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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 23-538, Psychology Interjurisdictional Compact Act of 2020 to increase access to telepsychology
- D.C. Council enacts Act 23-541, Appraisal Management Company Regulation Act of 2020
- D.C. Council enacts Act 23-548 to require the Office of the State Superintendent of Education to provide guidance and support to public schools on the identification, remediation, and prevention of reading difficulties
- D.C. Council enacts Act 23-552 to prohibit sexual assault counselors from disclosing confidential information acquired from a client in a professional capacity without the consent of the client
- D.C. Council enacts Act 23-555, FOIA Tolling Emergency Amendment Act of 2020
- Office of the Chief Financial Officer publishes the 2021 homestead deduction, trash collection credit, and senior income threshold amounts
- Department of Energy and Environment solicits partners for the Connected Communities: Distributed Energy Resources Demonstration Project
- Department of Health announces availability of funding for the Maternal and Child Health Services Block Grant to States Program
- Department of Health announces availability of funding for the Maternal, Infant and Childhood Home Visiting Program 2021

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW L23-0152

"Office on the Deaf, Deafblind, and Hard of Hearing Establishment Amendment Act of 2020"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-0147 on First Reading and Final Reading, on July 21, 2020, and September 22, 2020, respectively, pursuant to Section 404(e) of the Charter, the bill became Act A23-0418 and was published in the edition of the D.C. Register (Vol. 67, page 12254). Act A23-0418 was transmitted to Congress on October 23, 2020 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act A23-0418 is now D.C. Law L23-0152, effective December 8, 2020.

Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
October	23,26,27,28,29,30
November	2,3,4,5,6,9,10,12,13,16,17,18,19,20,23,24,25,27,30
December	1,2,3,4,7

COUNCIL OF THE DISTRICT OF COLUMBIA

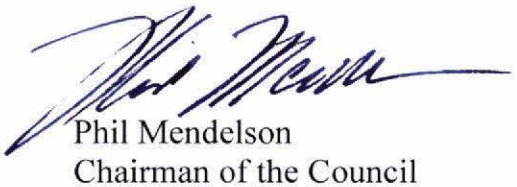
NOTICE

D.C. LAW L23-0153

"Standby Guardian Amendment Act of 2020"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-0402 on First Reading and Final Reading, on July 21, 2020, and September 22, 2020, respectively, pursuant to Section 404(e) of the Charter, the bill became Act A23-0419 and was published in the edition of the D.C. Register (Vol. 67, page 12259). Act A23-0419 was transmitted to Congress on October 23, 2020 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act A23-0419 is now D.C. Law L23-0153, effective December 8, 2020.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

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October	23,26,27,28,29,30
November	2,3,4,5,6,9,10,12,13,16,17,18,19,20,23,24,25,27,30
December	1,2,3,4,7

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-534

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend, on a temporary basis, Chapter 18 of Title 47 of the District of Columbia Official Code to clarify that the capital gains deduction shall apply to an individual, estate, or trust in the same manner as in § 47-1803.03(a)(20).

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Capital Gains Deduction Clarification Temporary Amendment Act of 2020".

Sec. 2. Section 47-1803.03 of the District of Columbia Official Code is amended by adding a new subsection (b-5) as follows:

"(b-5) Capital gains from a Qualified Opportunity Fund. – Beginning October 1, 2020, capital gains deduction for investing in a qualified opportunity fund shall apply to an individual, estate, or trust in the same manner as set forth in subsection (a)(20) of this section.".

Sec. 3. Fiscal impact statement.

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

Sec. 4 Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-535

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend, on a temporary basis, the Fiscal Year 2021 Budget Support Act of 2020, the Fiscal Year 2021 Budget Support Congressional Review Emergency Amendment Act of 2020, the Fiscal Year 2021 Budget Support Clarification Emergency Amendment Act of 2020, and the Fiscal Year 2021 Budget Support Clarification Temporary Amendment Act of 2020 to clarify returning citizens' eligibility to apply for financial assistance for District residents impacted by the public health emergency.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2021 Budget Support Additional Clarification Temporary Amendment Act of 2020".

Sec. 2. Amendatory section 203a of the Washington Convention Center Authority Act of 1994, enacted on August 31, 2020 (D.C. Act 23-407; 67 DCR 10493), in section 7212 of the Fiscal Year 2021 Budget Support Act of 2020, enacted on August 31, 2020 (D.C. Act 23-407; 67 DCR 10493), is amended to read as follows:

"Sec. 203a. Assistance for excluded workers.

"(a) During the public health emergency declared in the Mayor's order dated March 11, 2020, and any extensions thereof, the Washington Convention and Sports Authority ("Events DC") shall issue, subject to the availability of funds, grants or contracts to nonprofit entities to use to provide cash assistance to District residents who are otherwise excluded from District and federal aid related to COVID-19. To qualify for cash assistance from grants or contracts awarded pursuant to this section, a District resident shall, at the time of application for assistance under this section:

"(1) Demonstrate a loss of income due to the public health emergency;

"(2)(A) Be ineligible for:

"(i) Unemployment insurance; or

"(ii) COVID-19 relief; or

"(B) Be a returning citizen, as that term is defined in section 2(5) of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs

Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1301(5)), whose incarceration ended on March 11, 2020, or later; and

"(3) Provide a:

"(A) Signed certification that the resident's loss of income stems from the public health emergency; and

"(B) Proof of residency and eligibility for relief, as determined by Events DC and consistent with rules and standards for COVID-19 relief programs administered by Events DC.

"(b) Any entity receiving a grant or contract pursuant to this section may use no more than 10% of the grant for administrative expenses incurred from administering the cash assistance program.

"(c) Cash assistance provided to eligible individuals pursuant to this section shall not be considered in determining eligibility for any means-tested programs administered by the District.

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

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

"(2) "COVID-19 relief" means federal monetary unemployment assistance provided under the Coronavirus Aid, Relief, and Economic Security Act, approved March 27, 2020 (134 Stat. 281; 15 U.S.C. § 9001 *et seq.*), which shall include tax credits but shall not include federal Economic Impact Payments or other stimulus relief for which eligibility is not contingent on the recipient's employment status.".

Sec. 3. The Fiscal Year 2021 Budget Support Congressional Review Emergency Act of 2020, effective October 26, 2020 (D.C. Act 23-426; 67 DCR 12848), is amended as follows:

(a) Section 2192(d) is repealed.

(b) Amendatory section 203a(a)(2)(B) of the Washington Convention Center Authority Act of 1994, effective October 26, 2020 (D.C. Act 23-426; 67 DCR 12848), in section 7212 is amended by striking the phrase "not more than 6 months before the time of application for assistance under this section" and inserting the phrase "on March 11, 2020, or later" in its place.

Sec. 4. Repealers.

(a) Sections 2(a)(3) and (b) of the Fiscal Year 2021 Budget Support Clarification Emergency Amendment Act of 2020, effective October 14, 2020 (D.C. Act 23-416; 67 DCR 12245), is repealed.

(b) Sections 2(a)(3) and (b) of the Fiscal Year 2021 Budget Support Clarification Temporary Amendment Act of 2020, enacted on October 28, 2020 (D.C. Act 23-447; 67 DCR 13036), is repealed.

ENROLLED ORIGINAL

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-536

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia to expand the District's Good Samaritan law to decriminalize certain offenses, in the event of an overdose, for individuals who administer opioid antagonists, those on whom opioid antagonists are administered, and bystanders, and to permit a court to consider, as a mitigating factor in criminal prosecutions and sentencing, the administration of an opioid antagonist; to amend the Opioid Overdose Treatment and Prevention Omnibus Act of 2018 to require the Metropolitan Police Department and Department of Health to provide opioid antagonist rescue kits to certain District government employees, issue guidance, and report relevant data, and to provide certain civil and criminal immunity from liability for the distribution and administration of opioid antagonists by those employees; to amend the District of Columbia Uniform Controlled Substances Act of 1981 to decriminalize the possession of injection-related drug paraphernalia; and to amend the Drug Paraphernalia Act of 1982 to decriminalize certain activities relating to drug paraphernalia for personal use of a controlled substance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Opioid Overdose Treatment and Prevention Omnibus Amendment Act of 2020".

Sec. 2. Section 3 of An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, effective March 19, 2013 (D.C. Law 19-243; D.C. Official Code § 7-403), is amended as follows:

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

(1) Subparagraph (A) is amended by striking the phrase "for himself or herself" and inserting the phrase "for or administers an opioid antagonist to himself or herself" in its place.

(2) Subparagraph (B) is amended by striking the phrase "for that person; or" and inserting the phrase "for or administers an opioid antagonist to that person;" in its place.

(3) Subparagraph (C) is amended by striking the phrase "is sought; and" and inserting the phrase "is sought or to whom an opioid antagonist is administered; or" in its place.

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

"(D) Is a bystander to a situation described in subparagraph (A), (B), or (C) of this paragraph; and".

(b) Subsection (b)(3) is repealed.

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

"(c) The seeking of health care or administration of an opioid antagonist under subsection (a) of this section, whether or not presented by the parties, may be considered by the court as a mitigating factor in any criminal prosecution or sentencing for an offense that is not listed in subsection (b) of this section.".

Sec. 3. The Opioid Overdose Treatment and Prevention Omnibus Act of 2018, effective April 11, 2019 (D.C. Law 22-288; D.C. Official Code § 7-3201 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 7-3201) is amended by adding new paragraphs (9A), (9B), and (9C) to read as follows:

"(9A) "MPD" means the Metropolitan Police Department.

"(9B) "Opioid antagonist" shall have the same meaning as provided in section 3(i)(2) of An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, effective March 19, 2013 (D.C. Law 19-243; D.C. Official Code § 7-403(i)(2)).

"(9C) "Opioid antagonist rescue kit" means a kit that contains:

"(A) An opioid antagonist;

"(B) Overdose educational materials that:

"(i) Conform to DOH or federal Substance Abuse and Mental Health Services Administration guidelines for opioid overdose education;

"(ii) Explain the signs and causes of an opioid overdose; and

"(iii) Instruct individuals when and how to administer an opioid antagonist in accordance with best medical practices; and

"(C) Up-to-date information on how and where to access opioid use disorder treatment in the District.".

(b) A new section 104a is added to read as follows:

"Sec. 104a. District government use of opioid antagonists.

"(a) MPD shall:

"(1) Provide opioid antagonist rescue kits to all its sworn personnel;

"(2) Require sworn personnel to carry opioid antagonist rescue kits and administer opioid antagonists in accordance with MPD's written directives; and

"(3) Report monthly data regarding the administration of opioid antagonists by its sworn personnel to the Chairpersons of the Council committees with jurisdiction over health and judiciary and public safety matters, including the:

"(A) Number of individuals to whom an opioid antagonist was administered;

"(B) Police districts in which those opioid antagonists were administered; and

"(C) Number of opioid antagonists administered.

"(b) DOH shall:

"(1) Make opioid antagonist rescue kits available, as needed, to District agencies under the purview of the Deputy Mayor for Health and Human Services, including the Child and Family Services Agency, DBH, and the Department of Human Services;

"(2) Establish policies and procedures governing the safe distribution and administration of opioid antagonists; and

"(3) Report monthly data regarding the distribution and administration of opioid antagonists by non-MPD District agency personnel to the Chairpersons of the Council committees with jurisdiction over health and judiciary and public safety matters, including:

"(A) The number of individuals to whom an opioid antagonist was administered;

"(B) The wards in which those opioid antagonists were administered;

"(C) The agencies whose personnel administered the opioid antagonists; and

"(D) Any follow-up by the agencies provided to individuals to whom an opioid antagonist was administered, such as referrals for opioid use disorder treatment.

"(c) A District government employee who distributes or administers an opioid antagonist in accordance with this section shall be immune from civil or criminal liability for that distribution or administration; except, that no immunity shall extend to recklessness, gross negligence, intentional misconduct, or a willful or wanton disregard for the health or safety of others.

"(d) In developing any training for District employees related to this section, the District shall consult with individuals with lived experience of opioid use or opioid use disorder.".

Sec. 4. Section 410 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.10), is repealed.

Sec. 5. The Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 48–1101) is amended by adding a new paragraph (4) to read as follows:

"(4) "Personal use" means use or possession in circumstances where there is insufficient evidence of intent to distribute or manufacture a controlled substance.".

(b) Section 4 (D.C. Official Code § 48-1103) is amended as follows:

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

"(1A) Notwithstanding paragraph (1) of this subsection, it shall not be unlawful for a person to use, or possess with the intent to use, drug paraphernalia for the personal use of a

controlled substance.".

(2) Subsection (b)(1A) is amended by striking the phrase "the materials described in section 2(3)(D)" and inserting the phrase "drug paraphernalia for the personal use of a controlled substance" in its place.

(c) Section 4a(d) (D.C. Official Code § 48-1103.01(d)) is amended by striking the phrase "act or section 410 of the District of Columbia Uniformed Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code § 33-550)" and inserting the word "act" in its place.

(d) Section 5(b) (D.C. Official Code § 48-1104(b)) is repealed.

Sec. 6. Applicability.

(a) Section 3 of this act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of the provision identified in subsection (a) of this section.

Sec. 7. Fiscal impact statement.

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

Sec. 8. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-537

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend the Motor Vehicle Collision Recovery Act of 2016 to limit the application of the doctrine of contributory negligence in civil actions relating to collisions involving certain users of public highways and sidewalks.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Vulnerable User Collision Recovery Amendment Act of 2020".

Sec. 2. The Motor Vehicle Collision Recovery Act of 2016, effective November 26, 2016 (D.C. Law 21-167; D.C. Official Code § 50-2204.51 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 50-2204.51) is amended to read as follows:

"Sec. 2. Definitions.

"For the purposes of this act, the term:

"(1) "All-terrain vehicle" shall have the same meaning as provided in section 2(2) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)).

"(2) "Bicycle" shall have the same meaning as provided in 18 DCMR § 9901.1.

"(3) "Dirt bike" shall have the same meaning as provided in section 2(6) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(6)).

"(4) "Electric mobility device" shall have the same meaning as provided in section 2(6A) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(6A)).

"(5) "Motor vehicle" shall have the same meaning as provided in section 2(4) of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 120; D.C. Official Code § 50-1301.02(4)).

"(6) "Motorcycle" shall have the same meaning as provided in 18 DCMR § 9901.1.

"(7) "Motorized bicycle" shall have the same meaning as provided in section 2(11A) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(11A)).

"(8) "Motor-driven cycle" shall have the same meaning as provided in 18 DCMR

§ 9901.1.

"(9) "Pedestrian" shall have the same meaning as provided in 18 DCMR § 9901.1.

"(10) "Personal mobility device" shall have the same meaning as provided in section 2(13) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(13)).

"(11) "Public highway" shall have the same meaning as provided in section 2(9) of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 120; D.C. Official Code § 50-1301.02(9)).

"(12) "Sidewalk" shall have the same meaning as provided in 18 DCMR § 9901.1.

"(13) "Vulnerable user" means an individual using an all-terrain vehicle, bicycle, dirt bike, electric mobility device, motorcycle, motorized bicycle, motor-driven cycle, non-motorized scooter, personal mobility device, skateboard, or other similar device.".

(b) Section 3(a) (D.C. Official Code § 50-2204.52(a)) is amended to read as follows:

"(a) Unless the plaintiff's negligence is a proximate cause of the plaintiff's injury and greater than the aggregated total negligence of all the defendants that proximately caused the plaintiff's injury, the negligence of the following shall not bar the plaintiff's recovery in any civil action in which the plaintiff is one of the following:

"(1) A pedestrian or vulnerable user of a public highway or sidewalk involved in a collision with a motor vehicle or another vulnerable user; or

"(2) A vulnerable user of a public highway or sidewalk involved in a collision with a pedestrian.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-538

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To authorize the Mayor to execute, on behalf of the District of Columbia, a Psychology Interjurisdictional Compact for the purpose of increasing access to telepsychology and for temporary in-person practice of psychology and to create requirements for home state licensure for psychologists and standard requirements for education and training for participating compact psychologists, allow for the temporary face-to-face practice of participating compact psychologist, require conditions of telepsychological practice in a receiving state, establish requirements for states to conduct and report adverse actions and the consequences for psychologists receiving adverse action, provide for additional authority in a compact state's psychology regulatory authority, require all compact states to share licensee information with other compact states, create a coordinated database on participating compact psychologists, establish the Psychology Interjurisdictional Compact Commission, establish the requirement for rules made to the compact once enacted by 7 states, provide for oversight and enforcement of the compact by participating states, and to provide that the compact shall become effective on the date of enactment by the 7th compact state.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Psychology Interjurisdictional Compact Act of 2020".

Sec. 2. The Mayor is authorized to execute, on behalf of the District of Columbia, a Psychology Interjurisdictional Compact (PSYPACT) in the form substantially as follows:

ARTICLE I

PURPOSE

(a) Whereas, states license psychologists, in order to protect the public through verification of education, training, and experience and to ensure accountability for professional practice.

(b) Whereas, this Compact is intended to regulate the day to day practice of telepsychology (that is, the provision of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority.

(c) Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority.

(d) Whereas, this Compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state.

(e) Whereas, this Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety.

(f) Whereas, this Compact does not apply when a psychologist is licensed in both the home and receiving states.

(g) Whereas, this Compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

(h) Whereas, consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

(1) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services in a state in which the psychologist is not licensed to practice psychology;

(2) Enhance the states' ability to protect the public's health and safety, especially client/patient safety;

(3) Encourage the cooperation of compact states in the areas of psychology licensure and regulation;

(4) Facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history;

(5) Promote compliance with the laws governing psychological practice in each compact state; and

(6) Invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

ARTICLE II
DEFINITIONS

(a) "Adverse action" means any action taken by a state psychology regulatory authority that finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

(b) "Association of State and Provincial Psychology Boards" or "ASPPB" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

(c) "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this Compact, in another compact state.

(d) "Bylaws" means those bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct.

(e) "Client/Patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, or consulting services.

(f) "Commissioner" means the voting representative appointed by each state psychology regulatory authority pursuant to Article X.

(g) "Compact state" means a state, the District of Columbia, or United States territory that has enacted this compact legislation and which has not withdrawn pursuant to Article XIII, Section C or been terminated pursuant to Article XII, Section B.

(h) "Coordinated licensure information system" or "Coordinated database" means an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

(i) "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

(j) "Day" means any part of a day in which psychological work is performed.

(k) "Distant state" means the compact state where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.

(l) "E.Passport" means a certificate issued by the Association of State and Provincial Psychology Boards ("ASPPB") that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

(m) "Executive board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

(n) "Home state" means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the home state is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

(o) "Identity history summary" means a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

(p) "In-person, face-to-face" means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

(q) "Interjurisdictional Practice Certificate" or "IPC" means a certificate issued by the Association of State and Provincial Psychology Boards ("ASPPB") that grants temporary authority to practice based on notification to the state psychology regulatory authority of the intention to practice temporarily and verification of one's qualifications for such practice.

(r) "License" means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

(s) "Non-compact state" means a state that is not at the time a compact state.

(t) "Psychologist" means an individual licensed for the independent practice of psychology.

(u) "Psychology Interjurisdictional Compact Commission" or "Commission" means the national administration of which all compact states are members.

(v) "Receiving state" means a compact state where the client/patient is physically located when the telepsychological services are delivered.

(w) "Rule" means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Article XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal, or suspension of an existing rule.

(x) "Significant investigatory information" means:

(1) Investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

(2) Investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond.

(y) "State" means a state, commonwealth, territory, or possession of the United States, and the District of Columbia.

(z) "State psychology regulatory authority" means the board, office, or other agency with the legislative mandate to license and regulate the practice of psychology.

(aa) "Telepsychology" means the provision of psychological services using telecommunication technologies.

(bb) "Temporary authorization to practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another compact state.

(cc) "Temporary in-person, face-to-face practice" means where a psychologist is physically present (not through the use of telecommunications technologies), in the distant state to provide for the practice of psychology for 30 days within a calendar year and based on notification to the distant state.

ARTICLE III
HOME STATE LICENSURE

(a) The home state shall be a compact state where a psychologist is licensed to practice psychology.

(b) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this Compact.

(c) Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

(d) Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by temporary authorization to practice under the terms of this Compact.

(e) A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

(1) Currently requires the psychologist to hold an active E.Passport;

(2) Has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than 10 years after activation of the Compact; and

(5) Complies with the bylaws and rules of the Commission.

(f) A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

(1) Currently requires the psychologist to hold an active IPC;

(2) Has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than 10 years after activation of the Compact; and

(5) Complies with the bylaws and rules of the Commission.

ARTICLE IV
COMPACT PRIVILEGE

(a) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice telepsychology in other compact states (receiving states) in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the Compact.

(b) To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a compact state must:

(1) Hold a graduate degree in psychology from an institute of higher education that was at the time the degree was awarded:

(A) Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) A foreign college or university deemed to be equivalent to subparagraph (A) of this paragraph by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services ("NACES") or by a recognized foreign credential evaluation service;

(2) Hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(B) The psychology program must stand as a recognizable, coherent, organizational entity within the institution.

(C) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(D) The program must consist of an integrated, organized sequence of study.

(E) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities.

(F) The designated director of the program must be a psychologist and a member of the core faculty.

(G) The program must have an identifiable body of students who are matriculated in that program for a degree.

(H) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology.

(I) The curriculum shall encompass a minimum of 3 academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree.

(J) The program shall include an acceptable residency as defined by the rules of the Commission;

(3) Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;

(4) Have no history of adverse action that violates the rules of the Commission;

(5) Have no criminal record history reported on an identity history summary that violates the rules of the Commission;

(6) Possess a current, active E.Passport;

(7) Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

(8) Meet other criteria as defined by the rules of the Commission.

(c) The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology.

(d) A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state shall promptly notify the home state and the Commission.

(e) If a psychologist's license in any home state, another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state is restricted, suspended, or otherwise limited, the E.Passport shall be revoked and the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

ARTICLE V

TEMPORARY AUTHORIZATION TO PRACTICE

(a) Compact states shall also recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice temporarily in other compact states (distant states) in which the psychologist is not licensed, as provided in the Compact.

(b) To exercise the temporary authorization to practice under the terms and provisions of this Compact, a psychologist licensed to practice in a compact state must:

(1) Hold a graduate degree in psychology from an institute of higher education that was at the time the degree was awarded:

(A) Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by provincial statute or royal charter to grant doctoral degrees; or

(B) A foreign college or university deemed to be equivalent to subparagraph (A) of this paragraph by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service;

(2) Hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(B) The psychology program must stand as a recognizable, coherent, organizational entity within the institution.

(C) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(D) The program must consist of an integrated, organized sequence of study.

(E) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities.

(F) The designated director of the program must be a psychologist and a member of the core faculty.

(G) The program must have an identifiable body of students who are matriculated in that program for a degree.

(H) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology.

(I) The curriculum shall encompass a minimum of 3 academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree.

(J) The program shall include an acceptable residency as defined by the rules of the Commission;

(3) Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;

(4) No history of adverse action that violate the rules of the Commission;

(5) No criminal record history that violates the rules of the Commission;

(6) Possess a current, active IPC;

(7) Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

(8) Meet other criteria as defined by the rules of the Commission.

(c) A psychologist practicing into a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(d) A psychologist practicing into a distant state under the temporary authorization to practice will be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the Commission.

(e) If a psychologist's license in any home state, another compact state, or any temporary authorization to practice in any distant state is restricted, suspended, or otherwise limited, the IPC shall be revoked and the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

ARTICLE VI

CONDITIONS OF TELESYCHOLOGY PACTICE IN A RECEIVING STATE

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the Commission, under the following circumstances:

(1) The psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; and

(2) Other conditions regarding telepsychology as determined by rules promulgated by the Commission.

ARTICLE VII

ADVERSE ACTIONS

(a) A home state shall have the power to impose adverse action against a psychologist's license issued by the home state. A distant state shall have the power to take adverse action on a psychologist's temporary authorization to practice within that distant state.

(b) A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(c)(1) If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked.

(2) All home state disciplinary orders that impose adverse action shall be reported to the Commission in accordance with rules promulgated by the Commission. A compact state shall report adverse actions in accordance with the rules of the Commission.

(3) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the Commission.

(4) Other actions may be imposed as determined by rules promulgated by the Commission.

(d) A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee that occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.

(e) A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization to practice that occurred in that distant state as it would if such conduct had occurred by a licensee within the Home state. In such cases, distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

(f) Nothing in this Compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the compact state's law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(g) No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection (c) of this article.

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATOR AUTHORITY

In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this Compact to:

(1) Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses, or the production of evidence from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state's psychology regulatory authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located; and

(2) Issue cease and desist or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology and/or temporary authorization to practice.

(3) During the course of any investigation, a psychologist may not change his or her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his or her home state licensure. The Commission shall promptly notify the new Home state of any such decisions as provided in the rules of the Commission. All information provided to the Commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by compact states.

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

(a) The Commission shall provide for the development and maintenance of a coordinated licensure information system and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all compact states as defined by rules of the Commission.

(b) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated licensure information system on all licensees as required by rules of the Commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Significant investigatory information;

(4) Adverse actions against a psychologist's license;

(5) An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;

(6) Non-confidential information related to alternative program participation information;

(7) Any denial of application for licensure, and the reasons for such denial; and

(8) Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

(c) The coordinated licensure information system administrator shall promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

(d) Compact states reporting information to the coordinated licensure information system may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(e) Any information submitted to the coordinated licensure information system that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated licensure information system.

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

(a) The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission:

(1) The Commission is a body politic and an instrumentality of the Compact States.

(2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting, and meetings:

(1) The Commission shall consist of one voting representative appointed by each compact state who shall serve as that state's Commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to:

(A) An Executive Director, Executive Secretary, or similar executive;

(B) A current member of the state psychology regulatory authority of a compact state; or

(C) A designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(2) Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. A vacancy occurring in the Commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

(3) Each Commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

(4) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.

(6) The Commission may convene in a closed, non-public meeting if the Commission must discuss:

(A) Non-compliance of a compact state with its obligations under the Compact;

(B) The employment, compensation, discipline or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

(C) Current, threatened, or reasonably anticipated litigation against the Commission;

(D) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(E) Accusation against any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigatory records compiled for law enforcement purposes;

(I) Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or

(J) Matters specifically exempted from disclosure by federal and state statute.

(7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

(c) The Commission shall, by a majority vote of the Commissioners, prescribe bylaws and rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including:

(1) Establishing the fiscal year of the Commission;

(2) Providing reasonable standards and procedures for:

(A) The establishment and meetings of other committees; and

(B) Governing any general or specific delegation of any authority or function of the Commission;

(3) Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;

(4) Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the Commission;

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

(6) Promulgating a Code of Ethics to address permissible and prohibited activities of Commission members and employees;

(7) Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment or reserving of all of its debts and obligations;

(8) The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the compact states;

(9) The Commission shall maintain its financial records in accordance with the bylaws; and

(10) The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

(d) The Commission shall have the authority to:

(1) Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all compact states;

(2) Bring and prosecute legal proceedings or actions in the name of the Commission; provided, that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) Purchase and maintain insurance and bonds;

(4) Borrow, accept, or contract for services of personnel, including employees of a compact state;

(5) Hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) Accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided, that at all times the Commission shall strive to avoid any appearance of impropriety or conflict of interest;

(7) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided, that at all times the Commission shall strive to avoid any appearance of impropriety;

(8) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(9) Establish a budget and make expenditures;

(10) Borrow money;

(11) Appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this Compact or the bylaws;

(12) Provide and receive information from, and to cooperate with, law enforcement agencies;

(13) Adopt and use an official seal; and

(14) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

(e)(1) The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.

(2) The Executive Board shall be comprised of 6 members:

(A) Five voting members who are elected from the current membership of the Commission by the Commission; and

(B) One ex-officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

(3) The ex-officio member must have served as staff or member on a state psychology regulatory authority and will be selected by its respective organization.

(4) The Commission may remove any member of the Executive Board as provided in the bylaws.

(5) The Executive Board shall meet at least annually.

(6) The Executive Board shall have the following duties and responsibilities:

(A) Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by compact states such as annual dues, and any other applicable fees;

(B) Ensure Compact administration services are appropriately provided, contractual or otherwise;

(C) Prepare and recommend the budget;

(D) Maintain financial records on behalf of the Commission;

(E) Monitor compact compliance of member states and provide compliance reports to the Commission;

(F) Establish additional committees as necessary; and

(G) Other duties as provided in rules or bylaws.

(f)(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Commission may accept from all appropriate revenue sources, donations and grants of money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all compact states.

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

(g)(1) The members, officers, Executive Director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The Commission shall defend any member, officer, Executive Director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI
RULEMAKING

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any compact state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(d) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

(1) On the website of the Commission; and

(2) On the website of each compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(e) The Notice of Proposed Rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing or submit written comments.

(f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(g) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons who submit comments independently of each other;

(2) A governmental subdivision or agency; or

(3) A duly appointed person in an association having at least 25 members.

(h)(1) If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

(2) All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not fewer than 5 business days before the scheduled date of the hearing.

(3) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(4) No transcript of the hearing is required unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

(5) Nothing in this article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this article.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(j) The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(k) If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

(l) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing; provided, that the usual rulemaking procedures provided in the Compact and in this article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of Commission or compact state funds;

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.

(m) The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a)(1) The executive, legislative, and judicial branches of state government in each compact state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact, which may affect the powers, responsibilities, or actions of the Commission.

(3) The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or rules promulgated pursuant to this Compact.

(b)(1) If the Commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

(A) Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the Commission; and

(B) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the compact states, and all rights, privileges, and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Mayor, the Council, and each of the compact states.

(4) A Compact State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs incurred by the state that is found to be in default, or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Compact has

its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c)(1) Upon request by a compact state, the Commission shall attempt to resolve disputes related to the Compact that arise among compact states and between compact and non-compact states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(d)(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

(2) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Compact has its principal offices against a compact state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

(a) The Compact shall come into effect on the date on which the Compact is enacted into law by the 7th compact state. The provisions that become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

(b) Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

(c) Any compact state may withdraw from this Compact by enacting a statute repealing the same.

(1) A compact state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

(d) Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a non-compact state that does not conflict with the provisions of this Compact.

(e) This Compact may be amended by the compact states. No amendment to this Compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

ARTICLE XIV
CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining compact states.

Sec. 3. Applicability

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect after approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-539

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend the Energy Efficiency Standards Act of 2007 to provide energy efficiency standards for various appliances sold, rented, leased, offered for sale, lease or rent, or installed in the District, and to require that, at least every 5 years, the Mayor evaluate whether the efficiency standards for products best serve to promote energy conservation in the District of Columbia and issue a report to the Council on his or her findings.

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

Sec. 2. The Energy Efficiency Standards Act of 2007, effective December 11, 2007 (D.C. Law 17-64; D.C. Official Code § 8-1771.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 8-1771.01) is amended as follows:

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

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

"(1) "Air purifier" means an electric, cord-connected, portable appliance with the primary function of removing particulate matter from the air and which can be moved from room to room.".

(3) Paragraph (2) is repealed.

(4) New paragraphs (2A), (2B), and (2C) are added to read as follows:

"(2A) "Cold temperature lamp" means a fluorescent lamp, that is not a compact fluorescent lamp, that:

"(A) Is specifically designed to start at -20°F when used with a ballast conforming to the requirements of ANSI C78.81 and ANSI C78.901; and

"(B) Is expressly designated as a cold temperature lamp both in markings on the lamp and in marketing materials, including catalogs, sales literature, and promotional material.

"(2B) "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution (with or without blasting media granules) and a sanitizing rinse.

"(2C) "Commercial fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is essentially supported by displacement of the cooking fluid rather than by the bottom of the vessel. The term "commercial fryer" includes electric fryers, where heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel, and gas fryers, where heat is transferred from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid.".

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

"(3A) "Commercial steam cooker" means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact. The term "commercial steam cooker" includes countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.".

(6) New paragraphs (4A) and (4B) are added to read as follows:

"(4A) "Faucet" means a lavatory faucet, kitchen faucet, metering faucet, public lavatory faucet, or replacement aerator for a lavatory, public lavatory, or kitchen faucet.

"(4B) "High color rendering index fluorescent lamp" means a fluorescent lamp with a color rendering index of 87 or greater that is not a compact fluorescent lamp.".

(7) New paragraphs (5A) and (5B) are added to read as follows:

"(5A) "Impact-resistant fluorescent lamp" means a fluorescent lamp, that is not a compact fluorescent lamp, that:

"(A) Has a coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken; and

"(B) Is designated and marketed for the intended application, with:

"(i)The designation on the lamp packaging; and

"(ii) Marketing materials that identify the lamp as being impact-resistant, shatter-resistant, shatter-proof, or shatter-protected.

"(5B) "Industrial air purifier" means an indoor air cleaning device manufactured, advertised, marketed, labeled, and used solely for industrial use that are marketed solely through industrial supply outlets or businesses and prominently labeled as "Solely for industrial use. Potential health hazard: emits ozone.".

(8) New paragraphs (7A), (7B), and (7C) are added to read as follows:

"(7A) "Metering faucet" means a fitting that, when turned on, will gradually shut itself off over a period of several seconds.

"(7B) "Plumbing fixture" means a device that connects to a plumbing system to deliver and drain away water and waste.

"(7C) "Portable electric spa" means a factory-built electric spa or hot tub that may include any combination of integral controls, water heating, or water circulating equipment.".

(9) New paragraphs (8A), (8B), (8C), and (8D) are added to read as follows:

"(8A) "Public lavatory faucet" means a fitting intended to be installed in nonresidential bathrooms that are exposed to walk-in traffic.

"(8B) "Replacement aerator" means an aerator sold as a replacement, separate from the faucet to which it is intended to be attached.

"(8C) "Residential ventilating fan" means a ceiling, wall-mounted, or remotely mounted in-line fan designed to be used in a bathroom or utility room to move air from inside the building to the outdoors.

"(8D) "Showerhead" means a device through which water is discharged for a shower bath and includes a hand-held showerhead but does not include a safety shower showerhead.".

(10) New paragraphs (9A) and (9B) are added to read as follows:

"(9A) "Spray sprinkler body" means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

"(9B) "State-regulated general service lamp" means the following medium-based incandescent light bulbs:

"(A) Reflector lamps that are:

"(i) ER30, BR30, BR40, or ER40 lamps rated at 50 watts or less;

"(ii) BR30, BR40, or ER40 lamps rated at 65 watts; or

"(iii) R20 lamps rated at 45 watts or less;

"(B) B, BA, CA, F and G shape lamps as defined in ANSI C79.1:2002 with a lumen output of greater than or equal to 200 and rated at 40 watts or less;

"(C) A and C shape lamps as defined in ANSI C79.1:2002 with lumen output greater than or equal to 200 and less than 310;

"(D) Shatter-resistant lamps; or

"(E) 3-way lamps.".

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

"(10A) "Urinal" means a plumbing fixture that receives only liquid body waste and conveys the waste through a trap into a drainage system.".

(12) New paragraphs (11A) and (11B) are added to read as follows:

"(11A) "Water closet" means a plumbing fixture having a water-containing receptor that receives liquid and solid body waste through an exposed integral trap into a drainage system.

"(11B) "Water cooler" means a freestanding device that consumes energy to cool or heat potable water.".

(b) Section 3(a) (D.C. Official Code § 8-1771.02(a)) is amended to read as follows:

"(a) This act shall apply to the following types of new products sold, leased, rented, offered for sale, lease, or rent, or installed in the District of Columbia:

"(1) Air purifiers;

"(2) Commercial dishwashers;

"(3) Commercial fryers;

"(4) Commercial hot food holding cabinets;

"(5) Commercial steam cookers;
"(6) Computers and computer monitors;
"(7) Faucets;
"(8) High color rendering index lamps, cold temperature lamps, and impact-resistant fluorescent lamps;
"(9) Metal halide lamp fixtures;
"(10) Portable electric spas;
"(11) Residential ventilating fans;
"(12) Showerheads;
"(13) Single-voltage external AC to DC power supplies;
"(14) Spray sprinkler bodies;
"(15) State-regulated general service lamps;
"(16) State-regulated incandescent reflector lamps;
"(17) Urinals and water closets;
"(18) Walk-in refrigerators or freezers;
"(19) Water coolers; and
"(20) Any other products designated by the Mayor in accordance with section 5.".

(c) Section 4 (D.C. Official Code § 8-1771.03) is amended as follows:

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

"(a) A new product listed in section 3(a) shall not be sold, leased, rented, or offered for sale, lease, or rent in the District of Columbia unless the efficiency of the product meets or exceeds the efficiency standards set forth in subsection (b) of this section, or, in the case of computers and computer monitors, the standards set forth in the rules issues pursuant to subsection (d) of this section.".

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

(A) The lead-in language is amended to read as follows:

"(b) A product listed in section 3(a) shall not be installed in the District of Columbia unless the efficiency of the new product meets or exceeds the following standards, or, in the case of computers and computer monitors, the standards set forth in the rules issues pursuant to subsection (d) of this section:".

(B) Paragraph (1) is repealed.

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

"(1A) Air purifiers, except industrial air purifiers, shall meet the following requirements as measured in accordance with the ENERGY STAR Program Requirements Product Specification for Room Air Cleaners, Version 2.0:

"(A) Clean air delivery rate ("CADR") for smoke shall be 30 or greater;

"(B) For models with a CADR for smoke less than 100, CADR/Watt for smoke shall be greater than or equal to 1.7;

"(C) For models with a CADR for smoke greater than or equal to 100 and less than 150, CADR/Watt for smoke shall be greater than or equal to 1.9;

"(D) For models with a CADR for smoke greater than or equal to 150, CADR/Watt for smoke shall be greater than or equal to 2.0;

"(E) For ozone-emitting models, measured ozone shall be less than or equal to 50 parts per billion (ppb);

"(F) For models with Wi-Fi network connection enabled by default when shipped, standby power shall not exceed 2 watts; and

"(G) For models without a Wi-Fi network connection enabled by default when shipped, standby power shall not exceed 2 watts.

"(1B) Commercial dishwashers included in the scope of the ENERGY STAR Program Requirements Product Specification for Commercial Dishwashers, Version 2.0, shall meet the qualification criteria of that specification.

"(1C) Commercial fryers included in the scope of the ENERGY STAR Program Requirements Product Specification for Commercial Fryers, Version 2.0, shall meet the qualification criteria of that specification.".

(D) New paragraphs (2A), (2B), and (2C) are added to read as follows:

"(2A) Commercial steam cookers shall meet the requirements of the ENERGY STAR Program Requirements Product Specification for Commercial Steam Cookers, Version 1.2.

"(2B) Faucets, except for metering faucets, shall meet the following standards, as tested in accordance with Appendix S to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations, titled "Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads", as in effect on January 3, 2017:

"(A) Lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 1.5 gallons per minute ("gpm") at 60 pounds per square inch ("psi");

"(B) Residential kitchen faucets and replacement aerators shall not exceed a maximum flow rate of 1.8 gpm at 60 psi, with optional temporary flow of 2.2 gpm, provided they default to a maximum flow rate of 1.8 gpm at 60 psi after each use; and

"(C) Public lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 0.5 gpm at 60 psi.

"(2C) High color rendering index fluorescent lamps, cold temperature lamps, and impact-resistant fluorescent lamps shall meet the minimum efficacy requirements contained in section 430.32(n)(4) of Title 10 of the Code of Federal Regulations as in effect on January 3, 2017, as measured in accordance with Appendix R to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations, titled "Uniform Test Method for Measuring Average Lamp Efficacy (LE), Color Rendering Index (CRI), and Correlated Color Temperature (CCT) of Electric Lamps", as in effect on January 3, 2017.".

(E) New paragraphs (3A), (3B), (3C), (3D), (3E) are added to read as follows:

"(3A) Portable electric spas shall meet the requirements of the American National Standard for Portable Electric Spa Energy Efficiency (ANSI/APSP/ICC-14-2019).

"(3B) Residential ventilating fans shall have a fan motor efficacy of no less than 2.8 cubic feet per minute per watt. All other residential ventilating fans shall have a fan motor efficacy of no less than 1.4 cubic feet per minute per watt for airflows less than 90 cubic feet per minute and no less than 2.8 cubic feet per minute per watt for other airflows when tested in accordance with Home Ventilation Institute Publication 916 "HVI Airflow Test Procedure.

"(3C) Showerheads shall not exceed a maximum flow rate of 2.0 gpm at 80 psi, as tested in accordance with Appendix S to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations, titled "Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads", as in effect on January 3, 2017.

"(3D) Spray sprinkler bodies that are not specifically excluded from the scope of the WaterSense Specification for Spray Sprinkler Bodies, Version 1.0, shall include an integral pressure regulator and shall meet the water efficiency and performance criteria and other requirements of that specification.

"(3E) State-regulated general service lamps shall meet or exceed a lamp efficacy of 45 lumens per watt, when tested in accordance with the federal test procedures for general service lamps, prescribed in Section 430.23(gg) of Title 10 of the Code of Federal Regulations as in effect on January 1, 2020.".

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

"(4A) Urinals and water closets, other than those designed and marketed exclusively for use at prisons or mental health facilities, shall meet the following standards, as tested in accordance with Appendix T to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations, titled "Uniform Test Method for Measuring the Water Consumption of Water Closets and Urinals", as in effect on January 3, 2017, and water closets shall pass the waste extraction test for water closets (Section 7.9) of the American Society of Mechanical Engineers (ASME) A112.19.2/CSA B45.1-2018:

"(A) Wall-mounted urinals, except for trough-type urinals, shall have a maximum flush volume of 0.5 gallons per flush;

"(B) Floor-mounted urinals, except for trough-type urinals, shall have a maximum flush volume of 0.5 gallons per flush;

"(C) Water closets, except for dual-flush tank-type water closets, shall have a maximum flush volume of 1.28 gallons per flush; and

"(D) Dual-flush tank-type water closets shall have a maximum dual flush effective flush volume of 1.28 gallons per flush.".

(G) A new paragraph (5A) is added to reads as follows:

"(5A) Water coolers included in the scope of the ENERGY STAR Program Requirements Product Specification for Water Coolers, Version 2.0, shall have on mode with no water draw energy consumption less than or equal the following values as measured in accordance with the test requirements of that program:

"(A) 0.16 kilowatt-hours per day for cold-only units and cook and cold units;

"(B) 0.87 kilowatt-hours per day for storage type hot and cold units; and

"(C) 0.18 kilowatt-hours per day for on demand hot and cold units.".

(3) New subsections (d) and (e) are added to read as follows:

"(d) Within one year after the effective date of the Energy Efficiency Standards Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-204), the Mayor shall adopt rules to establish efficiency standards for computers and computer monitors. The rules adopted pursuant to this subsection shall meet or exceed the energy efficiency requirements of § 1605.3(v) of Title 20 of the California Code of Regulations, as measured in accordance with test methods prescribed in § 1604(v) of those regulations, as in effect January 1, 2021.

"(e)(1) A new bottle-type water dispenser shall not be sold, leased, or rented, offered for sale, lease, or rent, or installed in the District of Columbia unless the efficiency of the new product meets or exceeds the efficiency standards set forth in paragraph (2) of this section.

"(2) Bottle-type water dispensers designed for dispensing both hot and cold water shall not have standby energy consumption greater than 1.2 kilowatt-hours per day, as measured in accordance with the test criteria contained in version 1.1 of the Environmental Protection Agency's "Energy Star Program Requirements for Bottled Water Coolers," except units with an integral, automatic timer shall not be tested using Section D, "Timer Usage," of the test criteria.

"(3) For the purposes of this section, "bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.

"(4) This subsection shall expire one year after the date described in section 3(a) of the Energy Efficiency Standards Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-204).".

(d) Section 5 (D.C. Official Code § 8-1771.04) is amended as follows:

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

(2) The newly designated subsection (a) is amended by striking the phrase "Maryland or Virginia" and inserting the word "California" in its place.

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

"(b) At least once every 5 years, the Mayor shall evaluate whether the efficiency standards for products listed in section 3, or any rules issued pursuant to subsection (a) of this subsection, best serve to promote energy conservation in the District of Columbia, and issue a report to the Council on his or her findings.".

(e) A new section 6a is added to read as follows:

"Sec. 6a. Protection against repeal of federal standards.

"(a) If any of the energy or water conservation standards issued or approved for publication by the Office of the United States Secretary of Energy as of January 19, 2017, pursuant to the Energy Policy and Conservation Act (Parts 430-431 of Title 10 of the Code of Federal Regulations) ("2017 federal standard"), are withdrawn, repealed, or otherwise voided, the minimum energy or water efficiency level permitted in the District of Columbia for such products shall be set at the 2017 federal standard, and the product shall not be sold, leased, or

rented, offered for sale, lease, or rent, or installed in the District unless the efficiency of the product meets or exceeds the 2017 federal standard.

"(b) This section shall not apply to any federal energy or water conservation standard set aside by a court upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).".

Sec. 3. Applicability.

(a) Section 2(c)(1) and (2) shall apply as of one year after the date described in subsection (b) of this section.

(b)(1) Section 2(a), (b), (c)(3), (d)(1) and (3), (e) shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(2) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(3)(A) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(B) The date of publication of the notice of the certification shall not affect the provisions identified in paragraph (1) of this subsection.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-540

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 17, 2020

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to clarify the Mayor's rulemaking authority with respect to titles XX-B, XX-C, XX-D, and new title XX-E, to require District agencies to notify employees when their positions are designated as safety-sensitive, to permit a District employee to request a written explanation of the duties and conditions under which such duties are performed that make the position safety-sensitive, to permit employees to appeal the designation of the employee's position as safety-sensitive to their personnel authority and then to the Office of Employee Appeals, to authorize the Office of Employee Appeals to issue a final decision, not subject to judicial review, as to whether an employee's position is safety-sensitive, to prohibit the District government from taking an adverse employment action against an individual for participating in the District's or another state's medical marijuana program, to prohibit a District agency from using the results of an agency-administered drug test for marijuana components or metabolites as the basis for employment related decisions against a medical marijuana program participant unless reasonable suspicion exists that the medical marijuana program participant used or was impaired by marijuana at work or during work hours, except in limited circumstances, to permit a District employee who is a participant in a medical marijuana program to request and receive a reasonable accommodation for the employee's use of medical marijuana, and to require that existing District employee drug-testing programs comply with the new protections afforded to medical marijuana program participants; and to amend the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996 to make conforming amendments.

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

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

(a) The table of contents is amended as follows:

(1) A new section designation is added to read as follows:

"SEC. 603a. APPEALS OF SAFETY-SENSITIVE DESIGNATIONS".

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

"SEC. 1503a. RIGHT TO NOTICE AND APPEAL OF SAFETY-SENSITIVE DESIGNATION".

(3) Before the title designation "XXI. HEALTH BENEFITS" a new title designation and section designations are added to read as follows:

"XX-E. MEDICAL MARIJUANA PROGRAM PATIENT EMPLOYMENT PROTECTIONS

"SEC. 2061. DEFINITIONS

"SEC. 2062. PROTECTIONS FOR QUALIFYING PATIENTS".

(b) Section 301 (D.C. Official Code § 1-603.01) is amended as follows:

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

"(14B) The term "qualifying patient" means an individual who is actively registered in the District's medical marijuana program established pursuant to section 6 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.05), or in the medical marijuana program of the employee's jurisdiction of residence.".

(2) Paragraph (15B) is redesignated as paragraph (15C).

(3) A new paragraph (15B) is added to read as follows:

"(15B) The term "safety-sensitive" means a position in which it is reasonably foreseeable that, if the employee performs the position's routine duties while under the influence of drugs or alcohol, the employee could suffer a lapse of attention or other temporary deficit that would likely cause actual, immediate, and serious bodily injury or loss of life to self or others.".

(c) Section 404(a) (D.C. Official Code § 1-604.04(a)) is amended by striking the phrase "XX-A, XXI" and inserting the phrase "XX-A, XX-B, XX-C, XX-D, XX-E, XXI" in its place.

(d) A new section 1503a is added to read as follows:

"Sec. 1503a. Right to notice and appeal of safety-sensitive designation.

"(a) If a position is designated as safety-sensitive, the agency shall:

"(1) Include such designation in any position description for the position, including a job description utilized for hiring or recruitment;

"(2) Provide written notice of an employee's rights under this section, including the right to appeal the safety-sensitive designation, and of an employee's right to request a reasonable accommodation, consistent with the terms of section 2062, to:

"(A) An employee hired into a position designated as safety-sensitive after the effective date of the Medical Marijuana Program Patient Employment Protection Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-309), on or before the employee's date of hire; and

"(B) Each incumbent employee in a position designated as safety-sensitive as of the effective date of the Medical Marijuana Program Patient Employment Protection Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-309), within 30 calendar days after the effective date of the Medical Marijuana Program Patient Employment Protection Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-309); and

"(3) If an agency designates an employee's position as safety-sensitive after the effective date of the Medical Marijuana Program Patient Employment Protection Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-309), provide the employee written notice of the change in position designation, which shall include the notice described in paragraph (2) of this subsection, at least 30 calendar days before the change in designation takes effect.

"(b)(1) An employee in a position designated as safety-sensitive has the right to request a written explanation of the reasons and factors justifying the designation from the employee's agency.

"(2)(A) The agency shall provide the explanation to the employee within 10 business days after receiving a request pursuant to this subsection.

"(B) The explanation shall include a description of the specific routine job duties and circumstances under which such duties are performed, for which it is reasonably foreseeable that, if the employee performs such duties while under the influence of drugs or alcohol, the employee could suffer a lapse of attention or other temporary deficit that would likely cause actual, immediate, and serious bodily injury or loss of life to self or others.

"(C) The written explanation may be satisfied by providing the requesting employee with a position description that contains the information required under subparagraph (B) of this paragraph.

"(c) Notwithstanding any other provision of law or collective bargaining agreement, an agency may update a position description to include the information required pursuant to subsection (b)(2)(B) of this section without bargaining over the language; provided, that any agreement with a labor representative, including a collective bargaining agreement, to bargain over the position designation itself shall still apply.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, an employee has the right to appeal the designation of the employee's position as safety-sensitive under the following circumstances:

"(A) For employees employed by the District in positions designated as safety-sensitive as of the effective date of the Medical Marijuana Program Patient Employment Protection Amendment Act, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-309), within 45 business days after the employee receives the notification of rights provided pursuant to subparagraph (a)(2)(B) of this section;

"(B) Within 45 business days after an employee becomes a qualifying patient; or

"(C) Within 45 business days after the employee receives notice, pursuant to subsection (a)(3) of this section, that the employee's position will be newly designated as safety-sensitive.

"(2) An employee may not appeal a safety-sensitive designation solely because:

"(A) The employee failed a job-related drug test; or

"(B) The employee is facing an adverse action related to the employee's failure to pass a job-related drug test.

"(3) An employee may not appeal a safety-sensitive designation when the position is subject to random drug testing under federal law or as a condition of federal funding.

"(e)(1) An employee may appeal the designation of the employee's position as safety-sensitive by filing a petition with the employee's personnel authority. The petition shall state the reasons why the employee's position does not meet the definition of safety sensitive, as defined in section 301(15B).

"(2)(A) The personnel authority shall review the employee's petition, and any response from the agency, and issue a written determination granting or denying the employee's petition within 30 calendar days after receiving the petition.

"(B) The determination shall state the reasons for the grant or denial of the petition. If the personnel authority grants the petition, it shall redesignate the position in consultation with the employing agency. If the personnel authority denies the petition, the determination shall state the right of appeal, and, subject to the availability of funding, the employee may appeal the denial to the Office of Employee Appeals, pursuant to section 603a:

"(i) Within 30 calendar days after the personnel authority issues the determination; or

"(ii) If section 603a is not applicable when the personnel authority issues the determination, within 30 calendar days after the applicability date of section 603a.

"(C) Upon receipt of an appeal of the personnel authority's determination, the Office of Employee Appeals shall finally determine, pursuant to section 603a, whether an employee's position is safety-sensitive.

"(f) Notwithstanding any other provision of this section, a negotiated appeal procedure established within a collective bargaining agreement that permits an employee to challenge the designation of a position as safety-sensitive shall supersede and replace the appeal procedures established pursuant to this section and section 603a.

"(g) The designation of an employee's position as safety-sensitive shall not be suspended, tolled, or otherwise invalidated during the pendency of an appeal initiated pursuant to this section.

"(h) Notwithstanding section 404(a), the Council may issue rules to implement the provisions of this section.

"(i) For the purposes of this section, the term "agency" includes the Council.".

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

"Title XX-E. MEDICAL MARIJUANA PROGRAM PATIENT EMPLOYMENT PROTECTIONS

"Sec. 2061. Definitions.

"For the purposes of this title, the term:

"(1) "Agency" includes the Council.

"(2) "Marijuana" shall have the same meaning as provided in section 102(3)(A) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.02(3)(A)).

"(3) "Undue hardship" shall have the same meaning as provided in section 101(10) of the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 330; 42 U.S.C. § 12111(10)).

"Sec. 2062. Protections for qualifying patients.

"(a)(1) Notwithstanding any other provision of law and except as provided in subsection (b) of this section, an agency may not refuse to hire, terminate from employment, penalize, fail to promote, or otherwise take adverse employment action against an individual based upon the individual's status as a qualifying patient unless the individual used, possessed, or was impaired by marijuana at the individual's place of employment or during the individual's hours of employment.

"(2) A qualifying patient's failure to pass an agency-administered drug test for marijuana components or metabolites may not be used as a basis for employment-related decisions unless reasonable suspicion exists that the qualifying patient was impaired by or used marijuana at the qualifying patient's place of employment or during the qualifying patient's hours of employment.

"(b) Subsection (a) of this section shall not apply:

"(1) To positions that are designated as safety-sensitive; or

"(2) If compliance would cause the agency to commit a violation of a federal law, regulation, contract, or funding agreement.

"(c)(1) Upon the request of an employee who is a qualifying patient, an agency must provide a reasonable accommodation for the employee's use of medical marijuana, including by engaging in an interactive process to determine the appropriate reasonable accommodation.

"(2) A reasonable accommodation may include reassigning or transferring an employee to an open position for which the employee is otherwise qualified, or modifying or adjusting the employee's job duties or working environment, or modifying or adjusting the agency's operating procedures to enable the employee to successfully perform the essential functions of the job. An accommodation is not reasonable if it would:

"(A) Place the employee in a position that is designated as safety-sensitive;

"(B) Impose an undue hardship on the employing agency; or

"(C) Cause the agency to commit a violation of a federal law, regulation, contract, or funding agreement.

"(3)(A) An employee's election to pursue relief under this section shall not prejudice the employee's right to pursue relief under other District or federal law.

"(B) A reasonable accommodation or interactive process provided under this subsection may be combined with a reasonable accommodation or interactive process provided pursuant to other District or federal law.

"(d) Nothing in subsection (c) of this section may be interpreted as requiring an agency employer to permit an employee who is a qualifying patient to:

"(1) Use or administer marijuana at the employee's place of employment or during the employee's hours of employment; or

"(2) Be impaired by marijuana at the employee's place of employment or during the employee's hours of employment.

"(e) Notwithstanding section 404(a), the Council may issue rules to implement the provisions of this section.".

(f) A new section 603a is added to read as follows:

"Sec. 603a. Appeals of safety-sensitive designations.

"(a) An employee may appeal the determination of a personnel authority denying the employee's petition appealing a safety-sensitive position designation, pursuant to section 1503a, to the Office within 30 calendar days after the issuance of the personnel authority's determination or, if this section is not applicable when the personnel authority issues the determination, within 30 calendar days after the applicability date of this section.

"(b) In any appeal taken pursuant to this section, the Office shall review the record and uphold, reverse, or modify the determination of the personnel authority.

"(c) All decisions of the Office on appeals of safety-sensitive designations ("designation decisions") shall include findings of fact and a written decision, as well as the reasons or basis for the decision, upon all material issues of fact and law presented on record, and an order; provided, however, that the Office may affirm a determination of a personnel authority or Hearing Examiner without findings of fact and a written decision. Final designation decisions shall be published in accordance with the rules and regulations of the Office and published on the Office's website. A designation decision shall include a statement of any further process available to the parties including, as appropriate, a party's right to file a petition for review or a petition for enforcement. The Office shall transmit copies of a designation decision to all parties to the appeal, including named parties and intervenors.

"(d)(1) In appeals brought pursuant to this section, a Hearing Examiner shall issue an initial designation decision within 60 business days after the appeal is filed with the Office, unless the Hearing Examiner determines that an evidentiary hearing is warranted, in which case the Hearing Examiner shall issue an initial designation decision within 90 business days after the

appeal is filed. A Hearing Examiner may permit oral argument only when the Hearing Examiner determines such argument is necessary to resolve matters of law and material fact.

"(2) A personnel authority shall file an answer to an appeal within 15 business days after the employee files the appeal. The answer shall include the complete record of the proceedings before the personnel authority, including any documentary evidence reviewed or considered in rendering the determination. The employee may file a reply within 5 business days after the personnel authority files its answer.

"(3) A Hearing Examiner may grant an extension of a deadline set forth in paragraph (1) or (2) of this subsection only where extraordinary circumstances prevent the meeting of the deadline and the need for the extension outweighs any prejudice to a party. If a Hearing Examiner determines that dilatory actions of a party contributed to the need for an extension, the Hearing Examiner may, in the Hearing Examiner's discretion, draw inferences against the offending party.

"(4) A Hearing Examiner shall review the question of whether an employee's position is safety-sensitive without deference to the agency's designation or the personnel authority's determination. The employee shall bear the burden of establishing jurisdictional facts by a preponderance of the evidence. To prevail, the personnel authority must establish, by a preponderance of the evidence, that the employee's position meets the definition of safety-sensitive, as defined in section 301(15B).

"(5)(A) The initial designation decision of a Hearing Examiner shall become final 15 business days after issuance unless a party files a petition for review of the initial designation decision with the Office within the 15 business-day period. The responding party may file an answer to the petition for review within 15 business days after the petition for review is filed. The Office shall issue a final designation decision on a petition for review within 60 business days after the petition for review is filed. If the Office denies all petitions for review, the initial designation decision shall become final upon the issuance of the last denial. If the Office grants a petition for review, the subsequent designation decision of the Office shall be the final designation decision of the Office unless the decision states otherwise.

"(B) After issuing the initial designation decision, the Hearing Examiner shall retain jurisdiction over the case only to the extent necessary to correct the record, rule on a motion for attorney fees, or process any petition for enforcement filed under the authority of the Office.

"(e) A final designation decision of the Office issued pursuant to this section is not subject to judicial review.

"(f) The Office may issue such rules and regulations as it considers practicable or desirable to govern appeals under this section.".

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

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

(2) The newly designated subsection (a) is amended by striking the phrase "and issue rules".

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

"(b) To the extent permitted by federal law and regulations, programs adopted pursuant to subsection (a) of this section shall treat qualifying patients in compliance with title XX-E.".

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

"(d) Notwithstanding section 2022(f) and the second and third sentences of subsection (a) of this section, this title shall comply with the requirements of title XX-E for employees who are qualifying patients.".

(i) Section 2031(10) (D.C. Official Code § 1-620.31(1)) is repealed.

(j) Section 2032 (D.C. Official Code § 1-620.32) is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase "safety-sensitive positions" and inserting the phrase "positions designated as safety-sensitive" in its place.

(2) Subsection (b) is amended by striking the phrase "safety-sensitive positions" and inserting the phrase "positions designated as safety-sensitive" in its place.

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

"(g) Notwithstanding section 2035(a), this title shall comply with the requirements of title XX-E for employees who are qualifying patients.".

(k) Section 2035(d) (D.C. Official Code § 1-620.35(d)) is amended by striking the phrase "a safety-sensitive position" and inserting the phrase "designated as safety-sensitive" in its place.

(l) Section 2036 (D.C. Official Code § 1–620.36) is amended as follows:

(1) Strike the phrase "safety-sensitive positions" both times it appears and insert the phrase "positions that are designated as safety-sensitive" in its place.

(2) Strike the period and insert the phrase "; provided, that a private provider or entity is not required to comply with title XX-E." in its place.

(m) Section 2037 (D.C. Official Code § 1-620.37) is repealed.

Sec. 3. Section 3 of the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996, effective September 20, 1996 (D.C. Law 11-158; D.C. Official Code § 24-211.22), is amended by adding a new subsection (d) to read as follows:

"(d) The Department shall comply with the requirements of title XX-E of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-309).".

Sec. 4. Applicability.

(a) Section 2(f) shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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(b) The Chief Financial Officer shall certify the date of the inclusion of its fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of the provisions identified in subsection (a) of this section.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by Mayor, action by the Council to override veto), a 60-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1–206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 17, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-541

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

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.

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

TITLE I. APPRAISAL MANAGEMENT COMPANY REGULATIONS

Sec. 101. Definitions.

For purposes of this act, the term:

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

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

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

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

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

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

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

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

(A) Recruiting, selecting, and retaining appraisers;

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

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

(D) Reviewing and verifying the work of appraisers.

(6)(A) "Appraisal panel" means a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company.

(B) Appraisers on an appraiser panel include both appraisers accepted by the appraisal management company for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the appraisal management company to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions.

(C) An appraiser is an independent contractor or if the appraiser is treated as an independent contractor by the appraisal management company for purposes of federal income taxation.

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

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

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

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

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

(10) "Controlling person" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 102. Administration.

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

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

(c) The Department shall perform the following functions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 103. Appraisal panel size and calculation.

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

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

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

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

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

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

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

Sec. 104. Registration.

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

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

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

Sec. 105. Reporting requirements.

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

(b) A federally regulated appraisal management company operating in the District must report to the Department the information required to be submitted by the District to the Appraisal Subcommittee, pursuant to the Appraisal Subcommittee's policies regarding the determination of the appraisal management company AMC National Registry fee. These reporting requirements will be set forth by the Department by rule, and shall include:

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

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

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

Sec. 106. Appraisal management company requirements.

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

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

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

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

(C) Be of good moral character;

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

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

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

(b) An appraisal management company that has a reasonable basis to believe an appraiser has materially failed to comply with applicable laws or rules or has materially violated the USPAP shall refer the matter to the Department in conformance with applicable federal laws and regulations.

Sec. 107. Verification of licensure or certification.

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

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

Sec. 108. Retention of records.

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

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

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

Sec. 109. Payment to appraisers.

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

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

Sec. 110. Prohibited conduct.

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

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

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

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

(A) Withholding payment for appraisal services;

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

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

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

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

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

(A) The appraiser's illegal conduct;

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

(C) Improper or unprofessional conduct; or

(D) Substandard performance or other substantive deficiencies;

(6) Require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents or employees for any liability, damage, loss, or claim arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser;

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

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

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

(10) Fail to fully cooperate in any investigation.

Sec. 111. Disciplinary proceedings.

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

Sec. 112. Criminal history checks.

ENROLLED ORIGINAL

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

TITLE II. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 201. Fiscal impact statement.

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

Sec. 202. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-542

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend the Sustainable Solid Waste Management Amendment Act of 2014 to require the Mayor to prepare plans for comprehensive organics management and for recycling infrastructure in the public space, create training and outreach guides on source separation for private collection properties, and establish a uniform labeling scheme for public collection properties and District facilities and agencies, to require certain private collection properties to source-separate back-of-house commercial food waste and all private collection properties to separate their excess edible food for donation, to require the Mayor to establish a collection point in the District for source-separated glass and allow the Mayor to require certain private collection properties to source-separate glass, to require certain private collection property owners to submit source separation plans, to require District agencies and facilities to comply with source separation requirements and report about these efforts to the Department of Public works, to require the Mayor to impose a surcharge on recycling disposed of at District transfer stations when recycling loads exceed a contamination threshold, to establish a grant program for on-site organic processing equipment, to establish a reuse and donation program to increase diversion of reusable materials from landfills and incineration, to require a study to assess the feasibility of a variable rate pricing model for residential waste management in the District, to revise the certification requirements for vendors recycling or reusing electronic equipment under the District's electronic waste recycling program, and to establish an extended producer responsibility collection and recycling program for primary and rechargeable batteries; to amend the Sustainable DC Omnibus Amendment Act of 2014 to require that food service entities only provide accessory disposable food service ware upon request by the customer or at a self-serve station and to make grants available to support reductions in the use of disposable food service ware; to amend the Healthy Schools Act of 2010 to establish grants for food waste programs and to encourage share tables at public and public charter schools; and to repeal section 704.1 and 704.2 of Title 21 of the District of Columbia Municipal Regulations.

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

Sec. 2. Title I of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1031.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 8-1031.01) is amended as follows:

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

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

"(1) "Back-of-house commercial food waste" means commercial food waste separated at the point of discard by employees of a commercial establishment. The term "back-of-house commercial food waste" does not include food waste discarded directly by customers of the establishment, but does include food waste discarded of on behalf of customers by employees.".

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

"(1B) "Commercial food waste" means food waste produced by the production, consumption, and preparation of food at a commercial establishment.".

(4) Paragraph (8A) is redesignated as paragraph (8C).

(5) New paragraphs (8A) and (8B) are added to read as follows:

"(8A) "Food service entity" means full-service restaurants, limited-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, vending trucks or carts, food trucks, food halls and cafeterias, including those operated by or on behalf of District departments and agencies, caterers, and other entities selling or providing food within the District for consumption on or off the premises. The term "food service entity" does not include retail food stores, convenience stores, or pharmacies.

"(8B) "Food waste" means material produced from the production, preparation, and consumption of food.".

(6) New paragraphs (10A), (10B), and (10C) are added to read as follows:

"(10A) "In-vessel composting" means a process in which organic waste is enclosed in a drum, silo, bin, tunnel, reactor, or other container and maintained under controlled conditions of temperature and moisture for the purpose of producing compost.

"(10B) "Organic waste processing facility" means a facility that processes compostable materials through composting, aerobic digestion, or anaerobic digestion.

"(10C) "Organic waste processing system" means a system that processes compostable materials, such as an in-vessel composter or an anaerobic digester.".

(7) A new paragraph (12A) is added to read as follows:

"(12A) "Public litter container" means a trash receptacle installed by a government agency or private entity, including a Business Improvement District established pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 *et seq.*), on a public sidewalk, in a park, or other public space.".

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

"(14A) "Retail food store" means any establishment where food and food products offered to the consumer are intended for off-premises consumption, including grocery stores and supermarkets. The term "retail food store" does not include convenience stores, pharmacies, farmers markets, and food service entities.".

(9) Paragraph (20A) is redesignated as paragraph (20B).

(10) A new paragraph (20A) is added to read as follows:

"(20A) "Variable rate pricing model" means a model wherein the Mayor would impose fees for waste collection on public collection property owners proportional to the amount of trash generated at the property.".

(b) Section 103 (D.C. Official Code § 8-1031.03) is amended as follows:

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

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

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

"(2) By January 1, 2023, the Mayor shall submit to the Council a comprehensive Organics Management Plan that describes how the District will manage residential and commercial compostable materials. Before submitting the Plan to the Council, the Mayor shall provide an opportunity for public review and comment on the proposed Plan. The Organics Management Plan shall include:

"(A) A list of locations where the District's compostable materials will be processed, comprising regional organic waste processing facilities and on-site organic waste processing systems distributed throughout the District, and any policy changes that need to be implemented to support the identified processing capacity;

"(B) Plans for rolling out a compost collection program, including specific timelines and associated costs;

"(C) Plans for meeting the source separation requirements for compostable materials at private collection properties, upon the implementation of a compost collection program, as described in subsection (a)(2) of this section;

"(D) Goals for organics waste diversion over the first 10 years of the Organics Management Plan, and an explanation of how these goals will be met; and

"(E) A description of the public education, outreach, and technical assistance associated with implementing the Organics Management Plan.".

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

"(d) The Mayor shall establish a uniform color, design, and labeling scheme for public collection property waste containers in the District and for waste containers at all District facilities and agencies.".

(3) New subsections (e) and (f) are added to read as follows:

"(e)(1) By January 1, 2023, the Mayor shall submit to the Council a plan for how to provide recycling infrastructure in the public space. The plan shall make recycling available as appropriate with public litter containers, and require businesses providing public litter containers

to provide recycling containers, unless justified to the Mayor as physically infeasible. The plan shall include a uniform color, design, and labeling scheme for waste containers in the public space.

"(2) In preparing the plan required by this subsection, the Mayor shall analyze the District's existing public space recycling infrastructure, using waste and recycling sorts to determine contamination rates, research best practices from the District and other jurisdictions, and provide an opportunity for public review and comment.

"(f)(1) By January 1, 2022, the Mayor shall develop a training and outreach program on proper source separation and waste reduction for janitorial staff and property managers at private collection properties, including District facilities and agencies, multifamily properties, and commercial properties.

"(2) The training and outreach program shall be updated at least every 5 years and upon the addition of a new source separation requirement.

"(3) In creating, updating, and disseminating the training and outreach program, the Mayor shall, at least 4 times a year, consult with waste collectors, waste management brokers, and property managers.".

(c) New sections 103a and 103b are added to read as follows:

"Sec. 103a. Requirements for commercial food waste.

"(a) All entities identified in subsection (b) of this section shall:

"(1) Donate excess edible food consistent with the Good Faith Donor and Donee Act of 1981, effective October 8, 1981 (D.C. Law 4-39; D.C. Official Code § 48-301 *et seq.*);

"(2) Source-separate all back-of-house commercial food waste generated at its premises and:

"(A) Arrange for the separate collection and transport of the back-of-house commercial food waste to an organic waste processing facility or to processors for use as animal feed; provided, that such collection, transport, and disposal follow all applicable Federal, state, and local laws; or

"(B) Process back-of-house commercial food waste using an on-site organic waste processing system; provided, that:

"(i) Any on-site composting shall be in-vessel composting or a processing system approved by DPW;

"(ii) All equipment shall be properly sized to handle and process back-of-house commercial food waste generated at the premises in a safe and sanitary manner; and

"(iii) All equipment shall be installed in accordance with the applicable plumbing code and wastewater discharge regulations;

"(3) Provide waste containers consistent with the requirements for waste collection under section 104(a)(1) for the disposal of food waste in any employee work area;

"(4) Ensure proper storage for food waste on site, including a container with a secure lid, that will ensure that it is maintained separately from all other materials generated at the premises, is not commingled with recyclable material or trash, and does not create a public nuisance;

"(5) Ensure employees are informed about the requirements for food waste by:

"(i) Providing regular training to employees concerning the proper methods to separate and store food waste, including separating and storing food to be donated, if applicable; and

"(ii) Posting instructions on the proper separation of food waste in a manner and location in which the instructions will be comprehensible and visible to employees who are disposing of food waste, including signage in multiple languages as appropriate; and

"(6) Post a sign that states clearly and legibly:

"(A) The trade or business name, address, and telephone number of, and the day and time of pickup by, the private collector that collects the food waste;

"(B) That the entity transports its own food waste; or

"(C) That the entity provides for on-site processing for food waste it generates on its premises.

"(b) The requirements in subsection (a) of this section shall apply as follows:

"(1) Beginning January 1, 2023, to:

"(A) A retail food store with a floor area of at least 10,000 square feet; and

"(B) Colleges and universities with at least 2,000 residential students;

"(2) Beginning January 1, 2024, to:

"(A) A retail food store not covered by paragraph (1)(A) of this subsection, that is part of a chain of retail food stores, for which the chain;

"(i) Operates the retail food stores under common ownership or control and receives waste collection from the same private collector;

"(ii) Consists of 3 or more retail food stores; and

"(iii) Has a combined floor area of at least 10,000 square feet;

"(B) Arenas or stadiums with seating capacity of at least 15,000 persons;

"(C) Hospitals and nursing homes, as those terms are defined in section 2(9) and (11) 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(9) and (11)), with at least 300 beds; and

"(D) Colleges and universities not covered by paragraph (1)(B) of this subsection with at least 500 residential students; and

"(3) To any other entities added by the Mayor under subsection (c) of this section.

"(c) Beginning January 1, 2024, the Mayor may, by rule, apply the requirements in subsection (a) of this section to other entities, based on an evaluation of the available processing

capacity of all organic waste processing facilities and systems within 35 miles of the Capitol dome.

"(d) Collectors of source-separated food waste shall:

"(1) Provide training to businesses on how to properly source-separate food waste; and

"(2) Notify customers when they see contamination.

"(e)(1) The Mayor shall provide technical support to entities identified in subsection (b) of this section, as well as to any private waste collection properties that opt to voluntarily source separate compostable materials.

"(2) The Mayor shall conduct regular public education and outreach on the benefits of donating excess edible food and source separating compostable materials.

"(3) The Mayor shall not prohibit food service entities from composting or source separating compostable materials, including food waste that is not back-of-house commercial food waste, as long as they provide adequate consumer-facing waste collection service for compostable materials consistent with section 104.

"103b. Glass separation and recycling.

"(a) By January 1, 2022, the Mayor shall establish a collection point in the District for waste collectors to bring source-separated glass for transfer to a glass recycling facility.

"(b) Once the collection point required by subsection (a) of this section is established, the Mayor shall impose a fee for the disposal of glass sufficient to cover the costs of maintaining the glass collection point and transporting the glass to a glass recycling facility, which shall be deposited into the Solid Waste Disposal Cost Recovery Special Account established under section 6013 of the Fiscal Year 2008 Budget Support Act of 2007, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 1-325.91).

"(c) Beginning January 1, 2024, the Mayor may, by rule, require certain private collection properties that dispose of a high volume of glass containers to separate and store all recyclable glass containers and arrange for hauling source-separated glass to a glass recycling facility or collection point for recycling.".

(d) Section 104 (D.C. Official Code § 8-1031.04) is amended as follows:

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

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

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

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

"(4) Designating an agent responsible for implementing the requirements of this subtitle.".

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

"(b)(1) By January 1, 2022, multi-family dwellings with 80 or more units, commercial buildings with 10 or more units, and businesses or nonprofit organizations with 101 or more employees shall submit a source separation plan to the Mayor, updated on an annual basis, outlining the steps the property owner will take to implement the requirements of this subtitle. The plan shall include:

"(A) A description of the private collection property, including the name, address, and telephone number of the agent designated pursuant to subsection (a)(4) of this section;

"(B) A description of the collector, including the trade or business name, address, and telephone number of, and the day and time of pickup by, the collector that collects the private collection property's solid waste, as well as the sites where the materials are delivered;

"(C) A description of the private collection property's current solid waste generation;

"(D) A description of the property owner's efforts to educate tenants, residents, businesses, and employees about its source separation program, including a list of the materials to be recycled; and

"(E) A description of how the private collection property will recycle or reduce the amount of solid waste going to disposal facilities.

"(2) Private collection properties not subject to paragraph (1) of this subsection shall submit a source separation plan upon request by the Mayor.

"(3) The Mayor shall review and verify through on-site evaluation, consistent with section 114(e), implementation of the source separation plans required by this subsection. Private collection properties subject to the requirements of this subsection shall maintain, and make available upon request for inspection and copying during normal business hours, any contracts and invoices for collection and disposition of materials to be recycled for a period covering the most recent 5 years.

"(4) The Mayor shall provide electronic forms and online submissions, as appropriate, to assist private collection properties in meeting the requirements of this subsection.".

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

"(c) All private collection properties shall separate their excess edible food for donation for human consumption to the maximum extent practicable.".

(e) A new section 104a is added to read as follows:

"Sec. 104a. Requirements for District facilities and agencies.

"(a) All District facilities and agencies shall:

"(1) Separate waste in accordance with section 103 and provide adequate waste collection service in accordance with section 104; and

"(2) Maximize diversion of waste from landfill or incineration, including through promotion of reduction, reuse, repair, donation, recycling, and composting, including donating reusable goods to the maximum extent practicable.

"(b) Each agency shall designate a person responsible for compliance with this subtitle. The designated person shall ensure that employees and janitorial staff are annually trained on source separation requirements, consistent with the training program established under section 103(f), and that all recycling, composting, and trash receptacles are provided as required.

"(c) DPW shall annually collect information from each agency on how it is satisfying the requirements of subsections (a) and (b) of this section and include a summary in the annual report required by section 113, including a list of the persons designated pursuant to subsection (b) of this section.

"(d) District agencies shall maximize the purchase of Environmentally Preferable Products or Services, as that term is defined in section 104(30) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2–351.04(30)).".

(f) Section 105 (D.C. Official Code § 8-1031.05) is amended as follows:

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

"(a-1) If a collector finds materials that are not the correct type as designated for that container, such as trash in a compostable or recyclable container, the collector shall notify the customer about the presence of incorrect materials.".

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

"(2A) A description of the contamination in collected solid waste, including how often the collector provided the notice required by subsection (a-1) of this section;".

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

"(g) Collectors that deliver solid waste at a District transfer station for disposal shall, upon the request of DPW, provide an accurate list of all customer locations from which solid waste was collected for the load carried at the time of the request.".

(g) Section 107(2) (D.C. Official Code 8–1031.07(2)) is amended to read as follows:

"(2) Implementing source separation education and outreach programs for public collection properties and private collection properties developed pursuant to sections 103(f) and 108, in coordination with SWEEP;".

(h) Section 110(c) (D.C. Official Code § 8-1031.10(c)) is amended to read as follows:

"(c) The Mayor may issue grants to universities, nonprofit institutions, and businesses to promote sustainable waste management and diversion practices, policies, and techniques, including solid waste research, collection, marketing, and other services.".

(i) Section 111(a) (D.C. Official Code § 8-1031.11(a)) is amended as follows:

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

(A) Strike the word "disposal" and insert the phrase "disposal or transfer" in its place.

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

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

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

"(3) A surcharge on the disposal of recycling at a solid waste disposal facility owned by the District where the recycling load exceeds a contamination threshold determined by the Mayor. Revenue from this surcharge shall be deposited into the Solid Waste Diversion Fund established by section 112.".

(j) Section 112(b)(1) (D.C. Official Code § 8-1031.12(b)(1)) is amended by striking the phrase "surcharge established under section 111(a)(2)" and inserting the phrase "surcharges established under section 111(a)(2) and (3)" in its place.

(k) New sections 112c, 112d, and 112e are added to read as follows:

"Sec. 112c. On-site organic processing system acquisition grant program.

"(a) There is established a grant program, to be administered by DPW, to financially assist a business or nonprofit organization in the lease or purchase of an on-site organic processing system, such as an in-vessel composter or aerobic digester.

"(b) Grants shall be awarded on a competitive basis.

"(c) DPW may audit the accounts of a grantee receiving a grant under this section up to 3 years following the award of the grant.

"Sec. 112d. Donation and Reuse Program.

"(a) There is established a Donation and Reuse Program ("Program"), to be administered by DOEE, to reduce needless waste and increase diversion of reusable material, including edible food, from landfills and incineration through donation or reuse.

"(b) The Program shall, in coordination with non-governmental organizations:

"(1) Develop or promote public-facing technology platforms for direct donation coordination and to facilitate exchange of used and surplus materials;

"(2) Perform public education and outreach on avoiding single-use products and encouraging reusable items;

"(3) Increase public awareness of and access to opportunities for reuse and donation;

"(4) Support and expand the District's reuse infrastructure, including through site donation drop-off, Fix-It clinics, and non-governmental donation facilities; and

"(5) Prepare for and respond to emergency situations that result in surges of unsolicited donations in partnership with non-governmental donation facilities.

"(c) DOEE may issue competitive grants to community organizations and businesses to further the objectives of this section.

"(d) On an annual basis, the Program shall provide a report to the Mayor and the Council describing its activities in the previous year to meet the requirements of this section and provide recommendations on how to further increase donation and reuse in the District.

"Sec. 112e. Variable rate pricing study and pilot.

"By July 1, 2022, the Mayor shall conduct and submit to the Council a study to assess the feasibility and expected economic outcomes of implementing a variable rate pricing model for public collection properties in the District. This study shall include, at a minimum:

"(1) A pilot program implementing a variable rate pricing model at District public collection properties to assess how such a model incentivizes residents to reduce the volume of waste generated;

"(2) Recommendations based on the pilot program described in paragraph (1) of this section, community outreach, and best practices from other jurisdictions on how to implement a variable rate pricing model in the District, including how to minimize disproportionate impacts on low-income communities, minimize disruption associated with a transition to fees for public collection properties, and prevent increases in illegal dumping; and

"(3) An assessment of the financial implications of a variable rate pricing model for the District's waste management budget.".

(l) Section 113(a) (D.C. Official Code § 8-1031.13(a)) is amended as follows:

(1) Paragraph (4) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (5) is amended by striking the period and inserting a semicolon in its place.

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

"(6) A summary of efforts made by District agencies and facilities to meet the requirements of sections 104 and 104a(a) and (b), broken down by agency, including:

"(A) A description of each agency's waste collection services;

"(B) The name of the designated person responsible for compliance at each agency; and

"(C) All activities each agency has taken in the preceding year in furtherance of sections 104 and 104a(a) and (b); and

"(7) A description of the Mayor's waste diversion goals for the remainder of the calendar year, including specific targets, plans for meeting those targets, and planned waste diversion programs.".

(m) Section 114 (D.C. Official Code § 8-1031.14) is amended as follows:

(1) Subsection (d) is amended by striking the word "may" and inserting the word "shall" in its place.

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

"(e)(1) For the purpose of enforcing the provisions of this subtitle, or any rule issued pursuant to this subtitle, the Mayor may, upon the presentation of appropriate credentials to the owner, operator, or agent in charge, enter upon any public or private land in a reasonable and lawful manner during normal business hours for the purpose of inspection and observation.

"(2) If denied access to any place while carrying out the activities described paragraph (1) of this subsection, the Mayor may apply to a court of competent jurisdiction for a search warrant.".

(n) Section 117(b)(8) (D.C. Official Code § 8-1041.03(b)(8)) is amended to read as follows:

"(8) A signed statement certifying that vendors who recycle or reuse covered electronic equipment collected under the manufacturer's waste management program have a valid third-party accredited certification recognized by the Mayor that prohibits:

"(A) Export of electronics equipment waste to developing countries for recycling or non-working hazardous equipment or parts for repairs;

"(B) Disposal of hazardous electronics equipment waste in solid waste landfills and incinerators; and

"(C) Use of prison labor for processing hazardous electronics equipment waste.".

(o) Section 126(a)(1) (D.C. Official Code § 1-1041.12(a)(1)) is amended to read as follows:

"(a)(1) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this subtitle.".

(p) Section 127 (D.C. Official Code § 1-325.381) is amended as follows:

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

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

(B) Paragraph (4) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(5) Fees and fines collected pursuant to section 138.".

(2) Subsection (c) is amended by striking the phrase "and Subtitle B" and inserting the phrase ", Subtitle B, and Subtitle D" in its place.

(q) A new Subtitle D is added to read as follows:

"SUBTITLE D. EXTENDED PRODUCER RESPONSIBILITY FOR BATTERIES.

"Sec. 128. Definitions.

"For the purposes of this subtitle, the term:

"(1) "Battery" means a device that consists of one or more electrically connected electrochemical cells and is designed to store and deliver electric energy.

"(2) "Battery-containing product" means a product that contains or is packaged with a rechargeable or primary battery. The term "battery-containing product" does not include:

"(A) Covered electronic equipment, as that term is defined in section 115(4) of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1041.01(4));

"(B) A product in which the only batteries used are supplied by a producer participating in an approved battery stewardship plan;

"(C) A medical device, as described in 21 U.S.C. § 360c; provided, that the medical device is not designed and marketed for sale or resale principally to consumers for personal use; or

"(D) A motor vehicle, part of a motor vehicle, or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

"(3) "Battery stewardship organization" means an organization registered under section 131(b).

"(4) "Brand" means a trademark, including both a registered and an unregistered trademark, a logo, a name, a symbol, a word, an identifier, or a traceable mark that identifies a covered battery or covered battery-containing product, and identifies the owner or licensee of the brand.

"(5) "Collection rate" means a percentage, by weight, that a battery stewardship organization collects that is calculated by dividing the total weight of batteries that were estimated to have been sold in the District by all producers participating in an approved battery stewardship plan during the previous 3 calendar years.

"(6) "Covered battery" means a new or unused primary battery or rechargeable battery.

"(7) "Covered battery-containing product" means a new or unused battery-containing product.

"(8) "DOEE" means the District Department of Energy and Environment.

"(9) "Performance goal" means a metric proposed in a battery stewardship plan to measure, on an annual basis, the performance of that plan, taking into consideration technical feasibility and economic practicality, in achieving continuous, meaningful progress to improve the rate of battery recycling in the District. The term "performance goal" includes target collection rates, target recycling efficiencies by battery recycling process, and goals for public awareness, convenience, and accessibility.

"(10) "Primary battery" means a non-rechargeable battery that weighs 4.4 pounds (2 kilograms) or less, including alkaline, carbon-zinc, and lithium metal batteries.

"(11) "Producer" means, with respect to a covered battery or covered battery-containing product that is sold, offered for sale, or distributed for sale in the District:

"(A) A person who manufacturers a covered battery or covered battery-containing product and sells or offers for sale in the District that covered battery or battery-containing product under the person's own brand;

"(B) If there is no person to which subparagraph (A) of this paragraph applies, the owner or licensee of a brand under which a covered battery or covered battery-containing product is sold, offered for sale, or distributed in the District, whether or not the trademark is registered; or

"(C) If there is no person to which subparagraph (A) or (B) of this paragraph applies, a person that imports the covered battery or covered battery-containing product into the United States for sale or distribution in the District.

"(12) "Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged, that weighs less than 11 pounds (5 kilograms) and has a Watt-hour rating of no more than 300 Watt-hours. The term "rechargeable battery" does not include:

"(A) A battery that contains electrolyte as a free liquid, or

"(B) A battery that employs lead-acid technology, unless that battery is sealed and contains no free liquid electrolyte.

"(13) "Recycling" means the series of activities, including separation, collection, and processing, through which materials are recovered or otherwise diverted from the solid waste stream for use as raw materials or in the manufacture of products other than fuel.

"Sec. 129. Battery collection.

"(a) All producers of covered batteries and covered battery-containing products sold or offered for sale in the District of Columbia, including retail, wholesale, business-to-business, and online sales, shall:

"(1) Be a member of a battery stewardship organization pursuant to section 131; and

"(2) As part of a battery stewardship organization, implement a battery collection program that provides for collection of all batteries on a free, regular, convenient, and accessible basis. At the time of collection, there shall be no cost to consumers, retailers, or the District.

"(b) On or before January 1, 2022, a battery stewardship organization shall submit a proposed battery stewardship plan to DOEE for review. A battery stewardship organization shall implement the battery stewardship plan no later than 90 days after the plan is approved.

"(c) This subtitle shall not apply to batteries or battery-containing products that were imported into the District before the applicability date of section 2(q) of the Zero Waste Omnibus Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-506).

"Sec. 130. Battery stewardship plan.

"(a) A proposed battery stewardship plan shall include, at a minimum:

"(1) A list of producers and brands, including:

"(A) All producers participating in the battery stewardship plan and contact information for each of the participating producers;

"(B) The brands of batteries and battery-containing products covered by the battery stewardship plan; and

"(C) Brands of products meeting the exemption described in section 128(2)(B) that contain batteries supplied by producers participating in the battery stewardship plan;

"(2) An anticipated annual budget for the battery stewardship plan, broken down into administrative, collection, transportation, disposition, and communication costs, along with a description of the financing method used to implement the battery stewardship plan. The budget shall fund, at a minimum, staff responsible for implementing the battery stewardship plan in the District and include funds for fees administered by DOEE. The budget may not include legal fees or costs related to legislative efforts;

"(3) Economically and technically feasible performance goals for each of the first 3 years of implementation of the battery stewardship plan that are based on the estimated total weight of batteries that have been sold or offered for sale in the District in the previous 3 calendar years by the producers participating in the battery stewardship plan;

"(4) A description of how the battery stewardship organization will provide for the convenient collection of batteries from consumers as required by section 129(a). At a minimum, the battery stewardship plan shall provide for a minimum of one collection site per 10,000 people in the District, with a reasonable geographic spread of collection sites across all 8 wards, taking into account accessibility to public transit, and an explanation for the geographic spread; except, that DOEE shall not require the collection site minimum in this paragraph to be met in the first year of implementation of the plan if the plan provides a reasonable timetable for achieving that requirement;

"(5) A description of how the battery stewardship organization will arrange for components of the discarded batteries to be recycled to the maximum extent economically and technically feasible, in a manner that is environmentally sound and safe for waste management workers. At a minimum, recycling shall not include smelting of batteries that are not separated from any halogenated plastic casings prior to smelting;

"(6) A list of all key participants in the battery collection program, including:

"(A) The names of the collection sites accepting batteries under the plan, including the address and contact information for each collection site;

"(B) The name and contact information of a transporter or contractor collecting batteries from the collection sites; and

"(C) The name, address, and contact information of the recycling facilities that process the collected batteries;

"(7) A description of the education and outreach that will be used to inform consumers about the battery collection program, which must, at a minimum, notify the public that there is a free collection program for all batteries as well as the location of the collection sites and how to access the battery collection program; and

"(8) Other information as required by the Mayor through rulemaking.

"(b)(1)(A) Within 120 days after receipt of a proposed battery stewardship plan, DOEE shall determine whether the plan complies with the requirements of this section. DOEE shall notify the applicant of the plan approval or rejection in writing. If DOEE rejects a proposed plan, DOEE shall include the reasons for rejecting the plan.

"(B) An applicant whose plan is rejected by DOEE shall submit a revised plan within 45 days after receiving the notice of rejection. DOEE shall review the revised plan, issue an order approving or disapproving the revised plan, and notify the applicant of the decision within 45 days after receipt of the revised plan. An applicant whose revised plan is rejected by DOEE may appeal the decision to the Office of Administrative Hearings, pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*).

"(C) In the event of an appeal of an initial plan's disapproval, obligations of the battery stewardship organization and producers under this subtitle may be stayed in their entirety until final disposition of the appeal. In the event of an appeal of an amended plan's disapproval, obligations of the battery stewardship organization and producers, including collection and remittance of fees to the battery stewardship organization, under this subtitle shall remain in accordance with the previously approved plan until final disposition of the appeal.

"(2) DOEE shall post all proposed battery stewardship plans, and any proposed amendments pursuant to subsection (c) of this section or section 132(b), on its website for 30 days after the date the application is submitted and provide an opportunity for public review and comment.

"(c) Every 2 years following approval of the battery stewardship plan, the battery stewardship organization shall submit updated performance goals to DOEE for approval, based on the implementation of the program up until that point and current economic and technical feasibility. DOEE may require a battery stewardship organization to make other revisions to the plan if the performance goals under the battery stewardship plan are not being met after 2 years of plan implementation.

"(d) Any battery collection site designated under a plan shall:

"(1) Complete a safety tutorial on how to safely manage batteries, to be provided by the battery stewardship organization implementing the stewardship plan;

"(2) Prominently display the availability of drop-off at their location; and

"(3) Provide for the acceptance of up to 100 batteries per visit, and accept all batteries regardless of type or brand.

"Sec. 131. Battery stewardship organization.

"(a) A battery stewardship organization shall:

"(1) Develop and submit a battery stewardship plan that meets the requirements of section 130;

"(2) Maintain a public, regularly-updated website that lists all producers and producers' brands covered by the battery stewardship organization's approved battery stewardship plan;

"(3) Provide sellers, government agencies, nonprofit organizations, and all collection sites with educational materials describing collection opportunities for batteries under the battery stewardship plan, including any signage required by section 130(d)(2); and

"(4) Cover all costs for battery collection, transportation, processing, education, administration, recycling, and end-of-life handling, with such handling being in accordance with practices approved by DOEE.

"(b) Beginning January 1, 2022, and annually thereafter, a battery stewardship organization shall file a registration form with DOEE. The registration form shall require the following information:

"(1) A list of the producers participating in the battery stewardship organization;

"(2) For each participating producer, the name, address, and contact information of a person responsible for ensuring the participating producer's compliance with this subtitle;

"(3) A description of how the battery stewardship organization proposes to meet the requirements of subsection (b) of this section, including any reasonable requirements for participation in the battery stewardship organization; and

"(4) The name, address, and contact information of a person for a nonmember producer to contact on how to become a member of the battery stewardship organization.

"Sec. 132. Annual reporting.

"(a) On or before April 1, 2023, and annually thereafter, a battery stewardship organization shall submit a report to DOEE describing activities carried out under the battery stewardship plan during the previous calendar year. The report shall include, at a minimum:

"(1) Any updated contact information for the battery stewardship organization, all participants in the organization, and a list of the brands of batteries and battery-containing products for which the battery stewardship organization is responsible;

"(2) The weight of the batteries collected by the battery stewardship organization, reported to the extent feasible by:

"(A) Collection site; and

"(B) Chemistry type of primary and rechargeable batteries;

"(3) The estimated total sales, by weight, of batteries and batteries contained in or with battery-containing products sold in the District by the producer or producers participating in the battery stewardship organization, to the extent feasible for each of the previous 3 calendar years;

"(4) A description of progress made toward the program performance goals under section 130(a)(3), including:

"(A) A summary of how program implementation compared to performance goals;

"(B) An explanation of why performance goals were not met, if applicable; and

"(C) An evaluation of the effectiveness of methods and processes used to achieve the performance goals and how methods and processes can be improved;

"(5) A description of the collection sites, including:

"(A) The addresses and contact information, including website links, for all collection sites;

"(B) A map indicating the location of all collection sites in the District; and

"(C) An assessment of collection convenience and accessibility;

"(6) A description of the educational materials that support implementation of the battery stewardship plan, including examples, as well as an evaluation of the success of the education and outreach effort and how it can be improved;

"(7) A description of the manner in which the collected batteries were sorted, consolidated, managed, and processed, including:

"(A) The manner in which the collected batteries were recycled, including weight and chemistry of material recycled;

"(B) What facilities processed the batteries, including a summary of any violations of environmental laws and regulations over the previous 3 years at each facility; and

"(C) A discussion of recycling efficiency rates; and

"(8) The costs of implementation of the battery stewardship plan, including the costs of collection, recycling, education, and outreach, and an anticipated budget for the next calendar year.

"(b) In the event a battery stewardship organization does not meet a performance goal, the battery stewardship organization shall, in coordination with DOEE, amend its battery stewardship plan, following the requirements set forth in section 130, to conduct more outreach, provide additional education materials, or improve collection accessibility as needed.

"(c) Four years after the date the initial battery stewardship plan is approved, a battery stewardship organization shall hire an independent third party to conduct an assessment of the battery stewardship plan and implementation of the plan. The assessment shall examine the effectiveness of the battery stewardship plan in collecting and recycling batteries and compare the cost-effectiveness of the plan to that of collection plans or programs for batteries in other jurisdictions. The results of the assessment and recommendations to improve the battery stewardship plan shall be submitted to DOEE as part of the annual report required under subsection (a) of this section.

"Sec. 133. DOEE responsibilities.

"(a) DOEE shall maintain a website that includes:

"(1) A copy of all approved battery stewardship plans;

"(2) The names of producers participating in approved battery stewardship plans;

"(3) A list of all approved brands covered by a battery stewardship plan filed with DOEE; and

"(4) A copy of all annual reports submitted under section 132.

"(b) A battery stewardship organization implementing an approved battery stewardship plan in compliance with the requirements of this subtitle may petition DOEE alleging, with evidence, that a producer is not complying with the requirements of this subtitle or a battery stewardship plan. DOEE shall investigate and provide a determination to the petitioner within 45 days after receipt of a petition. DOEE shall take enforcement action if noncompliance is demonstrated.

"(c) Every 5 years, DOEE shall report on the status of the battery recycling program and provide this report to the Council and on its website. The report shall include:

"(1) The amount, by weight, of batteries collected under approved battery stewardship plans;

"(2) The percentage of collected batteries not covered by or attributable to a producer participating in an approved battery stewardship organization; and

"(3) Recommendations for any amendments to this subtitle.

"(d) In addition to the requirements of subsection (c) of this section, DOEE's first report under subsection (c) of this section shall include:

"(1) An evaluation of whether an environmental handling fee, meaning an amount added at the point of sale to the purchase price of a covered battery or battery-containing product, would promote and support increased battery recycling in the District; and

"(2) An assessment of how rechargeable batteries with a watt-hour rating above 300 watt-hours could be incorporated into the battery collection program under this subtitle.

"(e) DOEE shall assist in educational and outreach efforts to inform the public about the battery collection opportunities in the District.

"Sec. 134. Cause of action.

"(a) A battery stewardship organization implementing an approved battery stewardship plan in compliance with the requirements of this subtitle may bring a civil action against a producer for damages when:

"(1) The plaintiff incurs more than $1,000 in actual costs collecting, handling, recycling, and properly disposing of the defendant producer's batteries sold or offered for sale in the District; and

"(2) The defendant producer is not in compliance with the requirements of section 129(a).

"(b) DOEE shall not be a necessary party to or be required to provide assistance or otherwise participate in a civil action authorized under this section solely due to its regulatory requirements under this subtitle, unless subject to subpoena before a court of jurisdiction.

"(c) A battery stewardship organization may file a civil action under this section regardless of whether it has petitioned DOEE under section 133(b).

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

"(1) The actual costs a plaintiff battery stewardship organization incurs in collecting, handling, recycling, or properly disposing of batteries reasonably identified as having originated from another battery producer or battery stewardship organization, and

"(2) The attorneys' fees and costs associated with bringing the civil action.

"Sec. 135. Immunity from liability; confidential information.

"(a) Notwithstanding the provisions of Chapter 45 of Title 28 of the D.C. Official Code, a producer and a battery stewardship organization may negotiate, enter into agreements with, share the burdens of their operation with, and conduct business with each other in accordance with this subtitle in ways that may affect competition. No producer or battery stewardship organization shall be prosecuted, held liable, or subject to penalties or damages under Chapter 45 of Title 28 of the D.C. Official Code for actions conducted in accordance with this subtitle, including:

"(1) The creation, implementation, or management of a battery stewardship organization and any battery stewardship plan regardless of whether it is submitted, denied, or approved;

"(2) The cost and structure of a battery stewardship plan;

"(3) The types or quantities of batteries being recycled or otherwise managed pursuant to this subtitle; and

"(4) The establishment, administration, or disbursement of environmental handling fees or fee schedules, if applicable, to be collected at the point-of-sale for covered batteries and covered battery-containing products.

"(b) Financial, production, and sales data reported to the Mayor by a battery stewardship organization shall not be subject to disclosure under the Freedom of Information Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), or any other law or regulation; except, that the Mayor may release a summary form of the data that does not disclose individual producer information.

"Sec. 137. Disposal ban.

"(a) Beginning January 1, 2022, no producer shall dispose of batteries in the District except through battery recycling programs or other methods approved by the Mayor.

"(b) Beginning January 1, 2023, no person in the District shall knowingly dispose of batteries in the District except through battery recycling programs or other methods approved by the Mayor.

"Sec. 138. Rules, enforcement, and fees.

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

"(b)(1) The Mayor shall charge an annual administrative fee to producers or battery stewardship organizations implementing approved battery stewardship plans to cover the

District's oversight costs, including planning, plan review, annual oversight, enforcement, and other directly related tasks.

"(2) The Mayor may impose civil fines and penalties for violations of the provisions of this subtitle or any rules issued pursuant to this subtitle, pursuant to 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.*) ("Civil Infractions Act"). Enforcement and adjudication of an infraction shall be pursuant to the Civil Infractions Act.

"(3) Fees, penalties, and fines collected under this subtitle shall be deposited in the Product Stewardship Fund established by section 127.

"(c)(1) For the purpose of enforcing the provisions of this subtitle, or any rule issued pursuant to this subtitle, the Mayor may, upon 48 hours' written notice and the presentation of appropriate credentials to the owner, operator, or agent in charge, enter upon any public or private property in a reasonable and lawful manner during normal business hours for the purpose of inspection and observation.

"(2) If denied access to any place while carrying out the activities described paragraph (1) of this subsection, the Mayor may apply to a court of competent jurisdiction for a search warrant.".

Sec. 3. The Sustainable DC Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 8-1531 *et seq.*), is amended as follows:

(a) Section 401 (D.C. Official Code § 8-1531) is amended as follows:

(1) Paragraphs (1) and (1A) are redesignated as paragraphs (1A) and (1B), respectively.

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

"(1) "Accessory disposable food service ware" means any disposable food service ware, including straws, utensils, condiment cups and packets, cup sleeves, and napkins, that is not used to hold or contain food.".

(3) New paragraphs (7), (8), and (9) are added to read as follows:

"(7) "Reusable food service ware" means containers, bowls, plates, trays, cups, glasses, forks, spoons, knives, takeout containers, and other items used to contain and consume beverages and prepared food that are manufactured and designed to be washed and sanitized and used repeatedly over an extended period of time.

"(8) "Third-party food ordering platform" means any website, mobile application, or other internet service that offers or arranges for the sale of food and beverages prepared by, and the delivery or pickup of food and beverages from, food service entities.

"(9) "Third-party reusable food service ware providers" means entities that provide washed and sanitized reusable food service ware to food service entities for their use, either in packaging takeout or delivery orders or for on-site dining, and then recuperate the food

service ware after use by customers for commercial wash and sanitation before providing the reusable food service ware for subsequent use by food service entities.".

(b) Section 403 (D.C. Official Code § 8-1533) is amended by adding new subsections (d), (e), and (f) to read as follows:

"(d) Food service entities may use reusable food service ware, including food service ware provided by a third-party reusable food service ware provider, in serving on-site, takeout, and delivery customers.

"(e)(1) By January 1, 2022, food service entities shall provide accessory disposable food service ware only upon request by the customer or at a self-serve station. Take-out or delivery orders shall not include accessory disposable food service ware unless specifically requested by the customer in person, on the phone, or online.

"(2) Food service entities shall provide options for customers to affirmatively request accessory disposable food service ware across all ordering platforms, including digital platforms, telephone, and in-person, whether for on-site dining, takeout, or delivery. This paragraph shall apply even when a food service entity uses a third-party food ordering platform.

"(3) By July 1, 2021, third-party food ordering platforms shall provide customers the ability to affirmatively request accessory disposable food service ware, including the ability to select the specific items they need.

"(f)(1) DOEE shall make available grants through a competitive process or a formula grants process, or rebates through an equivalent process, to food service entities and third-party reusable food service ware providers to support reductions in the use of disposable food service ware, including to help cover the cost of establishing dishwashing capacity, purchase of reusable food service ware, or the procurement or provision of reusable food service ware services from or by third-party reusable food service ware providers.

"(2) For the purposes of this subsection, the term "formula grants process" means a process developed by DOEE to distribute grants based on the availability of funding and the needs of applicants.".

Sec. 4. The Healthy Schools Act of 2010, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-821.01), is amended as follows:

(a) Section 101 (D.C. Official Code § 38-821.01) is amended by adding a new paragraph (8C) to read as follows:

"(8C) "Share table" is a location where school community members can place unopened or sealed foods to provide for other community members to take food that would otherwise be thrown away.".

(b) Section 102(c) (D.C. Official Code § 38-821.02(c)) is amended by adding a new paragraph (11) to read as follows:

"(11) To decrease food and food packaging waste at schools and provide greater food access to those in need, the Office of the State Superintendent for Education may issue

grants through a competitive process or a formula grants process to local education agencies, schools, nonprofit organizations, or partnerships developed among schools or with nonprofit organizations to support efforts to address food and food packaging waste, including implementation and management of share tables, purchase or provision of reusable food service ware, including from third-party reusable food service ware providers, and other food waste and food waste packaging reduction programs.".

(c) Section 203 (D.C. Official Code § 38-822.03) is amended by adding a new subsection (d) to read as follows:

"(d)(1) Public schools, public charter schools, and participating private schools are strongly encouraged to establish share tables.

"(2) A summary of share table participation shall be included in the report required pursuant to section 303.".

Sec. 5. Section 704 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 704), is amended as follows:

(a) Subsection 704.1 is repealed.

(b) Subsection 704.2 is repealed.

Sec. 6. Applicability.

(a) Sections 2(a), 2(b), the amendatory section 103a within 2(c), 2(d)(2), 2(e), 2(g), 2(k), 2(l), 2(m)(1), 2(p), 2(q), the amendatory section 403(e)(1) and (2) and (f) in section 3(b), and 4(b) shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of the provisions identified in subsection (a) of this section.

Sec. 7. Fiscal impact statement.

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

Sec. 8. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-543

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To symbolically designate Frederick Douglass Court, S.E., in Ward 8, as Elaine M. Carter Way.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Elaine M. Carter Way Designation Act of 2020".

Sec. 2. Pursuant to sections 401, 403a, and 423 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01, 9-204.03a, and 9-204.23), the Council symbolically designates Frederick Douglass Court, S.E., adjacent to Square 5880, as "Elaine M. Carter Way".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-544

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To establish the Interstate Physical Therapy Licensure Compact to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Interstate Physical Therapy Compact Approval Act of 2020".

Sec. 2. The Mayor is authorized to enter into and execute on behalf of the District the Interstate Physical Therapy Licensure Compact with any state or states legally joining therein, in the form substantially as follows:

PREAMBLE

(a) To establish the Interstate Physical Therapy Licensure Compact to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient and client is located at the time of the patient and client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

(b) This Compact is designed to achieve the following objectives:

(1) Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

(2) Enhance the states' ability to protect the public's health and safety;

(3) Encourage the cooperation of member states in regulating multi-state physical therapy practice;

(4) Support spouses of relocating military members;

(5) Enhance the exchange of licensure, investigative, and disciplinary information between member states; and

(6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

Sec. 3. Definitions.

For the purposes of this act, the term:

(1) "Active-duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.

(2) "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

(3) "Alternative program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board, including substance abuse issues.

(4) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient and client is located at the time of the patient and client encounter.

(5) "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work.

(6) "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

(7) "Encumbered license" means a license that a physical therapy licensing board has limited in any way.

(8) "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

(9) "Home state" means the member state that is the licensee's primary state of residence.

(10) "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

(11) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

(12) "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

(13) "Member state" means a state that has enacted the Compact.

(14) "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege

(15) "Physical therapist" means an individual who is licensed by a state to practice physical therapy.

(16) "Physical therapist assistant" means an individual who is licensed or certified by a state and who assists the physical therapist in selected components of physical therapy.

(17) "Physical therapy," "physical therapy practice," or "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

(18) "Physical Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

(19) "Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

(20) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

(21) "Rule" means a regulation, principle, or directive promulgated by the Commission that has the force of law.

(22) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy, including the District of Columbia.

Sec. 4. Participation in the Compact.

(a) To participate in the Compact, a state must:

(1) Participate fully in the Commission's data system, including using the Commission's unique identifier, as defined in rules;

(2) Have a mechanism in place for receiving and investigating complaints about licensees;

(3) Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(4) Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with subsection (b) of this section;

(5) Comply with the rules of the Commission;

(6) Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and

(7) Have continuing competence requirements as a condition for license renewal.

(b) Upon adoption of this act, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and §217 of the National Criminal History Access and Child Protection Act, approved October 9, 1998 (112 Stat. 1876; 34 U.S.C. § 40316).

(c) A member state shall grant the compact privilege to a licensee holding a valid

unencumbered license in another member state in accordance with the terms of the Compact and rules.

(d) Member states may charge a fee for granting a compact privilege.

Sec. 5. Compact privilege.

(a) To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

(1) Hold a license in the home state;

(2) Have no encumbrance on any state license;

(3) Be eligible for a compact privilege in any member state in accordance with subsections (d), (g), and (h) of this section;

(4) Have not had any adverse action against any license or compact privilege within the previous 2 years;

(5) Notify the Commission that the licensee is seeking the compact privilege within a remote state;

(6) Pay any applicable fees, including any state fee, for the compact privilege;

(7) Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and

(8) Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

(b) The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of subsection (a) of this section to maintain the compact privilege in the remote state.

(c) A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(d) A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(e) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until:

(1) The state license is no longer encumbered; and

(2) Two years have elapsed from the date of the adverse action.

(f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (a) of this section to obtain a compact privilege in any remote state.

(g) If a licensee's compact privilege in any remote state is removed, the individual shall

lose the compact privilege in any remote state until:

(1) The specific period of time for which the compact privilege was removed has ended;

(2) All fines have been paid; and

(3) Two years have elapsed from the date of the adverse action.

(h) Once the requirements of subsection (g) of this section have been met, the license must meet the requirement in subsection (a) of this section to obtain a compact privilege in a remote state.

Section 6. Active-duty military personnel or their spouses.

A licensee who is active-duty military or is the spouse of an individual who is active-duty military may designate one of the following as the home state:

(1) Home of record;

(2) Permanent Change of Station ("PCS"); or

(3) State of current residence if it is different than the PCS state or home of record.

Sec. 7. Adverse actions.

(a) A home state shall have exclusive power to impose adverse action against a license issued by the home state.

(b) A home state may take adverse action based on the investigative information of a remote state so long as the home state follows its own procedures for imposing adverse action.

(c) Nothing in this act shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

(d) Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

(e) A remote state shall have the authority to:

(1) Take adverse actions as set forth in section 5(d) against a licensee's compact privilege in the state;

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable

to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located; and

(3) If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(f) In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

(g) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

Sec. 8. Establishment of the Physical Therapy Compact Commission.

(a)(1) The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission, which shall function as a joint agency of the member states.

(2) The Commission shall be an instrumentality of the Compact states.

(3) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(4) Nothing in this act shall be construed to be a waiver of sovereign immunity.

(b) Each member state shall have and be limited to one delegate selected by that member state's licensing board.

(c) The delegate shall be a current member of the licensing board and who is a physical therapist, physical therapist assistant, public member, or the board administrator.

(d) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(e) The member state board shall fill any vacancy occurring in the Commission.

(f)(1) Each delegate shall be entitled to one vote with regard to rulemaking and the creation of bylaws, pursuant to subsection (g)(2) of this section, and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

(2) A delegate shall vote in person or by such other means as provided in the bylaws established pursuant to subsection (g)(2) of this section. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(3) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws established pursuant to subsection (g)(2) of this section.

(g) The Commission shall have the following powers and duties, to;

(1) Establish the fiscal year of the Commission;

(2) Establish bylaws;

(3) Maintain its financial records in accordance with the bylaws;

(4) Meet and take such actions as are consistent with the provisions of the Compact and the bylaws;

(5) Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact; which rules shall have the force and effect of law and shall be binding in all member states;

(6) Bring and prosecute legal proceedings or actions in the name of the Commission; provided, that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

(7) Purchase and maintain insurance and bonds;

(8) Borrow, accept, or contract for services of personnel, including employees of a member state;

(9) Hire employees, elect, or appoint officers, fix compensation, define duties, and grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(10) Accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided, that the Commission shall avoid any appearance of impropriety or conflict of interest;

(11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed; provided, that at all times the Commission shall avoid any appearance of impropriety;

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(13) Establish a budget and make expenditures;

(14) Borrow money;

(15) Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this act or the bylaws;

(16) Provide and receive information from, and cooperate with, law enforcement agencies;

(17) Establish and elect an Executive Board; and

(18) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.

Sec. 9. The Executive Board.

(a) The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact.

(b)(1) The Executive Board shall be composed of 9 members, including:

(A) Seven voting members who are elected by the Commission from the current membership of the Commission;

(B) One ex-officio, nonvoting member from the recognized national physical therapy professional association; and

(C) One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

(2) The ex-officio members will be selected by their respective organizations.

(c) The Commission may remove any member of the Executive Board as provided in the Commission's bylaws.

(d) The Executive Board shall meet at least annually.

(e) The Executive Board shall have the following duties and responsibilities, to:

(1) Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact, fees paid by Compact member states, such as annual dues, and any Commission Compact fee charged to licensees for the compact privilege;

(2) Ensure Compact administration services are appropriately provided, contractual or otherwise;

(3) Prepare and recommend the budget;

(4) Maintain financial records on behalf of the Commission;

(5) Monitor Compact compliance of member states and provide compliance reports to the Commission;

(6) Establish additional committees as necessary; and

(7) Perform other duties as provided in rules or bylaws.

Sec. 10. Meetings of the Commission.

(a) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 14.

(b) The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:

(1) Non-compliance of a member state with its obligation under the Compact;

(2) The employment, compensation, discipline or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practice and procedures;

(3) Current, threatened, or reasonably anticipated litigation;

(4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(5) Accusing any person of a crime or formally censuring any person;

(6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(7) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Disclosure of investigative records compiled for law enforcement purposes;

(9) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

(10) Matters specifically exempted from disclosure by federal or member state statute.

(c) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(d) The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

Sec. 11. Financing of the Commission.

(a) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The Commission may accept from all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(c) The Commission may levy on, and collect an annual assessment from, each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

(d) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(e) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting

procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

Sec. 12. Qualified immunity, defense, and indemnification

(a) The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged, act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Sec. 13. Data system.

(a) The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license or compact privilege;

(4) Non-confidential information related to alternative program participation;

(5) Any denial of application for licensure, and the reason for such denial; and

(6) Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

(c) Investigative information pertaining to a licensee in any member state will only be available to other party states.

(d) The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to licensee in any member state will be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

Sec. 14. Rulemaking.

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(d) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

(1) On the website of the Commission or other publicly accessible platform; and

(2) On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(e) The Notice of Proposed Rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the Commission

of their intention to attend the public hearing or submit written comments.

(f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(g) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) A state or federal governmental subdivision or agency; or

(3) An association having at least 25 members.

(h)(1) If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

(2) All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing no fewer than 5 business days before the scheduled date of the hearing.

(3) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(4) All hearings will be recorded. A copy of the recording will be made available on request.

(5) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(j) If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

(k) The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(l) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing; provided, that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of Commission or member state funds;

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.

(m) The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Sec. 15. Oversight, dispute resolution, and enforcement.

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact, which may affect the powers, responsibilities, or actions of the Commission.

(c) The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or rules promulgated pursuant to the Compact.

(d) If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

(1) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission; and

(2) Provide remedial training and specific technical assistance regarding the default.

(e) If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(f) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be

given by the Commission to the Mayor, the Council, and each of the member states.

(g) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(h) The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

(i) The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(j) Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

(k) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(l) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

(m) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(n) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

Sec. 16. Date of implementation of the Interstate Commission for Physical Therapy Practice and associated rules, withdrawal, and amendment.

(a) The Compact shall come into effect on the date on which the Compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

(b) Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

(c) Any member state may withdraw from the Compact by enacting a statute repealing

the same.

(d) A member state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

(e) Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

(f) Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

(g) This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Sec. 17. Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Sec. 18. Fiscal impact statement.

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

Sec. 19. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-545

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend the Fisheries and Wildlife Omnibus Amendment Act of 2016 to provide, upon request, without cost, fishing licenses to members of the Piscataway Indian Nation and the Piscataway Conoy Tribe.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "1666 Articles of Peace and Amity Recognition Amendment Act of 2020".

Sec. 2. Section 302 of the Fisheries and Wildlife Omnibus Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; D.C. Official Code § 8-2231.02), is amended by adding a new subsection (j) to read as follows:

"(j) The Mayor and a covered establishment authorized pursuant to subsection (b) of this section shall provide, upon request, without cost, any license and licensure endorsement for recreational fishing, sold pursuant to this section, to any individual holding a tribal identity card indicating that the individual is an enrolled member of:

"(1) The Piscataway Indian Nation; or

"(2) The Piscataway Conoy Tribe.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-546

IN THE COUNCIL OF DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend Chapter 10 of Title 47 of the District of Columbia Official Code to provide a real property tax exemption to the properties designated as Lots 824 and 826, Square 2950, to provide recordation and transfer tax exemptions for documents recorded with respect to such properties, to require the developer to spend a certain percentage of its total project budget with certified and small business enterprises, and to require the developer to report that spending to the Department of Small and Local Business Development.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Children's Hospital Research and Innovation Campus Equitable Tax Relief Act of 2020".

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"§ 47-1099.10. Children's Hospital Research and Innovation Campus tax exemptions.".

(b) A new section 47-1099.10 is added to read as follows:

"§ 47-1099.10. Children's Hospital Research and Innovation Campus tax exemptions.

"(a) Only that portion of real property currently described for assessment and taxation purposes as Square 2950, Lot 808, which is to be subdivided in part into Square 2950, Lots 824 and 826, effective for tax year 2020, and the buildings located thereon ("Property"), owned by Children's National at Walter Reed, LLC, a wholly-owned subsidiary of Children's Hospital, a District of Columbia nonprofit corporation, shall remain exempt from real property taxation to the extent the Property is validly exempt as of the day before the date any lease is granted to certain business entities known as Building 52/53 NMTC Borrower, LLC, and Building 54 NMTC Borrower, LLC (controlled directly or indirectly by Children's Hospital), and for the period during which the Property is eligible to receive federal tax benefits, including New Markets Tax Credits under 26 U.S.C. § 45D, Opportunity Zone tax benefits under 26 U.S.C. § 1400Z-1, *et seq.*, or Historic Rehabilitation Tax Credits under 26 U.S.C. § 47; provided, that the

Property shall be subject to subsection (c) of this section and §§ 47-1007 and 47-1009. The Property shall be subject to the provisions of §§ 47-1005, 47-1007 and 47-1009 where a sublease or lease is made to another entity (other than the certain business entities referenced in this subsection) that would not qualify for exemption under § 47-1002 if it were both the owner and user of the property.

"(b) Any transfer, assignment, or other disposition of all or any portion of the Property, including an assignment of leasehold interest in the Property or a sublease of the Property, between Children's National at Walter Reed, LLC, and Children's Hospital, any business entity controlled directly or indirectly by Children's Hospital, or a security interest instrument, including a deed of trust, secured by the Property or any interest therein, shall be exempt from the tax imposed by §§ 42-1103 and 47-903.

"(c)(1) The buildings located on the Property, owned by Children's National at Walter Reed, LLC, or any subsidiary of Children's Hospital ("Children's") shall remain exempt from real property taxation; provided, that for any contract entered into for architectural design services, construction services, or materials "("services and materials") needed for the development, remodel, or construction of Phase II of the Children's National Research & Innovation Campus Children's submits to the Department of Small and Local Business Development ("Department") for approval a plan to set and adhere to an annual goal to spend at least 35% of its adjusted budget ("spend goal") spread out over the remaining term of the federal tax credit with small business enterprises ("SBE"), as defined in section 2302(16) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(16)) ("CBE Act").

"(2) The adjusted budget shall consist of costs associated with the services and materials listed in paragraph (1) of this subsection, all construction costs less qualifying expenses, including acquisition and financing related costs, those construction-related costs in areas with no SBE representation, and government fees and permit costs.

"(3) If there are insufficient SBEs to fulfill the annual spend goal set forth in paragraph (l) of this subsection, then Children's may count its spend with qualified and certified business enterprises, as defined in section 2302(1D) of the CBE Act, toward its annual spend goal.

"(4) Pursuant to section 2351 of the CBE Act, Children's may request a waiver in writing to the Director of the Department. The Director may approve the waiver if Children's reasonably demonstrates that there is insufficient market capacity for the goods or services that comprise the project and that the lack of capacity leaves Children's commercially incapable of achieving its subcontracting requirements at a project level.

"(d)(1) The Department shall certify Children's annual spend numbers and submit certification of that spend to the Office of Tax and Revenue.

"(2) If Children's fails to meet its SBE spend goal, it will forfeit its tax exemption for the following tax year.

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"(3) If Children's exceeds its SBE spend goal for any one year, the excess spend will be attributed to the subsequent year's goal.".

Sec. 3. Forgiveness of taxes.

The Council orders that all recordation and transfer taxes, interest, and penalties assessed or assessable with respect to Document Numbers 2019065986, 2019065987, 2019065988, 2019065989, 2019065990, 2019065991, 2019065992, and 2019065993 recorded by the Recorder of Deeds on June 24, 2019, be forgiven and any tax paid thereon be refunded.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-547

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend the Electric Company Infrastructure Improvement Financing Act of 2014 to clarify the requirements related to the utilization of certified joint ventures as part of the District's power line undergrounding program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Power Line Undergrounding Program Certified Joint Venture Majority Interest Amendment Act of 2020".

Sec. 2. Title I of the Electric Company Infrastructure Improvement Financing Act of 2014, effective May 3, 2014 (D.C. Law 20-102; D.C. Official Code § 34-1311.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 34-1311.01) is amended by adding a new paragraph (33A) to read as follows:

"(33A) "Majority interest" shall have the same meaning as provided in section 2339a(b)(1) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective April 1, 2017 (D.C. Law 18-141; D.C. Official Code § 2-218.39a(b)(1)).

(b) Section 102(7) (D.C. Official Code § 34-1311.02(7)) is amended by striking the phrase "joint ventures, where" and inserting the phrase "joint ventures in which a certified business enterprise holds a majority interest, where" in its place.

(c) Section 103(1) (D.C. Official Code § 34-1311.03(1)) is amended by striking the phrase "joint ventures; or" and inserting the phrase "joint ventures in which a certified business enterprise holds a majority interest; or" in its place.

Sec. 3. Fiscal impact statement.

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

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Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-548

IN THE COUNCIL FOR THE DISTRICT OF COLUMBIA

DECEMBER 23, 2020

To require the Office of the State Superintendent of Education to develop guidance on and provide support to public schools on the identification, remediation, and prevention of reading difficulties, including dyslexia and other reading disabilities such as dysgraphia, and dyscalculia, to establish professional development requirements for public school educators on the topic of reading difficulties, to require universal screening for reading difficulties in public school students, to require academic intervention and caregiver notification for students identified as at risk of reading difficulties, to require the use of science-based reading programs in public schools, and to require public schools to report on their compliance with the requirements of the act; and to amend the District of Columbia School Reform Act of 1995 to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Addressing Dyslexia and Other Reading Difficulties Amendment Act of 2020".

TITLE I. ACCESS TO READING FOR ALL

Sec. 101. Definitions.

(1) "Dyslexia" means a specific learning disability that:

(A) Is neurobiological in origin;

(B) Is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, which typically result from a deficiency in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction; and

(C) May have secondary consequences, such as problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

(2) "Educator" means a teacher, school administrator, guidance counselor, social worker, or an individual who works with students with special needs in an academic capacity.

(3) "Local education agency" or "LEA" means the District of Columbia Public Schools system, any individual public charter school, or any group of public charter schools operating under a single charter.

(4) "OSSE" means Office of the State Superintendent of Education.

(5) "Public school" means District of Columbia Public Schools and public charter schools in the District of Columbia.

(6) "Reading difficulty" means any neurological or physical impediment to reaching grade-level developmental reading milestones, including dyslexia, dyscalculia, or dysgraphia, and other reading disabilities.

(7) "Science-based reading program" means a reading curriculum, based on the science of reading, that includes explicit and systematic instruction in phonemic awareness, phonics, fluency, vocabulary, and comprehension strategies.

Sec. 102. Office of the State Superintendent of Education responsibilities.

(a) Beginning with School Year 2022-2023, OSSE shall provide an array of supports, informed by best practices such as the knowledge and practice standards of an international association of dyslexia, to assist LEAs and public schools to achieve the requirements and goals set forth in this title and to adopt teaching and learning practices that support students with reading difficulties, including:

(1) Regular, high-quality professional development opportunities for an LEA's educators that will enable educators to:

(A) Understand and recognize reading difficulties;

(B) Screen for reading difficulties; and

(C) Implement instruction in the general education classroom, or during reading intervention, that is systemic, cumulative, explicit, diagnostic, multi-sensory, and evidence-based to meet the educational needs of students with reading difficulties.

(2) Awareness training on reading difficulties for all LEA educators, including those covered by section 103(a).

(3) A list of recommended screening instruments that an LEA may use to identify students who are at risk of reading difficulties, which screen for the following factors:

(A) Phonological awareness;

(B) Rapid naming skills;

(C) Correspondence between sounds and letters; and

(D) Decoding; and

(4) Guidance on:

(A) How to identify if a student has one or more reading difficulties, including how to distinguish whether an English language learner's reading issue is due to a reading difficulty or is associated with learning English as a second language;

(B) Proper protocols and procedures for screening students for potential reading difficulties; and

(C) Specialized, multi-tiered remediation and intervention instruction that is grounded in science-based reading instruction, intended for a general education setting and designed to support students who are identified as being at risk of having reading difficulties.

(b) For the purpose of providing LEAs and public schools the services set forth in subsection (a) of this section, OSSE may:

(1) Award a contract or grant to one or more for-profit or nonprofit organizations;

(2) Award contracts or competitive or formula grants to LEAs, schools, or partnerships developed among schools or with nonprofit organizations;

(3) Establish a memorandum of understanding with a District agency; or

(4) Any combination of paragraphs (1) through (3) of this subsection.

(c) OSSE shall hire at least one individual who has an expertise in reading and reading difficulties to implement the requirements of this section and section 106.

Sec. 103. Professional development on reading difficulties.

(a)(1) Beginning with School Year 2022-2023 and annually thereafter, each public school shall ensure that the number of educators equal to the number of general education teachers working with students in kindergarten through second grade at that school have completed professional development on reading difficulties.

(2) The training required in paragraph (1) of this subsection shall be provided by OSSE, an LEA, or a third-party with an expertise in reading and reading difficulties, and shall comply with the standards set forth in section 102(a)(1).

(b) Beginning with School Year 2022-2023 and annually thereafter, each educator employed by an LEA, including those who received training pursuant to subsection (a) of this section, shall complete awareness training on reading difficulties as provided by OSSE pursuant to section 102(a)(2).

Sec. 104. Universal screening and intervention for reading difficulties.

(a) Beginning with School Year 2023-2024, using the guidance provided by OSSE pursuant to section 102(a)(3), an LEA shall ensure that all students in kindergarten through second grade are screened for reading difficulties.

(b) If an LEA chooses to use a screening instrument that is not recommended by OSSE pursuant to section 102(a)(3), the LEA shall make available, upon request, its reasoning as to why it chose to use that particular screening tool.

Section 105. Reading intervention.

(a) Beginning with School Year 2023-2024, if the screening results from the universal screening performed pursuant to section 104 indicate that a student is at risk of having a reading difficulty, an LEA shall:

(1) Provide remediation and intervention instruction that will explicitly address the area of need identified in the screening; and

(2) Provide written notification to the parent or guardian of the student that includes the screening results, describes the supplemental reading instruction that will be provided to the student, and requests a meeting to discuss individualized student support.

(b) This section does not alleviate a local education agency from its obligations under the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400 *et seq.*).

Sec. 106. Compliance reporting.

(a) Beginning October 31, 2023, and by October 31 of each year thereafter, District of Columbia Public Schools ("DCPS") shall send a letter to OSSE reporting whether each DCPS school has complied with the requirements set forth in this title in the previous school year. If a DCPS school has failed to comply with one of more sections of this title, DCPS shall state the name of the school, the deficiency, and the timeline for curing said deficiency.

(b)(1) Beginning October 31, 2023, and by October 31 of each year thereafter, each public charter LEA shall send a letter to the Public Charter School Board ("PCSB") reporting whether each public charter school within the LEA has complied with the requirements set forth in this title in the previous school year. If a public charter school has failed to comply with one of more sections of this title, the public charter school LEA shall state the name of the school, the deficiency, and the timeline for curing the deficiency.

(2) By November 15, 2023, and by November 15 of each year thereafter, the PCSB shall transmit a copy of each letter to OSSE.

(c) OSSE shall make publicly available the compliance letters within 10 business days after receiving the letters from DCPS and the PCSB.

Sec. 107. Science-based reading program.

Beginning with School Year 2024-2025, each LEA shall adopt a science-based reading program.

TITLE II. CONFORMING AMENDMENTS

Sec. 201. Section 2002(c) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-107; D.C. Official Code § 38-1802.04(c)), is amended by adding a new paragraph (14A) to read as follows:

"(14A) A public charter school's program of education shall incorporate and comply with the requirements of title I of the Addressing Dyslexia and Other Reading Difficulties Amendment Act of 2020, passed on 2nd reading on November 10, 2020 (Enrolled version of Bill 23-150).".

TITLE III. GENERAL PROVISIONS

Sec. 301. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

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(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 302. Fiscal impact statement.

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

Sec. 303. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-549

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 26, 2020

To amend Title 47 of the District of Columbia Official Code to reestablish the Tax Revision Commission and to require the Commission to submit a report of recommendations once every 10 years to consider revisions to the tax code.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Tax Revision Commission Reestablishment Amendment Act of 2020".

Sec. 2. Chapter 4 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-461(5) is amended by striking the phrase "in 1998" and inserting the phrase "in 2014" in its place.

(b) Section 47-462 is amended as follows:

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

"(1) Provide for fairness and equity in the apportionment of taxes and promote progressivity;".

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

(A) Paragraph (5) is amended to read as follows:

"(5) To establish or revise criteria and a conceptual framework for evaluating current and future taxes. Such criteria and framework shall consider racial equity impacts;".

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

"(7) To analyze the specific changes to the District's tax system since the Commission's most recent recommendations to determine the extent to which such changes are consistent with the principles identified in this section.".

(3) Subsection (c) is amended by striking the phrase "District of Columbia Tax Revision Commission by letter dated June 2, 1998, and entitled "Taxing Simply, Taxing Fairly"" and inserting the phrase "Commission on February 12, 2014" in its place.

(4) Subsection (d) is amended by striking the phrase "December 31, 2013" and inserting the phrase "one year after the Commission's appointment. Appointments to the Commission shall expire 60 days after the Commission submits its report." in its place.

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

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"(e) Every 10 years after the submission of the previous Commission's report, a new Commission shall be convened. The Mayor and the Chairman of the Council shall make new appointments consistent with the provisions of this subchapter and may appoint members who previously have served on the Commission.".

(c) Section 47-463(c) is amended by striking the phrase "of the Fiscal Year 2012 Budget Support Act of 2011, passed on 2nd reading on June 14, 2011 (Enrolled version of Bill 19-203)" and inserting the phrase "of the Tax Revision Commission Reestablishment Amendment Act of 2020, passed on 2nd reading on December 1, 2020 (Enrolled version of Bill 23-316)" in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-550

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To approve, on an emergency basis, Modification Nos. 4, 5, and 6 to Contract No. CW67648 with Summit Food Services, LLC to provide and manage an inmate food service program at the Central Detention Facility and Central Treatment Facility, and to authorize payment for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. CW67648 with Summit Food Services, LLC Approval and Payment Authorization Emergency Act of 2020".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 4, 5, and 6 to Contract No. CW67648 with Summit Food Services, LLC to provide and manage an inmate food service program at the Central Detention Facility and Central Treatment Facility and authorizes payment in the not-to-exceed amount of $4,184,082 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-551

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To approve, on an emergency basis, multiyear Contract No. DCCB-2020-F-0026 with Edelson PC to provide outside legal counsel services to assist the Office of the Attorney General with its consumer protection litigation against Facebook, Inc., and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCCB-2020-F-0026 with Edelson PC, Approval and Payment Authorization Emergency Act of 2020".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves multiyear Contract No. DCCB-2020-F-0026 with Edelson PC to provide outside legal counsel to assist the Office of the Attorney General with its consumer protection litigation against Facebook, Inc., and authorizes payment in the not-to-exceed amount of $55 million for the goods and services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-552

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend, on an emergency basis, due to congressional review, section 14-307 of the District of Columbia Official Code to prohibit sexual assault counselors from disclosing confidential information acquired from a client in a professional capacity without consent of the client or their legal representative; and to amend the Sexual Assault Victims' Rights Amendment Act of 2019 to extend the applicability date for certain provisions from October 1, 2020, to January 1, 2021.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sexual Assault Victims' Rights Clarification Congressional Review Emergency Amendment Act of 2020".

Sec. 2. Section 14-307 of the District of Columbia Official Code is amended as follows:
(a) The section heading is amended to read as follows:
"§ 14-307. Confidential information.".
(b) Subsection (a) is amended by striking the phrase "sexual assault victim advocate as defined in § 14-312(a)(7)" and inserting the phrase "sexual assault counselor as defined in § 23-1907(10)" in its place.

Sec. 3. Section 9(a) of the Sexual Assault Victims' Rights Amendment Act of 2019, effective March 3, 2020 (D.C. Law 23-57; 67 DCR 3072), is amended by striking the date "October 1, 2020" and inserting the date "January 1, 2021" in its place.

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

Sec. 5. Effective date.
This act shall take effect following approval by the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-553

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend, on an emergency basis, due to congressional review, An Act To create a Department of Corrections in the District of Columbia to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sanctuary Values Second Congressional Review Emergency Amendment Act of 2020".

Sec. 2. Section 7 of An Act To create a Department of Corrections in the District of Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07), is amended to read as follows:

"Sec. 7. Prohibition on cooperation with federal immigration agencies.

"(a) Absent a judicial warrant or order, issued by a federal judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, that authorizes a federal immigration agency to take into custody the person who is the subject of such warrant or order, the District of Columbia shall not:

"(1) Hold an individual in the District's custody after that individual would have been otherwise released, except as provided in section 2a(c)(6);

"(2) Provide to any federal immigration agency an office, booth, or any facility or equipment for a generalized search of or inquiry about an individual in the District's custody;

"(3) Permit any federal immigration agency to interview an individual in the District's custody without giving the individual an opportunity to have counsel present; or

"(4) Except as provided in Intergovernmental Agreement No. 16-00-0016, entered into between the Department of Corrections and the United States Marshals Service:

"(A) Provide to a federal immigration agency an individual's date and time of release, location, address, or criminal case information;

"(B) Grant any federal immigration agency access to any District detention facility, including a facility under the control of the Department of Corrections, the Department of Youth Rehabilitation Services, the Department of Behavioral Health, or the Metropolitan Police Department, for the purpose of releasing an individual into federal custody; or

ENROLLED ORIGINAL

"(C) Release an individual for the purpose of transferring the individual into the custody of any federal immigration agency.

"(b) The District shall not inquire into the immigration status of an individual in its custody.

"(c) Nothing in this section shall be construed to establish a right to counsel that does not otherwise exist in law.

"(d) Nothing in this section shall be construed to create a private right of action.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-554

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend, on an emergency basis, due to congressional review, the Fiscal Year 2021 Budget Support Act of 2020, the Washington Convention Center Authority Act of 1994, Title 47 of the District of Columbia Official Code, the District of Columbia Traffic Act, 1925, the Fiscal Year 2021 Budget Support Congressional Review Emergency Amendment Act of 2020, and the Fiscal Year 2021 Budget Support Clarification Temporary Amendment Act of 2020 to clarify provisions supporting the Fiscal Year 2021 budget; and to authorize the Chief Financial Officer to impose a fee or processing cost related to a payment made by credit card or other electronic payment method.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2021 Budget Support Clarification Congressional Review Emergency Amendment Act of 2020".

Sec. 2. The Fiscal Year 2021 Budget Support Act of 2020, enacted on August 31, 2020 (D.C. Act 23-407; 67 DCR 10493), is amended as follows:

(a) Section 2192 is amended as follows:

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

"(a)(1) Capital project DHA21C ("DHA21C") shall be administered by the Office of the Chief Financial Officer ("OCFO"), with available project allotments advanced to the District of Columbia Housing Authority ("Authority") on a quarterly basis for the encumbrances and expenditures planned for that quarter; provided, that the requirements of subsection (b) of this section are met.

"(2) DHA21C funds shall be used by the Authority to fund capital-eligible construction, renovation, or rehabilitation subprojects that:

"(A) Increase the longevity of public housing units;

"(B) Prevent existing tenants from being displaced; or

"(C) Increase the availability of public housing units for existing District of Columbia residents listed on the Authority's waitlist.

"(3) DHA21C funds shall not be used to fund the Authority's operating costs, renovation, or rehabilitation of any unit set to be demolished, sold, or otherwise removed from the Authority inventory, or any administrative or overhead costs not specifically attributable to a subproject.".

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

"(b)(1) Each fiscal year that DHA21C funds are available, the Authority shall submit to the Mayor, the Council, and the OCFO a proposed spending plan, which shall include:

"(A) Documentation that planned encumbrances and expenditures are capital eligible; and

"(B) Information on each subproject for which the Authority proposes to use DHA21C funds, including, at a minimum:

"(i) The proposed location of the subproject;

"(ii) A detailed proposed scope of the subproject;

"(iii) A detailed proposed line-item budget for the subproject;

"(iv) A detailed proposed timeline for the subproject; and

"(v) A statement of whether the implementation of the proposed subproject will require the relocation of tenants and, if relocation is required, a detailed proposed relocation plan.

"(2) In the event of significant delays or changes in planned encumbrances and expenditures for any subproject during the fiscal year, the Authority shall update its spending plan and provide additional documentation as needed to minimize unencumbered and unexpended transfers, avoid causing the District to incur unnecessary debt service costs, and ensure that all subproject encumbrances and expenditures are capital eligible.".

(b) Amendatory section 203a of the Washington Convention Center Authority Act of 1994, enacted on August 31, 2020 (D.C. Act 23-407; 67 DCR 10493), in section 7212 is amended to read as follows:

"Sec. 203a. Assistance for excluded workers.

"(a) During the public health emergency declared in the Mayor's order dated March 11, 2020, and any extensions thereof, the Washington Convention and Sports Authority ("Events DC") shall issue, subject to the availability of funds, grants or contracts to nonprofit entities to use to provide cash assistance to District residents who are otherwise excluded from District and federal aid related to COVID-19. To qualify for cash assistance from grants or contracts awarded pursuant to this section, a District resident shall, at the time of application for assistance under this section:

"(1) Demonstrate a loss of income due to the public health emergency;

"(2)(A) Be ineligible for:

"(i) Unemployment insurance; or

"(ii) COVID-19 relief; or

"(B) Be a returning citizen, as that term is defined in section 2(5) of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1301(5)), whose incarceration ended on March 11, 2020 or later; and

"(3) Provide a:

"(A) Signed certification that the resident's loss of income stems from the public health emergency; and

"(B) Proof of residency and eligibility for relief, as determined by Events DC and consistent with rules and standards for COVID-19 relief programs administered by Events DC.

"(b) Any entity receiving a grant or contract pursuant to this section may use no more than 10% of the grant for administrative expenses incurred from administering the cash assistance program.

"(c) Cash assistance provided to eligible individuals pursuant to this section shall not be considered in determining eligibility for any means-tested programs administered by the District.

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

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

"(2) "COVID-19 relief" means federal monetary unemployment assistance provided under the Coronavirus Aid, Relief, and Economic Security Act, approved March 27, 2020 (134 Stat. 281; 15 U.S.C. § 9001 *et seq.*), which shall include tax credits but shall not include federal Economic Impact Payments or other stimulus relief for which eligibility is not contingent on the recipient's employment status.".

Sec. 3. Section 203a of the Washington Convention Center Authority Act of 1994, effective August 19, 2020 (D.C. Act 23-404; 67 DCR 10098), is amended as follows:

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

(1) The lead-in language is amended as follows:

(A) Strike the phrase "the Washington Convention and Sports Authority shall" and insert the phrase "the Washington Convention and Sports Authority ("Events DC") shall" in its place.

(B) Strike the phrase "a District resident shall" and insert the phrase "a District resident shall, at the time of application for assistance under this section" in its place.

(2) Paragraph (1) is amended to read as follows:

"(1) Demonstrate loss of income due to the public health emergency;".

(3) Paragraph (2) is amended to read as follows:

"(2)(A) Be ineligible for:

"(i) Unemployment insurance; or

"(ii) COVID-19 relief; or

"(B) Be a returning citizen, as defined by section 2(5) of the Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; D.C. Official Code § 24-1301(5)), whose incarceration ended on March 11, 2020 or later; and".

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

"(3) Provide a:

"(A) Signed certification that the resident's loss of income stems from the public health emergency; and

"(B) Proof of residency and eligibility for relief, as determined by Events DC and consistent with rules and standards for COVID-19 relief programs administered by Events DC.".

(b) Subsection (d)(2) is amended to read as follows:

"(2) COVID-19 relief" means federal monetary unemployment assistance provided under the Coronavirus Aid, Relief, and Economic Security Act, approved March 27, 2020 (134 Stat. 281; 15 U.S.C. § 9001 *et seq.*), which shall include tax credits but shall not include federal Economic Impact Payments or other stimulus relief for which eligibility is not contingent on the recipient's employment status.".

Sec. 4. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2002.02(2) is amended as follows:

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

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

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

"(D) Spirituous or malt liquors, beers, and wine sold by an alcoholic beverage licensee acting under authority of §§ 25-112(h)(1), 25-113(a)(3)(C), or 25-113.01(f) or (g).".

(b) Section 47-2202.01(2) is amended as follows:

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

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

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

"(D) Spirituous or malt liquors, beers, and wine sold by an alcoholic beverage licensee acting under authority of §§ 25-112(h)(1), 25-113(a)(3)(C), or 25-113.01(f) or (g).".

Sec. 5. Section 6(j)(3)(F) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(j)(3)(F)), is amended by striking the phrase "described in section 125(3)(C) of the District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 115; D.C. Official Code § 47-2002(3)(C))" and inserting the phrase "described in D.C. Official Code §§ 47-2002(a)(4B) and 47-2002.02(2)(C)" in its place.

Sec. 6. Section 2192(d) of the Fiscal Year 2021 Budget Support Congressional Review Emergency Act of 2020, effective October 26, 2020 (D.C. Act 23-426; 67 DCR 12848), is repealed.

Sec. 7. Section 2(a)(3) and (b) of the Fiscal Year 2021 Budget Support Clarification Temporary Amendment Act of 2020, enacted on October 28, 2020 (D.C. Act 23-447; 67 DCR 13036), is repealed.

Sec. 8. Chief Financial Officer collection of fees and processing costs.

(a) For any payment made by credit card or other electronic payment method, the Chief Financial Officer may impose any fee or processing cost related to the transfer or payment method.

(b) The Office of the Chief Financial Officer may promulgate regulations to implement the provisions of this section.

Sec. 9. Fiscal impact statement.

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

Sec. 10. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-555

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 22, 2020

To amend, on an emergency basis, the Freedom of Information Act of 1976 to adjust the tolling period for FOIA requests.

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

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

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

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

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

(i) Strike the phrase "Except as provided in paragraph (2) of this subsection" and insert the phrase "Except as provided in paragraphs (2) and (3) of this subsection" in its place.

(ii) Strike the phrase "Sundays, and" and insert the phrase "Sundays, days of the Initial COVID-19 closure, and" in its place.

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

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

"(3)(A) For requests made during the Initial COVID-19 closure, a public body shall within 45 days (except Saturdays, Sundays, and legal public holidays) of the end of the Initial COVID-19 closure either make the requested public record accessible or notify the person making such request of its determination not to make the requested public record or any part thereof accessible and the reasons therefor.

"(B) If the public record requested during the Initial COVID-19 closure is a body-worn camera recording recorded by the Metropolitan Police Department, the Metropolitan Police Department, upon request reasonably describing the recording, shall within 60 days (except Saturdays, Sundays, and legal public holidays) of the receipt of any such request

either make the requested recording accessible or notify the person making such request of its determination not to make the requested recording or any part thereof accessible and the reasons therefor.".

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

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

"(1) In unusual circumstances, the time limits prescribed in subsection (c)(1) and (2) of this section may be extended by written notice to the person making such request setting forth the reasons for extension and expected date for determination. Except for an unusual circumstance set forth in paragraph (2)(D) of this subsection, such extension shall not exceed 10 days (except Saturdays, Sundays, days of the Initial COVID-19 closure, and legal holidays) for records requested under subsections (c)(1) of this section and 15 days (except Saturdays, Sundays, days of the Initial COVID-19 closure, and legal holidays) for records requested under subsection (c)(2) of this section. For an unusual circumstance set forth in paragraph (2)(D) of this subsection, such extension shall not exceed 45 days (except Saturdays, Sundays, and legal holidays) after the end of the COVID-19 closure.

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

"(D) The need to conduct an on-site review of records that could present a significant risk to health or safety during a COVID-19 closure.

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

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

"(c) For the purposes of this title, the term:

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

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

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

"(2) "Initial COVID-19 closure" means March 11, 2020 through January 15, 2021.".

Sec. 3. Repealer.

Section 808 of the Coronavirus Support Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-130; 67 DCR 8622), is repealed.

ENROLLED ORIGINAL

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 22, 2020

ENROLLED ORIGINAL

A RESOLUTION

23-576

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 10, 2020

To confirm the appointment of Dr. Alexandra Jones to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Historic Preservation Review Board Dr. Alexandra Jones Confirmation Resolution of 2020".

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

Dr. Alexandra Jones
14th Street, N.E.
Washington, D.C. 20018
(Ward 1)

as an archaeologist member of the Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031), pursuant to section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), for a 3-year term to end July 21, 2023.

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

23-577

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 10, 2020

To confirm the appointment of Matthew Bell to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Historic Preservation Review Board Matthew Bell Confirmation Resolution of 2020".

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

Mr. Matthew Bell
Everett Street, N.W.
Washington, D.C. 20008
(Ward 3)

as an architect member of the Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031), pursuant to section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), replacing Chris Landis, for a 3-year term to end July 21, 2022.

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

23-578

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 10, 2020

To confirm the reappointment of Dr. Sandra Jowers-Barber to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Historic Preservation Review Board Dr. Sandra Jowers-Barber Confirmation Resolution of 2020".

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

Dr. Sandra Jowers-Barber
4th Street, N.W.
Washington, D.C. 20011
(Ward 4)

as an historian member of the Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031), pursuant to section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), for a 3-year term to end July 21, 2023.

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

23-579

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 10, 2020

To confirm the appointment of Marnique Heath to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Historic Preservation Review Board Marnique Heath Confirmation Resolution of 2020".

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

Ms. Marnique Heath
Jocelyn Street, N.W.
Washington, D.C. 20015
(Ward 3)

as an architect member of the Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031), pursuant to section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), for a 3-year term to end July 21, 2023.

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

23-628

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 15, 2020

To confirm the reappointment of Mr. Stephen Green to the District of Columbia Housing Finance Agency Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Housing Finance Agency Board of Directors Stephen Green Confirmation Resolution of 2020".

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

Mr. Stephen Green
I Street, N.E.
Washington, DC 20002
(Ward 6)

as a member, who has experience in mortgage lending or finance, of the District of Columbia Housing Finance Agency Board of Directors, established by section 202 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Official Code § 42-2702.02), for a term to end June 28, 2022.

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

23-636

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 15, 2020

To confirm the reappointment of Mr. Fred Hill to the Board of Zoning Adjustment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Zoning Adjustment Fred Hill Confirmation Resolution of 2020".

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

Mr. Fred Hill
F Street, N.W.
Washington, D.C. 20004
(Ward 2)

as a member of the Board of Zoning Adjustment, pursuant to section 8 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938 (52 Stat. 799; D.C. Official Code § 6-641.07), for a 3-year term to end September 30, 2023.

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.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	January 1, 2021
Protest Petition Deadline:	March 8, 2021
Roll Call Hearing Date:	March 29, 2021
Protest Hearing Date:	June 9, 2021

License No.:	ABRA-117583
Licensee:	925 U Street Partners, LLC
Trade Name:	TBD
License Class:	Retailer's Class "C" Tavern
Address:	925 U Street, N.W.
Contact:	Daniel Kramer: (202) 905-2903

WARD 1 ANC 1B SMD 1B02

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 March 29, 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 **June 9, 2021 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class C Tavern with a seating capacity of 63 and Total Occupancy Load of 70. Sidewalk Café with seating capacity of 63.

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

Sunday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, MARCH 24, 2021
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 SEVEN

Application of:	**Narayanswarup, Inc.**
Case No.:	**20417**
Address:	4914-4918 Central Avenue N.E. (Square 5190, Lot 28)
ANC:	**7C**
Relief:	Use Variance from: • The use requirements of Subtitle U § 201 (pursuant to Subtitle X, Chapter 10)
Project:	To construct a new, two-story, principal dwelling unit, with a cellar and retaining walls in the RF-1 Zone.

WARD SIX

Application of:	**Michael Hsu and Seema Gajwani**
Case No.:	**20422**
Address:	610 South Carolina Avenue S.E. (Square 875, Lot 37)
ANC:	**6B**
Relief:	Special Exception from: • the lot occupancy requirements of Subtitle E § 304.1 (pursuant to Subtitle E § 5201 and Subtitle X § 901.2)
Project:	To construct a one-story rear addition, to an existing, attached, two-story principal dwelling unit in the RF-1 Zone.

WARD ONE

Application of:	**Philip J. Cross**
Case No.:	**20423**
Address:	1219 Kenyon Street N.W. (Square 2844, Lot 118)
ANC:	**1A**
Relief:	Special Exceptions under: • the residential conversion requirements of Subtitle U § 320.2 (pursuant to Subtitle X 901.2) and from: • the minimum court requirements of Subtitle E 203.1 • the rear addition requirements of Subtitle E § 205.4 (pursuant to Subtitle E §§ 205.5 and 5201; and Subtitle X § 901.2)
Project:	To construct a two-story rear addition, to an existing, attached, two-story, principal dwelling unit, and to convert the principal dwelling unit into a three-unit apartment house in the RF-1 Zone.

WARD TWO

Application of:	**Shaw 927, LLC**
Case No.:	**20424**
Address:	927 N Street N.W. (Square 367, Lot 13)
ANC:	**2F**
Relief:	Special Exceptions under: • the residential conversion requirements of Subtitle U § 320.2 (pursuant to Subtitle X § 901.2) • the minimum court dimensions of Subtitle E § 203.1 (pursuant to Subtitle E § 5201 and Subtitle X § 901.2) • the side yard requirements of Subtitle E § 207.4 (pursuant to Subtitle E § 5201 and Subtitle X § 901.2) • the rear yard requirements of Subtitle E § 304.1 (pursuant to Subtitle E § 5201 and Subtitle X § 901.2); and an Area Variance from: • the access requirements of Subtitle C § 711.7 (pursuant to Subtitle X, Chapter 10)
Project:	To construct a three-story rear addition, and to renovate an existing, nonconforming, three-story, four-unit apartment house with cellar principal dwelling unit, with cellar, in the RF-1 Zone.

WARD SIX

Application of:	**Parcel 47, LLC**
Case No.:	**20427**
Address:	Bounded by 12th Street S.W., D Street S.W. 14th Street S.W. and Maryland Avenue S.W. (Square 267, Lots 804 and 807)
ANC:	**6D**
Relief:	Special Exceptions from: • the penthouse regulations of Subtitle C § 1500.3(c) (pursuant to Subtitle X 901.2)
Project:	To permit a restaurant use within the penthouse of a proposed, 13-story, 353-unit mixed use apartment building in the D-5 Zone.

WARD SEVEN

Application of:	**1501 ERIE ST CONSTRUCTION. LLC**
Case No.:	**20430**
Address:	4269 Meade Street N.E. (Square 5099, Lot 806)
ANC:	**7D**
Relief:	Area Variance from: • the minimum lot area requirements of Subtitle D § 302.1 (pursuant to Subtitle X, Chapter 10)
Project:	To construct a new, three-story, detached, principal dwelling unit in the R-1-B Zone.

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

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

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

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

Do you need assistance to participate?

**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 በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ 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
Quí vị có cần trợ giúp gì để tham gia không?
Nếu quí vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

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

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

TIME AND PLACE: **Monday, March 8, 2021, @ 4:00 p.m.**
WebEx or Telephone – Instructions will be provided on the Office of Zoning website by Noon on the Hearing Date[1]

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 20-30 (Ingram Texas Partners, LLC – Special Exception Relief pursuant to Subtitle I § 581 @ Square 325, Lots 819, 820, 25, 26, and 807 [280 12th Street, S.W.])

THIS CASE IS OF INTEREST TO ANC 6D

Ingram Texas Partners, LLC ("Applicant") filed an application (the "Application") on December 10, 2020, pursuant to 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) requesting that the Zoning Commission for the District of Columbia (the "Commission") grant a special exception for review for compliance with the Maryland Avenue Small Area Plan pursuant to Subtitle I § 581, with a variance from the loading requirements of Subtitle C § 901.1 pursuant to Subtitle I § 581.5 to construct a new building on Lots 819, 820, 25, 26, and 807 of Square 325, which has an address of 280 12th Street, S.W. (the "Property") in the D-8 zone.

Property
The Property is comprised of two record lots and three tax lots with a total land area of 25,539 square feet and is currently unimproved. The Property is bounded to the north and east by the 12th Street Expressway, to the south by 300 12th Street, S.W., the site of the U.S. Department of Agriculture Cotton Annex, and to the west by 12th Street, S.W. The surrounding area is characterized by a number of large federal buildings, monuments, hotels, office buildings, and museums. There are no residential properties in the surrounding area. The National Mall is approximately two blocks to the north of the Property. An entrance to the Smithsonian Metrorail Station is located on the west-side of 12th Street, about one-half block to the north of the Property.

Project
The Application proposes to construct a new 12-story building which will be used as a hotel with 131 rooms with:

- A maximum building height of 124.5 feet (plus penthouse);
- A lot occupancy of 27%;
- A 3.06 floor area ratio;
- 8 long-term bicycle parking spaces; and
- 3 short-term bicycle parking spaces.

[1] Anyone who wishes to participate in this case but cannot do so via WebEx or telephone may submit written comments to the record. (See p. 2, *How to participate as a witness – written statements*)

How to participate as a witness – oral presentation

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

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

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

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

How to participate as a witness – written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record**, provided that all written comments must be submitted to the record at least 24 hours prior to the start of the hearing, unless approved by the Commission upon request to be introduced at the public hearing**. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by e-mail to zcsubmissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Donna Hanousek at (202) 727-0789 for further assistance.

How to participate as a party.

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

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

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

"Great weight" to written report of ANC

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

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

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

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

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

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

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

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF SECOND PROPOSED RULEMAKING

RM41-2020-02, IN THE MATTER OF 15 DCMR CHAPTER 41-DISTRICT OF COLUMBIA STANDARD OFFER SERVICE RULES

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code §§ 2-505 (2016 Repl.) and 34-802 (2019 Repl.), hereby gives notice of its intent to amend Chapter 41 (District of Columbia Standard Offer Service Rules), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR).

2. On September 25, 2020, the Commission issued a Notice of Proposed Rulemaking (NOPR) to amend the Commission's Standard Offer Service (SOS) rules, in accordance with Commission Order Nos. 19897 and 20327,[1] in the *D.C. Register*.[2] In Order No. 19897, the Commission, *inter alia*, established a pilot program to procure renewable energy through long-term power purchase agreements (PPA) for electricity generated by solar or wind power facilities located within the PJM Interconnection region with a target quantity of five percent (5%) of SOS load.[3] In Order No. 20327, the Commission, *inter alia*, adopted the 95/5 Model of cost recovery for the pilot program.[4] Under the 95/5 Model, the long-term renewable energy PPA provides renewable energy to satisfy five (5) percent of the SOS load including the environmental attributes associated with that renewable energy. The Potomac Electric Power Company (Pepco), as the SOS Administrator, would have to procure the remaining components for that five (5) percent – capacity, losses, congestion, credit and risk, the cost of meeting the District's Renewable Energy Portfolio Standard, and ancillary services – and provisions would have to be made to accommodate the intermittent nature of the renewable energy provided by the PPA, since the energy from the PPA will not strictly follow load demand.[5]

3. The September 25, 2020, NOPR amends Sections 4100-4104, 4106-4108, 4111, and 4199 of the Commission's SOS rules in order to accommodate the integration of long-term renewable energy PPAs into the District's SOS procurement portfolio. In addition, this NOPR provides a new Section 4112 governing the procurement of a portion of SOS load through long-term renewable energy PPAs. The procurement of a target quantity of five percent (5%) of SOS load through long-term renewable energy power PPA(s) is a pilot project which is still currently

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1 *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia*, Order No. 19897, rel. April 12, 2019 ("Order No. 19897"), and Order No. 20327, rel. April 9, 2020 ("Order No. 20327").

2 67 DCR 11244-11258 (Sept. 25, 2020).

3 *See* Order No. 19897, ¶¶ 1, 11, 33-36.

4 Order No. 20327, ¶¶ 1, 16-17, 45.

5 Order No. 20327, ¶ 8.

under development and delivery of this renewable energy to SOS customers is not anticipated to begin until June 1, 2024.[6] Since this is a pilot project, additional changes to the rules may later be necessary.

4. In its comments filed in response to the NOPR, Pepco raised a concern about Subsection 4112.5 regarding the assignment of long-term renewable energy PPAs.[7] Language regarding the assignment of these PPAs is also contained in Subsection 4101.2. This Second NOPR supersedes the September 25, 2020, NOPR only with respect to Subsection 4101.1 and Section 4112 as proposed below and eliminates the language regarding the assignment of PPAs.

Chapter 41, DISTRICT OF COLUMBIA STANDARD OFFER SERVICE RULES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

The title to Section 4101, SELECTION OF WHOLESALE SOS PROVIDERS, is amended to read, SELECTION OF WHOLESALE SOS PROVIDERS OF FULL REQUIREMENTS SERVICE SUPPLY OF SOS AND RENEWABLE ENERGY GENERATORS OF LONG-TERM RENEWABLE ENERGY POWER PURCHASE AGREEMENTS, and Subsection 4101.1 is amended as follows:

4101.1 The Electric Company shall continue as the SOS Administrator for retail customers in the Electric Company's distribution service territory until such time as the Commission directs otherwise.

A new Section 4112, LONG-TERM RENEWABLE ENERGY POWER PURCHASE AGREEMENT(S), is added to read as follows:

4112.1 The SOS Administrator may supply a portion of Standard Offer Service with the Long-Term Renewable Energy PPA(s) (initially targeted to serve five (5) percent of SOS load with delivery expected to begin on June 1, 2024). The portion of SOS supplied by the Long-Term Renewable Energy PPA(s) will be determined by the Commission and procured by the SOS Administrator.

4112.2 The SOS Administrator may supply any components for the portion of the SOS load served by the Long-Term Renewable Energy PPA(s) not provided by the PPA(s) by purchasing such components from PJM wholesale markets. Such components may include, but are not limited to:

(a) The cost of energy needed to account for the non-load following nature of renewable energy;

(b) Capacity;

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6 Order No. 20327, ¶ 1.

7 *RM41-2020-02, In the Matter of 15 DCMR Chapter 41-District of Columbia Standard Offer Service Rules*, Comments of Pepco at 1-2, filed November 23, 2020.

(c) The cost of meeting the District's Renewable Energy Portfolio Standard (RPS);

(d) Losses and congestion; and

(e) Ancillary services.

4112.3 Pursuant to Commission Order(s), the SOS Administrator will conduct a procurement to acquire electric supply through the Long-Term Renewable Energy PPA(s). The form of the procurement, quantity to be procured, and procurement documents will be reviewed and approved by the Commission prior to issuance by the SOS Administrator.

4112.4 The SOS Administrator shall present the results of any such procurements to the Commission for approval.

4112.5 The SOS Administrator will serve as the counter-party to any Long-Term Renewable Energy PPA(s).

4112.6 In the event of a default by a Renewable Energy Generator in the provision of Long-Term Renewable Energy PPA supply of SOS or in the event that there are any stranded costs associated with any such PPA(s), the SOS Administrator, as the counter-party to the PPA, will in no way be held liable for any costs associated with the default or any such stranded costs. In the event that such a default occurs or if such stranded costs result, all SOS Customer Groups, as defined in Subsection 4102.3 of these rules, will be responsible for the costs associated with any default or stranded costs.

4112.7 The SOS Administrator will be reimbursed for its costs associated with the procurement and administration of electric supply for SOS through the Long-Term Renewable Energy PPA(s) and receive a margin for the procurement and administration of any such PPA(s) consistent with Commission Order No. 20327, issued April 9, 2020, or as modified by any subsequent Commission Order.

4112.8 All Tier One Renewable Energy Credits (REC) generated pursuant to Long-Term Renewable Energy PPA supply of SOS shall be retired to meet the annual RPS obligations of all SOS suppliers, both Wholesale Standard Offer Service Providers and Renewable Energy Generators. Wholesale Standard Offer Service Providers or Renewable Energy Generators will be credited for a percentage of these RECs in accordance with the percentage of the year's SOS load that they served. Thus, for example, if a Wholesale Standard Offer Service Provider or Renewable Energy Generator served ten (10) percent of SOS load, this provider of generator would receive ten (10) percent of the RECs.

4112.9 In the event that a Renewable Energy Generator is providing energy generated by

a solar energy system that is located within the District and in a location served by a distribution feeder serving the District pursuant to a Long-Term Renewable Energy PPA(s), the solar RECs produced by that solar energy system shall be distributed in the same manner as Tier One RECs are to be distributed in Subsection 4112.8.

5. Any person interested in commenting on the subject matter of this proposed rulemaking action may submit written comments no later than thirty (30) days after publication of this notice in the *D.C. Register* addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 and sent electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Copies of the proposed rules may be obtained by visiting the Commission's website at www.dcpsc.org or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPR should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF THIRD EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2018 Repl.)); and Mayor's Order 2020-099, dated September 30, 2020; hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 57 (Prohibited and Restricted Activities) of Subtitle C (Medical Marijuana) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessary to protect the health, safety, and welfare of the District's residents reducing the spread of COVID-19 by enabling District of Columbia (District) residents registered as qualifying patients to obtain medical marijuana while also adhering to the District's social distancing guidelines.

The purpose of this rulemaking is to continue to allow, on a temporary basis, District of Columbia registered dispensaries to provide medical marijuana to qualifying patients through delivery, curbside pickup, and at-the-door pickup options.

The Director of the Department of Health adopted emergency rules on April 10, 2020, which were published at 67 DCR 4567 (April 24, 2020). After the emergency rules were published, Mayor Bowser issued Mayor's Order 2020-079, dated July 22, 2020, which extended the declared public emergency and public health emergency in the District through October 9, 2020. In response, the Director issued a second emergency rulemaking on August 11, 2020, which superseded the previous emergency rulemaking. *See* 67 DCR 10006 (August 21, 2020).

The ongoing Coronavirus pandemic has added to the strain on persons with health conditions for which they were recommended medical marijuana. The increased demand for qualifying patients to obtain medical marijuana by delivery has demonstrated the need for greater flexibility as it relates to the number of delivery vehicles that dispensaries are permitted to deliver medical cannabis and the hours in which qualifying patients and caregivers can have medical marijuana delivered. The ongoing nature of the pandemic, coupled with District residents' medical needs, warrants immediate action. Thus, the Board finds that emergency action is necessary for the promotion of the health, safety, and welfare of District residents.

On December 9, 2020, the Board adopted these emergency rules by a vote of six (6) to zero (0). The emergency rulemaking became effective immediately on that date. The emergency rulemaking will expire on the earlier of the following: one hundred twenty (120) days from the date of adoption (October 1, 2020); or forty-five (45) days after the public health emergency declared either by Mayor's Order 2020-079, dated July 22, 2020, or by any substantially similar subsequent Mayor's Order.

Chapter 57, PROHIBITED AND RESTRICTED ACTIVITIES, of Title 22-C DCMR, MEDICAL MARIJUANA, is amended as follows:

Section 5703, DELIVERY OF MEDICAL MARIJUANA, is amended to read as follows:

5703.1 Except as provided in §§ 5703.2 and 5703.3, a dispensary shall not be permitted to transport or deliver medical marijuana to a qualified patient or caregiver or from a cultivation center or testing laboratory. It shall be a violation of this subtitle for a dispensary to transport or deliver medical marijuana to a qualified patient, cultivation center, or testing laboratory other than as provided in §§ 5703.2 and 5703.3.

5703.2 A dispensary, meeting the requirements of § 5703.3, shall only be permitted to deliver medical marijuana to a qualifying patient or caregiver registered in the District of Columbia Medical Marijuana Program and that has been issued a District of Columbia Government medical marijuana card. A dispensary shall not deliver or transport medical marijuana to a nonresident patient or to an individual who possesses a medical marijuana card that was not issued by the Department of Health or, after December 9, 2020, the Alcoholic Beverage Regulation Administration. A dispensary that delivers medical marijuana to nonresident patients or individuals who possess cards issued by unauthorized entities on the Internet such as getnugg.com shall be subject to disciplinary action, up to and including revocation of registration.

5703.3 A dispensary shall only be permitted to deliver medical marijuana to a qualifying patient or caregiver registered in the District of Columbia Medical Marijuana Program if the dispensary complies with the following requirements:

(a) The dispensary shall register its delivery vehicles that do not have an active registration with the Department of Health (Department) with the Alcoholic Beverage Control Board (Board) by completing a Board-issued application form and providing all required information which shall include each vehicle's license plate number, vehicle identification number (VIN), and its make, model and color;

(b) The dispensary may not register more than three (3) delivery vehicles in total with the Department and the Board;

(c) A delivery vehicle shall not be marked with any signage, symbols, images, or advertisement identifying the vehicle as associated with medical marijuana;

(d) A delivery vehicle shall have a functioning global positioning system (GPS) to ensure that the most direct delivery route is followed;

(e) A delivery driver shall be an employee of the dispensary;

(f) The dispensary shall register the name and medical marijuana employee registration number of each delivery driver with the Board;

(g) The dispensary's delivery driver(s) shall have an active District of Columbia medical marijuana employee registration;

(h) The dispensary's delivery driver(s) shall wear an employee badge when making deliveries;

(i) The dispensary shall implement a mechanism or process for patients and caregivers to submit copies of their registration cards and identification cards to the dispensary for verification prior to delivery, and the dispensary shall maintain a copy of both as part of the dispensary's recordkeeping requirements;

(j) Prior to delivery, the dispensary shall:

(1) Verify that the patient, or the patient and caregiver, is actively enrolled in the District of Columbia medical marijuana program, and that the delivery address matches the patient's or caregiver's home address;

(2) Maintain a copy of the medical marijuana program registration card and a copy of the government-issued identification card; and

(3) Verify that the patient's requested amount does not exceed the patient's rolling thirty (30)-day limit of four ounces (4 oz.);

(k) The dispensary shall only make deliveries to residential addresses located within the District of Columbia to qualifying patients and caregivers registered in the District of Columbia medical marijuana program as set forth in § 5703.2;

(l) The dispensary may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 9:00 a.m. and 9:00 p.m.;

(m) A delivery driver for the dispensary shall meet the patient or caregiver curbside in front of the patient's or caregiver's residence and complete the delivery quickly and efficiently;

(n) The dispensary shall implement a mechanism or recordkeeping process for patients and caregivers to document receipt of medical marijuana deliveries, and shall maintain the records as part of the dispensary's recordkeeping requirements. If, in an enforcement action pursuant to Chapter 10 or Chapter 62, a patient or caregiver disputes receiving the

medical marijuana and the dispensary does not have documentation proving the delivery occurred, the Board shall apply a rebuttable presumption that the delivery did not occur;

(o) A dispensary delivery driver shall not make more than ten (10) deliveries in a single delivery run;

(p) A dispensary delivery driver shall only travel from the dispensary to the driver's assigned delivery address(es) and return to the dispensary. A delivery driver shall ensure that there is sufficient gasoline in a delivery vehicle before loading the vehicle for deliveries, and if there is not sufficient gasoline, shall fill the vehicle with sufficient gasoline before loading the vehicle for deliveries or obtain the gasoline after completing all deliveries for that delivery run;

(q) A dispensary delivery driver shall not at any time possess a combined total of cash and medical marijuana exceeding five thousand dollars ($5,000.00) in value;

(r) The dispensary shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the dispensary's recordkeeping requirements;

(s) Each Monday by noon, the dispensary shall provide the Board and the Metropolitan Police Department (MPD) with a copy of its delivery manifest, which shall contain the entries for all deliveries made during the previous week; and

(t) The dispensary shall provide a copy of its delivery manifest to the Board or ABRA investigators, or MPD immediately upon request.

5703.4 A dispensary shall only be permitted to dispense medical marijuana through curbside pickup or at-the-door pickup to a qualifying patient or caregiver if the dispensary complies with the following requirements:

(a) A dispensary shall only be permitted to dispense medical marijuana through curbside pickup or at-the-door pickup to a qualifying patient or caregiver registered in the District of Columbia medical marijuana program, or to a patient enrolled in another state's medical marijuana program who is recognized by the Board, as evidenced by a state-issued medical marijuana patient card and with a government-issued identification card. A dispensary that dispenses medical marijuana to individuals who possess cards issued by unauthorized entities on the Internet such as getnugg.com or states that are not yet recognized by the Board shall be subject to disciplinary action up to and including revocation of registration;

(b) The dispensary shall implement a mechanism or process for a patient or a District of Columbia registered caregiver to submit a copy of the patient's, or registered caregiver's, medical marijuana registration card and the patient's, or registered caregiver's, government-issued identification card to the dispensary for verification prior to dispensing. The dispensary shall maintain a copy of both as part of the dispensary's recordkeeping requirements;

(c) Prior to dispensing, the dispensary shall:

(1) Verify that the patient, or patient and registered caregiver, is actively registered in the District of Columbia medical marijuana program, or that the nonresident patient is actively enrolled in another state's medical marijuana program;

(2) Maintain a copy of the medical marijuana program registration card and a copy of the government-issued identification card; and

(3) Verify that the patient's requested amount does not exceed the patient's thirty (30)-day limit of four (4) ounces;

(d) The dispensary shall ensure that the entire exchange of the medical marijuana product to the patient or registered caregiver is clearly captured on the dispensary's video surveillance system;

(e) The dispensary shall only provide curbside pickup at curbside directly in front of the dispensary and in view of the dispensary's video surveillance cameras. If the dispensary's location or video surveillance system is not equipped to meet this requirement, the dispensary shall not provide curbside pickup or at-the-door pickup.

(f) The dispensary shall implement procedures to ensure that curbside pickup or at-the-door pickup is completed quickly and efficiently; and

(g) The dispensary shall implement a mechanism or recordkeeping process for patients to document receipt of curbside pickup or at-the-door pickup, and shall maintain the records as part of the dispensary's recordkeeping requirements. If, in an enforcement action pursuant to Chapter 10 or Chapter 62, a patient disputes receiving the medical marijuana and the dispensary does not have documentation including clear video evidence proving the dispensing occurred, the Board shall apply a rebuttable presumption that the dispensing did not occur.

5703.5 At the dispensary's discretion, the dispensary may require electronic payment before scheduling a delivery, curbside pickup or at-the-door pickup; may limit

deliveries, curbside pickup, or at-the-door pickup to electronic payment only; and may limit the areas to which the dispensary will deliver.

5703.6 A cultivation center shall not be permitted to deliver medical marijuana to any premises other than the specific registered premises of the dispensary where the medical marijuana is to be sold.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

Establishment of the 2021 Building Energy Performance Standards

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq*.) (2013 Repl. & 2019 Supp.)); Sections 301 and 304 of the CleanEnergy DC Omnibus Amendment Act of 2018 (CEDC Act), effective March 22, 2019 (D.C. Law 22-257; 66 DCR 3973 (April 5, 2019)), as amended by Section 2 of the CleanEnergy DC Omnibus Technical Amendment Emergency Amendment Act of 2020, effective November 17, 2020 (D.C. Act 23-482; 67 DCR 13858 (November 27, 2020)); and Mayor's Order 2020-087, dated August 21, 2020, hereby gives notice
of the adoption, on an emergency basis, of amendments to Chapter 35 (Green Building Requirements) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessary for the immediate preservation of the public health and welfare to ensure that the District adopts building energy performance standards in sufficient time to meet the requirement of the law and maximize greenhouse gas emissions reductions from the policy so that the District can meet its commitments to reduce greenhouse gas emissions and achieve carbon neutrality. The proposed rulemaking will implement provision 301(b) of the CEDC Act, which requires that, by January 1, 2021, DOEE establish property types and Building Energy Performance Standards (BEPS) by property type for privately-owned buildings with at least 50,000 square feet of gross floor area and all District-owned or District instrumentality-owned buildings with at least 10,000 square feet of gross floor area. For more information on how DOEE determined these Standards please see the Guide to the 2021 BEPS document, available at https://doee.dc.gov/publication/2021-standards-beps-period-1.

The Director also gives notice of intent to take final rulemaking action to adopt the amendments following a thirty (30) day public comment period. These emergency rules were adopted on December 23, 2020, became effective on January 1, 2021, 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.

Chapter 35, GREEN BUILDING REQUIREMENTS, of Title 20 DCMR, ENVIRONMENT, is amended as follows:

A new Section 3530, 2021 BUILDING ENERGY PERFORMANCE STANDARDS (BEPS), is added to read as follows:

3530 2021 BUILDING ENERGY PERFORMANCE STANDARDS (BEPS)

3530.1 The BEPS in this section apply to all privately-owned buildings with at least 50,000 square feet of gross floor area, and all District-owned or District instrumentality-owned buildings with at least 10,000 square feet of gross floor area, that are not subject to BEPS in Subsection 3530.2 or 3530.3. The "ENERGY STAR Score" column lists the BEPS for property types that can receive an ENERGY STAR® Score. The "Source EUI" column lists the BEPS for buildings that cannot receive an ENERGY STAR Score. All Energy Use Intensity (EUI) values are kBtu/ft2 unless otherwise noted.

Property Type	**2021 Building Energy Performance Standard**	
	ENERGY STAR Score	**Source EUI**
Adult Education		110.4
Ambulatory Surgical Center		426.9
Aquarium		240.2
Automobile Dealership		124.1
Bank Branch	71	153.7
Bar/Nightclub		297
Barracks	56	141.4
Bowling Alley		206.6
Casino		240.2
College/University		180.6
Convenience Store with Gas Station		592.6
Convenience Store without Gas Station		592.6
Convention Center		192
Courthouse	71	153.7
Data Center	50	1.8 Total Energy kBtu/IT Energy kBtu
Distribution Center	19	103.7
Drinking Water Treatment & Distribution		5.9 kBtu/gallons per day
Enclosed Mall		170.7
Energy/Power Station		229.4
Fast Food Restaurant		886.4
Financial Office	71	153.7
Fire Station		185.5
Fitness Center/Health Club/Gym		206.6
Food Sales		592.6
Food Service		527.7
Hospital (General Medical & Surgical)	50	426.9
Hotel	54	183.9

Ice/Curling Rink		206.6
Indoor Arena		240.2
K-12 School	36	139
Laboratory		318.2
Library		206.4
Lifestyle Center		228.8
Mailing Center/Post Office		242.6
Medical Office	62	172
Mixed Use Property		229.4
Movie Theater		240.2
Multifamily Housing	66	110.7
Museum		240.2
Non-Refrigerated Warehouse	19	103.7
Office	71	153.7
Other		229.4
Other – Education		110.4
Other - Entertainment/Public Assembly		240.2
Other - Lodging/Residential		143.6
Other – Mall		225.3
Other - Public Services		229.4
Other – Recreation		206.6
Other - Restaurant/Bar		573.7
Other – Services		242.6
Other - Specialty Hospital		426.9
Other – Stadium		240.2
Other - Technology/Science		229.4
Other – Utility		229.4
Outpatient Rehabilitation/Physical Therapy		426.9
Performing Arts		240.2
Personal Services (Health/Beauty, Dry Cleaning, etc.)		242.6
Police Station		185.5
Pre-school/Daycare		131.5
Prison/Incarceration		156.4
Race Track		240.2
Refrigerated Warehouse	19	235.6
Repair Services (Vehicle, Shoe, Locksmith, etc.)		242.6
Residence Hall/Dormitory	56	141.4
Residential Care Facility		213.2
Restaurant		573.7
Retail Store	64	401.2

Roller Rink		206.6
Self-Storage Facility		21.2
Senior Care Community	50	213.2
Social/Meeting Hall		192
Stadium (Closed)		240.2
Stadium (Open)		240.2
Strip Mall[2]		228.8
Supermarket/Grocery Store	64	401.2
Swimming Pool		206.6
Transportation Terminal/Station		240.2
Urgent Care/Clinic/Other Outpatient		426.9
Veterinary Office		145.8
Vocational School		110.4
Wastewater Treatment Plant	50	7.5 kBtu/gallons per day
Wholesale Club/Supercenter	64	401.2
Worship Facility	17	140.3
Zoo		240.2

3530.2 The BEPS in this section apply to Hospital Campuses. The "ENERGY STAR Score" column lists the BEPS for property types that can receive an ENERGY STAR Score. The "Source EUI" column lists the BEPS for buildings that cannot receive an ENERGY STAR Score. All Energy Use Intensity (EUI) values are kBtu/ft2.

Property Type	**2021 Building Energy Performance Standard**	
	ENERGY STAR Score	**Source EUI**
Ambulatory Surgical Center		138.3
Hospital (General Medical & Surgical)	50	433.9
Other - Specialty Hospital		433.9
Outpatient Rehabilitation/Physical Therapy		138.3
Urgent Care/Clinic/Other Outpatient		145.8

3530.3 The BEPS in this section apply to College/University Campuses. Because College/University Campuses cannot receive an ENERGY STAR Score like other property types, DOEE is using a Blended Custom Source Energy Use Intensity Metric instead. The "Source EUI" column lists the BEPS for each campus. All metrics for campuses are Blended Custom Source Energy Use Intensity (EUI) measured in kBtu/ft2.

Campus	**Source EUI**
American University Main Campus	207.1

American University Law Campus	180.6
Catholic University Main Campus	248.6
Gallaudet University Main Campus	199.3
Georgetown University Main Campus	262.0
Georgetown University Law Campus	190.4
George Washington University Main Campus	241.4
George Washington University Mt. Vernon Campus	209.9
Howard University Main Campus	235.8
Howard University West Campus	202.0
Trinity University Main Campus	202.6
University of District of Columbia	180.6

3530.4 The 2021 BEPS shall remain in effect until DOEE establishes new BEPS.

3530.5 A building does not meet the BEPS if, based on the 2019 District Benchmark Results and Compliance Report for that building:

(a) That building can receive an ENERGY STAR score, and the ENERGY STAR Score for their building is less than the ENERGY STAR Score Standard for their Property Type established in this section;

(b) That building cannot receive an ENERGY STAR score but can receive a Normalized Source EUI, and the Normalized Source EUI for their building is greater than the Source EUI Standard for their Property Type established in this section; or

(c) That building cannot receive an ENERGY STAR score nor a Normalized Source EUI, and the Source EUI for their building is greater than the Source EUI Standard for their Property Type established in this section.

3530.6 An owner of a building that does not meet the BEPS may request the use of their Calendar Year 2018 District Benchmark Results and Compliance Report by submitting a 2021 BEPS variance request form to DOEE for review and approval through the Online BEPS Portal no later than August 1, 2021.

3530.7 An owner of a building that does not meet the BEPS may request that DOEE establish a variance for their building by submitting a formal request to DOEE through the Online BEPS Portal no later than August 1, 2021. The request must include evidence that the building meets one of the following special circumstances:

(a) No single property use type makes up more than fifty-percent (50%) of the overall building gross floor area, and the sum of property use types that can receive a score in the building is less than fifty percent (50%), so the

owner should therefore receive a variance that accounts for the percentage of each property type within the building; or

(b) For a building belonging to a property type where fewer than ten (10) buildings are used to determine the BEPS for that property type, there is an alternative industry-recognized peer group data set with an equivalent metric for the building's property type.

Section 3599, DEFINITIONS, is amended as follows:

The following definitions are added to read as follows:

Blended Custom Source Energy Use Intensity or Blended Custom Source EUI – The DOEE developed customized metric for the College/University Campus property type using the local median Source EUI adjusted for the square footage percentage of high-intensity space present on each building of a campus, accounting for the diverse property type uses that might be present on a university campus (e.g. laboratories, residence halls/dormitories, dining halls, offices, restaurants).

College/University Campus – a secondary educational institution with multiple buildings in a single location that are owned by a single entity.

National Median – the ENERGY STAR score or Source EUI benchmark, available on the U.S. Environmental Protection Agency (EPA) ENERGY STAR Portfolio Manager® website, that fifty percent (50%) of properties perform above and fifty percent (50%) perform below.

Property type – the primary function of a building as determined through EPA's ENERGY STAR Portfolio Manager.

Source Energy Use Intensity or Source EUI – the total amount of raw fuel that is required to operate a building, divided by the building's gross floor area, as determined through EPA's ENERGY STAR Portfolio Manager.

Weather Normalized Source Energy Use Intensity or Normalized Source EUI – the Source EUI a building would have consumed during thirty (30) year average weather conditions, as determined through EPA's ENERGY STAR Portfolio Manager.

All persons desiring to comment on the proposed rulemaking 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: Establishment of the 2021 BEPS" and filed with DOEE, Benchmarking, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Building Performance and Enforcement Branch, or e-mailed to info.BEPS@dc.gov. All

comments will be treated as public documents and will be made available for public viewing on the Department's website at www.doee.dc.gov. If a comment is sent by e-mail, the e-mail address will automatically be captured and included as part of the comment that is placed in the public record and made available on the Department's website.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2020-128
December 22, 2020

SUBJECT: Reappointment — Police and Firefighters Retirement Relief Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974, 88 Stat. 1041, Pub. L. 93-407, D.C. Official Code § 5-722 (2019 Repl.), it is hereby **ORDERED** that:

1. **CHARLES EPPS,** is reappointed as a physician member of the Police and Firefighters Retirement and Relief Board, for a term to end October 29, 2022.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: _____
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA

WEDNESDAY, JANUARY 6, 2021 AT 10:30 AM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The ABC Board will be cancelling the following licenses for the reasons outlined below:

ABRA-086231 – **The Codmother** – Retail – C – Tavern – 1334 U Street NW
[Licensee is Out of Business.]

ABRA-107646 – **Oki Bowl Ramen & Sake Bar** – Retail – C – Restaurant – 1817 M Street NW
[Licensee is Out of Business.]

OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS

Notice of Increases
for the 2021 Homestead Deduction,
Trash Collection Credit Amount and Senior Income Threshold

The Real Property Tax

I. The Homestead Deduction Amount

Per the D.C. Code § 47-850, et seq., the annual Homestead Deduction amount for tax year 2021 is adjusted in the following manner

The Washington Area Average CPI value for Tax Year 2011:	235.46
The Washington Area Average CPI value for Tax Year 2020:	266.44
The percent change in the index during the above time period:	13.16%

Therefore, effective Tax Year 2021 (beginning October 1, 2020):

- **the Homestead Deduction amount will be[1] $76,350.00**

II. The Condominium and Cooperative Trash Collection Credit Amount

Per the D.C. Code § 47-872, et seq., the annual Trash Collection Credit amount for tax year 2021 is adjusted in the following manner

The Washington Area Average CPI value for Calendar Year 2019:	264.70
The Washington Area Average CPI value for Calendar Year 2020:	267.05
The percent change in the index during the above time period:	0.89%

Therefore, effective Tax Year 2021 (beginning October 1, 2020):

- **the Trash Collection Trash Credit amount will be[2] $113.00**

[1] Annual dollar amount changes are rounded down to the nearest $50.00 increment.
[2] Annual dollar amount changes are rounded to the nearest whole dollar.

III. The Senior Citizen or Disabled Real Property Tax Relief Income Threshold

Per the D.C. Code § 47-863, the maximum household annual gross income for the real property tax senior citizen or disabled tax relief for tax year 2021 is adjusted in the following manner

The Washington Area Average CPI value for Tax Year 2013:	245.28
The Washington Area Average CPI value for Tax Year 2020:	266.44
The percent change in the index during the above time period:	8.63%

Therefore, effective Tax Year 2021 (beginning October 1, 2020):

- **the maximum household federal adjusted gross income for the real property tax senior citizen or disabled tax relief shall be[3] $135,750.00**

A Summary of Homestead Deduction, Trash Credit and Income Threshold Amounts for Tax Year 2021			
	Base Amounts	**CPI Adjustment Factor***	**2021 Amounts**
Homestead Deduction	$67,500.00	1.1316	$76,350.00
Trash Collection Credit	$112.00	1.0089	$113.00
Senior Citizen Maximum Income Threshold	$125,000.00	1.0863	$135,750.00

Source: U.S. Bureau of Labor Statistics, data accessed December 14, 2020

[3] Annual dollar amount changes are rounded down to the nearest $50.00 increment.

CHILD AND FAMILY SERVICES AGENCY
CITIZEN REVIEW PANEL
Notice of Public Meeting

Tuesday, January 12, 2021
6:30 to 8:30 PM

Join Zoom Meeting
https://us02web.zoom.us/j/89656003335?pwd=dlBoc3hBSWkyaTlQaTNUeGNXOVIwUT09
Meeting ID: 896 5600 3335
Passcode: 3144

Agenda

6:30-6:35 PM Welcome/Introduction Tracy Hamilton, Chairperson

- Determination of Quorum
- Satisfaction of Public Notice
- Confidentiality Statement Recorded
- Approval of minutes of November 10, 2020
- Approval and/or modification of tonight's agenda

6:35-7:15 PM Guest Presentation from Representative of Children's Justice Act

7:15-7:30 PM Chairperson Discussion Tracy Hamilton, Chairperson

- Outcome from meeting with CFSA
- Next Steps for CRP
- Working Group Expectations for information gathering from CFSA

7:30- 7:45 PM Recidivism Working Groups Katrina Floyd, Chair

- Project Proposal
- Action Plan
- Committee Member Assignments
- Update

7:45- 7:55 PM Treasurer's Report Rick Bardach, Treasurer

7:55-8:10 PM Older Youth Working Group Rick Bardach, Chair

8:10- 8:15 PM Facilitator's Report Joyce N. Thomas

8:15- 8:30 PM New Business Tracy Hamilton, Chairperson

- Need for Code of Behavior and/or By-Law Amendment

Future CRP Meeting Schedule	
March 8, 2021	Virtual

Upcoming Activities of Interest

March 12, 2021 Grant Modification Option Year for DCRL-2017-U-0030
April 30, 2021 Submit CRP Annual Report to CFSA

Meeting Adjournment

Questions:

Joyce Thomas, CRP Facilitator, ccpfs@centerchildprotection.org

CHILD AND FAMILY SERVICES AGENCY

MAYOR'S ADVISORY COMMITTEE ON CHILD ABUSE AND NEGLECT

2021 ANNUAL MEETING SCHEDULE

This notice outlines the schedule of the regular meetings of the Board of Commissioners of the Mayor's Advisory Committee on Child Abuse and Neglect (MACCAN). The meetings are held in open session and the public is invited to attend.

All meetings are scheduled as virtual meetings on the Microsoft Teams platform until further notice.

For further information, please contact CFSA at 202-724-7100.

DATE	TIME	VIRTUAL
Tuesday, January 26, 2021	**10:00 AM**	**Microsoft Teams**
Tuesday, April 20, 2021	**10:00 AM**	**Microsoft Teams**
Tuesday, August 17, 2021	**10:00 AM**	**Microsoft Teams**
Tuesday, December 7, 2021	**10:00 AM**	**Microsoft Teams**

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING
COMMISSION ON OUT OF SCHOOL TIME GRANTS AND YOUTH OUTCOMES

Commission on Out of School Time Grants and Youth Outcomes (OST Commission) Public Meeting Washington, DC – The Commission on Out of School Time Grants and Youth Outcomes will hold a virtual public meeting on Thursday, January 21, 2021 from 6:00 pm to 7:30 pm. The OST Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes and the OST Commission. Register to attend here.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 923-9619 or by email at learn24@dc.gov. Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Tuesday, January 19th at 5:00 pm.

Below is the draft agenda for the meeting.

I. Call to Order
II. Public Comment
III. Announcement of a Quorum
IV. Approval of the Agenda
V. Approval of Minutes
VI. Office of Out of School Time Grants and Youth Outcomes Updates
VII. OST Commission Update
VIII. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

Date: January 21, 2021
Time: 6:00 p.m. – 7:30 p.m.
Location: **Register Here**
Contact: Debra Eichenbaum
Grants Management Specialist
Office of Out of School Time Grants and Youth Outcomes
Office of the Deputy Mayor for Education
(202) 923-9619
Debra.Eichenbaum@dc.gov

DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY

Request for Applications – Connected Communities: Distributed Energy Resources Demonstration Project

The Department of Energy and Environment (the Department) seeks eligible entities through a Request for Applications (RFA) for partners to assist with submitting a concept paper and full application for a funding opportunity from the United States Department of Energy (US DOE). The US DOE Connected Communities funding opportunity announcement (FOA) will fund projects that will demonstrate how groups of buildings combined with other distributed energy resources (DERs) will maximize building, community, and grid efficiency.

The purpose of this RFA is for applicants to present to the Department innovative projects that will contribute to the Connected Communities application and be implemented if the Department is awarded a US DOE grant. Applicants must provide information on one or both of the following areas:

1. A list of buildings that can be used for the Connected Communities FOA implementation. The types of buildings can include, but are not limited to, residential, commercial, industrial, and educational buildings. The US DOE grant would provide funding for integrated high performance retrofits that will provide cost-effective deep efficiency improvements.

OR

2. A list of potential DERs, such as electric vehicle (EV) charging and photovoltaic (PV) generation that applicant's buildings can integrate in their existing building infrastructure. Applicants are encouraged to provide information on the latest DER technologies that can modify the energy load and reduce the burden on grid assets. Additionally, applicants need to provide a plan for implementing the suggested DER technologies.

Applicant must have access and authorization to implement the project and make project decisions for the buildings.

The Department may select up to five partners to include in its application to the US DOE. Selected partners will have the opportunity to receive a portion of the $3,000,000-$5,000,000 grant award. Whether a project is funded and the funding amount is dependent on the grant awarded by the US DOE. A project may be funded only if the US DOE awards the Department grant funds for the project. The Department will decide on any grant award(s) using the funds it receives from the US DOE based on applications it receives in response to this RFA.

Beginning December 31, 2020, the full text of the RFA will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

> **Download** from the Department's website, www.doee.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to CCRFA.grants@dc.gov with "Request copy of RFA 2021-2105-EA" in the subject line.

The deadline for application submissions is 1/29/2021, at 4:30 p.m. A complete electronic copy must be e-mailed to CCRFA.grants@dc.gov and received by that time.

Eligibility: All the checked institutions below may apply for this RFA:

☒-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;

☒-Faith-based organizations;

☒-Government agencies

☒-Universities/educational institutions; and

☒-Private Enterprises.

For additional information regarding this RFA, write to: CCRFA.grants@dc.gov.

DEPARTMENT OF FORENSIC SCIENCES

NOTICE OF PUBLIC MEETING

Science Advisory Board Meeting
Friday, January 15, 2021
9:00 a.m.
Draft Agenda

On Friday, January 15, 2021, the Department of Forensic Sciences will be hosting a Science Advisory Board Meeting via Web-Based Conferencing (WebEx). The meeting will commence at 9:00 a.m. Any questions should be directed to Herb Thomas, 202-727-8267. Mr. Thomas can also be reached at Herbert.Thomas@dc.gov.

Roll Call, Review of Minutes from Last Meeting, Approval of Minutes

Director's Update

Quality Update

Public Health Laboratory Update

Forensic Science Laboratory Update

Old Business, New Business

Closing and Adjournment

DEPARTMENT OF HEALTH

NOTICE OF FUNDING AVAILABILITY

Maternal and Child Health Services Block Grant to States Program

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

General Information:

Funding Opportunity Title:	Maternal and Child Health Services Block Grant to States Program
Funding Opportunity Number:	CHA-PG-00101-004
Program RFA ID#:	CHA-MCHSP-12.18.20
Opportunity Category:	Competitive
DC Health Administrative Unit:	Community Health Administration
DC Health Program	Office of the Senior Deputy Director
Program Contact:	Jasmine Bihm Program Manager titlev@dc.gov Title V Program
Program Description:	This funding opportunity seeks applications from qualified entities to develop programs and initiatives in support of selected Title V Program priorities: improving women's reproductive health: well-woman visits; breastfeeding; mental health including grief and trauma-informed care; positive youth development; medical home identification; transition; oral health. Programs and initiatives must be tailored to the identified maternal child health (MCH) populations as defined by the Health Resources and Services Administration, Maternal and Child Health Bureau: 1) Women/Maternal Health; 2) Perinatal/Infant Health; 3) Child Health; 4) Adolescent Health and; 5) Children with Special Health Care Needs (CSHCN).
Eligible Applicants	Not-for profit, public and private organizations, primary care clinics and FQHCs located and licensed to conduct business within the District of Columbia and experienced in providing services to one or more of the target

	populations: women, infants, children, children with special health care needs, and adolescents. Additionally, 40% of the organizations' annual budget must be funded from private sources.
Anticipated # of Awards:	Up to eight (8)
Anticipated Amount Available:	$2,400,000
Floor Award Amount:	$50,000
Ceiling Award Amount:	$300,000

Funding Authorization

Authorization (Legislation)	Social Security Act, Title V, 45CFR 96
Associated CFDA#	93.994
Associated Federal Award ID#	BO4MC33828
Cost Sharing / Match Required?	No
RFA Release Date:	December 18, 2020
Pre-Application Meeting (Date)	December 23, 2020
Pre-Application Meeting (Time)	2:00pm-3:30pm
Pre-Application Meeting (Location/Conference Call Access)	Virtual Webex meeting: https://dcnet.webex.com/dcnet/j.php?MTID=m0a7ed6595084479d7a0c527d7c7824c8
Letter of Intent	Not applicable
Application Deadline Date:	January 25, 2021
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghousehttps://communityaffairs.dc.gov/content/community-grant-program DC Health EGMS https://dcdoh.force.com/GO__ApplicantLogin2

DEPARTMENT OF HEALTH

NOTICE OF FUNDING AVAILABILITY

Maternal, Infant and Childhood Home Visiting Program 2021

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

General Information**:**

Funding Opportunity Title:	Maternal, Infant and Childhood Home Visiting program_2021
Funding Opportunity Number:	FO-CHA-PG-00013-000
Program RFA ID#:	CHA_MIECHV_01.08.2021
Opportunity Category:	Competitive
DC Health Administrative Unit:	Community Health Administration
DC Health Program Bureau	Family Health
Program Contact:	Jean Gamble Community Health Administration jean.gamble@dc.gov
Program Description:	The Department of Health (DC Health), Community Health Administration (CHA) is soliciting applications from qualified organizations to implement Maternal Infant Early Childhood Home Visiting (MIECHV) utilizing federally approved evidence-based home visiting models to support improved health outcomes for pregnant women and caregivers with children ages zero through three years old.
Eligible Applicants	Not-for-profit, faith-based, public and private organizations located and licensed to conduct business within the District of Columbia.
Anticipated # of Awards:	1
Anticipated Amount Available:	$1,104,500.00
Floor Award Amount:	$500, 000.00

Ceiling Award Amount:	$1,104, 500.00

Funding Authorization:

Legislative Authorization	Social Security Act, Title V, Section 511 (42 U.S.C. §711), as amended by Section 2951 of the Patient Protection and Affordable Care Act of 2010 (P.L. 111-148). Social Security Act, Title V, § 511(c) (42 U.S.C. § 711(c)), as amended by the Bipartisan Budget Act of 2018 (P.L.115-123), Title VI, Subtitle A.
Associated CFDA#	93.870
Federal Award ID#	X10MC39678
Cost Sharing / Match	No
RFA Release Date:	January 8, 2021
Pre-Application Meeting (Date)	January 18, 2021, 3:00 PM -5:00 PM
Pre-Application Meeting (Location/Conference Call Access)	Meeting link: https://dcnet.webex.com/dcnet/j.php?MTID=meee6c2c655c49742052a5426e0bcdfaa Meeting number: 180 209 0066 Password: beEgvgHJ323 Join by video system Dial 1802090066@dcnet.webex.com You can also dial 173.243.2.68 and enter your meeting number. Join by phone +1-202-860-2110 United States Toll (Washington D.C.) 1-650-479-3208 Call-in number (US/Canada) Access code: 180 209 0066
Letter of Intent Due:	Not applicable
Application Deadline	February 8, 2021 6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse https://communityaffairs.dc.gov/content/community-grant-program DC Health EGMS https://dcdoh.force.com/GO__ApplicantLogin2

DEPARTMENT OF HEALTH

NOTICE OF PUBLIC MEETING

The Director of the Department of Health hereby gives the following corrected notice pursuant to Sections 3 and 11 of the Prescription Drug Monitoring Program Act of 2013, effective February 22, 2014 (D.C. Law 20-66); D.C. Official Code §§ 48-853.02 and 48-853.10 (2012 Repl. & 2015 Supp.))(Act), and 17 DCMR § 10316.

The District of Columbia Prescription Drug Monitoring Program Advisory Committee will hold a public meeting on:

Tuesday, January 19, 2021, from 10:00 a.m. until 12:00 p.m.
The meeting will be a virtual meeting via WebEx
The meeting link will be posted three (3) days prior to the meeting on doh.dc.gov/pdmp

A copy of the meeting agenda may be obtained on the Department's Prescription Drug Monitoring Program website at doh.dc.gov/pdmp

Please monitor the Department's Prescription Drug Monitoring Program website at doh.dc.gov/pdmp for updates. Phone inquiries will not be accepted regarding this topic.

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	)	
	)	
Washington Teachers' Union, Local #6,	)	
American Federation of Teachers, AFL-CIO	)	PERB Case No. 20-U-30 MFR
	)	
Petitioner	)	
	)	Opinion No. 1767
v.	)	
	)	
District of Columbia Public Schools	)	
	)	
Respondent	)	
	)	

DECISION AND ORDER

On November 17, 2020, the District of Columbia Public Schools (DCPS) filed a Motion for Reconsideration (Motion). DCPS requests reconsideration of the Opinion No. 1762 issued by the Board on November 2, 2020. In Opinion No. 1762, the Board found DCPS violated the Comprehensive Merit Personnel Act (CMPA)[1] by refusing to bargain health and safety protections and protocols related to return to in-person learning during the COVID-19 pandemic. On November 24, 2020, the Washington Teachers' Union, Local # 6, American Federation of Teachers, (WTU) filed an Opposition to the Motion.

In Opinion No. 1762, the Board found that DCPS (1) refused to bargain and made unilateral changes by issuing guidelines for new working conditions without negotiation, (2) engaged in direct dealing by issuing surveys to the bargaining unit regarding returning to work, and (3) breached its duty to bargain by declaring mandatory health and safety proposals as non-negotiable despite clear precedent from the Board.[2] The Board adopted the Hearing Examiner's Report and Recommendations and determined that DCPS committed unfair labor practices.

In its Motion, DCPS argues that Opinion 1762 fails to identify which health and safety items declared nonnegotiable by DCPS are mandatory subjects of bargaining. This argument was rejected by the Board and Hearing Examiner. In fact, DCPS cites to a list of items declared nonnegotiable by DCPS that the Board and Hearing Examiner found to be mandatory subjects of bargaining.[3] Nevertheless, DCPS raises the same arguments that Hearing Examiner and the

[1] D.C. Official Code § 1-617.04(a)(1) and (a)(5).
[2] *WTU v. DCPS*, 67 D.C. Reg. 14055, Slip Op. No. 1762 at 2, PERB Case No. 20-U-30 (2020).
[3] Mot. at 4-5. The Hearing Examiner found the following items to be mandatory subjects of bargaining: supply of soap, water, paper towels, hand sanitizer and cleaning supplies; requirements to wear face coverings in schools;

Board rejected.[4]

The Board has repeatedly held that a Motion for Reconsideration cannot be based solely on a mere disagreement with its initial decision.[5] An argument previously made, considered, and rejected is a "mere disagreement" with the initial decision."[6] DCPS has not provided any authority that would compel the Board to reach a different result. Absent such authority, the Board will not overturn its decision.[7] Therefore, the Motion is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. DCPS's Motion for Reconsideration is hereby denied; and,

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Board Members Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler. Board Chairperson Douglas Warshof recused.

December 17, 2020
Washington, D.C.

COVID 19 testing at schools, health screening procedures; cleaning policies to prevent spread of COVID; social distancing measures, including limits on large gatherings and policies to avoid crowding; the protocol for notifying teachers of a confirmed case of COVID-19 at a school; policies regarding persons with COVID-19 symptoms or who have been exposed to the virus; and communication to teachers, staff and students regarding preventing spread, including properly washing hands and properly wearing face coverings; ensuring proper ventilation in schools."

[4] Motion at 3-6.

[5] *AFSCME District Council 20, Local 2921 v. DCPS*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at p. 3-4, PERB Case No, 12-E-10 (2015). *See also FOP/MPD Labor Comm. v. MPD*, Slip Op. No. 1554 at 8-9, PERB Case No. 11-U-17 (Nov. 19, 2015); *Rodriguez v.MPD*, 59 D.C. Reg. 4680, Slip Op. No. 954 at 12, PERB Case No. 06-U-38 (2010).

[6] *DGS v. AFGE Local 631 et. al*, 63 D.C. Reg. 12567, Slip Op. No. 1589 at 3, PERB Case No. 14-UM-02 (2016); *Renee Jackson v. Teamsters Local 639 et. al*, 63 D.C. Reg. 10694, Slip Op. No. 1581 at 3, PERB Case No. 14-S-02 (2016).

[7] *FOP/MPD Labor Comm. v. MPD,* 60 D.C. Reg. 12058, Slip Op. No. 1400 at p. 6, PERB Case No. 11-U-01 (2013).

CERTIFICATE OF SERVICE

I hereby certify that the attached Decision and Order, Slip Op. 1767, in PERB Case No. 20-U-30 MFR was served electronically via File & ServeXpress to the following parties on this the 22nd day of December 2020:

Lee W. Jackson
James & Hoffman, P.C.
1130 Connecticut Avenue NW, Suite 950
Washington, D.C. 20036

Stephanie T. Maltz
District of Columbia
Office of Labor Relations and Collective Bargaining
441 4th Street NW, Suite 820 North
Washington, D.C. 20001

/s/ Dawan Jones
Public Employee Relations Board

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 February 1, 2021.

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 January 2, 2021. 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.

Adebanjo	Bilkis Atinuke	CitiBank 1060 Brentwood Road, NE	20018
Amons	Ryan	Schmidt Builders 504 C Street, NE, #5	20002
Aslam	Muhammad	Carliner and Remes PC 1150 Connecticut Avenue, NW, Suite 610	20036
Bell	Sabrina Kalender	Alderson Reporting 1111 14th Street, NW	20005
Bradley	Danielle Tanara	Self 3052 30th Street, SE, Apt. #1	20020
Budd	Quatanya	Ballard Spahr, LLP 1909 K Street, NW, 12th Floor	20006
Christoph	Emily	Alliance Defending Freedom 440 First Street, NW, Suite 600	20001
Clark	Deatrice J.	Self (Dual) 1839 13th Street, NW, #207	20009
Cooper	Angela Renee	Self (Dual) 4800 East Capitol Street, NE, 206	20019
Cumberbatch	Mikayla Ayana	Prime Settlement 1 Thomas Circle, NW, Suite 700	20005
Davis Ryan	Benta M.	Self 314 V Street, NE, #B3	20002
Dawkins	Wanda Anita	FoxKiser 1701 Pennsylvania Avenue, NW, Suite 900	20006
Dent	Kiaunna Louise	United States Senate Federal Credit Union 120 Constitution Avenue, NE, #110	20002

Dutrow	Ashley	National Geographic Society 1145 17th Street, NW	20036
Fallen	Melinda D.	Self (Dual) 903 Jackson Street, NE	20017
Ferguson	Fay S.	Self 907 6th Street, SW, #215C	20024
Fields	Niya	Self 1129 8th Street, NE	20002
Fitchett	LaTrell Sharise	Promoting Love & Wisdom Childcare, LLC 508 60th Street, NE	20019
Fleming	Tracy L.	Self 1717 D Street, SE	20003
Gibbs	Lorraine D.	Self 1815 23rd Street, SE, #201B	20020
Grant	Michelle Salena	Self 140 49th Street, SE, #5	20019
Greene	Josh S.	Eastern Title and Settlement 2802 Myrtle Avenue, NE	20018
Griffin	Sheremee Deondra	CW Financial Services, LLC 900 19th Street, NW, 8th Floor	20006
Gruner	Amber	Housing Counseling Services 2410 17th Street, NW	20009
Hamed	Dawn	Self 1620 A Street, NE	20002
Hamilton	Kaari	Self 4406 Gault Place, NE	20019
Hess	Duane K.	Cathedral Park Condominium Association, Inc. 3100 Connecticut Avenue, NW	20008

Holland	Quentin R.	Self (Dual) 3956 Blaine Street, NE	20019
Horton	Randolph B.	R.N. Horton Co. Morticians, Inc. 600 Kennedy Street, NW	20011
Humphries	Rhonda	EVA Biz Solutions, LLC 4201 Cathedral Avenue, NW, 404W	20016
Islam	Abdul Jihad	Office of the Comptroller of the Currency 400 7th Street, SW	20024
Jackson	Shavon Mykia	Self 816 Taylor Street, NE, Apt. #4	20017
Johnson	Lillian W.	D.C. Housing Finance Agency 815 Florida Avenue, NW	20001
Jones	Markell Keith	Bank of America 55 M Street, SE	20003
Khalilian	Shayda	Champion Title & Settlements, Inc. 700 Pennsylvania Avenue, SE, #360	20005
Klinger	Jordan I.	Douglas Development Corp 655 New York Avenue, NW, Suite 830	20001
Lane	Krystle L.	Citibank 5700 Connecticut Avenue, NW	20015
Lashley-Ward	Jacalyn Renee	Trammell Real Estate Group 2617 Douglass Place, SE, #402	20020
Lemmie	Mari	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Lincoln	Lori V.	Self 1424 Michigan Avenue, NE	20017

Logan	Maya	Navy Federal Credit Union 9 M Street, SE	20374
Lucas, Jr.	Charles	Self (Dual) 4 Ridge Road, SE	20019
Martin	Kimberly Anne	Same Day Process Service 1413 K Street, NW, 7th Floor	20005
Maxwell	Madisha	Madi Maxwell Notary 1217 Raum Street, NE	20002
McCahan	Patrick Eugene	Venable LLP 600 Massachusetts Avenue, NW, 9th Floor	20001
Noriega	Brian	Wells Fargo Bank 2901 M Street, NW	20007
Okorie	Becky N.	Self 213 Gallatin Street, NW	20011
Patterson	Carmen Mariea	Venable, LLP 600 Massachusetts Avenue, NW	20001
Raynor	F. L.	Self (Dual) 249 Farragut Street, NW	20011
Reyes	Richard	Stagwell Group 1808 Eye Street, NW, #600	20006
Rhea	Dana	Self 3040 Stanton Road, SE, #201	20020
Rice	Robert Milton	Abundance Consulting 1127 42nd Street, NE	20019
Rivero	Haley Marie	Executive Residence, Executive Office of the President 1600 Pennsylvania Avenue, NW	20500

Royal	Angel M.	American Association of Community College 1 Dupont Circle, NW, Suite 700	20036
Russo, Jr.	Joseph J.	Allied Title and Escrow llc 1100 Vermont Avenue, NW, Suite 500	20005
Scales	Donna Brown	Safe Haven Outreach Ministry, Inc. 1140 North Capital Street, NW, #924	20002
Shaw	Tabitha	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Simpson	Eugenia	Self (Dual) 1221 4th Street, NW	20001
Sinaeian	Rosa	Sina LLC 470 L'Enfant Plaza, SW, 701 B	20024
Smith	Rachelle S.	Self 2722 Stanton Road, SE	20020
Spiegelberg	Jill	Citibank 5700 Connecticut Avenue, NW	20015
Stevens	Samuel	DT, Institute 1625 I Street, NW, #200	20006
Sweitzer	Scott T.	Prime Settlement One Thomas Circle, NW, #700	20005
Thiessen	Gary R.	U.S. House of Representatives 15 Independence Avenue, SE, B-227 LHOB	20515
Tielemans	Otto Raul	TTG, LLC (dba The Tielemans Group) 1500 Massachusetts Avenue, NW, #2	20005
Turner	Hope Angelina	OSSE 1050 First Street, NE, 2nd floor	20002

Tyaba	Simon Tamale	Department of Housing and Urban Development 451 7th Street, SW	20410
Whitehead	Christina D.	Department of Corrections 1901 D Street, SE	20003
Wilson	Stephen F.	Judicial Watch, Inc. 425 Third Street, SW, Suite 800	20024
Worthy	Annie R.	Self 4119 Massachusetts Avenue, SE	20019

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal No. 19839 of Advisory Neighborhood Commission 8A, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on June 13, 2018 by the Department of Consumer and Regulatory Affairs to deny reconsideration of Building Permit B1707249 and Building Permit application B1808738 for the construction of a five-story self-service storage facility in the RA-2 Zone (formerly PDR-1 Zone) at premises 1401 22nd Street, S.E. (Square 5564, Lot 66).

HEARING DATE: October 3, 2018
DECISION DATE: October 3, 2018

ORDER DISMISSING APPEAL

This appeal was submitted on July 5, 2018 by Advisory Neighborhood Commission 8A (the "ANC"). The Board voted to grant a motion to dismiss the appeal as untimely.

PRELIMINARY MATTERS

Notice of Appeal and Notice of Hearing. By memoranda and letters dated August 22, 2018, the Office of Zoning provided notice of the appeal and of the public hearing[1] to:

- ANC 8A, as both the appellant and the ANC in which 1402 22nd Street, S.E. (the "**Property**"), the subject of the appeal is located;
- The Zoning Administrator ("**ZA**"), at the Department of Consumer and Regulatory Affairs ("**DCRA**");
- The owner of the Property, Pal DC Storage LLC ("**Owner**");
- The Office of Planning;
- Single Member District ANC 8A01;
- The Office of Advisory Neighborhood Commissions;
- The Chairman and the four at-large members of the D.C. Council; and
- The Councilmember for Ward 8, the ward in which the Property is located.

Notice was published in the *D.C. Register* on August 24, 2018 (65 DCR 8760).

[1] A public hearing on the appeal was scheduled for October 17, 2018. However, on September 12, 2018, the Property Owner, with DCRA, filed a joint motion to dismiss the appeal as untimely. The motion requested a separate public meeting on September 26, 2018 solely to consider the motion. The Board scheduled a public meeting to address the motion on October 3, 2018. After the Board voted to dismiss the appeal, no hearing on the merits was necessary.

Party Status. In accordance with Subtitle Y § 501.1, the ANC, DCRA, and the Owner automatically had party status in this proceeding. There were no requests for party status.

ANC's Case. The ANC challenged a decision by DCRA "refusing to require" the Owner to comply with the screening and buffering requirements of Subtitle J § 207 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) in connection with a building permit and an application for a second permit, to revise the initial permit, for the construction of a new self-storage facility. The ANC asserted that Subtitle J § 207 required "an unbroken wall of green" – that is, a solid vegetative buffer or evergreen hedge – on industrially zoned properties to screen them visually from adjacent residential zones. According to the ANC, "DCRA cannot substitute its preferred interpretation or dismiss required screening as optional 'landscaping.'" (Exhibit 2.)

DCRA. The Department of Consumer and Regulatory Affairs joined a motion submitted by the Owner asking the Board to dismiss the appeal as untimely.

Owner. In its motion, the Owner asserted that the ANC "failed to comply with Subtitle Y § 302.2 and file this appeal within the required sixty days of October 24, 2017 – the date DCRA issued Building Permit No. B1707249." Since the appeal was filed "254 days after the Building Permit was issued" and the ANC had not explained any extraordinary circumstances that warranted an extension of time, the Owner contended that the appeal was "unquestionably untimely filed," depriving the Board of the authority to consider the merits of the appeal. (Exhibit 22.)

FINDINGS OF FACT

1. The Property is located near the intersection of Fairlawn Avenue and 22nd Street, S.E., with an address of 1401 22nd Street, S.E. (Square 5564, Lot 66). The Property has a lot area of approximately 20,000 square feet.

2. The Property is irregularly shaped but generally rectangular, bounded by Fairlawn Avenue and Nicholson Street, S.E. to the north, 22nd Street, S.E. to the east, a public alley, 15 feet wide to the west, and a property improved with a detached principal dwelling to the south. The property to the west of the alley is also devoted to residential use.

3. The Owner acquired the Property on August 30, 2017, on which it planned to build and operate a self-service storage facility that would be served by a driveway accessible from the public alley.

4. DCRA issued Building Permit B1707249 (the "**Original Permit**") to the Owner on October 24, 2017, authorizing construction of the self-storage facility. (Exhibit 22B.)

5. As stated by a June 13, 2018, letter sent by the ZA to the ANC (Exhibit 4A1, the "**ZA Letter**"), the Owner met with the ZA in April 2018 to discuss proposed "minor changes" to the interior structural and mechanical systems of the planned building as well as "clarification" of the landscaping plan from the approved permit.

6. The ZA Letter stated that the ZA had determined that the changes to the interior structural and mechanical systems did not constitute a substantial change from the approved building permit plans. (Exhibit 4A1.)

7. The ZA Letter evaluated the Owner's proposed changes to the landscaping plan in light of Subtitle J § 207 and determined that the proposal satisfied the requirements of:
   - Subtitle J § 207.5 because site access adjacent to the public alley would have landscaped areas with trees on both sides of the driveway; and
   - Subtitle J § 207.6 because a continuous line of trees and fencing was planned along the southern property line dividing the Property from the residentially zoned property to the south. (Exhibit 4A1.)

8. The ZA Letter stated that the ZA, having found the Owner's proposed changes consistent with the previously approved plans and with the Zoning Regulations, determined on April 10, 2018, that the "minor revisions" to the plans approved with the issuance of the Original Permit could be made without affecting the vesting of the Permit pursuant to Subtitle A §§ 301.4 and 301.5(a)[2]. (Exhibit 4A1.)

9. The Owner applied for a new permit to revise the Original Permit. DCRA issued Building Permit B1808738 on August 29, 2018, as a revision to the Original Permit (B1707249), authorizing "CHANGES TO GAR PLAN, ARCHITECTURAL SITE PLAN, BUILDING PLAT, MEP FLOOR PLANS". (Exhibits 4A1; 22C, Tab O.)

10. The Property is currently located in a Residential Apartment (RA) zone, RA-2, which provides for areas developed with predominantly moderate-density residential. (Subtitle F § 300.3.)

11. At the time the Original Permit was issued, the Property was designated PDR-1, a Production, Distribution, and Repair (PDR) zone. The rezoning from PDR-1 to RA-2 became effective in 2018 in a proceeding initiated by ANC 8A (*see* Z.C. Order No. 17-17, effective June 15, 2018.)

[2] Pursuant to Subtitle A § 301.4, any construction authorized by a permit may be carried to completion pursuant to the provisions of the Zoning Regulations in effect on the date that the permit is issued, subject to certain conditions and exceptions. Subtitle A § 301.5(a) governs the processing of an application for a building permit filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone classification of the site of the proposed construction.

12. The PDR zones provide for (a) heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive zones and (b) areas suitable for development as heavy industrial sites, but at the same time protect those industrial developments from the intrusion of nonindustrial uses that impede the full utilization of properly located industrial sites. (Subtitle J § 100.1.) The PDR-1 zone is intended to permit moderate-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. (Subtitle J § 200.1.)

13. The uses permitted as a matter of right in a PDR zone include "wholesale or storage establishment, including open storage, except a junk yard." (Subtitle U § 801.1(cc).)

14. The PDR Transition Setback Regulations, set forth in Subtitle J § 207, apply along all lot lines of a lot in a PDR zone when the lot (or any portion) directly abuts a residential zone, a lot developed with a residential use, or an alley that abuts a residential zone, unless the PDR-zoned lot is used only for residential purposes. (Subtitle J § 207.1.) Setbacks of 15 or 25 feet must be provided on PDR-zoned lots, depending on the circumstances. (Subtitle J §§ 207.2, 207.3.) A required setback area may not be used for storage, parking, loading, or accessory uses. (Subtitle J § 207.4.)

15. As set forth in Subtitle J § 207.5, any required setback area must be landscaped with evergreen trees, subject to specified conditions. The trees must be at least eight feet high when planted and maintained in a healthy growing condition. The planting locations and soil preparation techniques must be shown on a landscape plan submitted to DCRA with a building permit application for review and approval according to standards maintained by the department's Soil Erosion and Storm Management Branch, which may require replacement of heavy or compacted soils with top and drainage mechanisms as necessary.

16. Subtitle J § 207.6 requires a form of screening on a PDR-zoned lot, located along the setback between the PDR lot and a residential lot. The screening must be either a solid wood or board-on-board fence or a brick or stone wall, in either case between eight and 10 feet in height.

17. In a May 23, 2018, letter (the "**ANC Letter**") addressed to the director of DCRA and the ZA, ANC 8A asked DCRA to rescind the building permit for failure to comply with applicable regulations, including the screening provisions of the PDR-1 zone set forth in Subtitle J §§ 207.2-207.6. The ANC asserted that the permitted storage facility would fail to comply with screening requirements by using a public alley abutting a residential zone as its sole vehicular access point, violating setback and screening requirements by routing traffic through the transitional setback, without providing the required buffering along the public alley. (Exhibit 4A1.)

18. By a June 13, 2018, letter (the "**DCRA Letter**"), signed by the director of DCRA and addressed to ANC 8A Commissioner Troy Prestwood, DCRA responded to the ANC letter. DCRA stated that the storage facility's use and building had vested in the prior PDR-1 zoning of the Property, and that the ZA had determined that changes to the Original Permit proposed by the Owner were minor revisions consistent with zoning requirements. (Exhibit 4A1.)

19. ANC 8A filed this appeal on July 5, 2018, 254 days after the Original Permit was issued.

CONCLUSIONS OF LAW

1. The Board is authorized by § 8 of the Zoning Act (52 Stat. 799, ch. 534, as amended; D.C. Official Code § 6-641.07(g)(1) (2008 Repl.)) to "hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal" made by any administrative officer in the administration or enforcement of the Zoning Regulations. Appeals to the Board of Zoning Adjustment "may be taken by any person aggrieved, or organization authorized to represent that person, or by any officer or department of the government of the District of Columbia or the federal government affected, by any decision of [an administrative officer] granting or refusing a building permit or granting or withholding a certificate of occupancy, or any other administrative decision based in whole or part upon any zoning regulations or map" adopted pursuant to the Zoning Act (52 Stat. 799, ch. 534, as amended; D.C. Official Code § 6-641.07(f) (2008 Repl.); *see also* Subtitle X § 1100.2 and Subtitle Y § 302.1.)

2. A zoning appeal must be taken only from the first writing that reflects the administrative decision complained of to which the appellant had notice. No subsequent document may be appealed unless that document modifies or reverses the original decision or reflects a new decision. (Subtitle Y § 302.5.) A zoning appeal must be filed within 60 days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of that decision, whichever is earlier. (Subtitle Y § 302.2.) The Board may extend the 60-day deadline for the filing of a zoning appeal only if the appellant demonstrates that (a) the appellant's ability to file the appeal was substantially impaired by exceptional circumstances that were outside the appellant's control and could not have been reasonably anticipated, and (b) the extension of time would not prejudice the parties to the zoning appeal. (Subtitle Y § 302.6.)

3. In this case, the ANC stated the appeal as a challenge to both the decision made by DCRA on June 13, 2018, to deny reconsideration of the Original Permit (B1707249, issued October 24, 2017) and the application for a new building permit revising the Original Permit, which was pending at the time the appeal was filed. The ANC contended that DCRA had not applied the landscaping and buffering provisions of the PDR-1 zone properly and challenged DCRA's refusal to reconsider its earlier decision to

issue the permit. (*see* Exhibits 2 and 25.) The appeal stated that the ANC became aware of "DCRA's final decision" on June 13, 2018, the date on which an ANC commissioner received the DCRA Letter that responded to the May 23, 2018, ANC Letter.

4. However, the zoning decision actually challenged in the appeal was made much earlier than the date of the DCRA letter. This appeal claimed error in DCRA's determination that the building permit complied with all requirements of the PDR-1 Zone. That zoning decision was made when DCRA issued the Original Permit on October 24, 2017, to authorize construction of the self-storage facility. Issuance of the Original Permit denoted DCRA's determination that the Original Permit, and the attendant plans, met all applicable requirements. As such, issuance of the Original Permit reflected the ZA's determination that the permit application was consistent with zoning requirements, including the screening provisions of Subtitle J § 207. The Original Permit would not have been issued without the ZA's determination that the plans approved by the Original Permit, including the landscaping and screening plans, satisfied the applicable zoning requirements. *See Basken v. District of Columbia Bd. of Zoning Adjustment*, 946 A.2d 356 (D.C. 2008) ("Ordinarily, the building permit is the document that reflects a zoning decision about whether a proposed structure, and its intended use as described in the permit application, conform to the zoning regulations."), citing *Schonberger v. District of Columbia Bd. of Zoning Adjustment*, 940 A.2d 159, 161 n.2 (D.C. 2008) (describing the BZA's determination that a building permit "contained the relevant zoning decision"); *Rodgers Bros. Custodial Servs. v. District of Columbia Bd. of Zoning Adjustment*, 846 A.2d 308, 316 (D.C. 2004) ("Ordinarily municipalities look to a building permit accompanied by an application and building plans to ensure consistency with zoning regulations," citing Anderson's Law of Zoning (4th ed. 1996, at 362)); *Sisson v. District of Columbia Bd. of Zoning Adjustment*, 805 A.2d 964, 968 (D.C. 2002) (quoting the Board's observation that "the [building] permits for the garage should not have been issued if the garage did not provide access in conformance with the zoning regulations"); *Woodley Park Community Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 490 A.2d 628, 637-38 (D.C. 1985) (reasoning that because a building permit had earlier resolved issues as to height, setback, and use, these decisions could not be challenged through an appeal of the certificate of occupancy); *see also* 11 DCMR Subtitle A § 301.1 (providing generally that "a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless the plans for the erection, construction, conversion, or alteration fully conform to the provisions of [the Zoning Regulations].")

5. In its appeal, the ANC argued that the self-storage facility would not comply with zoning requirements because of a gap in the landscaping adjacent to residential properties. DCRA and the Owner both responded that the alleged gap – to accommodate a driveway – was shown on plans submitted in the application for the Original Permit and approved by issuance of the Original Permit. The plans approved with the Original Permit contained a site plan for the project that depicted setbacks along 22nd Street, S.E., and a

"break" in the setback area for an access point along the alley along the western edge of the Property. (*See* Exhibit 22A; Tab C, sheets 0003A, A101.10).

6. The ANC did not allege that the Original Permit was ambiguous or assert, for any other reason, that the Original Permit failed to afford notice of the zoning decision with respect to compliance with Subtitle J § 207 sufficient to trigger the 60-day appeal period. *Cf. Basken* at 365-366. Nor did the ANC claim a lack of notice that the Original Permit had been issued. *See Bannum, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 894 A.2d 423, 430 (D.C. 2006) (ANC that might have known of an earlier concurrence letter could wait to appeal until DCRA took official action by issuing a permit because issuance of a building permit required DCRA to comply with public notice and other requirements).

7. The ANC did not allege any extenuating circumstances that could warrant an extension of the 60-day deadline for the filing of an appeal with this Board. Instead, the ANC tacitly recognized that the zoning decision at issue had been made in the Original Permit by asking the Board in this appeal, among other things, to "find that the original building permit and the proposed amendment" were not compliant with zoning requirements and by describing its appeal as seeking "review of a plan modification that maintains a non-complying condition present in the original permit." (Exhibits 4 and 25.)

8. A letter from DCRA may be an appealable decision, depending on the circumstances. *See Basken* at 366 ("the zoning statute and regulations do not tie the time for appealing to the Board to the issuance of a specified type of notice"); *Bannum* at 430 n. 10 (a concurrence letter signed by the ZA could be appealable as "other administrative decisions"). However, no subsequent writing is appealable unless it represents a new zoning decision.

9. In this case, the zoning decision at issue was DCRA's determination that the storage facility complied with zoning requirements, and the first writing of that decision was the Original Permit, issued October 24, 2017. The ANC belatedly asked DCRA to reconsider its decision to issue the Original Permit, and DCRA responded in June 13, 2018, letter. The ANC's decision to seek additional action by DCRA did not eliminate the timeliness requirement for filing an appeal to this Board. *Compare, Waste Management of Maryland, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 775 A.2d 1117, 1123 (D.C. 2001) (timeliness of an appeal was assessed by reference to the date the appellant knew of the ZA's final decision; the Board considered the appellant's reasons for not appealing sooner but the fact that the appellant chose to concentrate on avenues that reasonably may have appeared more promising than an appeal does not excuse its delay in filing an appeal with the Board); *Woodley Park Community Ass'n*, 490 A.2d at 638 (efforts to resolve a dispute through negotiations did not excuse a delay in filing an appeal with the Board).

10. Moreover, the ANC did not demonstrate that the DCRA letter was the first writing of any new zoning decision. The ANC contended that DCRA's June 13, 2018, ruling conceded

that the Original Permit did not comply with all applicable zoning regulations and that DCRA compounded its error by allowing the Owner to file an amended permit application "that still fails to comply" with Subtitle J § 207 (Exhibit 4). The Board does not agree with the ANC's characterization of the DCRA Letter. On the contrary, the DCRA Letter reaffirmed the agency's determination that the Original Permit had been properly issued and stated that the modifications proposed later by the Owner did not alter that determination. The DCRA Letter noted the issuance of the Original Permit and described the circumstances surrounding the Owner's intention to seek a revised permit as well as the ZA's decision that the planned changes were minor revisions, consistent with the previously approved plans and with the Zoning Regulations, that could be made without affecting the vesting of the Original Permit. The DCRA Letter did not constitute a new zoning decision affecting the Original Permit for the construction of a self-storage facility at the Property because the DCRA Letter did not modify or reverse the original decision or make any new decision.

11. In opposing the motion to dismiss the appeal, the ANC contended that the DCRA Letter was appealable as a new decision and as a subsequent decision modifying the Original Permit because the letter was based on the Owner's "modified buffering plan for a mandatory transition area on the west side" of the Property. According to the ANC, the "modified plan remains non-compliant, as was the original plan" and the DCRA Letter made new errors in applying Subtitle J § 207 (Exhibit 25). The Board does not agree, noting the ZA's determination that the changes proposed by the Owner were minor and consistent with zoning requirements. The ANC did not identify any new error created by the DCRA Letter that could warrant the Board's consideration of the DCRA Letter as a new zoning decision. Instead, the Board concludes that DCRA approved the landscaping plan associated with the new construction in issuing the Original Permit, and that approval was not affected by any new decision made subsequently. The Owner's application for a revised permit did not modify DCRA's decision, made in connection with the issuance of the initial building permit, to allow the driveway break in the evergreen screening or represent a new decision about the driveway. *Compare, e.g.,* Appeal No. 18980 (Concerned Citizens of Argonne Place, order issued July 13, 2016) (appeal was dismissed as untimely except with respect to new determinations made in revised permits where the appellants knew of the initial permit soon after its issuance, the initial permit was not ambiguous or one of a series that hampered comprehension of the entire scope of the project, and the appellant was not faced with building permit applications of a cumulative, piecemeal nature that obfuscated the extent of the construction project); and Appeal No. 17966 (Bruce, order issued March 30, 2010; reconsideration denied by order issued September 13, 2010) (Appeal of DCRA emails was dismissed as untimely where the "real decision" on appeal – the ZA's determination that conversion of a garage into a bedroom was consistent with zoning requirements – had been made earlier with the issuance of a building permit).

12. The Board is required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975,

effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)).) In this case, the affected ANC, ANC 8A, submitted the appeal. For the reasons discussed above, the Board concludes that the appeal must be dismissed as untimely.

DECISION

Based on the findings of fact and conclusion of law, the Board concludes that the appellant, ANC 8A, has not submitted a timely appeal to challenge the decision made June 13, 2018 by the Department of Consumer and Regulatory Affairs to deny reconsideration of Building Permits B1707249 and B1808738 for the construction of a five-story self-service facility in the RA-2 Zone (formerly PDR-1 Zone) at premises 1401 22nd Street, S.E. (Square 5564, Lot 66). Accordingly, it is therefore **ORDERED** that the APPEAL is **DISMISSED** and the Zoning Administrator's determination is **SUSTAINED**.

VOTE (October 3, 2018): 5-0-0 (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John; and Robert E. Miller voting to DISMISS the appeal).

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: December 21, 2020

PURSUANT TO SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 20261 of Ramon Argueta, as amended,[1] 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 allow a second-story rear deck addition to an existing attached principal dwelling unit in the R-3 Zone at premises 5104 3rd Street, N.W. (Square 3301, Lot 45).

HEARING DATES: July 15, 2020[2] and December 9, 2020
DECISION DATE: December 9, 2020

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 56 (Revised Memo)[3] and Exhibit 4 (Original).)

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") 4D.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 17, 2020, at which a quorum was present, the ANC voted to support the application. The ANC Report noted that the ANC concluded that the application would not result in any adverse impacts to the light, air and privacy of the adjoining property owners, and would not visually intrude on the character of the street frontage. (Exhibit 36.)

[1] The Applicant revised the design of the deck, and amended the application, changing the requested lot occupancy relief from a variance to a special exception, as captioned above.

[2] The hearing was originally scheduled for the virtual public hearing July 15, 2020. The hearing was continued to September 16, 2020; then postponed to October 21, 2020 at the Applicant's request. The hearing was administratively rescheduled to December 9, 2020 where the case was heard and decided by the Board.

[3] The ZA Memo was revised to reflect the reduced lot occupancy relief. The ZA Memo also references Subtitle D §§ 309.1 and 5201.3(e) which are no longer applicable due to text amendments adopted by the Zoning Commission.

OP Report. The Office of Planning submitted two reports in the application. In the first report dated April 10, 2020, OP recommended approval of the special exception relief and denial of the variance relief in the original application (Exhibit 34). By report dated November 27, 2020, OP recommended approval of the application as amended. (Exhibit 60 (Supplemental Report).)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 33.)

Persons in Support. One letter was submitted by the adjacent neighbor in support of the application. (Exhibit 47.)

Persons in Opposition.
One letter was submitted by a neighbor in opposition to the application. (Exhibit 43.)

Special Exception Relief

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 allow a second-story rear deck addition to an existing attached principal dwelling unit in the R-3 Zone at premises 5104 3rd Street, N.W. (Square 3301, Lot 45).

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[4] AT EXHIBIT 58 – REVISED ARCHITECTURAL PLANS.**

VOTE: **4-0-1** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, and Anthony J. Hood to APPROVE; one Board seat vacant).

[4] 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.

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: December 21, 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 20317 of Julia Shepherd, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the rear addition requirements of Subtitle E § 205.4, and pursuant to Subtitle X, Chapter 10, for variances from the lot dimension requirements of Subtitle E § 201.1 and from the lot occupancy requirements of Subtitle E § 304.1, to construct a new 3-story attached structure with two dwelling units in the RF-1 Zone at premises 454 Ridge Street, N.W. (Square 513, Lot 926).

HEARING DATES: November 18, 2020 and December 9, 2020[1]
DECISION DATE: December 9, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 30 (Final Revised); Exhibit 3 (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") 6E.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 10, 2020 at which a quorum was present, the ANC voted to support the application. (Exhibit 60.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 43.)

[1] The hearing was postponed from November 18, 2020 to December 9, 2020 following revisions to the application and re-noticing of revised relief.

[2] The original application was amended to withdraw a special exception from the parking requirements of Subtitle C § 701.5 and a variance from the accessory building height requirements of Subtitle E § 5001.2. The application was also amended to change the special exception to variance relief from the lot dimension requirements of Subtitle E § 201.1 and lot occupancy requirements of Subtitle E 304.1.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 44.)

Persons in Support. The Board received six letters from neighbors in support of the application. (Exhibits 34-39.)

Persons with No Position. The Board received one letter from an adjacent neighbor who remained neutral to the application. (Exhibit 40.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for variances from the lot dimension requirements of Subtitle E § 201.1 and from the lot occupancy requirements of Subtitle E § 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 E § 5201 from the rear addition requirements of Subtitle E § 205.4.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, **SUBJECT** to the **APPROVED REVISED PLANS**[3] at **EXHIBIT 27 - Updated Architectural Plans and Elevations.**

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: December 17, 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.

[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.

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. 20325 of Ethan Landis, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 206.2 from the rooftop architectural requirements of Subtitle E § 206.1(a), to add two dormers on a new third story addition, and add a second dwelling unit to an existing attached principal dwelling unit in the RF-1 Zone at premises 2611 13th Street, N.W. (Square 2862, Lot 70).

HEARING DATE: December 9, 2020
DECISION DATE: December 9, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 35B (Revised Self-Certification); Exhibit 4 (Original).)

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 December 3, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 41.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 37.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 38.)

Persons in Support. Four letters were submitted in support of the application. (Exhibits 10, 27, 28, and 33.)

Persons in Opposition. Four letters were submitted in opposition to the application. (Exhibits 25, 26, 30, and 34.) Also, three persons testified at the hearing in opposition to the application.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle E § 206.2 from the rooftop architectural requirements of Subtitle E § 206.1(a), to add two dormers on a new third story addition, and add a second dwelling unit to an existing attached principal dwelling unit 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[1] AT EXHIBIT 6 - ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **3-0-2** (Frederick L. Hill, Chrishaun S. Smith, and Anthony J. Hood to APPROVE; Lorna L. John not participating; 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: December 21, 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.

[1] 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. 20326 of Spence Allin, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 206.4 from the rooftop architectural element requirements of Subtitle E § 206.1(a), to add two dormers on a new third story addition, and add a second dwelling unit to an existing attached principal dwelling unit in the RF-1 Zone at premises 2613 13th Street, N.W. (Square 2862, Lot 71).

HEARING DATE: December 9, 2020
DECISION DATE: December 9, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 34B (Final Revised); Exhibit 13 (Revised); Exhibit 3 (Original).)[1]

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") 1B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on December 3, 2020 at which a quorum was present, the ANC voted to support the application. (Exhibit 42.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 37.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 38.)

Persons in Support. The Board received 4 letters from neighbors in support of the application. (Exhibits 10, 29, 30, and 33.)

[1] The relief requested in the original application did not change, but regulation section numbers were adjusted due to the changes enacted by the Z.C. Order No. 19-21 Text Amendment.

Persons in Opposition. The Board received 4 letters from neighbors in opposition to the application. (Exhibits 27, 28, 32, and 39.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle E § 206.4 from the rooftop architectural element requirements of Subtitle E § 206.1(a), to add two dormers on a new third story addition, and add a second dwelling unit to an existing attached principal dwelling unit in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, **SUBJECT** to the **APPROVED REVISED PLANS**[2] at **EXHIBIT 36 - Revised Architectural Plans and Elevations.**

VOTE: **3-0-2** (Frederick L. Hill, Chrishaun S. Smith, and Anthony J. Hood to APPROVE; Lorna L. John not participating; 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: December 17, 2020

[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.

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. 20327 of 1214 Fairmont ST NW LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.2, to construct a third story and a three-story rear addition and convert the existing principal dwelling unit into a three-unit apartment house in the RF-1 Zone at premises 1214 Fairmont Street, N.W. (Square 2862, Lot 87).

HEARING DATE: December 9, 2020
DECISION DATE: December 9, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.)

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") 1B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 1, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 26.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 32.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 33.)

Persons in Opposition. Two letters were filed in opposition to the application. (Exhibits 27 and 28.)

Other Public Input. One person testified at the hearing in opposition to the application.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the residential conversion requirements of Subtitle U § 320.2, to construct a third story and a three-story rear addition and convert the existing 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[1] AT EXHIBIT 25A – REVISED ARCHITECTURAL PLANS.**

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: December 18, 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

[1] 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.

BOARD OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA
NOTICE OF CLOSED MEETINGS

DATES AND TIMES:

Monday, January 11, 2021 at 2:00 p.m.
Monday, January 25, 2021 at 2:00 p.m.

Monday, February 1, 2021 at 2:00 p.m.
Monday, February 8, 2021 at 2:00 p.m.
Monday, February 22, 2021 at 2:00 p.m.

Monday, March 1, 2021 at 2:00 p.m.
Monday, March 8, 2021 at 2:00 p.m.
Monday, March 15, 2021 at 2:00 p.m.
Monday, March 22, 2021 at 2:00 p.m.
Monday, March 29, 2021 at 2:00 p.m.

Monday, April 5, 2021 at 2:00 p.m.
Monday, April 12, 2021 at 2:00 p.m.
Monday, April 19, 2021 at 2:00 p.m.
Monday, April 26, 2021 at 2:00 p.m.

Monday, May 3, 2021 at 2:00 p.m.
Monday, May 10, 2021 at 2:00 p.m.
Monday, May 17, 2021 at 2:00 p.m.
Monday, May 24, 2021 at 2:00 p.m.

Monday, June 7, 2021 at 2:00 p.m.
Monday, June 14, 2021 at 2:00 p.m.
Monday, June 21, 2021 at 2:00 p.m.
Monday, June 28, 2021 at 2:00 p.m.

Monday, July 12, 2021 at 2:00 p.m.
Monday, July 19, 2021 at 2:00 p.m.
Monday, July 26, 2021 at 2:00 p.m.

TELE-CONFERENCE NUMBER: **(712) 770-4708**
TELE-CONFERENCE ACCESS CODE: **344154**

The Board of Zoning Adjustment (the "Board" or "BZA") hereby provides notice to hold a public meeting via telephone conference on the dates and times listed above, for the purpose of considering whether to hold a closed meeting in order to seek legal advice from counsel on cases scheduled for hearing and decision on its upcoming agenda, as permitted by § 405(b)(4) of the Open Meetings Act (D.C. Official Code § 2-575(b)(4)) or in order to deliberate upon, but not

vote upon, cases scheduled for hearing and decision on its upcoming agenda, as permitted by § 405(b)(13) of the Open Meetings Act (D.C. Official Code § 2-575(b)(13).

Members of the public wishing to listen to the Board's deliberation and decision as to whether to convene a closed meeting for these stated purposes may call **(712) 770-4708** and enter access code **344154**. No public testimony will be taken on the tele-conference. If the Board determines to hold a closed meeting, under the provisions of the Open Meetings Act cited above, the Board will close the public meeting and convene its closed meeting on a separate tele-conference line.

It is recommended that members of the public check the BZA hearing and meeting calendar at the Office of Zoning website to confirm that the date and time of the public meeting tele-conference have not been modified: https://app.dcoz.dc.gov/Calendar/Calendar.aspx

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 በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ 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
Quí vị có cần trợ giúp gì để tham gia không?
Nếu quí vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

FREDERICK L. HILL, LORNA L. JOHN, CHRISHAUN S. SMITH -------- BOARD OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY CLIFFORD MOY, SECRETARY TO THE BOARD OF ZONING ADJUSTMENT.

OFFICE OF ZONING
ZONING COMMISSION
ZC Order No. 14-12D(1)
ZC Case No. 14-12D
EAJ 1309 5th Street, LLC
Subtitle Z § 705.9 Administrative COVID-19 One-Year Time Extension
for Property Located @ 1309 5th Street, N.E. (Square 3591, Lots 801, 802, 7004, 7005, 7011, 7012, 7013, 7034, 7036, 7037, and 7038)
December 17, 2020

- Z.C. Order (the "Order"), effective on January 24, 2020, was valid until May 9, 2020.

- The Order's validity was automatically extended by six months per Subtitle Z §§ 702.1-702.2, to expire on November 9, 2020. On November 6, 2020, prior to the introduction of Z.C. Case No. 20-26, the Applicant filed in Z.C. Case No. 14-12F a third request for a time extension and waiver of the Commission's rules to extend a PUD for a third time. That case tolled the expiration of the Order as previously extended. The Applicant will withdraw that proceeding upon the issuance of the order granting this administrative time extension.

- The applicant filed an application to extend the Order's validity per Subtitle Z § 705.9, as adopted by the Zoning Commission's emergency action in Z.C. Case 20-26 by one year.

- Pursuant to Subtitle Z § 705.9, the Director of the Office of Zoning extends the Order's validity to expire on November 9, 2021.

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on January 1, 2021.

District of Columbia REGISTER – January 1, 2021 – Vol. 68 - No. 1 000001 – 000225