A mitigation ratio shall be expressed as:

- (a) A relationship between the area of wetland mitigation and the area of wetlands impacted; or
- (b) A relationship between the area of stream mitigation and the area of streams impacted.

2607.14 The mitigation ratios for impacts to streams, when functional or condition assessment methods or other suitable metrics are not available, shall be as follows:

Type of Stream	Restoration Ratio	Preservation and Enhancement Ratio	District Wetland and Stream Mitigation Trust Fund Payment
Ephemeral	1:1	1.5:1	1.5:1
Intermittent	2:1	3:1	3:1
Perennial	2:1	3:1	3:1

2607.15 The mitigation ratio for impacts to wetland areas, when functional or condition assessment methods or other suitable metrics are not available, shall be as follows:

Wetland Type	Mitigation Method		District Wetland and Stream Mitigation Trust Fund Payment
	Creation/Restoration	Enhancement and Preservation	
Emergent	1:1	1.5:1	1.5:1
Shrub-scrub	2:1	3:1	3:1
Forested	2:1	3:1	3:1

Emergent Wetland of Special Concern	2:1	3:1	3:1
Shrub-scrub Wetland of Special Concern	3:1	4.5:1	4.5:1
Forested Wetland of Special Concern	3:1	4.5:1	4.5:1

2607.16 The Department may accept reduced mitigation requirements if the regulated activity provides a significant environmental benefit as determined by the Department.

2607.17 The Department shall require higher mitigation ratios for activities conducted without or prior to obtaining a permit or certification required by this chapter, as follows:

Resource Type	Restoration/ Creation Ratio	Preservation and Enhancement Ratio	District Wetland and Stream Mitigation Trust Fund Payment
Stream	3:1	4:1	4:1
Wetland	4:1	5:1	5:1

2607.18 A permittee may fulfill the mitigation requirement for damage to or destruction of habitat from dredge-and-fill or construction activity through payment into the District’s Wetland and Stream Mitigation Trust Fund if:

- (a) Permittee-responsible mitigation is not practicable based on the justification and a determination of the considerations provided in accordance with §§ 2607.19 and 2607.20; or
- (b) Cumulative impacts for a single project total less than or equal to two thousand five hundred (2,500) square-feet.

2607.19 If an applicant proposes payment into the District’s Wetland and Stream Mitigation Trust Fund, the applicant shall demonstrate to the satisfaction of the Department that all practicable mitigation alternatives have been analyzed and that permittee-responsible mitigation is not practicable.

2607.20 In determining whether payment into the District’s Wetland and Stream Mitigation Trust Fund is justified and permittee-responsible mitigation is not practicable, the Department will consider the following:

- (a) Whether the applicant has thoroughly examined the feasibility of at least four (4) mitigation sites;
- (b) Whether mitigation can reasonably be accomplished using one (1) or more other sites in the District that were not examined by the applicant;
- (c) Whether the applicant has made a good-faith effort to address site constraints, such as inadequate zoning, infrastructure, or parcel size, that caused an alternative to the proposed mitigation site alternatives to be rejected;
- (d) Correspondence or other written documentation between an applicant and alternative site landowner(s) that demonstrates the site(s) is unsuitable or unavailable for purchase during the site selection process; and
- (e) Whether the applicant has provided scientific evidence to determine a site is not suitable for mitigation.

2608 MITIGATION PLAN

2608.1 If a proposed project results in unavoidable impacts to wetlands or streams after first trying to avoid and then attempting to minimize such impacts, the applicant shall develop and implement a mitigation plan.

2608.2 The applicant shall submit the mitigation plan as part of the permit or certification application process. The mitigation plan shall include the following information:

- (a) Names, addresses, and telephone numbers of the principals associated with project implementation;
- (b) A proposal, if applicable, to use the District's Wetland and Stream Mitigation Trust Fund, consistent with §§ 2607.19 and 2607.20, to fulfill mitigation requirements;
- (c) A description of mitigation projects proposed to fulfill the mitigation requirement, including the proposed source of hydrology and project location maps showing the geographic relationship between the area of potential impacts and the proposed mitigation sites;
- (d) A description of the mitigation project objectives, including the wetland or stream type(s) and amount(s) of restoration, creation, enhancement and preservation that will be provided, and the manner in which the ecosystem functions of the mitigation project will address the needs of the watershed;
- (e) A description of the factors considered during the site selection process, including consideration of watershed needs, on-site alternatives where

applicable, and the practicability of accomplishing ecologically self-sustaining wetland creation, and/or stream or wetland restoration, enhancement, or preservation at the mitigation project site;

- (f) A description of the legal arrangements, including site ownership, and site protection legal instruments, such as environmental covenants, that will be used to ensure the long-term protection of the mitigation project site;
- (g) A description of baseline information on the ecological characteristics of the proposed mitigation project site. Baseline information may include the following:
 - (1) Descriptions of historic and existing plant communities;
 - (2) Historic and existing hydrology and soil conditions;
 - (3) Map showing the locations of the impact and mitigation site(s) or the geographic coordinates for those site(s);
 - (4) Other site characteristics appropriate to the type of resource being proposed as compensation;
 - (5) A map of the existing conditions at the mitigation site(s) that includes streams and wetlands with each type labeled, floodplain extent, ordinary high water elevation, normal water elevation, location of culverts, location of outfalls, location of tributaries, topographic features, thalweg, boundaries of areas dominated by invasive plant species, proposed protective buffers, and the proposed boundary of preservation; and
 - (6) A report on the delineation of wetlands and streams on the proposed mitigation project site(s).
- (h) A determination of mitigation ratios based on the type and functions of the wetland or stream. For permittee-responsible mitigation, this should include an explanation of how the mitigation project will provide the required mitigation for unavoidable impacts to wetlands and streams resulting from the regulated activity;
- (i) A mitigation work plan with detailed written specifications and work description for the mitigation project, including the following:
 - (1) Geographical boundaries and plan view scaled drawings that include the following:

- (i) A vicinity map showing the mitigation project location, existing land use, and zoning;
- (ii) The location, type, and area of proposed wetland or stream mitigation activities;
- (iii) The proposed location of stockpile areas or staging areas;
- (iv) The location of sediment and erosion control practices and disturbance areas;
- (v) For stream restoration, the location of proposed ordinary high water elevation, normal water elevation, topographic features, thalweg, sinuosity measurements, and habitat enhancement features;
- (vi) Detailed grading plans;
- (vii) The limits of cut and fill areas;
- (viii) The extent and acreage of existing vegetation and proposed vegetation planting zones;
- (ix) The targeted canopy cover;
- (x) The location of riparian buffer areas and plant species to be included in the buffer area;
- (xi) The proposed location of stockpile areas or staging areas;
- (xii) The locations of all areas used to stage machinery, equipment, or supplies;
- (xiii) The proposed sources of borrow materials;
- (xiv) Total rock fill to be used for habitat/stabilization measures;
- (xv) Flow rate, hydrologic flow regime, and storm event flow characteristics;
- (xvi) The proposed location, spacing, and type of propagules for each plant species; and
- (xvii) The location of photo stations, monitoring wells, vegetation sampling points, and reference wetlands or streams (if available).

- (2) Cross-section drawings of mitigation and buffer areas showing existing and proposed final site conditions including grade, elevation, slope, and expected maximum and normal water depths, and natural channel design measurements;
- (3) A longitudinal profile of existing and proposed land surface;
- (4) A description of how creation, restoration, enhancement, or, if applicable, preservation will replace lost functions;
- (5) A description of creation, restoration, or enhancement techniques and site grading;
- (6) A construction schedule that includes estimated start, completion dates, and planting timeline;
- (7) A hydrologic analysis that includes:
 - (i) The proposed location of groundwater monitoring wells to collect groundwater data;
 - (ii) Estimated elevation and quality of surface water and groundwater as measured from the soil surface at a frequency and duration approved by the Department as part of its approval of the mitigation plan;
 - (iii) Sources of hydrology, such as groundwater, precipitation, and surface water, over various seasons of the year;
 - (iv) Reliability of the hydrologic sources throughout the various seasons of the year;
 - (v) Relevant precipitation data; and
 - (vi) Water budget analysis for a proposed wetland based on expected monthly inputs and outputs that will project water level elevations for a typical year, a dry year, and a wet year;
- (8) A description of substrate conditions for:
 - (i) Existing soil and substrate conditions; and
 - (ii) Soil and substrate amendments needed to meet hydric soil characteristics and maintain the specified aquatic or plant species;

- (9) Native vegetation or plants to be planted with the following information:
 - (i) The scientific and common names of plant species;
 - (ii) Planting dates for each species according to propagation method; and
 - (iii) Planting stock fertilizer or soil amendment requirements for the entire five (5) year to ten (10) year monitoring period;
- (j) An invasive plant monitoring plan establishing responsibility for the removal of invasive plants until permanent establishment of the wetland or stream system and its component parts;
- (k) A maintenance plan, including a description and schedule of maintenance requirements to ensure the continued viability of the mitigation site once monitoring is completed;
- (l) Performance standards to measure the effectiveness of the mitigation plan at achieving mitigation goals and offsetting the authorized impacts to wetlands, which shall:
 - (1) Be ecologically-based, objective, quantitative, verifiable, and relate to the specific goals of the mitigation plan;
 - (2) Include measures to ensure achievement of plant survival criteria in § 2610.6; and
 - (3) Describe criteria for measuring interim progress and determining whether the mitigation site is developing as expected.
- (m) Monitoring requirements describing parameters to be monitored in order to determine if the mitigation project is meeting performance standards and, if adaptive management is needed, a methodology for monitoring each parameter and a schedule for monitoring and reporting monitoring results to the Department;
- (n) A long-term management plan to ensure the long-term sustainability of the resource that describes how the mitigation project will be managed after performance standards have been achieved, including long-term financing mechanisms and responsibility for long-term management;

- (o) An adaptive management plan to address failure to achieve or maintain performance standards, including identification of the party or parties responsible for implementing adaptive management measures;
- (p) A description of financial assurances that will be provided in accordance with § 2609 and how these assurances are sufficient to ensure that the mitigation project will be successfully completed in accordance with its performance standards; and
- (q) Other information the Department may require as necessary to determine the appropriateness, feasibility, and practicability of the mitigation project.

2608.3 Proposed mitigation projects will be evaluated by the Department to assess:

- (a) The likelihood for ecological success, functional uplift, and sustainability; and
- (b) The location of the mitigation project site relative to the impact site and the function of both the mitigation project site and impact site in the watershed.

2608.4 In determining whether proposed mitigation adequately replaces wetland or stream functions and area, the Department will consider the following:

- (a) Scope and extent of the mitigation;
- (b) Proximity of the mitigation to the wetland or stream;
- (c) Technical merits of the mitigation and its likelihood of long-term success;
- (d) Temporal losses of wetland or stream functions and ecological, recreational, and aesthetic values;
- (e) Adverse impact of the mitigation on natural resources; and
- (f) Relationship of the mitigation to ongoing natural resource management activities.

2608.5 The Department may not approve a mitigation plan that includes invasive plants.

2608.6 The Department may not approve a mitigation plan that includes a stormwater management practice required pursuant to chapter 5 of this title or a permit issued pursuant to CWA § 402 (33 U.S.C. § 1342) as part of the mitigation project.

2608.7 The Department may approve or disapprove the mitigation plan as part of the permit application decision.

2608.8 If the Department disapproves the mitigation plan, the Department will provide guidance to the applicant on the changes necessary for approval of the mitigation plan.

2608.9 An applicant shall provide the Department or its designee access to the mitigation site to inspect during business hours.

2609 BONDING AND SECURITY REQUIREMENTS

2609.1 The bonding requirements of this section do not apply to agencies of the District or federal government.

2609.2 Except as provided in 2609.4, the applicant shall file with the Department a surety bond in a form approved by the Department before a request for a permit or certification will be approved.

2609.3 The bond shall be payable to the Department and will remain in effect until the permittee's successful completion of the mitigation project according to an approved mitigation plan.

2609.4 Instead of a surety bond, the Department may accept one of the following alternate forms of security:

(a) An irrevocable letter of credit in an amount equivalent to the required bond, issued by a bank or financial institution organized or authorized to do business in the District, that expressly states that the total sum is guaranteed to be available and payable directly to the Department on demand in the event of forfeiture by the applicant; or

(b) The fulfillment of mitigation requirements before initiation of the permitted activity, if that permitted activity will result in impacts to wetlands or streams.

2609.5 If the applicant supplies an alternate form of security pursuant to § 2609.4, the applicant shall submit documentation of that form of security to the Department.

2609.6 A bond or letter of credit shall not expire until construction of the mitigation project and the monitoring and maintenance requirements have been successfully completed pursuant to the approved mitigation plan.

2609.7 The amount of the bond shall be the cost to acquire the land and provide mitigation, which shall be determined by the Department based on the prevailing market values of land in the District.

2609.8 An applicant may request reduction of the bond amount by submitting a written request to the Department with a justification for reducing the bond amount,

including estimated or actual costs to complete the mitigation project, and any other relevant information.

- 2609.9 The Department will determine whether a lesser amount is sufficient to cover the cost of mitigation by considering the following:
- (a) The number of acres or linear feet to be mitigated;
 - (b) The current cost of land in the area of the mitigation site;
 - (c) The proposed method of mitigation;
 - (d) The type and value of the wetland to be created or type and functions of the stream to be created or restored; and
 - (e) Any other relevant factors, including the likelihood of success of the project.
- 2609.10 The permittee's liability under a bond shall continue until the Department receives and approves an as-built plan for the mitigation project and the surety or financial institution receives written notice from the Department that construction of the mitigation project was successfully completed.
- 2609.11 A surety bond or alternate form of security shall not be canceled by the surety, bank, or other issuing entity unless the issuing entity notifies the Department and the permittee of its intent to cancel the bond or other alternate form of security, in writing, by registered mail, not less than ninety (90) calendar days before cancellation.
- 2609.12 At least forty-five (45) calendar days before the cancellation date indicated in a notice given pursuant to § 2609.11, the permittee shall file with the Department a commitment from a surety, bank, or other issuing entity to provide a substitute bond or other alternate form of security that will be effective on the cancellation date indicated in the notice.
- 2609.13 The bond or alternate form of security shall be subject to forfeiture upon:
- (a) Revocation of a wetland and stream permit by the Department;
 - (b) Failure of the permittee to comply with an administrative order; or
 - (c) Failure to comply with any element of the approved mitigation plan and any approved modifications.
- 2609.14 The Department shall notify the permittee and the surety, bank, or other issuing entity of the Department's intention to initiate forfeiture proceedings in writing by certified mail.

- 2609.15 The permittee shall have thirty (30) calendar days from receipt of the notice of forfeiture to correct any deficiencies in compliance with the mitigation plan or otherwise show cause why the bond or other instrument should not be forfeited.
- 2609.16 If the permittee fails to correct any deficiencies or show cause as required in § 2609.15, the bond or other security shall be forfeited.
- 2609.17 The Department shall prohibit a permittee from conducting a regulated activity in a wetland or stream if the permittee previously forfeited any bond or alternate form of security under this chapter, unless:
- (a) The permittee repays the Department the cost incurred by the Department in completing the mitigation project that is in excess of the forfeited bond or alternate form of security plus interest of one-and-one-half percent (1.5%) per month; or
 - (b) If the mitigation project is still not completed, the permittee completes the mitigation project at its expense according to the approved mitigation plan and any approved modifications.
- 2609.18 The Department may require the permittee to provide documentation of a long-term protection mechanism on the land where mitigation has occurred, in accordance with § 2610.14, before the permittee may release a bond or alternate form of security.
- 2610 IMPLEMENTATION OF APPROVED MITIGATION PLAN, MAINTENANCE, AND MONITORING REQUIREMENTS**
- 2610.1 A permittee shall implement the approved mitigation plan within the time period required by the Department and specified in the mitigation plan.
- 2610.2 A permittee shall maintain and monitor all created, restored, and enhanced emergent wetlands, shrub-scrub wetlands, or streams for at least five (5) years.
- 2610.3 A permittee shall maintain and monitor created, restored, and enhanced forested wetlands for at least ten (10) years.
- 2610.4 The Department may require a longer monitoring period for wetlands or streams with slow development rates, such as bogs.
- 2610.5 Monitoring events must occur during the growing season and during a period with normal precipitation and groundwater levels.
- 2610.6 A permittee shall ensure that after five (5) years, greater than eighty-five percent (85%) of the site is vegetated by native species.

- 2610.7 In the case of a permittee who has proposed the use of natural re-vegetation as part of the creation, restoration, or enhancement project, after five (5) years, greater than eighty-five percent (85%) of the site shall be vegetated by native species similar to those found in the wetland lost or by a species composition agreed to by the Department.
- 2610.8 A permittee shall submit annual maintenance and monitoring reports for a minimum of five (5) years from the completion of the construction of the mitigation project to the Department, unless the permittee has received written notice from the Department that the maintenance and monitoring requirements have been fulfilled in less than five (5) years.
- 2610.9 The annual maintenance and monitoring reports shall include the following information:
- (a) A description of how the mitigation project meets performance standards;
 - (b) Any change in status or performance from the previous year;
 - (c) Photographs of the mitigation project accurately representing the status of the project;
 - (d) The commercial source of planting stock whenever replanting is required;
 - (e) A description of any modifications that have been made or need to be made to implement the mitigation plan or plan component so as to meet the performance standards; and
 - (f) An as-built site design plan following completion of the mitigation project for year one (1) and year five (5).
- 2610.10 Upon presentation of appropriate credentials to the permittee or property owner, the Department may, consistent with section 205 of the Fisheries and Wildlife Omnibus Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; D.C. Official Code § 8-1731.05), enter the mitigation site at reasonable times during construction, the required monitoring period, and afterwards to inspect the mitigation project and assess the long-term viability of the mitigation site.
- 2610.11 The permittee's maintenance and monitoring requirements shall be deemed to be fulfilled upon receipt of written approval notice from the Department.
- 2610.12 If the mitigation project fails to comply with survival criteria, the Department may, through written notification to the permittee, extend the required monitoring period for up to an additional three (3) years.

- 2610.13 If the created or restored wetland or stream does not meet the performance standards by the final monitoring year period, including any extensions, the permittee shall submit a new mitigation plan to the Department in accordance with §§ 2607 through 2610 and, upon Department approval, implement the new mitigation plan.
- 2610.14 The permittee shall ensure the long-term protection of the wetlands, streams, riparian buffers, and uplands that comprise the overall mitigation project through one of the following protection mechanisms:
- (a) A conservation easement;
 - (b) Conveyance of the wetlands, streams, riparian buffers, and uplands that comprise the overall mitigation project to an organization or public agency capable of protecting the area in perpetuity;
 - (c) A restrictive covenant; or
 - (d) Another mechanism approved by the Department.
- 2610.15 For mitigation projects located on government property, long-term protection may be provided through facility management plans or integrated natural resources management plans.
- 2610.16 Any long-term protection mechanism shall include the following:
- (a) Language granting the Department, including any successor agency, and its designee, access to the mitigation site for inspections;
 - (b) An absolute prohibition on the draining, dredging, removal, or filling of the created wetland site;
 - (c) Language that the restriction is binding on the grantor's personal representatives, heirs, successors, and assigns and runs with the land; and
 - (d) A provision requiring notification to the Department sixty (60) calendar days before any action is taken to void or modify the long-term protection mechanism.
- 2610.17 The long-term protection mechanism must, to the extent appropriate and practicable, prohibit incompatible uses that might otherwise jeopardize the objectives of the mitigation project.
- 2610.18 A permittee shall design mitigation projects, to the maximum extent practicable, to be self-sustaining once performance standards have been achieved, using

appropriate siting to ensure that natural hydrology and landscape context will support long-term sustainability, and minimizing the use of active engineering features, such as pumps.

- 2610.19 If active long-term management and maintenance, such as invasive plant species control, maintenance of water control structures, or easement enforcement, are necessary to ensure long-term sustainability of the mitigation project, the permittee must provide for such management and maintenance, including providing any necessary long-term financing mechanisms.

2611 DISTRICT WETLAND AND STREAM MITIGATION TRUST FUND PAYMENT

- 2611.1 The Department may accept payment into the District Wetland and Stream Mitigation Trust Fund instead of permittee-responsible mitigation when such payment authorized in accordance with §§ 2607.18 and 2607.19.

- 2611.2 Payment into the District Wetland and Stream Mitigation Trust Fund shall not be a substitute for the requirement to avoid or minimize wetland or stream impacts.

- 2611.3 An applicant proposing to make a payment into the District Wetland and Stream Mitigation Trust Fund shall so state in the permit application.

- 2611.4 In order to obtain approval of a proposed payment into the District Wetland and Stream Mitigation Trust Fund for a project, an applicant shall demonstrate the technical infeasibility of permittee-responsible mitigation specified in §§ 2607.18 and 2607.19 by providing the following information:

- (a) An evaluation of a minimum of four (4) potential mitigation sites;
- (b) A map and description of each site rejected;
- (c) A justification as to why each site was unsuitable for mitigation; and
- (d) Other information as required by the Department.

- 2611.5 The Department may reject a proposal for payment into the District Wetland and Stream Mitigation Trust Fund if the Department determines that mitigation requirements can be fulfilled on-site or permittee-responsible mitigation is technically feasible or practicable.

- 2611.6 The Department may approve or disapprove a proposal for payment into the District Wetland and Stream Mitigation Trust Fund as part of a final permit.

2611.7 The payment schedule for the District Wetland and Stream Mitigation Trust Fund is included below. The applicant must calculate the cost for each mitigation component listed. The sum of the costs equals the total amount of payment due.

Mitigation Component	Cost
Land Acquisition	Land market value ¹
Wetland or Stream Design	\$25,000 per acre
Wetland or Stream Construction and Planting	\$200,000 per acre
Wetland or Stream Maintenance and Monitoring for Five Years	\$15,000 per year
Administrative Cost for Five Years	\$8,000 per year

¹Land market value for the project site or a similar site that would be suitable for a mitigation project.

2611.8 The Department shall adjust the fees in this section for inflation annually, using the Urban Consumer Price Index published by the United States Bureau of Labor Statistics. To perform this adjustment, the Department shall increase each fee by the percentage, if any, by which the Urban Consumer Price Index for June of the calendar year exceeds the Urban Consumer Price Index for June of the previous year. Each inflation adjustment shall be posted to the Department’s website.

2611.9 The applicant shall use the mitigation ratios in §§ 2607.14 and 2607.15 to calculate the total mitigation fees based on the ratio of impacted stream or wetland area.

2612 PUBLIC NOTICE AND REVIEW OF WETLAND AND STREAM PERMIT APPLICATIONS

2612.1 Before issuing a wetland and stream permit or certification, the Department shall provide notice of the intent to issue the permit and the opportunity for a public hearing and may provide notice of an opportunity for the public to review the proposed project and submit written comments about the application.

2612.2 The public notice shall be given by:

- (a) Joint notice with other federal or District agencies in the Federal Register or D.C. Register;
- (b) Publication for at least one (1) business day in a daily newspaper of general circulation in the District; or
- (c) Publication in the D.C. Register.

2612.3 The Department may also provide for a comment period, of a duration determined by the Department, if and to the extent that the Department determines that a comment period would be in the public interest. After that comment period has

ended and the Department has held a public hearing, if requested, the Department shall:

- (a) Consider and review the written comments, testimony, and other information received; and
- (b) Grant, deny, or condition a permit.

2612.4 The Department may delay a decision to grant, deny, or condition a permit for the following circumstances:

- (a) Review required by federal agencies;
- (b) Review required by other District agencies; or
- (c) A request by an applicant.

2612.5 The Department may request additional information from the applicant or give the applicant an opportunity to provide additional information to address concerns raised during the public comment period or public hearing.

2612.6 The applicant may request, in writing, that the Department withhold its decision until additional information can be provided.

2612.7 If the applicant fails to provide additional information requested by the Department within six (6) months, the Department may consider the application as withdrawn.

2613 PERMIT AND CERTIFICATION DECISION AND APPEAL

2613.1 The Department will notify an applicant in writing of the Department's permit decision.

2613.2 The Department may issue a permit or certification only after an applicant has provided the Department a final site plan showing intended impacts and the information required by this chapter in accordance with §§ 2602, 2604, 2605, 2606, 2607, 2608, and 2609.

2613.3 An applicant shall not begin work authorized under a permit or certification until the Department has issued a permit.

2613.4 A permittee shall conduct all regulated activities in accordance with the permit or certification, including the approved final site plan and mitigation plan.

2613.5 A permit or certification issued by the Department is valid for five (5) years, unless the permit is modified, reissued, or revoked.

2613.6 The Department may issue a permit or certification after-the-fact for regulated activities conducted without a permit or certification if the work meets the requirements of this chapter and the applicant submits a mitigation plan meeting the mitigation ratios in §§ 2607.14 and 2607.15.

2613.7 The permit or certification shall specify the time period for which it is valid.

2614 WETLAND AND STREAM PERMIT MODIFICATION

2614.1 The Department may require a permittee to make modifications to an approved site plan or mitigation plan during construction to ensure compliance with this chapter.

2614.2 The Department may require a change to a site plan, mitigation plan, or component of a site plan or mitigation plan if the Department determines that a discrepancy between site conditions and the approved plan makes the plan inadequate to comply with the requirements of this chapter.

2614.3 A permittee may request that the Department make modifications to a permit or an approved site plan, mitigation plan, or component of a site plan or mitigation plan during construction to ensure compliance with this chapter.

2614.4 A permittee may not change an approved plan or its implementation without Department approval as follows:

- (a) If a change is substantial, the permittee shall resubmit the revised plan to the Department for approval in accordance with this chapter; and
- (b) If a change is not substantial, the permittee may secure written approval from the Department by mail, email, or modification of approved plans signed by a Department employee without submission of a revised application.

2614.5 For the purposes of this chapter, a substantial change in an approved plan is a change in design, specification, construction, operation, or maintenance that the Department determines:

- (a) May result in a failure to comply with a requirement of this chapter; or
- (b) Has an impact on District waters.

2614.6 A permittee shall make a request for modifications in writing, and the request shall contain the following information:

- (a) The name of the permittee;
- (b) The location of the wetland or stream impacts or mitigation project;

- (c) A description of the proposed modification; and
- (d) A justification for the modification

2614.7 For a substantial modification, a permittee shall submit a revised plan through the submittal database, and pay appropriate fees in set forth in § 2604.

2614.8 The Department will notify a permittee in writing whether the Department approves the permit or plan modification decision.

2615 SUSPENSION AND REVOCATION OF PERMIT

2615.1 The Department may suspend or revoke a permit or certification if the Department determines that any of the following has occurred:

- (a) The permittee has failed to post a required bond or alternate form of security;
- (b) The permittee has failed to comply with the requirements of a compliance or administrative order;
- (c) The permittee has falsified or misrepresented any information in the permit application process;
- (d) The permittee has failed to disclose a relevant or material fact;
- (e) The permittee has violated a requirement of the permit;
- (f) The permittee has substantially deviated from the plans, specifications, or requirements of the permit;
- (g) The permittee has prevented a representative of the Department from entering the regulated activity or mitigation site to make reasonable inspections;
- (h) New information or changes in site conditions necessitate revocation or suspension; or
- (i) Other good cause to suspend or revoke the permit exists.

2615.2 Except as provided for emergency actions, the Department may suspend or revoke a wetland and stream permit or certification only if the Department first gives the permittee written notice of the facts that warrant suspension or revocation and provides the permittee an opportunity to request a hearing in accordance with § 2505.

- 2615.3 The Department may order the immediate suspension or revocation of a permit or certification if the Department finds that the public health, safety, or welfare requires the emergency action and promptly gives the permittee written notice of the emergency action.
- 2615.4 A notice of emergency action shall include a statement of the specific facts upon which the emergency action is based and provide information regarding the permittee's opportunity to request a hearing in accordance with § 2505.
- 2615.5 If the Department revokes a permit, the permittee shall restore the wetland or stream to its condition before the regulated activity began.

2616 WETLANDS OF SPECIAL CONCERN

- 2616.1 Wetlands designated as wetlands of special concern have exceptional ecological value and safeguard the natural diversity of the District's wetlands.
- 2616.2 The Department may designate any of the following as wetlands of special concern:
- (a) Wetlands providing habitat or ecologically important buffers for the habitat of plant or animal species listed as federally threatened, endangered, or rare by the U.S. Fish and Wildlife Service;
 - (b) Wetlands providing habitat or ecologically important buffers for the habitat of plant or animal species listed as District species of greatest conservation need;
 - (c) Wetlands containing any of the following: vernal pools, headwater wetlands, groundwater seeps, or springs;
 - (d) Tidal wetlands; and
 - (e) Wetlands identified as Conservation Opportunity Areas in the District's Wildlife Action Plan.
- 2616.3 Maps of areas designated as wetlands of special concern will be available for public review on the Department's website. Wetlands of special concern include the following:
- (a) Potomac River Floodplain wetlands;
 - (b) Oxon Run wetlands;
 - (c) Northern Rock Creek wetlands KA, KB, KG, JZ, JY, JX, KF, KI, and KH (as listed in the District's 2016 Wetland Conservation Plan);

- (d) Anacostia River Gateway wetlands;
- (e) Anacostia River tidal wetlands;
- (f) Kenilworth wetlands;
- (g) Kingman Island wetlands;
- (h) Heritage Island wetlands;
- (i) Poplar Point wetlands;
- (j) Piney Branch wetlands LP and LQ (as listed in the District's 2016 Wetland Conservation Plan); and
- (k) Theodore Roosevelt Island wetlands.

2616.4 The Department may annually update the map and list of areas designated as wetlands of special concern in § 2616.3.

2616.5 Mitigation for impacts to wetlands of special concern shall replace lost aquatic resource function.

2699 DEFINITIONS

2699.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Adaptive Management –a management strategy that anticipates likely challenges associated with mitigation projects and provides for the implementation of actions to address those challenges, as well as unforeseen changes to those projects. It requires consideration of the risk, uncertainty, and dynamic nature of mitigation projects and guides modification of those projects to optimize performance. It includes the selection of appropriate measures that will ensure that the aquatic resource functions are provided and involves analysis of monitoring results to identify potential problems of a mitigation project and the identification and implementation of measures to rectify those problems.

Applicant - the legal property owner, an officer or an authorized agent of a corporation that is the legal owner or agent of the legal owner of the property, a legally authorized official of the federal or District of Columbia government, or an authorized partner of an association or partnership.

Aquatic resource – riparian ecosystems, surface waters, and groundwater systems.

Aquatic vegetation - vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Basic project purpose – the primary need that will be fulfilled by the proposed regulated activity that is used to determine whether a project is water-dependent. For example, the purpose of a residential development is to provide housing for people.

Certification or water quality certification – certification by the District pursuant to section 401 of the Clean Water Act (33 U.S.C. § 1341) that a federal Clean Water Act Section 404 (33 U.S.C. § 1344) permit or letter of approval issued by the U.S. Army Corps of Engineers complies with the District's laws and regulations.

Clean Water Act - the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act (CWA) of 1977 and later amendments (33 U.S.C. §§ 1251 *et seq.*).

Corps of Engineers Wetland Delineation Manual – a publication of the U.S. Army Corps of Engineers Waterways Experiment Station titled "Corps of Engineers Wetlands Delineation Manual," (Wetlands Research Program Technical Report Y-87-1, January 1987) and the most recently approved U.S. Army Corps of Engineers guidance (<https://www.nab.usace.army.mil/Missions/Regulatory/Jurisdictional-Determinations/>).

Created wetland - a wetland created on a site that previously was not a wetland to replace wetlands that were unavoidably impacted during design and construction of a project.

Creation – the manipulation of the physical, chemical, or biological characteristics of a site to develop a wetland that did not previously exist on an upland or deepwater site, resulting in an increase in wetland area.

Cowardin Classification – unless otherwise specified in this chapter, means the waters classification system in Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, Lewis M. II, et al., U.S. Fish and Wildlife Service, December 1979, Reprinted 1982), located here: <https://www.fws.gov/wetlands/Documents/Classification-of-Wetlands-and-Deepwater-Habitats-of-the-United-States.pdf>.

Department – the Department of Energy and Environment, or its successor agency.

District - the District of Columbia.

District of Columbia Wetland Conservation Plan – the plan published by the Department to manage, protect, preserve, enhance, and extend the remaining wetlands in the District with a two-fold goal of (1) no net loss of wetland acreage and function, and (2) eventual overall net gain of wetland acreage and function. The District Wetland Conservation Plan is located here: <https://doee.dc.gov/service/wetland-mapping-and-registry>

District waters:

- (a) Means flowing and still bodies of water, whether artificial or natural, whether underground or on land, so long as in the District;
- (b) Excludes:
 - (1) Water on private property prevented from reaching underground or land water courses; and
 - (2) Water in closed collection or distribution systems.

Drainage - methods for changing the hydrologic conditions of wetlands, including lowering groundwater or surface water levels through pumping, ditching, diverting, or otherwise altering water flow patterns.

Endangered species - fish, wildlife, or plants designated under the federal Endangered Species Act, in 50 C.F.R. §§ 17.11 and 17.12.

Enhancement - the manipulation of the physical, chemical, or biological characteristics of a wetland or stream to heighten, intensify, or improve specific function(s), that does not result in a gain in wetland or stream acres.

Ephemeral stream - flowing water in stream beds present during, and for a short duration after, precipitation events in a typical year, but not including streams for which groundwater is a source of the water.

Emergent wetland – a wetland dominated by erect, rooted, herbaceous vegetation.

Fill - any material placed in an area that changes the elevation of the preexisting surface water or groundwater level, or the soil surface.

Forested wetland – a class of wetland dominated by woody vegetation that is twenty (20) feet tall or taller and three (3) inches or larger in diameter at breast height. These areas typically possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

Function - the role an aquatic resource serves through the physical, chemical, and biological processes that occur in the ecosystem, including:

- (a) Passive recreation, uniqueness, and natural heritage value;
- (b) Habitat for wildlife or fisheries;
- (c) Sediment trapping or stabilization (short term);
- (d) Flood desynchronization;
- (e) Food chain support (nutrient export);
- (f) Dissipation of erosive forces;
- (g) Active recreation;
- (h) Groundwater discharge or groundwater recharge;
- (i) Nutrient retention or removal (long term);
- (j) Sediment trapping or stabilization (long term);
- (k) Reduction of pollutant loadings, including excess nutrients, sediment, and toxics;
- (l) Attenuation of floodwaters and storm waters;
- (m) Shoreline stabilization and erosion control; or
- (n) Breeding grounds and habitat for species of plants and wildlife including fish, game, and non-game birds and mammals, including threatened, endangered and rare species and species in need of conservation.

General area - the geographic vicinity that has desired characteristics for fulfilling the basic project purpose.

Headwaters - the source or beginning of a stream or river.

Impact – adverse effect or to adversely affect.

Indirect impact – effects caused by the activity that occur after completion of the project or outside the project area, but were still reasonably foreseeable.

Initial planning phase - the period of time during which the feasibility of a project is evaluated before committing resources necessary for its implementation.

Intermittent stream - a stream that does not have flowing surface water during dry periods of the year, but has flowing water during certain times of the year resulting from the flow of groundwater, although runoff from rainfall can serve as a supplemental source of water for stream flow.

Jurisdictional determination - the determination made by the U.S. Army Corps of Engineers regarding its jurisdiction after determining whether:

- (a) The waters are waters of the United States; or
- (b) If not waters of the United States, whether the proposed type of activity may nevertheless so affect the waters of the United States that the assertion of federal regulatory jurisdiction is deemed necessary.

Maintenance:

- (a) Means activities undertaken to prevent the deterioration, impairment, or need for repair of a serviceable fill area, structure, right-of-way, or land use, including management of vegetation and replacement of structural components.
- (b) Does not include dredging, excavating, or filling, unless such action is conducted in a temporary sediment control structure, wash pond, or roadside ditch.

Minimize - to reduce impacts to wetlands, streams, and District waters to the greatest practicable and reasonable degree.

Mitigation – the restoration, creation, enhancement, or preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization measures have been taken.

Native - indigenous to the District.

Non-tidal wetland – a wetland that is not subject to the ebb and flow of tidal waters.

On-site – on the same project site on which a District waters have been impacted by a regulated activity.

Perennial stream – a stream that has flowing water year-round during a typical year, for which groundwater is the primary source of stream flow, and runoff from rainfall may be a supplemental source of stream flow. The water table is located above the stream bed for most of the year.

Permittee - an applicant to whom a permit has been granted by the Department in accordance with this chapter.

Permittee-responsible mitigation - a mitigation activity undertaken by the permittee (or an authorized agent or contractor) to provide mitigation for which the permittee retains full responsibility for meeting the established mitigation performance standards, long-term maintenance, and long-term protection of the mitigation site.

Permanent impacts –impacts to a wetland or stream that cause a permanent alteration of the physical, chemical, or biological properties of the stream, wetland, or other aquatic resource acreage or functions.

Performance standards – observable or measurable physical (including hydrological), chemical, or biological attributes that are used to determine whether a mitigation project meets its objectives.

Plan view drawing – a scaled graph or plot that represents the view of an object as projected onto orthogonal planes.

Pond - a still body of water, whether formed naturally or created artificially, that:

- (a) Lacks wave action on the shoreline;
- (b) Allows light to penetrate to the bottom; and
- (c) Is shallow enough for rooted water plants to grow.

Practicable - available and capable of being done after taking into consideration costs, existing technology, and logistics in light of the basic project purpose.

Preservation:

- (a) Means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources; and
- (b) Includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms.

Project - the entire activity on one or more parcels of land, of which a regulated activity is a part, including all proposed and projected phases and sections of land subdivisions.

Profile drawing – a scaled graph of plot that represents the side view of an object.

Propagule - a structure (such as a cutting, a seed, or a spore) that propagates a plant.

Regulated activity - any activity that is undertaken or originates in a wetland or stream, including the following:

- (a) Removing, excavating, dredging, or filling with soil including sediments, sand, gravel, minerals, organic matter, or materials of any kind;
- (b) Changing, blocking or diverting existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- (c) Disturbing the surface water level or groundwater elevation by drainage, impoundment, diversion, filling, or other means;
- (d) Dumping or discharging or filling with materials;
- (e) Grading or removing materials that would alter existing topography;
- (f) Destroying or removing plant or aquatic life that would alter the character of a wetland;
- (g) Introducing plant or aquatic life that would alter the character of a wetland;
- (h) Diverting, obstructing, or piping water flow from its natural path;
- (i) Conducting sediment or water sampling activities or studies;
- (j) Driving piles, paving, and placing obstructions; and
- (k) Undertaking other activities that change the physical, biological, and chemical integrity of a wetland.

Restoration - the manipulation of the physical, chemical, or biological characteristics of a degraded or former aquatic resource site with the goal of returning natural or historic functions.

Riparian Buffer - an upland area, surrounding a wetland or stream, measured one hundred (100) feet from the outer edge of the wetland boundary or stream bank that protects or enhances functions associated with wetlands, rivers,

streams, lakes, and marine and estuarine systems from disturbances associated with adjacent land uses.

Scrub-shrub wetland – a class of wetlands dominated by woody vegetation three (3) feet to twenty (20) feet tall, including tree shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions, but excluding woody vines.

Species of greatest conservation need - an animal species that is listed in the District's Wildlife Action Plan as a species in need of conservation through targeted management actions, based on a set of criteria that are detailed in the Wildlife Action Plan. This includes animal species whose populations are imperiled, vulnerable, or declining, or have their habitat at risk.

Stormwater management - a system to control stormwater runoff with structural and nonstructural best management practices, including:

- (a) Quantitative control of volume and rate of surface runoff; and
- (b) Qualitative control to reduce or eliminate pollutants in runoff.

Stream – a channel or conveyance of surface water with perennial, intermittent, or ephemeral flow and having defined bed and banks, whether natural or artificial.

Stream bank – the side slopes of an active channel between which the streamflow is normally confined.

Sub-watershed - a smaller unit of a watershed that contains a set of streams that all drain into a single larger-order stream.

Temporal loss - the time between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the mitigation site.

Temporary impacts – impacts to wetlands, streams, or other aquatic resources that do not cause a permanent alteration of the physical, chemical, or biological properties of the stream, wetland, or other aquatic resources, or the permanent alteration or degradation of existing wetland, stream, or aquatic resource acreage or functions.

Thalweg - The deepest part of any cross section of a river or stream.

Top-of-bank – the break in slope between a streambank and the surrounding terrain.

Tidal wetland – a wetland that is inundated by tidal waters.

Vernal pool – a seasonal depressional wetland covered by water for variable periods of time, but that may be completely dry for most of the summer and fall.

Water-dependent - requiring access to, proximity to, or location within a wetland or stream to fulfill the basic project purpose.

Watershed:

- (a) Means the land area that drains water to a particular stream, river, or lake; and
- (b) May be identified by tracing a line along the highest elevations between two areas on a map, often a ridge.

Waters of the United States – waters that are defined as waters of the United States in 33 CFR § 328.3 or 40 CFR § 120.2.

Wetland

- (a) Means an area that is inundated by tides or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions; and.
- (b) Includes a marsh, swamp, pond, or vernal pool.

Wetland and Stream Mitigation Trust Fund program - a program involving the restoration, establishment, enhancement, or preservation of aquatic resources through funds paid to a governmental entity to satisfy mitigation requirements for the Department’s permits.

Wildlife - any species of a vertebrate or invertebrate animal, excluding domestic species.

All persons desiring to comment on the emergency and proposed District of Columbia Critical Area – Wetlands and Streams regulations should file comments in writing not later than sixty (60) days after the publication of this notice in the *D.C. Register*. Comments should be labeled “Review of the Critical Area – Wetlands and Streams Regulations” and filed with the Department of Energy and Environment, Regulatory Review Division, 1200 First Street NE, 5th Floor, Washington, DC 20002, Attention: Jennifer Dietzen, or by e-mail to WetlandProgram@dc.gov

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ISSUANCE SYSTEM


Mayor's Order 2020-104
October 13, 2020

SUBJECT: Delegation – Authority to the Department of Consumer and Regulatory Affairs to Issue Regulations Pursuant to the Short-Term Rental Regulation Act of 2018

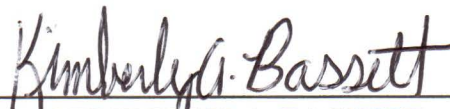
ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.), and pursuant to the Short-Term Rental Regulation Act of 2018 (“Act”), effective April 25, 2019, D.C. Law 22-307, D.C. Official Code §§ 30-201.01 *et seq.*, it is hereby **ORDERED** that:

1. The Director of the Department of Consumer and Regulatory Affairs is delegated the Mayor's authority to issue rules pursuant to sections 102(b), 103(4), 105, 106(f)(5), 110(c), and 111 of the Act (D.C. Official Code §§ 30-201.02(b), 30-201.03(4), 30-201.05, 30-201.06(f)(5), 30-201.10(c) and 30-201.11).
2. **EFFECTIVE DATE:** This Order shall become effective immediately.


MURIEL BOWSER
MAYOR

ATTEST:


KIMBERLY A. BASSETT

SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

BRIDGES PUBLIC CHARTER SCHOOL**NOTICE: REQUEST FOR PROPOSALS**

Bridges Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for SY20-21

- COVID-19 Test Services

Proposals should be submitted in PDF format and for any further information regarding this notice at bids@bridgespcs.org no later than **4:00 pm Monday, October 26, 2020.**

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)
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.dcnnet@lync.webex.com](tel:1725778972)

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

**COMMUNITY COLLEGE PREPARATORY ACADEMY
PUBLIC CHARTER SCHOOL**

REQUEST FOR PROPOSALS (RFP)

Staff Development and Instructional Design Services

Community College Preparatory Academy is seeking proposals from individuals or companies to provide **Staff Development and Instructional Design Services** for the 2020-2021 school year.

To request a full copy of the RFP, send email to Andrea@ccprep-academy.org.

Bids that do not address all areas as outlined in the RFP or bids received past the deadline will not be considered.

Send proposal by 12:00PM, October 27, 2020 via email to: Andrea@ccprep-academy.org.

For additional information, please contact:

Andrea Robinson
Community College Preparatory Academy
3301 Wheeler Road, SE
Washington, DC 20032
Andrea@ccprep-academy.org

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Human Capital Management and Compensation Assessment

Creative Minds International PCS located in Washington DC invites proposals for Human Capital Management and Compensation Assessment. Submission deadline is 12:00 PM Eastern Time on October 29, 2020.

To request full scope and/or seek additional information, please email:

Heather Hesslink
Director of Operations & Compliance
heather.hesslink@creativemindspcs.org

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT**

**ANNOUNCES OCTOBER 22, 2020 PUBLIC MEETING
FOR THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT
ENHANCEMENT COMMITTEE**

The Office of the State Superintendent of Education (OSSE) hereby announces that it will hold a public meeting for the District of Columbia Public Charter School Credit Enhancement Committee as follows:

**12:30 p.m. – 2:00 p.m.
Thursday October 22, 2020
Phone Conference
Conference Line (866)836-4385
Passcode: 5280417**

For additional information, please contact:

Darryl Brantley, Financial Program Specialist
Office of Public Charter School Financing and Support
Office of the State Superintendent of Education
1050 First St. NE, Fifth Floor
Washington, DC 20002
(202) 258-3541
Darryl.Brantley@dc.gov

The draft agenda for the above-referenced meeting will be:

- I. Call to Order
- II. Approval of agenda for the October 22, 2020, committee meeting
- III. Approval of minutes from September 24, 2020, committee meeting
- IV. Review Conflict of Interest – Transaction Disclosure Checklist
- V. Inspired Teaching Demonstration, PCS – \$1,750,000 Direct Loan

Any changes made to the agenda that are unable to be submitted to the DC Register in time for publication prior to the meeting will be posted on the [public meetings calendar](#) no later than two (2) business days prior to the meeting.

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

NOTICE OF FUNDING AVAILABILITY

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

The original NOFA was published on September 11, 2020. It is being amended to require that applicants be organized as a Non-Profit organization.

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

Descriptions of Opportunities:

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

Eligibility Requirements:

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

Applicants must be organized under the District of Columbia Nonprofit Corporation Act of 2010 (D.C. Official Code § 29-401 et seq.) or organized as a Non-Profit organization in the jurisdiction where the entity is incorporated.

A RFA will be released on or around October 30, 2020. The application package will be available online at <https://communityaffairs.dc.gov/content/community-grant-program> and the DHCF website (<https://dhcf.dc.gov/page/dhcf-grant-opportunities>).

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

Completed applications must be received on or before 4p.m. on November 30, 2020. No applications will be accepted after the submission deadline. All eligible applications will be reviewed through a competitive process.

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

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Occupational Therapy (“Board”) hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a quarterly basis and the next meeting will be held on Tuesday, October 20, 2020 from 1:00 PM – 4:00 PM. The meeting will be open to the public from 1:00 PM until 2:00 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 2:00 PM to 4:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference.

The agenda is available at <https://dchealth.dc.gov/event/board-occupational-therapy-calendar-and-meeting>. For additional information, contact the Health Licensing Specialist at mavis.azariah@dc.gov or (202) 442-4782.

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 20-07: Samuel F.B. Morse School

440 R Street NW (Square 509, Lot 197)

Designated September 24, 2020

Affected Advisory Neighborhood Commission: 6E

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF FILING OF HISTORIC DISTRICT DESIGNATION APPLICATION

The D.C. Historic Preservation Review Board hereby provides public notice of its receipt and filing of an application to designate the following properties as a historic district in the D.C. Inventory of Historic Sites.

Designation Case No. 21-03: The Colony Hill Historic District

Including Hoban Road NW, all addresses; Hadfield Lane NW, all addresses; 1800 block 45th Street NW, all addresses; and 1699, 1701, 1709, 1717 Foxhall Road NW.

Also known as Square 1328, Lots 1-3, 5-7, 12 and 803; Square 1346, Lots 2, 800, 875-879 and 889-894; Square 1347, all lots; Square 1348, all lots; and Square 1349, all lots.

The applicant is the Colony Hill Neighborhood Association. The affected Advisory Neighborhood Commission is 3D.

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

The principal purposes of landmark designation are: the recognition of the historic or architectural importance of a property; and its protection through the future review, by the Historic Preservation Office and/or the Historic Preservation Review Board, of proposed subdivisions and permit applications for construction, alteration and demolition.

As soon as the Board's calendar permits, it will consider the application in accordance with the Historic Landmark and Historic District Protection Act of 1978, and with the criteria set forth in Title 10C, D.C. Municipal Regulations, Chapter 2, to determine whether the property merits designation.

As there are a number of pending designation applications, it is unlikely that this application will be considered at one of the next few Board meetings, unless there is some urgency, such as a pending permit application, which would trigger a hearing.

Property owners and the affected Advisory Neighborhood Commission will be afforded 45 days' written notice when the Board schedules a public hearing on the application. All interested persons and parties may submit comments and participate in the eventual hearing.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF AWARD

Nonprofit Capacity Support Grant

The Department of Housing and Community Development (DHCD), pursuant to D.C. Official Code § 1-309.10(b), has determined that good cause exists to shorten the Advisory Neighborhood Commission (ANC) notice period and announces the proposed award of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Coronavirus (CDBG-CV) funds to support two additional housing and community development nonprofits that have experienced an increase in administrative costs, constituent requests or other disruptions to normal operations due to COVID-19. Requests for applications were received from June 29, 2020 through July 22, 2020.

Nonprofit organizations were eligible to receive up to \$50,000 in assistance based on eligible reimbursable expenses. DHCD has determined that just cause exists to shorten the ANC notice comment period because there is an urgent need to finalize the subgrant awards and expeditiously disburse grant funds to nonprofit organizations that are serving community needs and have an immediate need for financial assistance to prevent and respond to COVID-19. DHCD will finalize the subgrant awards five (5) business days from the date of publication of this Notice in the DC Register.

Bethany Inc. - \$36,404.10

Byte Back - \$50,000

For questions contact: nba.rfa@dc.gov.

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD
NOTIFICATION OF CHARTER AMENDMENT**

SUMMARY: The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a written request submitted by Monument Academy Public Charter School (Monument PCS) on September 9, 2020. The school seeks to amend its charter agreement by updating its mission, goals and academic achievement expectations (goals), and bylaws.

Currently in its sixth year of operation, Monument PCS educates 102 students in grades 5 – 8 at a residential program in Ward 6. DC PCSB evaluates Monument PCS according to the Alternative Accountability Framework (AAF).¹

Monument PCS’s current and proposed mission statements are reported in the table below. The proposed mission includes text that is colored blue, which represents a key change from the current mission.

Current Mission	Proposed Mission
The mission is to provide students, particularly those who have had or might have contact with the foster care system, with the requisite academic, social, emotional, and life skills to be successful in college, career, and community, and to create an outstanding school that attracts, supports, and retains exceptional and caring staff.	Our mission is to empower students, particularly those who have experienced significant adversity , including involvement or risk of involvement in child welfare and/or other social service systems with the requisite academic, social, emotional and life skills to be successful in college, career and community. In addition, we aim to create an outstanding school that attracts, supports, and retains exceptional and caring people .

Monument PCS proposes removing its goals related to student achievement on the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment. The school also seeks to adjust expectations for its goals related to student progress, gateway, and school

¹ DC PCSB designed the AAF for schools that strive to provide alternative programming to students facing numerous obstacles to academic success. For a school to be eligible for the AAF, at least 60.0% of its students must be identified as having at least one risk factor listed in the AAF policy. AAF risk factors include if a student 1) is receiving level 3 or level 4 special education services, 2) is pregnant or mothering, 3) is at least two years over-aged or under-credited for their grade level, 4) is homeless, 5) has been involved in the criminal or juvenile justice system, 6) has been expelled, 7) has been involved in the child abuse and neglect system, 8) has a parent who is detained in a correctional facility or who is currently incarcerated, or 9) has been hospitalized due to a psychiatric condition. See the 2019-20 PMF Policy and Technical Guide for full eligibility criteria: <https://bit.ly/3gQgKVN>.

environment. Finally, Monument PCS revised its bylaws by decreasing the term length for parent/guardian board members from three years to one.

Pursuant to the School Reform Act, D.C. Code 38-1802 et seq., a charter school must submit a petition to revise its charter, which includes its mission, goals, and bylaws.

DATES:

- Comments must be submitted on or before October 19, 2020.²
- The public hearing will be held on October 19, 2020 at 6:30 pm. For the location, please check www.dcpcsb.org.
- The vote will be held on November 16, 2020 at 6:30 pm. For the location, please check www.dcpcsb.org.

ADDRESSES: You may submit comments, identified by “Monument PCS - Notice of Petition to Amend Charter – Mission, Goals, and Bylaws,” by any one of the methods listed below.

1. Submit a written comment via
 - a) E-mail: public.comment@dcpcsb.org
 - b) Mail, Hand Delivery, or Courier: Attn: Public Comment, DC Public Charter School Board, 3333 14th Street NW, Suite 210, Washington, DC 20010
2. Sign up to testify in-person at the public hearing on October 19, 2020 by emailing a request to public.comment@dcpcsb.org no later than 4:00 pm on Thursday, October 15, 2020.

FOR FURTHER INFORMATION, CONTACT: Melodi Sampson, Senior Manager of School Quality and Accountability, at msampson@dcpcsb.org or 202-330-4046.

² DC PCSB reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all your submission that it may deem to be inappropriate for publication, such as obscene language.

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agency select an arbitrator from a panel provided in the letter.⁴ On October 22, 2019, DOH responded to the letter by asserting that the matter was not arbitrable and requested that FMCS forgo the appointment of an arbitrator.⁵ In its Answer, DOH argues that the grievance filed by AFGE is substantively not arbitrable, and therefore, should not proceed to arbitration.⁶

III. Position of the Parties

AFGE claims that DOH has committed an unfair labor practice by refusing to comply with the sole enforcement mechanism provided in the CBA.⁷ AFGE relies on Article 14, § A-B, which states, in pertinent part, that “grievances concerning compensation shall be filed with the appropriate agency and the Office of Labor Relations and Collective Bargaining under the applicable working conditions agreement.”⁸ AFGE argues that DOH has failed to fulfill its obligation to comply with the D.C. Official Code by repudiating every provision of the Compensation Agreement as well as the sole enforcement mechanism for the CBA.⁹

DOH argues that the Board lacks jurisdiction in this case, because the Complaint concerns an obligation established in the CBA.¹⁰ DOH relies on Article 38, § 13 of the CBA, which states that “matters not within the jurisdiction of the Department will not be processed as a grievance under this Article.”¹¹ DOH argues that the Board has previously held that when the parties have agreed to allow their negotiated agreement to establish the obligations that govern the acts alleged in the complaint, the Board lacks jurisdiction over the complaint’s allegations.¹² DOH denies committing an unfair labor practice; nevertheless, it asserts that the Board does not have jurisdiction and the Complaint should be dismissed.¹³

IV. Discussion

As a threshold matter, the Board must address DOH’s allegation that the Board lacks jurisdiction to decide this matter. The Board distinguishes between obligations that are statutorily imposed under the Comprehensive Merit Personnel Act (CMPA) and those that are contractually agreed upon between the parties.¹⁴ It is well established that the Board’s authority only extends to resolving statutorily based obligations under the CMPA.¹⁵ A violation that is solely contractual is not properly before the Board but a contractual violation will be deemed an unfair labor practice

⁴ Exhibit 4.

⁵ Exhibit 4.

⁶ Answer at 2.

⁷ Complaint at 4.

⁸ Exhibit 5 at 20.

⁹ Complaint at 4.

¹⁰ Answer at 5.

¹¹ Answer at 5.

¹² Answer at 5.

¹³ Answer at 5.

¹⁴ *AFGE, Local 2741 v. D.C. Dep’t of Recreation and Parks*, 50 D.C. Reg. 5049, Slip op. No. 697, PERB Case No. 00-U-22 (2002).

¹⁵ *Id.*

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if the complainant can establish that it also violates the CMPA, or constitutes a repudiation of the parties' CBA.¹⁶

In the instant case, AFGE claims that DOH repudiated the CBA when it refused to proceed to arbitration over its grievance. A party's refusal to implement a viable CBA is an unfair labor practice.¹⁷ If an employer fails to implement the terms of a negotiated or arbitrated agreement, such conduct constitutes a repudiation of the collective bargaining process and a violation of the duty to bargain.¹⁸

The parties do not dispute that DOH refuses to proceed to arbitration.¹⁹ DOH claims that the grievance filed by AFGE is substantively not arbitrable and should not proceed to arbitration.²⁰ AFGE's unfair labor practice allegations are predicated on DOH's refusal to arbitrate over environmental pay. The essential question is whether the dispute over the environmental pay was arbitrable. If it was not arbitrable, then DOH could not have repudiated the contract, and thus, has not committed an unfair labor practice by refusing to proceed to arbitration.

In general, Board precedent states that "arbitrability is an essential question for the arbitrator to decide."²¹ DOH claims that the CBA precludes the grievance from continuing to arbitration. The District of Columbia Court of Appeals has found that "any initial dispute over whether a demand for arbitration is encompassed by the parties' arbitration agreement should be answered by the Superior Court [of the District of Columbia] *if a party seeks to stay arbitration and the parties' agreement does not clearly direct that dispute to the arbitrator.*"²² The court goes on to state that "...consistent with the Arbitration Act, the Superior Court's role is limited to preventing a party from being forced to arbitrate a controversy that is clearly not encompassed by the parties' arbitration agreement."²³

The Board has found in prior cases that repudiation of the contract is an unfair labor practice.²⁴ The Board has previously held that disputes over the meaning or application of terms of a CBA are matters for resolution through the grievance procedure rather than an unfair labor

¹⁶ *UDC Faculty Ass'n v. UDC*, 60 D.C. Reg. 2536, Slip Op. No. 1350 at p. 2, PERB Case No. 07-U-52 (2013).

¹⁷ *See Teamsters Local Union Nos. 639 and 730 v. DCPS*, 43 D.C. Reg. 6633, Slip Op. No. 400, PERB Case No. 93-U-29 (1994).

¹⁸ *Id.* at 7; see also *AFSCME, District Council 20 v. District of Columbia Government*, Slip Op. No. 1387 at p. 4, PERB Case No. 08-U-36 (2013).

¹⁹ Complaint at 3 ¶ 6. Answer at 2 ¶ 6.

²⁰ Answer at 2.

²¹ *AFGE, District Council 20 v. D.C. General Hospital, et al.*, 36 D.C. Reg. 7101, Slip Op. No. 227 at p. 5, PERB Case No. 88-U-29 (1989); see also *DPW v. AFGE Local 872*, 38 D.C. Reg. 5072, Slip Op. No. 280 at p. 3, PERB Case No. 90-A-10 (1991); *AFGE Local 2725 v. DCRA, et al.*, 59 D.C. Reg. 5347, Slip Op. No. 930, PERB Case No. 06-U-43 (2008).

²² *Washington Teachers' Union, Local No. 6, Am. Fed'n of Teachers, AFL-CIO v. D.C. Pub. Sch.*, 77 A.3d 441, 455 (D.C. 2013) (emphasis added).

²³ *Id.* at 456 (citing D.C. Official Code sections 16-4406(b),-4407).

²⁴ *Teamsters Local Unions No. 639 & 730 v. D.C. Pub. Sch.*, 43 D.C. Reg. 6633, Slip Op. No. 400 at p.7, PERB Case No. 93-U-29 (1994). See also *D.C. Water & Sewer Auth. v. AFGE, Local 872*, 59 D.C. Reg. 4659, Slip Op. No. 949 at pp. 6-7, PERB Case No. 05-U-10 (2009).

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practice complaint.²⁵ However, if an employer has entirely failed to implement the terms of the negotiated or arbitrated agreement, such conduct constitutes a repudiation of the collective bargaining process and a violation of the duty to bargain. Furthermore, the Board has found that a refusal to proceed to arbitration is interfering with, restraining and coercing employees in the exercise of their rights under D.C. Official Code § 1-617.04(a)(1).²⁶ In this case, DOH has not sought a stay of arbitration from the Superior Court. DOH has simply refused to participate in the arbitration process. An arbitrator or Superior Court may state that the entitlement of employees to environmental pay is not arbitrable; however DOH has unlawfully stalled the process by refusing arbitration and failing to seek a stay of arbitration. The Board finds that DOH's refusal to proceed to arbitration without a stay of arbitration from Superior Court is a repudiation of the contract.

V. Conclusion

Based on the foregoing, the Board finds that DOH violated section 1-617.04(a) of the D.C. Official Code by refusing to proceed to arbitration.

ORDER

IT IS HEREBY ORDERED THAT:

1. The American Federation of Government Employees Local 2978's unfair labor practice complaint is granted.
2. The District of Columbia Department of Health shall cease and desist from violating section 1-617.04(a)(1) of the D.C. Official Code and must proceed to arbitration.
3. The District of Columbia Department of Health shall cease and desist from interfering with, restraining, or coercing, in any like or related manner, employees represented by AFGE Local 2978 in the exercise of rights guaranteed by the Comprehensive Merit Personnel Act.
4. Within fourteen (14) days from service of this Decision and Order, the District of Columbia Department of Health shall post the attached Notice conspicuously where notices to employees in this bargaining unit are customarily posted and electronically distribute the Notice through email or similar means in which notices are customarily distributed during the current Public Health Emergency. Once posted the Notice must remain posted until thirty (30) days after the District of Columbia lifts the current Public Health Emergency; and

²⁵ *Teamsters at 7. See also FOP/MPD Labor Comm. v. MPD*, 39 D.C. Reg. 9617, Slip Op. No. 295 at n.2, PERB Case No. 91-U-18 (1992).

²⁶ *FOP/DHS Labor Comm. v. DHS*, 59 D.C. Reg. 3296, Slip Op. No. 812, PERB Case No. 02-U-24 (2002). *See also AFGE, Local 631 v. DPW*, 59 D.C. Reg. 5981, Slip Op. No. 1001, PERB Case No. 05-U-43 (2012).

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5. The District of Columbia Department of Health shall notify the Public Employee Relations Board, in writing, within fourteen (14) days from the issuance of this Decision and Order that Notices have been posted and distributed as ordered.
6. Pursuant to Board Rule 559, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of the Board Chairperson Douglas Warshof, Members Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler.

August 20, 2020

Washington, D.C.

NOTICE

TO ALL EMPLOYEES REPRESENTED BY THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES LOCAL 2978 (AFGE) AT THE DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH, THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1757 PERB CASE NO. 20-U-02.

WE HEREBY NOTIFY our employees that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered us to post this notice.

WE WILL cease and desist from violating section 1-617.04(a)(1) of the D.C. Official Code by failing to proceed to arbitration.

WE WILL NOT, in any like or related manner, interfere with, restrain or coerce our employees represented by AFGE in the exercise of their rights under the Comprehensive Merit Personnel Act.

WE WILL negotiate in good faith with AFGE, upon request.

District of Columbia Department of Health

Date: _____

By: _____

This Notice must remain posted for thirty (30) consecutive days after the District of Columbia lifts the current Public Health Emergency and must not be altered.

If employees have any questions concerning the Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, by email at perb@dc.gov, by mail at 1100 4th Street SW, Suite 630E, Washington, D.C. 20024. Phone: 202-727-1822.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 20-U-02, Opinion No. 1757 was served to the following parties via File & ServeXpress on this the 1st day of September 2020:

Keisha Williams
AFGE District 14
80 M Street SE
Suite 340
Washington, D.C. 20002

Michael Levy
DC Office of Labor Relations and
Collective Bargaining
441 4th Street NW
Suite 820 North
Washington, D.C. 20001

Kimberly Turner
DC Office of Labor Relations and
Collective Bargaining
441 4th Street NW
Suite 820 North
Washington, D.C. 20001

/s/ Merlin M. George
Merlin M. George
Attorney Advisor

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
American Federation of Government)	
Employees, Local 1975)	PERB Case No. 20-AC-01
)	
Petitioner)	
)	Opinion No. 1758
and)	
)	
Metropolitan Police Department ¹)	
)	
Respondents)	
_____)	

DECISION AND ORDER

On July 30, 2020, the American Federation of Government Employees Local 1975 (AFGE Local 1975) filed a Petition for Amending Certification. AFGE Local 1975 seeks to clarify that AFGE Local 1975, and not AFGE Local 3444, is the union representing the bargaining unit described in Certification No. 4R003. The petition is unopposed.

Certification No. 4R003 was issued on January 3, 1974, and granted exclusive representation to AFGE Local 3444 for a unit of:

All non-supervisory Wage Grade employees of the Property Division, Metropolitan Police Department, excluding management executives, supervisory employees and any employees engaged in personnel work in other than a purely clerical capacity.²

AFGE Local 1975 states that, effective June 18, 2019, AFGE Local 3444 merged with AFGE Local 1975.³ The merger was pursuant to a majority vote of AFGE Local 3444 and a majority vote of AFGE Local 1975’s pre-merger membership.⁴ AFGE Local 3444 voted for the

¹ The Petition originally named the D.C. Department of Public Works, the D.C. Department of Transportation, the D.C. Department of Motor Vehicles, and the D.C. Department of For Hire Vehicles as the respondents. PERB updated the caption after an initial investigation showed that the employing agency is the Metropolitan Police Department.

² *AFGE, Local 3444 v. MPD*, Certification No. 4R003, PERB Case No. 4R003 (1974).

³ Petition at 2.

⁴ Petition at 2.

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merger on February 6, 2019.⁵ AFGE Local 1975 voted for the merger on March 12, 2019.⁶ Voting was conducted per AFGE National Constitution requirements, after all members of AFGE Local 3444 and AFGE Local 1975 had been given adequate notice of and ample opportunity to discuss the terms of the merger.⁷

AFGE Local 1975 states that, under the terms of the merger agreement, AFGE Local 3444 ceases to exist as a separate labor organization and that AFGE Local 1975 becomes AFGE Local 3444's successor for purposes of all "city certifications of representative and representation."⁸ AFGE Local 1975 becomes bound to conduct the negotiation, servicing and enforcement of what had been the AFGE Local 3444's collective bargaining agreement(s), "in substantially the same manner as before...including, but not limited to, the election of bargaining unit negotiations committees, the formulation of contract proposals, the negotiation of contract provisions, contract ratification, the processing of grievances, and arbitration once contracts are reached."⁹

Board Rule 516.1 states that "an exclusive representative may file a petition with the Board to amend its certification when there is a change in the identity of the exclusive representative that does not raise a question concerning representation (e.g. whether the employees have designated a particular organization as their bargaining agent). A change in the identity of the representative that does not raise a question concerning representation may include a change in the name of the labor organization." AFGE Local 1975 states that no question concerning representation is raised, because bargaining unit employees fall under the same parent union organization and were afforded reasonable opportunity to object to the merger. Under the merger, bargaining unit employees were guaranteed continuity of representation and AFGE Local 3444 ceased to exist as a result of the merger.¹⁰

The uncontroverted facts presented by AFGE Local 1975 support the Petition. Furthermore, PERB received no opposition or comments from the Office of Labor Relations and Collective Bargaining regarding the Petition. Thus, in accordance with Board Rule 516, AFGE Local 1975's Petition is granted.

ORDER

IT IS HEREBY ORDERED THAT:

1. Certification No. 4R003 is amended to reflect that AFGE Local 1975, and not AFGE Local 3444, is the union representing the bargaining unit described in the Certification.

⁵ Exhibit 1.

⁶ Exhibit 2.

⁷ Petition at 2.

⁸ Petition at 2.

⁹ Petition at 2.

¹⁰ Petition at 3.

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2. Nothing in this Order is to be construed as altering the scope of the bargaining unit except in the manner discussed in this Decision.

3. Pursuant to Board Rule 559, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of the Board Chairperson Douglas Warshof, Members Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler.

September 17, 2020

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 20-AC-01, Opinion No. 1758 was served to the following parties via File & ServeXpress on this the 29th day of September 2020:

Rushab Sanghvi
AFGE Local 1975
80 M Street NW
Washington, D.C. 20003

Kimberly Turner
DC Office of Labor Relations and
Collective Bargaining
441 4th Street NW
Suite 820 North
Washington, D.C. 20001

/s/ Merlin M. George
Merlin M. George
Attorney Advisor

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after November 15, 2020.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on October 16, 2020. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Recommendations for Appointments as DC Notaries Public

Effective: November 15, 2020

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Akalu	Liya	Kia Travel Service 1328 U Street, NW, Suite 2W	20009
Balaban	Ryan Paul	Wilkinson Walsh LLP 2001 M Street, NW, 10th Floor	20036
Blitz	Karen	Polsinelli PC 1401 Eye Street, NW, #800	20005
Boston	Camelle Jones	Ballard Spahr 1909 K Street, NW, Suite 1200	20006
Brown	Gail L.	US International Development Finance Corporation 1100 New York Avenue, NW	20527
Carter-Stokeley	Matilda	Self 2435 25th Street, SE, #B	20020
Chan	Peter	Chatel Real Estate, Inc 1929 18th Street, NW, Basement	20009
Cueto	Belkis	Groom Law Group, Chartered 1701 Pennsylvania Avenue, NW, Suite 1200	20006
Dacres	Nicole	RSC Electrical & Mechanical Contractors, Inc. 6035 Dix Street, NE	20019
Greenwood	Bria T.	Deputy Mayor for Planning and Economic Development 1350 Pennsylvania Avenue, NW, Suite 317	20004
Haynes	Michele R.	Laborers' National (Industrial) Pension Fund 905 16th Street, NW	20006
Haywood	Rachel	Self (Dual) 1308 L Street, SE, #1	20003
Lewis	Louise Theresa	Self 3149 Stanton Road, SE	20020

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Livieri	Gris	International Union of Operating Engineers 1125 17th Street, NW	20036
Lobban	Christine H.	Clyde's Restaurant Group 3236 M Street, NW	20007
Martens	Catherine Campbell	Pirate Ventures 3400 Georgia Avenue, NW	20010
Miles	Redden	Public Defender Service 633 Indiana Avenue, NW, 2nd Floor	20004
Moore	Keith Frizell	Self 66 U Street, NW	20001
Orr	Daniela Meza	RGS Title, LLC 4400 Jenifer Street, NW, #260	20015
Papa	Alycia	George Washington University 1918 F Street, NW, 3rd Floor	20006
Park	Bona	Fernandez Group 2401 Pennsylvania Avenue, NW, Suite 480	20037
Pasquarella	Molly	Anera 1111 14th Street, NW, Suite 400	20005
Peric	Jelena	HSBC Bank USA, N.A. 1401 Eye Street, NW, Room 110	20005
Peters	Jennifer	Paul, Weiss, Rifkind, Wharton & Garrison, LLP 2001 K Street, NW	20006
Pinzon-Martinez	Mabel	Fort Myer Construction Corporation 2237 33rd Street, NE	20018
Pomar	Trinity	Veritext Legal Solutions 1250 I Street, NW, #350	20005
Pooya	Nazie	Passport Title Services llc 2475 Virginia Avenue, NW, #226	20037

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Pournader	Ali	Self (Dual) 2425 L Street, NW, #239	20037
Quade, III	George Lawrence	For the Record, Inc. 1200 G Street, NW, Suite 800	20005
Ruben	Scott K.	Gold Spot Pack and Ship 712 H Street, NE	20002
Sefko	Nancy Ennis	Albright Stonebridge Group 601 13th Street, NW, FL 10	20005
Shank	Kathleen S.	Fidelity National Title Insurance Co. 1620 L Street, NW, #400	20036
Summers	Natalie E.	Department of Justice 950 Pennsylvania Avenue, NW, 4CON - 9.923	20530
Tegegn	Martha Zewdu	Garfield Law Group PC 1634 I Street, NW, Suite 400	20006
Thomas	Ann	McGuireWoods Consulting 2001 K Street, NW, 400	20006
Thompson	Joel Steven	Self 1270 4th Street, NE, #424	20002
Tyson	Tabitha	Self 1802 Irving Street, NE	20018
Usher	Karen M.	Child & Family Service Agency 200 I Street, SE	20003
Van Hall	Laurie	Bee Compliance, LLC 611 Pennsylvania Avenue, SE, Suite 192	20003
Vanterpool	Malik	MVP Fitness and Massage 2636 Wade Road, SE, 11	20020

**D.C. Office of the Secretary
Recommendations for Appointments as DC Notaries Public**

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Wedgwood	Margaret	Workhorse Collective 320 3rd Street, NE, Rear	20002
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TWO RIVERS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Website Redesign**

Two Rivers PCS is seeking the services of a company to redesign two websites, tworiverspcs.org and learnwithtworivers.org, in order to improve branding and navigation on mobile devices. For a copy of the RFP, please email Liz Riddle at procurement@tworiverspcs.org.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, November 5, 2020 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 120 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 DC Water's website at www.dcwater.com. Due to COVID-19, the General Manager has suspended public access to DC Water facilities. Please see the website for remote access information for the meetings.

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

DRAFT AGENDA

- | | | |
|----|---|-------------------------|
| 1. | Call to Order | Board Chairman |
| 2. | Roll Call | Board Secretary |
| 3. | Approval of October 1, 2020 Meeting Minutes | Board Chairman |
| 4. | Committee Reports | Committee Chairperson |
| 5. | Chief Executive Officer's Report | Chief Executive Officer |
| 6. | Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. | Other Business | Board Chairman |
| 8. | Adjournment | Board Chairman |

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

Application No. 20203 of Congressional 1018 Bryant LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the new residential development provisions of Subtitle U § 421.1, to construct a new 8-unit apartment house in the RA-1 Zone at premises 1018 Bryant Street N.E. (Square 3870, Lot 42).

HEARING DATES: February 12, 2020 and September 30, 2020¹
DECISION DATE: September 30, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 11.)

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") 5C.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 16, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 48.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 47.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 38.)

Persons in Opposition. A letter in opposition and signed petition in opposition were submitted to the record. (Exhibits 30 and 31.)

¹ This application was originally scheduled for public hearing on February 12, 2020. The Board granted the Applicant's requests for postponement to March 4, 2020 and May 6, 2020. The hearing was rescheduled for a virtual public hearing on September 30, 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.

Persons in Support. A letter in support and signed petition in support were submitted to the record. (Exhibits 44 and 49.) The Applicant noted on the record that subsequent to revising the plans and holding discussions with the community, neighbors in opposition submitted the letter and petition in support noted here.

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the new residential development provisions of Subtitle U § 421.1, to construct a new 8-unit apartment house in the RA-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 PLANS²** at **EXHIBIT 45A – UPDATED ARCHITECTURAL PLANS**.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, and Michael G. Turnbull to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 6, 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

² 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.

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.

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

Application No. 20263 of Gilbert Garcia, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 306.2, and pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the lot occupancy requirements of Subtitle D § 304.1, to construct a two-story rear addition to an existing attached principal dwelling unit in the R-3 Zone at premises 206 Channing Street, N.E. (Square 3553, Lot 40).

HEARING DATE: May 6, 2020¹ 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 38 (Final Revised); Exhibit 19 (Revised); Exhibit 4 (Original)².)

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") 5E.

ANC Report. ANC 5E did not submit a written report to the record.

OP Report. The Office of Planning submitted a report, dated April 29, 2020, recommending approval of the application. (Exhibit 18.)

DDOT Report. The District Department of Transportation submitted a report, dated April 22, 2020, indicating that it had no objection to the application. (Exhibit 15.)

Variance Relief

¹This 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.

²The application was amended to add special exception relief from the rear yard requirements of Subtitle D § 306.2.

The Applicant seeks relief under Subtitle X § 1002.1 for a variance from the lot occupancy requirements of Subtitle D § 304.1.

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 under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 306.2.

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 PLANS³ AT EXHIBIT 6 – ARCHITECTURAL PLANS AND ELEVATIONS**.

VOTE: 3-1-1 (Frederick L. Hill, Lorna L. John, and Anthony J. Hood to APPROVE; Chrishaun S. Smith to deny; one Board seat vacant.)

³Self-certification: In granting the self-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.

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: October 6, 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. 20263

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

Application No. 20269 of Harold Tran, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, to add a one-story rear deck addition to an existing detached principal dwelling unit in the R-2 Zone at premises 3000 10th Street N.E. (Square 3837, Lot 16).

HEARING DATES: May 6, 2020¹ and September 23, 2020
DECISION DATE: September 30, 2020

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

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") 5B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 23, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 40.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 17.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 18.)

Persons in Support. Eight neighbors submitted letters in support. (Exhibit 3.)

¹ 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.

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, to add a one-story rear deck addition to an existing detached principal dwelling unit in the R-2 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** at **EXHIBITS 4A THROUGH 4G – MODEL A101 through A107**.

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: October 7, 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.

BZA APPLICATION NO. 20269

PAGE NO. 2

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. 20272 of 757 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 757 Columbia Road, N.W. (Square 2890, Lot 101).

HEARING DATE: May 6, 2020¹ 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 5 (Original); Exhibit 37C (Revised).)²

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 17.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 38.)

¹ 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.

² The self-certification form was revised to include waivers from Subtitle U §§ 320.2(e) and (h). See Exhibit 32.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 16.)

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 PLANS**³ at **EXHIBITS 37A1 and 37A2 – UPDATED PLANS – PARTS 1 and 2**.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Chrisaun 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: October 1, 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.

³ 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.

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.

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

Application No. 20274 of MQMF 1313 L Street LLC, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle I § 205.5 from the rear yard requirements of Subtitle I § 205, to redevelop an existing office building and convert it into a 10-story residential building in the D-4-R Zone at premises 1313 L Street, N.W. (Square 247, Lot 94).

HEARING DATES: May 13, 2020¹ 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 4 (Original) and Exhibit 38B (Revised)².)

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") 2F.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 6, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 18.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 36.)

¹ This application was originally scheduled for public hearing on April 1, 2020 but was rescheduled for a virtual public hearing on June 17, 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.

² The original application was amended to withdraw area variance relief from the minimum court width requirement under Subtitle I § 207.1.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 16.)

Persons in Support. One letter was submitted in support of the application (Exhibit 17.)

Other Public Input. One neighbor who testified at the hearing noted his general support for the project, and he expressed concerns about the construction period - a matter not within the purview of the Board.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle I § 205.5 from the rear yard requirements of Subtitle I § 205, to redevelop an existing office building and convert it into a 10-story residential building 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 PLANS³ AT EXHIBITS 33A1 AND 33A2 – UPDATED ARCHITECTURAL PLANS – PARTS 1 & 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: October 1, 2020

³ 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.

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.

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

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

HEARING DATE: September 30, 2020¹
DECISION DATE: September 30, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 14A (Revised); 4 (Original).)²

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") 2B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 9, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 34.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 39.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 40.)

¹ At the Virtual Public Meeting of September 30, 2020, the Board denied the Applicant's request for a waiver of Subtitle Y § 401.2 and removed the application from the Expedited Review Calendar. The Board granted the Applicant's alternative request for a hearing at the Virtual Public Hearing session the same day, having determined that adequate notice had been provided and that no prejudice would result. (See Exhibit 35.)

² The Self-Certification form was revised to change the zoning provision applicable to this case from Chapter 16, Subtitle C to Chapter 49, Subtitle F as amended in Z.C. Order 19-11, effective April 3, 2020.

Other Public Input. Letters in support were submitted from DC Public Schools, Ross Elementary School, and the Ross Elementary PTA Board. (Exhibit 12.)

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle F § 4910.1 from the rear yard requirements of Subtitle F § 4906.1, to construct an ADA-accessible elevator at the back of Ross Elementary School building in the RA-8 Zone.

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 PLANS³ AT EXHIBIT 6 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, and Michael G. Turnbull to APPROVE; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 7, 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

³ 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.

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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 20-23
LDP Acquisitions, LLC and 525 Rhode Island Avenue, LP
Map Amendment @ Square 3623, Lots 1 and 2 &
Parcels 131/94, 131/146, 131/147, 131/155, 131/161, 131/162, and 131/ 217
October 6, 2020

THIS CASE IS OF INTEREST TO ANC 5E

On September 30, 2020, the Office of Zoning received an application from LDP Acquisitions, LLC and 525 Rhode Island Avenue, LP (together, the “Applicant”) for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of Lots 1 and 2 in Square 3623 and Parcels 131/94, 131/146, 131/147, 131/155, 131/161, 131/162, and 131/217 in northeast Washington, D.C. (Ward 5), on property that is bound by Rhode Island Avenue, N.E. (north), W Street, N.E. (south), the Metrorail tracks and Rhode Island Avenue Metrorail Station (east), and 5th Street, N.E. (west). The property is currently zoned PDR-2. The Applicant is proposing a map amendment to rezone the property to the MU-10 zone.

The PDR-2 zone is intended to permit medium-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones. The PDR zone allows for a maximum height of 60 feet (up to 90 feet with required setbacks – see Subtitle J, Chapter 2) and maximum density of 4.5 floor area ratio (“FAR”) (3.0 FAR for restricted uses) – see Subtitle U, Chapter 8).

The MU-10 zone is intended to: permit medium to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, business, employees, and institutions and that carry out elements of the Comprehensive Plan, small area plans, or framework plans, including goals in employment, population transportation, housing, public facilities, and environmental quality. The MU-10 zone allows a maximum height of 90 feet (100 feet for Inclusionary Zoning (IZ)); maximum lot occupancy of 75% (100% with IZ); and maximum density of 6.0 FAR (7.2 FAR with IZ and 3.0 FAR for non-residential uses).

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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