

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council enacts Act 24-253, Constituent Unemployment Compensation Information Emergency Amendment Act of 2021
- D.C. Council passes Resolution 24-335, Coronavirus Immunization of School Students and Early Childhood Workers Regulation Emergency Declaration Resolution of 2021
- D.C. Council passes Resolution 24-337, to extend the Mayor’s authority to maintain the public emergency until March 17, 2022
- D.C. Council schedules a public hearing on Bill 24-511, Department of Motor Vehicles Extension of Deadlines Amendment Act of 2021
- Office of the Chief Financial Officer releases the Notice of Increases for the 2022 Homestead Deduction, Trash Collection Credit Amount and Senior Income Threshold
- Department of Health Care Finance proposes amendments to the District of Columbia State Plan for Medical Assistance to the federal Centers for Medicare and Medicaid Services for review and approval
- Office of Planning files a petition and a report to the Zoning Commission proposing to create a new Barry Farm Zone

The Mayor of the District of Columbia requires COVID-19 Vaccination for entry into certain establishments and facilities (Mayor’s Order 2021-148)

# DISTRICT OF COLUMBIA REGISTER

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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AN ACT  
**D.C. ACT 24-245**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 24, 2021**

To amend, on an emergency basis, due to congressional review, the Uniform Emergency Volunteer Health Practitioners Act of 2010 to allow qualified volunteer health care professionals and licensed health care providers to practice in the District without a District license until August 10, 2022; the Emergency Medical Services Act of 2008 to allow an individual to provide emergency medical services without a District license or certification until August 10, 2022; and the Health Occupation revision Act of 1985 to allow health care professionals to practice in the District without a District license, registration, or certification until August 10, 2022; and to make conforming amendments to 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 “Preserve Our Healthcare Workforce Congressional Review Emergency Amendment Act of 2021”.

Sec. 2. Section 6 of the Uniform Emergency Volunteer Health Practitioners Act of 2010, effective July 1, 2010 (D.C. Law 18-184; D.C. Official Code § 7-2361.05), is amended as follows:

(a) Subsection (a) is amended by striking the phrase “While an emergency declaration is in effect,” and inserting the phrase “Except as provided in subsection (a-1) of this section, while an emergency declaration is in effect,” in its place.

(b) A new subsection (a-1) is added to read as follows:

“(a-1)(1) Notwithstanding any provision of law, including 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) (“Public Emergency Act”), or whether an emergency declaration is in effect, a volunteer health practitioner qualified under subsection (a) of this section or a licensed health care provider as described in section 5a of the Public Emergency Act may practice in the District until August 10, 2022.”.

“(2)(A) The Mayor shall not require an individual practicing in the District pursuant to this subsection to apply for a District license or certification prior to March 31, 2022; and

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“(B) Any temporary license or certification issued by the Mayor shall not expire before August 10, 2022.

“(3) A volunteer health practitioner qualified under this subsection may not practice in District without being fully vaccinated against COVID-19 unless granted a medical or religious exemption by the Department of Health.”.

Sec. 3. The Emergency Medical Services Act of 2008, effective March 25, 2009 (D.C. Law 17-357; D.C. Official Code § 7-2341.01 *et seq.*), is amended by adding a new section 3a to read as follows:

“Sec. 3a. Exemption from licensure or certification.

“(a) Notwithstanding any other law, an individual may provide emergency medical services without a District license or certification until August 10, 2022, if the individual:

“(1) Is licensed or certified in good standing in their home jurisdiction to provide emergency medical services;

“(2) Has been fully vaccinated against COVID-19 or has been granted a medical or religious exemption from vaccination by the Department of Health (“Department”); and

“(3) Has not been issued an order limiting or restricting the individual’s ability to provide emergency medical services in any state or jurisdiction.

“(b) An emergency medical services agency utilizing the services of an individual providing emergency medical services pursuant to this section shall:

“(1) Verify the credentials and license or certification status of the individual in order to ensure compliance with this section, including by confirming that the individual has not been issued a suspension or revocation order by the District and verifying that the individual has been fully vaccinated for COVID-19 or has received an exemption from vaccination by the Department;

“(2) Implement a process by which the credentials and home jurisdiction license or certification status of the individual is routinely verified; and

“(3) Ensure proper supervision of any services being provided by such individual.

“(c)(1) The Mayor shall not require an individual providing emergency medical services pursuant to this section to apply for a District license or certification prior to March 31, 2022; and

“(2) Any temporary license or certification, including a limited reciprocity certification, issued by the Mayor shall not expire before August 10, 2022.”.

Sec. 4. Section 502 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.02), is amended by adding a new subsection (c) to read as follows:

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“(c)(1) Notwithstanding any other law, an individual may engage in the practice of providing healthcare to District residents for a particular health occupation without a District license, registration, or certification until August 10, 2022, if the individual:

“(A) Is licensed, registered, or certified, and in good standing in another jurisdiction in the applicable health occupation;

“(B) Has been fully vaccinated against COVID-19 or has been granted a medical or religious exemption from vaccination by the Department of Health (“Department”);

“(C) Has not been issued an order limiting or restricting the individual’s ability to practice their profession in any state or jurisdiction; and

“(D) Provides healthcare services:

“(i) At a licensed or certified healthcare entity, which may include telehealth services; or

“(ii) To an established patient who has returned to the District, and the individual is providing continuity of care to the patient by telehealth in accordance with applicable laws and regulations.

“(2) For purposes of this subsection, the term “healthcare entity” means:

“(A) An ambulatory surgical facility, assisted living residence, community resident facility, group home for persons with intellectual disabilities, home care agency, hospice, hospital, maternity center, nursing home, or renal dialysis facility, as those terms are defined in section 2(a) of the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(a));

“(B) A licensed nursing staffing agency, as set forth in the Nurse Staffing Agency Act of 2003, effective March 10, 2004 (D.C. Law 15-74; D.C. Official Code § 44-1051.01 *et seq.*);

“(C) A home support agency, as set forth in 22-B DCMR § 9900 *et seq.*;

“(D) An adult day health program, as set forth in 29 DCMR § 9700 *et seq.*;

“(E) A community-based behavioral health organization; or

“(F) A community-based primary care clinic.

“(3) A healthcare entity utilizing the services of an individual practicing pursuant to this subsection shall:

“(A) Verify the credentials and license, registration, or certification status of the individual to ensure compliance with this subsection, including by confirming the individual has been fully vaccinated against COVID-19 or received an exemption from vaccination by the Department and that the individual has not been issued a suspension or revocation order by a District of Columbia health occupation board;

## ENROLLED ORIGINAL

“(B) Implement a process by which the credentials, vaccination status, and home jurisdiction license, registration, or certification status of any such individual is routinely verified;

“(C) Ensure proper supervision of any services being provided by the individual; and

“(D) Maintain a list of individuals practicing pursuant to this subsection being utilized, which shall be made available to the Department for inspection upon demand.

“(4)(A) The Mayor shall not require an individual practicing in the District pursuant to this subsection to apply for a District license, certification, or registration prior to March 31, 2022; and

“(B) Any temporary license, registration, or certification issued by the Mayor shall not expire before August 10, 2022.”.

Sec. 5. Section 4020 of Title 17 of the District of Columbia Municipal Regulations (17 DCMR § 4020) is amended as follows:

(a) Subsection 4020.1 is amended as follows:

(1) The lead-in language is amended by striking the phrase “October 31, 2021,” and inserting the phrase “August 10, 2022,” in its place.

(2) Paragraph (b) is amended by striking the semicolon and inserting the phrase “; and” in its place.

(3) Paragraph (c) is repealed.

(b) Subsection 4020.2 is amended as follows:

(1) Paragraph (b) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) Paragraph (c) is amended by striking the period and inserting the phrase “.” in its place.

(3) New paragraphs (d), (e), and (f) are added to read as follows:

“(d) Adult day health programs, as set forth at 29 DCMR § 9700 *et seq.*;

“(e) Community-based behavioral health organizations; and

“(f) Community-based primary care clinics.”.

(c) Subsection 4020.10 is amended by striking the phrase “October 31, 2021,” and inserting the phrase “August 10, 2022,” in its place.

Sec. 6. Subsection 573.1 of Title 29 of the District of Columbia Municipal Regulations (29 DCMR § 573.1) is amended as follows:

(a) The lead-in language is amended by striking the phrase “October 31, 2021,” and inserting the phrase “August 10, 2022,” in its place.

(b) Paragraph (a) is amended by striking the semicolon and inserting the phrase “; and” in its place.



ENROLLED ORIGINAL

(c) Paragraph (b) is amended by striking the phrase “; and” and inserting a period in its place.

(d) Paragraph (c) is repealed.

Sec 7. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director for the Preserve Our Healthcare Workforce Emergency Amendment Act of 2021, effective October 25, 2021 (D.C. Act 24-189; 68 DCR 11343), 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), 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

UNSIGNED

\_\_\_\_\_  
Mayor  
District of Columbia  
December 13, 2021

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-246**

IN THE COUNCIL OF DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on an emergency basis, section 47-1803.03 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 Emergency Amendment Act of 2021”.

Sec. 2. Section 47-1803.03(b-5) of the District of Columbia Official Code is amended to read as follows:

“(b-5) Capital Gains from a Qualified Opportunity Fund.-- Beginning October 1, 2020, the 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).

ENROLLED ORIGINAL

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, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-247**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To approve, on an emergency basis, Contract No. NFPHC-RSK-21-C-00064 Modifications between the Not-for-Profit Hospital Corporation, commonly known as United Medical Center, and Kiernan Trebach LLP to provide medical malpractice litigation services, and to authorize payment for the 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. NFPHC-RSK-21-C-00064 Modifications between Not-for-Profit Hospital Corporation and Kiernan Trebach LLP Approval and Payment Authorization Emergency Amendment Act of 2021”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Contract No. NFPHC-RSK-21-C-00064 Modifications between the Not-for-Profit Hospital Corporation and Kiernan Trebach LLP to provide medical malpractice litigation services and authorizes payment for the services received and to be received under this contract in the amount of \$1.2 million .

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

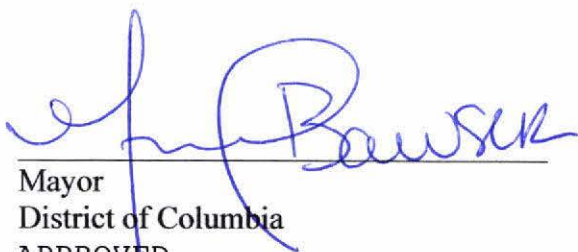
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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, 2021

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-248**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend section 25-113 of the District of Columbia Official Code, on an emergency basis, to extend the expiration date of the District of Columbia Streatery Program, and provide clarity to Alcoholic Beverage Control Board license holders and the public with regard to the requirements for operating under the Streatery Program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Streatery Program Extension Emergency Amendment Act of 2021”.

Sec. 2. Section 25-113(a)(6) of the District of Columbia Official Code is amended to read as follows:

“(6)(A) An on-premises retailer’s licensee, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, or a manufacturer’s licensee, class A or B, with an on-site sales and consumption permit, or a Convention Center food and alcohol business may register with the Board at no cost to sell, serve, and permit the consumption of beer, wine, or spirits on new or expanded temporary ground floor or street level outdoor public or private space not listed on its existing license. Upon registration, Board approval shall not be required; provided, that the licensee:

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

“(ii) Registers with District Department of Transportation (“DDOT”) prior to operating on any proposed outdoor public space or receives written approval from the property owner prior to utilizing any proposed outdoor private space; and

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

“(B) An on-premises retailer’s license, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, or a manufacturer’s license, class A or B, with an on-site sales and consumption permit, or a Convention Center food and alcohol business that has registered with

## ENROLLED ORIGINAL

the Board to sell, serve, and permit the consumption of beer, wine, and spirits to seated patrons on outdoor public or private space not listed on its existing license in accordance with subparagraph (A) of this paragraph shall:

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

“(ii) Restrict the sale, service, or the consumption of alcoholic beverages outdoors for on-premises consumption to the hours between 6:00 a.m. and midnight, Sunday through Saturday;

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

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

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

“(C) Registration under subparagraph (A) of this paragraph shall be valid until April 30, 2022.

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

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

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

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

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

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

ENROLLED ORIGINAL

“(F) For purposes of this paragraph, ground floor or street level sidewalk cafés or summer gardens enclosed by awnings or tents having no more than 2 sides shall be considered outdoor space. Areas enclosed by retractable glass walls and other forms of operable walls shall not be considered outdoor dining. Temporary unlicensed rooftops and summer gardens not located on the ground floor or street level are not eligible for registration under subparagraph (A) of this paragraph.”.

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, 2021



ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-249**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on an emergency basis, the Sustainable Solid Waste Management Amendment Act of 2014 to extend the deadline for the submission of proposed battery stewardship plans by battery stewardship organizations to January 1, 2023.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Battery Stewardship Program Emergency Amendment Act of 2021”.

Sec. 2. Section 129(b) of the Sustainable Solid Waste Management Amendment Act of 2014, effective March 16, 2021 (D.C. Law 23-211; D.C. Official Code § 8-771.02(b)), is amended by striking the phrase “On or before January 1, 2022” and inserting the phrase “On or before January 1, 2023” in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED  
December 22, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-250**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To prohibit, on an emergency basis, a third-party meal delivery platform from arranging to deliver a meal order from a restaurant without first obtaining an agreement with the restaurant expressly authorizing the third-party meal delivery platform to collect meal orders and deliver meals prepared by the restaurant.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fair Meals Delivery Second Emergency Act of 2021”.

Sec. 2. Restrictions on third-party meals delivery companies.

(a) A third-party meal delivery platform shall not arrange for the delivery of an order from a restaurant without first obtaining an agreement with the restaurant expressly authorizing the third-party meal delivery platform to collect meal orders and deliver meals prepared by the restaurant.

(b) For purposes of this section:

(1) “Restaurant” means any establishment that is held out to and known by the public as a food-service establishment. The term includes an establishment defined in D.C. Official Code § 25-101(43) and (52).

(2) “Third-party delivery 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 same-day delivery or same-day pickup of food and beverages from, restaurants.



Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director for the Fair Meals Delivery Temporary Act of 2021, effective May 13, 2021 (D.C. Law 24-4; 68 DCR 3442), as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

ENROLLED ORIGINAL

Sec. 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)).

  
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Chairman  
Council of the District of Columbia  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
December 22, 2021

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-251**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on an emergency basis, section 4917 of the Department of Health Functions Clarification Act of 2001 to exempt the tobacco bar and retail store located at 1120 9th Street, N.W., from the revenue requirements needed to obtain an exemption from the Department of Health from indoor smoking prohibitions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Department of Health Functions Clarification Emergency Amendment Act of 2021”.

Sec. 2. Section 4917(a) of the Department of Health Functions Clarification Act of 2001, effective April 4, 2006 (D.C. Law 16-90; D.C. Official Code § 7-741.03(a)), is amended as follows:

(a) Paragraph (5) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(b) Paragraph (6) is amended by striking the period and inserting the phrase “; and” in its place.

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

“(7) Notwithstanding any other requirement of this Part, no total revenue requirement shall apply to the establishment located at 1120 9th Street, N.W.”.

Sec.3. Fiscal impact statement.


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

Sec. 4. Effective date.

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

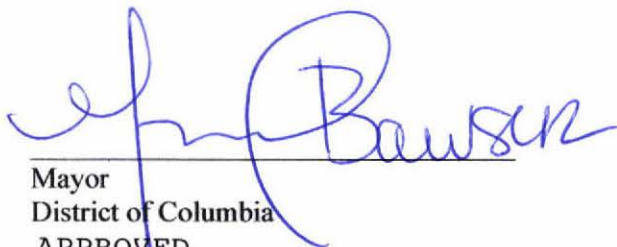
ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788, D.C. Official Code § 1-204.1 2(a)).



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
December 22, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-252**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on an emergency basis, the District of Columbia Housing Authority Act of 1999 to extend the deadline by which the District of Columbia Housing Authority must hold elections for the resident commissioners of the Board of Commissioners.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Housing Authority Resident Commissioners Election Deadline Extension Emergency Amendment Act of 2021”.

Sec. 2. Section 12(k) of The District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-211(k)), is amended by adding a new paragraph (3) to read as follows:

”(3) The election to succeed the resident commissioners elected under paragraph (1) of this subsection whose terms expired on October 1, 2021, shall be held no later than March 31, 2022.”.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

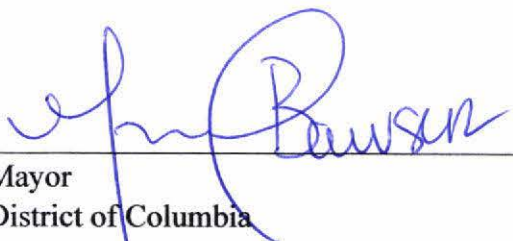
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

**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, 2021



ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-253**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on an emergency basis, the District of Columbia Unemployment Compensation Act to require the Department of Employment Services to promptly disclose unemployment insurance claim data to the Council upon request in connection with the Council’s official duties when certain conditions have been met.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Constituent Unemployment Compensation Information Emergency Amendment Act of 2021”.

Sec. 2. Section 113(f) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat 953; D.C. Official Code § 51-113(f)), is amended to read as follows:

“(f)(1) Except as hereinafter otherwise provided, information obtained from any employing unit or individual pursuant to the administration of this Act and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner, whether by subpoena or otherwise, revealing the individual’s or employing unit’s identity. Any claimant (or his or her legal representative) shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under this Act with respect thereto.

“(2)(A) The Director shall promptly disclose information otherwise protected pursuant to paragraph (1) of this subsection upon the request of a Councilmember for use in the performance of the Councilmember’s official duties, including conducting all aspects of program and agency oversight and constituent services, when:

“(i) If the information is confidential unemployment compensation information, the Councilmember has:

“(I) If the Councilmember is performing constituent services, provided the Director with reasonable evidence that the individual or employing unit has authorized such disclosure to the Councilmember and, if the disclosure is to be ongoing and a release pursuant to 20 CFR § 603.5(d)(2) is required, executed such a release;

“(II) Executed an agreement with the Director as required by 20 CFR §§ 603.09 and 603.10; or

## ENROLLED ORIGINAL

“(III) Complied with both sub-subparagraph (I) and (II) of this subparagraph if so required by applicable federal law or regulation; or

“(ii) The request for information, including whether the agency has received an initial application, processed an initial application or weekly certification form, or made a determination as to the individual’s own eligibility, would not require the Director to disclose confidential unemployment compensation information about the individual or employing unit that the individual or employing unit has not already provided to the Councilmember.

“(B) For the purposes of subparagraph (A)(i) of this paragraph, reasonable evidence that an individual or employing unit has authorized disclosure of their confidential unemployment compensation information to a Councilmember shall include:

“(i) A written request from the individual or employing unit for assistance from the Councilmember; or

“(ii) A contemporaneous written record of a request for assistance from an individual or employing unit that the Councilmember who received the request made, which states the medium (telephone, virtual meeting platform, or in-person meeting) the individual or employing unit used to communicate the request and the date and approximate time of the request.

“(C) For the purposes of this paragraph, the term:

“(i) “Confidential unemployment compensation information” shall have the same meaning as the term “confidential UC information” provided in 20 CFR § 603.2(b).

“(ii) “Councilmember” includes, to the extent permitted by applicable federal law or regulation, a Council employee or a non-governmental agent or contractor whom the Councilmember has designated to act on behalf of the Councilmember for the purposes of performing the Councilmember’s official duties related to this Act;

“(3) Subject to such restrictions as the Director may by regulation prescribe, the information protected pursuant to paragraph (1) of this subsection may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or the agency of any state or the federal agency charged with the administration of programs for food stamps, parent locator services and other support or paternity establishment services, public housing, Medicaid, Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility, and supplemental security income, or the Department of Public Welfare of the government of any state, or the National Directory of New Hires established pursuant to section 316(f) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 22, 1996 (110 Stat. 2209, 42 U.S.C. § 653a), or any District of Columbia State Directory of New Hires established pursuant to section 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or the United States Accounting Office or the

ENROLLED ORIGINAL


Internal Revenue Service of the United States Department of the Treasury, or the District of Columbia Office of Tax and Revenue, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon request therefor, the Director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act. The Director may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this Act, and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in § 1606(c) of the federal Internal Revenue Code.”.


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, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-254**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To clarify, on an emergency basis, that the District of Columbia Education Research Practice Partnership may assist its Advisory Committee.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Research Practice Partnership Clarification Emergency Amendment Act of 2021”.

Sec. 2. Section 105 of the District of Columbia Education Research Practice Partnership Establishment and Audit Act of 2018, effective March 28, 2019 (D.C. Law 22-268; D.C. Official Code § 38-785.04), is amended by adding a new subsection (e) to read as follows:

“(e) Notwithstanding any other provision of law, the Partnership and its executive director may provide staff support to the Advisory Committee, including the scheduling of meetings and the drafting of documents.”.

Sec. 3. Applicability.

This act shall apply as of December 2, 2021.

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.

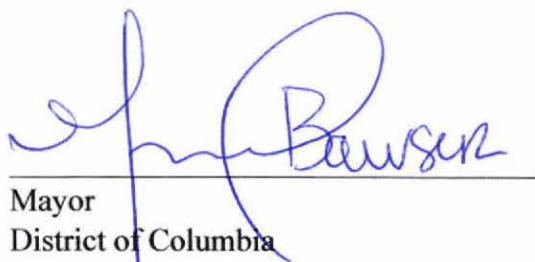
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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, 2021

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-255**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
**DECEMBER 22, 2021**

To amend, on a temporary basis, the Accrued Sick and Safe Leave Act of 2008 to provide paid time off for COVID vaccinations and recovery; the District of Columbia Family and Medical Leave Act of 1990 to extend and update existing unpaid leave available for COVID-related purposes; and the Coronavirus Support Temporary Amendment Act of 2021 to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “COVID Vaccination Leave Temporary Amendment Act of 2021”.

Sec. 2. The Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-531.01 *et seq.*), is amended as follows:

(a) Section 2(5) (D.C. Official Code § 32-531.01(5)) is amended to read as follows:

“(5) “Paid leave” means:

“(A) Accrued increments of compensated leave provided by an employer for use by an employee during an absence from employment for any of the reasons specified in section 3(b); and

“(B) Compensated leave required to be provided by an employer to an employee pursuant to section 3a or 3b.”.

(b) Section 3(c)(1) (D.C. Official Code § 32-531.02(c)(1)) is amended by striking the phrase “Paid leave under” and inserting the phrase “Except as provided in section 3a or 3b, paid leave under” in its place.

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

“Sec. 3b. Paid vaccination leave requirement.

“(a)(1) In addition to paid leave otherwise provided under this act, an employer shall provide paid leave to an employee pursuant to this section for an absence from work related to COVID-19 vaccination.

“(2) An employer shall provide paid leave to an employee in the following amounts, but shall not be required to provide more than 48 hours of leave in total in a year beginning on the effective date of the COVID Vaccination Leave Emergency Amendment Act of 2021, effective November 18, 2021 (D.C. Act 24-209; 68 DCR 12355):

“(A) For vaccination leave, up to 2 hours per injection; and

## ENROLLED ORIGINAL

“(B) For vaccination recovery leave, up to 8 hours per injection during the 24-hour period following the 2-hour vaccination leave period.

“(3)(A) Subject to subparagraph (B) of this paragraph, an employer shall compensate an employee for leave provided pursuant to this section at the employee’s regular rate of pay. In the case of an employee who does not have a regular rate of pay, the employee’s rate of pay shall be determined by dividing the employee’s total gross earnings, including all tips, commission, piecework, or other earnings earned on an irregular basis for the most recent workweek that the employee worked for the employer, by the number of hours the employee worked during that workweek.

“(B) In no case shall an employee’s rate of pay fall below the minimum wage established by section 4(a) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Code Official Code § 32-1003(a)).

“(4) An employer shall provide paid leave under this section to any employee who commenced work for the employer at least 15 days before the request for leave.

“(b)(1) Notwithstanding any other provision of this act or An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 977; D.C. Official Code § 32-1301 et seq.), the Mayor may, but shall not be required, to enforce violations of this section through investigation and administrative proceedings sua sponte or in response to an administrative complaint filed pursuant to section 13.

“(2) Before taking any other administrative action on a complaint filed pursuant to section 13, the Mayor shall promptly provide the employer with written notice of the alleged violation, in a form or manner to be determined by the Mayor, and give the employer 5 business days to cure the alleged violation. The time to cure the violation shall run from the date the employer receives the notice.

“(c) Notwithstanding any other provision of this act:

“(1) The paid leave required to be provided under this section shall be in addition to any other paid leave an employer provides an employee under an existing leave policy, including under an existing contract or collective bargaining agreement; provided, that a paid leave policy that exclusively and expressly provides for COVID vaccination and recovery leave, and does not reduce other available paid leave, in amounts equivalent to or greater than the paid leave required under this section shall satisfy the requirements of this section; and

“(2) Parties to a collective bargaining agreement may not waive or reduce the amount of leave an employer is required to provide pursuant to this section.

“(d) This section shall not apply to the extent it is preempted by a currently enforceable federal law, regulation, or standard.

“(e) For the purposes of this section, the term:

“(1) “Child” means a child under the age of 18 years who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility, or a foster child under the age of 18 years.

ENROLLED ORIGINAL

“(2) “Employer” does not include:

“(A) The District government; or

“(B) A public charter school, as the term is defined in section 2002(29) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-226; D.C. Official Code § 38-1800.02(29)).

“(3) “Vaccination leave” means leave taken from employment by an employee to receive an injection, or for an employee’s child to receive an injection, of a COVID-19 vaccination approved by the federal Food and Drug Administration, including a booster injection approved for the employee or child by the Centers for Disease Control and Prevention.

“(4) “Vaccination recovery leave” means leave taken from employment by an employee to recover, or for an employee to care for a child recovering, from side effects from a COVID-19 vaccination approved by the federal Food and Drug Administration, including a booster injection approved for the employee or child by the Centers for Disease Control and Prevention, which precludes the employee from performing his or her work.”.

(c) Section 4 (D.C. Official Code § 32-531.03) is amended as follows:

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

(2) New subsections (b) and (c) are added to read as follows:

“(b) An employer may not require an employee who seeks to use paid leave pursuant to section 3a to:

“(1) For any reason, provide more than 48 hours’ notice of the need to use such leave;

“(2) In the event of an emergency, provide more than reasonable notice of the employee’s need to use such leave; or

“(3) Search for or identify another employee to perform the work hours or work of the employee using paid leave.

“(c) An employer may not require an employee who seeks to use paid leave pursuant to section 3b to search for or identify another employee to perform the work hours or work of the employee using the paid leave.”.

(d) Section 5 (D.C. Official Code § 32-531.04) is amended as follows:

(1) A new subsection (a-2) is added to read as follows:

“(a-2) An employer may require that an employee who uses paid leave pursuant to section 3b to provide reasonable documentation upon return to work of the need for leave, which may include a vaccination record or other documentation attesting to the date and time of the vaccination injection.”.

(2) Subsection (b)(2) is amended by striking the phrase “under section 3” and inserting the phrase “under sections 3, 3a, or 3b” in its place.



## ENROLLED ORIGINAL

Sec. 3. The District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*), is amended by adding a new section 3a to read as follows:

“Sec. 3a. COVID-19 leave.

“(a) Beginning November 5, 2021, an employee shall be entitled to leave if the employee is unable to work because the employee:

“(1) Has tested positive for COVID-19 or is caring for a family member or individual with whom the employee shares a household who has tested positive for COVID-19 and must quarantine pursuant to Department of Health guidelines;

“(2) Has a recommendation from a health care provider or a directive from an employer that the employee isolate or quarantine due to COVID-19, including because the employee or an individual with whom the employee shares a household is at high risk for serious illness from COVID-19;

“(3) Must care for a family member or an individual with whom the employee shares a household, who is isolating or quarantining pursuant to Department of Health guidance, the recommendation of a health care provider, or the order or policy of the family member’s or individual’s school or childcare provider; or

“(4) Must care for a child whose school or place of care is closed or whose childcare provider is unavailable to the employee due to COVID-19.

“(b) An employee may use no more than 16 weeks of leave pursuant to this section in the 2-year period beginning on the effective date of the COVID Vaccination Leave Emergency Amendment Act of 2021, effective November 18, 2021 (D.C. Act 24-209; 68 DCR 12355).

“(c) An employer may require reasonable certification of the need for COVID-19 leave, including as follows:

“(1) If the leave is needed due to a positive COVID-19 test of the employee or employee’s family or household member, a copy of such test results with the date;

“(2) If the leave is necessitated by the recommendation of a health care provider to an employee’s family member or individual with whom the employee shares a household, a written, dated statement from a health care provider stating that the individual has such need and the probable duration of the condition;

“(3) If the leave is necessitated because of Department of Health guidance, a copy of such guidance and other supporting documentation that demonstrates the need for leave at the time it is taken or requested;

“(4) If the leave is needed because a child must quarantine due to school or childcare provider policy or orders, a copy of that policy or a dated statement from the head or administration of the school or childcare provider stating such need to quarantine or isolate or providing information and a dated copy of a communication to or from the school or childcare provider indicating the child had to quarantine; or

## ENROLLED ORIGINAL

“(5) If the leave is needed because a school, place of care, or childcare provider is unavailable due to COVID-19, a statement by the head of the agency, company, or childcare provider stating such closure or unavailability, which may include a printed statement obtained from the institution’s website.

“(d) An employer may require an employee to provide reasonable advance notice of leave taken under section; provided, that in the event of an emergency or an unforeseen need to use the leave an employer may not require an employee to provide advance notice of the employee's need to use leave, but may require notice to be provided as soon as reasonably practicable after leave is taken, but in no event fewer than 24 hours, after leave is taken.

“(e)(1) Except as provided in paragraphs (2) and (3) of this subsection, leave under this section may consist of unpaid leave.

“(2) Any paid leave provided by an employer that the employee elects to use for leave under this section shall count against the total workweeks of allowable leave provided in this act.

“(3) If an employer has a program that allows an employee to use the paid leave of another employee under certain conditions and the conditions have been met, the employee may use the paid leave and the leave shall count against the 16 workweeks of leave provided in this section.

“(4) An employee shall not be required, but may elect, to use leave provided under this section before other leave to which the employee is entitled under federal or District law or an employer’s policies, unless barred by District or federal law.

“(f) The provisions of section 6 shall apply to an employee who takes leave pursuant to this section.

“(g) An employer who willfully violates subsection (a), (b), (c), (d), or (e) of this section shall be assessed a civil penalty of \$1,000 for each offense.

“(h) The rights provided to an employee under this section may not be diminished by any collective bargaining agreement or any employment benefit program or plan; except, that this section shall not supersede any clause on family or medical leave in a collective bargaining agreement in force on the applicability date of this section for the time that the collective bargaining agreement is in effect.

“(i) For the purposes of this section, the term “COVID-19” means the disease caused by the novel coronavirus SARS-CoV-2.”.

Sec. 4. The Coronavirus Support Temporary Amendment Act of 2021, effective June 24, 2021 (D.C. Law 24-9; 68 DCR 6913), is amended as follows:

(a) Section 104(b) is repealed.

(b) Section 105(a) is amended as follows:

(1) Paragraph (1) is repealed.

(2) Paragraph (3) is repealed.

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Sec. 5. Applicability.

Section 3 and section 4(a) shall apply as of November 5, 2021.

Sec. 6. 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. 7. Effective date.

(a) This act shall take effect following the 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, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-256**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on a temporary basis, the Department of Insurance and Securities Regulation Establishment Act of 1996 within the Coronavirus Support Temporary Amendment Act of 2021 to grant the Commissioner of the Department of Insurance, Securities and Banking the authority to exercise emergency powers to issue emergency rules, orders, or bulletins during the existence of a public emergency declared by the Mayor pursuant to the District of Columbia Public Emergency Act of 1980.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Department of Insurance, Securities and Banking Emergency Powers Temporary Amendment Act of 2021”.

Sec. 2. Amendatory section 5a of the Department of Insurance and Securities Regulation Establishment Act of 1996, effective June 24, 2021 (D.C. Law 24-9; D.C. Official Code § 31-104.01), in section 310 is amended to read as follows:

(a) The section heading is amended to read as follows:

“Sec. 5a. Emergency authority of the Commissioner during a declared public emergency.”.

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

(1) The lead-in text is amended as follows:

(A) Strike the phrase “public health emergency declared” and insert the phrase “public emergency declared” in its place.

(B) Strike the phrase “(public health emergency)” and insert the phrase “(“public emergency”)” in its place.

(2) Paragraph (2)(K) is amended by striking the phrase “public health emergency” and inserting the phrase “public emergency” in its place.

(c) Subsection (c)(2) is amended by striking the phrase “public health emergency” and inserting the phrase “public emergency” in its place.

Sec. 3. Fiscal impact statement.


ENROLLED ORIGINAL


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

Sec. 4. Effective date.

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

  
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Chairman  
Council of the District of Columbia

  
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Mayor  
District of Columbia  
APPROVED  
December 22, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-257**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on a temporary basis, the Legalization of Marijuana for Medical Treatment Initiative of 2010 to clarify the eligibility requirements for utilizing the 50-point or 20% preference on an application for a dispensary, cultivation center, or testing laboratory registration when an applicant is certified by the Department of Small and Local Business Development as an equity impact enterprise; and to amend the Small and Certified Enterprise Development and Assistance Act of 2005 to clarify the definition of equity impact enterprise.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fifty-Point Preference Clarification Temporary Amendment Act of 2021”.

Sec. 2. Section 7(d)(5) of the Legalization of Marijuana for Medical Treatment Initiative of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(d)(5), is amended to read as follows:

“(5)(A) An application for registration of a dispensary, cultivation center, or testing laboratory submitted by an applicant that meets all of the requirements of a medical cannabis certified business enterprise, as set forth in subparagraph (C) of this paragraph, shall be awarded a point preference equal to 50 points or 20% of the available points, whichever is greater.

“(B) Straw ownership for the purposes of meeting the medical cannabis ownership requirements of this section is prohibited, both for a District resident and an out-of-state resident. A person who is found to have willfully asserted straw ownership shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned for not more than one year, or both.

ENROLLED ORIGINAL

“(C) To qualify as a medical cannabis certified business enterprise the applicant shall:

“(i) Be certified by the Department of Small and Local Business Development (“Department”) as an equity impact enterprise, as defined by section 2302(8A) of the Small and Certified Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(8A)), (“CBE Act”) and rules issued pursuant to the CBE Act;

“(ii) Demonstrate to the satisfaction of the Department that more than 50% of the employees of the business enterprise are residents of the District;

“(iii) Demonstrate to the satisfaction of the Department that more than 50% of the assets of the business enterprise, excluding bank accounts, are located in the District; and

“(iv) Submit a form to the Alcoholic Beverage Regulation Administration attesting under the penalty of perjury that the annual personal net income of each owner of the enterprise applying for registration of a dispensary, cultivation center, or testing laboratory does not exceed \$349,999.”.

Sec. 3. Section 2302A)(8A)(A) of the Small and Certified Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(8A)), is amended by striking the phrase “; or” and inserting the phrase “; and” 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.

(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

ENROLLED ORIGINAL

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, 2021



ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-258**

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend, on a temporary basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time limit for the disposition of certain District-owned real properties located at 2501 1st Street, N.W., formerly the McMillan Sand Filtration Site, and known for tax and assessment purposes as Lot 0800 in Square 3128.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “McMillan Townhomes Parcels, Commercial Parcels, and Multifamily Parcels Extension of Disposition Authority Temporary Amendment Act of 2021”.

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-9) to read as follows:

“(d-9) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of the District-owned real property located at 2501 1st Street, N.W., formerly the McMillan Sand Filtration Site, and known for tax and assessment purposes as Lot 0800 in Square 3128, pursuant to the McMillan Residential Townhomes Parcel Disposition Approval Resolution of 2014, effective December 2, 2014 (Res. 20-705; 62 DCR 1091), the McMillan Commercial Parcels Disposition Approval Resolution of 2014, effective December 2, 2014 (Res. 20-707; 62 DCR 1097), and the McMillan Residential Multifamily Parcels Disposition Approval Resolution of 2014, effective December 2, 2014 (Res. 20-706; 62 DCR 1094), and as extended by the McMillan Townhomes Parcel, Commercial Parcel, and Multifamily Parcels Disposition Extension Approval Resolution of 2015, effective November 3, 2015 (Res. 21-253; 66 DCR 4330), is extended to the expiration date of this subsection.”

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).


ENROLLED ORIGINAL

Sec. 4. Effective date

(a) This act shall take effect following the 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. 788; 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.

  
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Chairman  
Council of the District of Columbia

  
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Mayor  
District of Columbia  
APPROVED  
December 22, 2021

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-259**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To amend the Senior Citizen Motor Vehicle Accident Prevention Course Certification Act of 1983 to offer motor vehicle accident prevention classroom and online courses to any licensed driver in the District, to endeavor to make course criteria consistent with the goals of the District’s Vision Zero Initiative, and to provide corresponding reductions in motor vehicle insurance premiums in order to improve driver, cyclist, and pedestrian safety.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Motor Vehicle Accident Prevention Amendment Act of 2021”.

Sec. 2. The Senior Citizen Motor Vehicle Accident Prevention Course Certification Act of 1983, effective February 9, 1984 (D.C. Law 5-46; D.C. Official Code § 50-2001 *et seq.*), is amended as follows:

- (a) The long title is amended by striking the phrase “courses for individuals 55 years of age and older” and insert the word “courses” in its place.
- (b) The short title is amended by striking the phrase “Senior Citizen Motor” and inserting the word “Motor” in its place.
- (c) Section 2 (D.C. Official Code § 50–2001) is repealed.
- (d) Section 3 (D.C. Official Code § 50-2002) is amended to read as follows:  
“Sec. 3. Approval of courses; certificate of completion.  
“(a) The Department of Motor Vehicles shall establish criteria and guidelines for the approval of motor vehicle accident prevention courses (“course”) for all licensed drivers.  
“(b) An approved classroom course shall require that each student receives a minimum of 6 hours of instruction for the initial course and 4 hours of instruction for the renewal courses.  
“(c) An approved online course shall require that each student receives validation of instruction that is equal to or greater than that offered in a classroom course.  
“(d) All course criteria shall endeavor to be consistent with the goals of the District’s Vision Zero Initiative, including a focus on how drivers can ensure the safety of pedestrians and bicyclists.

**ENROLLED ORIGINAL**

“(e) An individual who successfully completes an approved course shall be issued a certificate of completion by the organization operating the course.”.

(e) Section 4 (D.C. Official Code § 50-2002) is repealed.

(f) Section 5 (D.C. Official Code § 50–2003) is amended to read as follows:

“Sec. 5. Insurance discounts.

“(a) All insurance companies authorized to sell motor vehicle insurance in the District of Columbia shall provide a discount in the amount charged for a motor vehicle insurance policy to all licensed drivers who have successfully completed an approved course.

“(b) Any schedule of rates or any rating plan for a motor vehicle insurance policy approved by the Department of Insurance shall provide for an appropriate 2-year discount in the premiums for all licensed drivers who have successfully completed an approved course.

“(c) A certificate of completion issued pursuant to section 3(e) shall qualify an individual for the discount set forth in subsection (b) of this section during the 2-year period immediately following issuance of the certificate.

“(d) An individual shall complete an approved course every 2 years in order to continue to be eligible for a discount in the premiums of a motor vehicle policy of insurance provided pursuant to subsection (b) of this section.”.

(g) Section 6 (D.C. Official Code§ 50–2003) is repealed.

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.

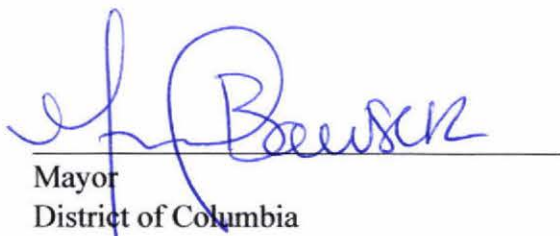
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

**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, 2021

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-260**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
**DECEMBER 22, 2021**

To approve the disposition of District-owned real property located at 545 7th Street, S.E., commonly known as the B.B. French School, and known for real property taxation and assessment purposes as Lot 0877 in Square 0800.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “B.B. French School Disposition Act of 2021”.

Sec. 2. Notwithstanding any other provision of law, including An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), and section 2209 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.09), the Council determines that the real property located at 545 7th Street, S.E., commonly known as the B.B. French School, and known for real property taxation and assessment purposes as Lot 0877 in Square 0800 (“Property”), is surplus and is no longer required for public purposes and authorizes the Mayor to dispose of the Property through a 20-year lease to the Capitol Hill Arts Workshop, a District of Columbia nonprofit corporation, and to execute any documents related to the disposition.

Sec. 3. Fiscal impact statement.


The Council adopts the fiscal 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.



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
December 22, 2021

ENROLLED ORIGINAL

AN ACT  
**D.C. ACT 24-261**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To approve the disposition of District-owned real property located at 2330 Pomeroy Road, S.E., commonly known as the Wilkinson School, and known for real property taxation and assessment purposes as Lot 0806 in Square 5828.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Wilkinson School Disposition Authorization Act of 2021”.

Sec. 2. Notwithstanding any other provision of law, including An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), and section 2209 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.09), the Council authorizes the Mayor to dispose of the real property located at 2330 Pomeroy Road, S.E., commonly known as the Wilkinson School, and known for real property taxation and assessment purposes as Square 5828, Lot 0806, to D.C. Preparatory Academy, a District of Columbia nonprofit corporation, pursuant to a 25-year lease with a 25-year extension option, and to execute any documents related to the disposition.

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

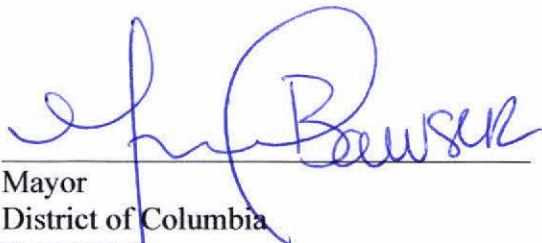


ENROLLED ORIGINAL

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, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-262**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 22, 2021**

To remove, on an emergency basis, from the plan for the extension of a permanent system of highways a portion of 50th Street, N.E., located within Lot 825 in Square 5194; to order the closing of a portion of 50th Street, N.E., between Fitch Place, N.E., and Nannie Helen Burroughs Avenue, N.E., adjacent to Square 5194; and to accept the dedication of Lots 828 and 830 in Square 5194 for public street purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Omnibus Progressive National Baptist Convention Redevelopment Emergency Act of 2021”.

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04), and consistent with An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities, approved March 2, 1893 (27 Stat. 532; D.C. Official Code § 9-103.01 *et seq.*), the Council amends the plan for the extension of a permanent system of highways to remove a portion of 50th Street, N.E., located within Lot 825 in Square 5194, south of Nannie Helen Burroughs Avenue, N.E., and north of Fitch Place, N.E., as shown on the Surveyor’s plat filed under S.O. 21-02992.

(b) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*) (“Act”), the Council finds that a portion of 50th Street, N.E., between Fitch Place, N.E., and Nannie Helen Burroughs Avenue, N.E., and adjacent to Square 5194, as shown on the Surveyor’s plat filed under S.O. 21-02992, is unnecessary for street purposes and orders it closed with title to the land to vest as shown on the Surveyor’s plat.

(c) Pursuant to sections 302 and 401 of the Act (D.C. Official Code §§ 9-203.02 and 9-204.01), and notwithstanding the requirements set forth in sections 303 and 421 of the Act (D.C. Official Code §§ 9-203.03 and 9-204.21), the Council accepts the dedication of Lots 828 and 830 in Square 5194 for public street purposes and designates the dedicated land as a portion of 50th

ENROLLED ORIGINAL

Street, N.E., as shown on the Surveyor's plat filed under S.O. 21-02992.


(d) The ordering of the removal a portion of 50th Street, N.E., from the plan for the extension of a permanent system of highways set forth in subsection (a) of this section, the closure of a portion of 50th Street, N.E., set forth in subsection (b) of this section, and the dedication of land for public street purposes set forth in subsection (c) of this section is contingent upon satisfaction of the conditions set forth by the District Department of Transportation in the official file for S.O. 21-02992.


Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Omnibus Progressive National Baptist Convention Redevelopment Act of 2021, passed on 1st reading on December 7, 2021 (Engrossed version of Bill 24-291), 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)).

  
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Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
December 22, 2021

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 24-263**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 31, 2021**

To amend, on an emergency basis, due to congressional review, An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen and for other purposes to set qualifications for members of the Public Service Commission.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Public Service Commission Member Qualifications Congressional Review Emergency Amendment Act of 2021”.

Sec. 2. Paragraph 97(a) of Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen and for other purposes, approved March 4, 1913 (37 Stat. 995; D.C. Official Code § 34-801), is amended by striking the phrase “1978.” and inserting the phrase “1978. Of the 3 members of the Commission, for members nominated after October 1, 2021, one member shall have experience in electric grid modernization and renewable energy integration or technology and, where possible, issues impacting the environment, and one member shall have experience in consumer protection. The first member nominated after October 1, 2021, shall be the member with experience in electric grid modernization and renewable energy integration or technology, and the second member nominated after October 1, 2021, shall be the member with experience in consumer protection.” in its place.

Sec. 3. Applicability.

This act shall apply as of December 30, 2021.


Sec. 4. Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 5. Effective date.

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

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

UNSIGNED

\_\_\_\_\_  
Mayor  
District of Columbia  
December 22, 2021

## ENROLLED ORIGINAL

## A RESOLUTION

24-329

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To declare the existence of an emergency with respect to the need to approve multiyear Contract No. CW90443 with Motorola Solutions, Inc. to provide maintenance and support for the Office of Unified Communications' public radio systems.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CW90443 with Motorola Solutions, Inc. Emergency Declaration Resolution of 2021".

Sec. 2. (a) The Office of Contracting and Procurement, on behalf of the Office of Unified Communications, proposes to enter into a multiyear contract with Motorola Solutions, Inc. to provide maintenance and support for the Office of Unified Communications' public radio systems.

(b) The not-to-exceed price for the term of this multiyear contract with Motorola Solutions, Inc. is \$69,111,669.56 for the period from the date of award through September 30, 2027.

(c) The reason for the emergency is that the District currently operates 7,100 Motorola radios that have reached the end of their lifespan. The District requires new UL certified equipment to safely perform public safety communications on a continuous and uninterrupted basis. Supply chain delays are such that if this emergency procurement is not completed by the end of 2021, Motorola cannot deliver new equipment to the District until mid-2022 at a substantially higher price. Any delays will risk the safety of emergency personnel and District residents.

(d) Council approval is necessary to allow the District to receive the benefit of this vital service in a timely manner from Motorola Solutions, Inc.

(e) These critical services can only be obtained through an award of the multiyear contract with Motorola Solutions, Inc.

Sec 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. CW90443 with Motorola Solutions, Inc. Emergency Approval Resolution of 2021 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

24-330

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To approve, on an emergency basis, multiyear Contract No. CW90443 with Motorola Solutions, Inc. to provide maintenance and support for the Office of Unified Communications’ public radio systems.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No CW90443 with Motorola Solutions, Inc. Emergency Approval Resolution of 2021”.

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)(3)), the Council approves multiyear Contract No. CW90443 with Motorola Solutions, Inc. to provide maintenance and support for the Office of Unified Communications’ public radio systems in the not-to-exceed amount of \$69,111,669.56.

Sec. 3. Transmittal.

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

24-332

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To declare the existence of an emergency with respect to the need to amend the Department of Small and Local Business Development Grant Act of 2021 to clarify that the Friendship Heights Alliance is the intended recipient of a budgeted grant.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “DSLBD Noncompetitive Grant Clarification Emergency Declaration Resolution of 2021”.

Sec. 2. (a) The last decade has seen a slow decline of commercial activity and sense of place in the Friendship Heights neighborhood of Ward 3, and that decline was only accelerated by the COVID-19 pandemic. A recent Urban Land Institute Technical Assistance Panel, co-sponsored by the Washington Metropolitan Area Transit Authority, Metropolitan Washington Council of Governments, and the District’s Office of Planning, highlighted the incredible potential for a vibrant neighborhood with new mixed-income housing and neighborhood-serving retail. In response, most of the major landowners sought to cooperatively form a formal organization that could leverage their resources with District funds for place making and economic development. On September 24, 2021, the Friendship Heights Alliance was established to do that work.

(b) On August 10, 2021, the Council passed the Fiscal Year 2022 Budget Support Act of 2021, effective November 13, 2021 (D.C. Law 24-45; 68 DCR 10163) (“Budget Support Act”). Section 2112 of the Budget Support Act includes a list of 3 grants to be awarded by the Department of Small and Local Business Development (“DSLBD”) during Fiscal Year 2022, including a grant of not less than \$300,000 to be provided to an organization partnering with property owners in the Friendship Heights neighborhood for place making, place management, branding, and economic development.

(c) Funding for that grant was proposed for inclusion in the Fiscal Year 2022 budget by the Committee on Transportation and the Environment (“Committee”) to directly support the revitalization of the Friendship Heights neighborhood, and in anticipation of the Friendship



## ENROLLED ORIGINAL

Heights Alliance being established to undertake that work and with full knowledge that it was in the process of being incorporated. Had the Friendship Heights Alliance formally existed at that time, the Committee would have sought to allocate funds directly to it. The Committee's budget report speaks directly to its intent for these funds to be allocated to Friendship Heights Alliance, once established, by name in each instance the grant funds are mentioned, including stating its intent to allocate "\$300,000 in one-time funds to the Department of Small and Local Business Development to support the Friendship Heights Alliance." When the Council cast its final vote on the Budget Support Act on August 10, 2021, however, the Friendship Heights Alliance was not yet officially formed, so the language in the Budget Support Act could not name the entity directly.

(d) With a quarter of the fiscal year gone, the organization is losing time to begin the necessary work to revitalize the neighborhood. Efforts to revitalize the Maryland side of the neighborhood are moving apace and the organization is well-placed to coordinate with our jurisdictional neighbor, if they have funding to support their work. Agreements with other organizations to begin place-making efforts are currently unable to be signed because the funds are being held up.

(e) This emergency legislation is necessary to provide for the expeditious award of these grant funds to the Friendship Heights Alliance as intended by the Council in the Budget Support Act, facilitating the start of this entity's important work revitalizing the Friendship Heights neighborhood.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the DSLBD Noncompetitive Grant Clarification Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

24-333

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To declare the existence of an emergency with respect to the need to amend the Coronavirus Support Temporary Amendment Act of 2021 to authorize certain emergency procurements deemed necessary to respond to changing public health conditions and to protect the health and safety of District residents.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Limited Coronavirus Procurement Extension Emergency Declaration Resolution of 2021”.

Sec. 2. (a) The Council acted to return the District to normal procurement operations as of November 5, 2021, in order to ensure adequate transparency, accountability, and competition in the District procurement system after approximately 20 months of expedited procurement authority pursuant to the declared public emergency.

(b) Since November 5, 2021, the introduction of the Omicron variant and local increases in coronavirus infections have further endangered the District’s public health and safety.

(c) The Mayor has indicated that normal procurement operations may result in delays in certain procurements necessary to address public health needs, particularly where jurisdictions are competing for supplies from a limited number of national and international vendors.

(d) An emergency need exists to continue to authorize certain emergency procurements during the continuing threat to the health and safety of residents due to the still present and virulent coronavirus.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Limited Coronavirus Procurement Extension Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

24-334

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To declare the existence of an emergency with respect to the need to extend the disposition of District-owned real property located at 500 19th Street, N.E., commonly known as the Gibbs School, and known for real property taxation and assessment purposes as Square 4531, Lot 0037, and to extend the disposition of District-owned real property located at 200 Douglas Street, N.E., commonly known as the Shaed School, and known for real property taxation and assessment purposes as Square 3552, Lot 0816.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Gibbs School and Shaed School Leases Extension Authorization Emergency Declaration Resolution of 2021”.

Sec. 2. (a) There exists an immediate need to extend the leases for the District-owned real property located at 500 19<sup>th</sup> Street N.E., commonly known as the Gibbs School, and known for tax and assessment purposes as Square 4531, Lot 0037, and the District-owned real property located at 200 Douglas Street, N.E., commonly known as the Shaed School, and known for real property taxation and assessment purposes as Square 3552, Lot 0816.

(b) In March 2014, the District executed a 20-year lease with the Shaed School, LLC for the District-owned property located at 200 Douglas Street N.E., which is commonly known as the Shaed School (Square 3552, Lot 0816). Additionally, in February 2015, the District executed a 20-year lease with the Charter School Incubator Initiative (“CSII”) for the District-owned property located at 500 19th Street N.E., which is commonly known as the Gibbs School (Square 4531, Lot 0037).

(c) The Shaed School, LLC is a limited liability corporation formed between Inspired Teaching and CSII. CSII is a nonprofit corporation that allows new public charter schools in the District an opportunity to incubate in one of its properties until the public charter schools grow and stabilize. CSII identifies and secures property, including obtaining project financing for the renovation of the school building. This allows public charter school leaders the opportunity to focus on their educational programs instead of real estate. Often, once the public charter schools reach stabilization, they assume control over the school building in which they were incubating.

(d) After the District of Columbia Public Schools (“DCPS”) closed the Gibbs School in 2009 and the Shaed School in 2011, the District declared the property surplus and available for reuse in May 2013. After undergoing the Request for Offers process, the Shaed School, LLC was awarded the Shaed School in October 2013 and executed a 20-year lease with the District on March 4, 2014. CSII was awarded the Gibbs School in December 2014 and executed a 20-year lease with the District on February 12, 2015.

## ENROLLED ORIGINAL

(e) On the same day that the Shaed School, LLC executed its lease with the District for Shaed, it also executed a sublease with Inspired Teaching Demonstration Public Charter School (“Inspired Teaching”), which is a Tier 1 pre-K – 8th grade public charter school. Inspired Teaching remains there to this day. The school had 498 students enrolled during School Year 2020-2021, of which 16% were designated at-risk, 6% of its students were English Language Learners, and 20% of its students had special needs.

(f) Likewise, on the same day that CSII executed its lease with the District for Gibbs, it also executed a sublease with Monument Academy Public Charter School (“Monument”), which is a 5th through 8th grade weekday boarding public charter school. Monument remains there to this day. The school has 128 students enrolled during School Year 2021-2022, and its student population is 100% African American. During School Year 2020-2021, 85% of Monument’s students were designated “at-risk,” 28% of its students were homeless, and 50% of its students had special needs. Monument’s demographics for School Year 2021-2022 are similar to those of School Year 2020-2021.

(g) To renovate and modernize the Shaed School to meet the needs of Inspired Teaching, the Shaed School, LLC took out \$12.5 million in debt, and to renovate and modernize the Gibbs School to meet the needs of Monument, CSII took out over \$18 million in debt. Such a practice is common because the public schools that CSII generally leases from the District have sat fallow for years and fallen into disrepair. In the case of Monument, the Gibbs School had to be renovated to create a dormitory for its students since it is a boarding public charter school.

(h) Both the Shaed School, LLC and CSII expected to be able to amend their existing leases with the District to obtain better lease terms – 25 years with an additional 25-year option, as these are the typical lease terms being included when the District property is a school, and it is being leased to a public charter school or CSII. Such terms would have then allowed their debt to be financed long-term with rates and an amortization schedule that would be affordable to the Shaed School, LLC, CSII, Inspired Teaching, and Monument, which hope to assume the leases for the Shaed and Gibbs, respectively, with the District and any outstanding debt that remains with regard to the respective properties.

(i) Despite the Shaed School, LLC and CSII alerting the Executive over 2 years ago that they would need extended leases, the Executive failed to undertake the disposition process laid out in section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), and did not transmit any permanent legislation to effectuate an extended lease until the week of December 6, 2021 for either property. During this 2-year period, CSII’s \$18 million debt matured on June 30, 2021. While CSII was able to obtain a 6-month grace period, that period ends on December 31, 2021. At that point CSII’s lender could call on CSII to pay its outstanding debt. If this were to occur under the current financing terms, CSII would default on the loan. The Shaed’s School \$12.5 million debt matured on December 1, 2021. Although Shaed School, LLC has a 15-day cure period, the lender could call on it to pay its outstanding debt. If this were to occur under the current financing terms, the Shaed School, LLC, and specifically CSII, would default on the loan.

(j) Notably, these measures would simply maintain the status quo and, on a practical level, is not a new situation. Moreover, there is no indication of any change in circumstance that would suggest that the Gibbs School or the Shaed School is needed for any other purpose than as a public charter school.

**ENROLLED ORIGINAL**

(k) The nature of CSII's financing for all of the buildings for which it has loans is such that if CSII defaults on one of its loans, it defaults on all of its loans. Thus, if CSII was to default on either the Shaed School or Gibbs School loans, this would result in not just 128 students at Monument and the approximately 500 students at Inspired Teaching losing their school buildings, but eight local education agencies and hundreds to thousands of public charter school students losing their school buildings. Further, given Monument's high percentage of homeless students, losing their school building has even greater stakes for them – they will lose their homes – their safe, stable, and reliable shelter – that they have for 5 nights of a week. This would be unconscionable, especially as this issue has been prevalent for well over 2 years.

(l) All of the reasons enumerated in this section make it clear that an emergency need exists to authorize lease extensions for the Gibbs School and Shaed School to both CSII and Shaed School LLC, respectively, now and not to wait for the permanent legislation.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Gibbs School and Shaed School Leases Extension Authorization Emergency Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

24-335

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To declare an emergency with respect to the need to amend the Immunization of School Students Act of 1979 to allow for electronic submission of immunization certifications a by healthcare professional authorized to administer a vaccine or the public health authorities, and to require that eligible students in the District of Columbia receive a vaccination that is fully approved in the United States to prevent against COVID-19; and to amend Chapter 1 of Subtitle A of Title 5 of the District of Columbia Municipal Regulations to require all licensed Child Development Facilities to maintain a record of COVID-19 immunization for their staff.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Coronavirus Immunization of School Students and Early Childhood Workers Regulation Emergency Declaration Resolution of 2021”.

Sec. 2. (a) There exists an immediate need to decrease the spread of COVID-19, especially in cohort settings like schools and childcare centers.

(b) As of December 7, 2021, almost 1,200 individuals in the District have died from COVID-19 and over 68,000 individuals have tested positive of COVID-19. Of those 68,000 positive individuals, 12,721 have been between the ages of 0 and 19 years of age.

(c) Although children are often less affected than older adults, students with certain medical conditions are at a much greater risk of contracting the virus and of being more adversely affected. Additionally, COVID-19 cases continue to permeate in schools, with whole schools, such as Johnson Middle School and Whittier Education Campus, having to be shut down due to the number of positive cases and hundreds of students being considered close contacts.

(d) On August 23, 2021, the vaccine known as the Pfizer-BioNTech COVID-19 Vaccine was fully approved by the U.S. Food and Drug Administration for the prevention of COVID-19 disease in individuals 16 years of age and older.

(e) As studies have shown, the COVID-19 vaccination reduces the risk of COVID-19 and its potentially severe complications. In addition to providing protection against COVID-19, there is increasing evidence that COVID-19 vaccines also provide protection against COVID-19 infections without symptoms (asymptomatic infections) and can reduce the spread of disease overall.

## ENROLLED ORIGINAL

(f) The Council has received multiple requests from parents for a vaccine requirement, not recommendation, for all eligible students for the 2021-22 School Year. The current policy disallows enrollment in school without proper vaccination.

(g) This bill requires that beginning March 1, 2022, all eligible students must provide a certification of COVID-19 immunization or documentation demonstrating that the student is exempt from COVID-19 immunization. In order to provide necessary time and sufficient notice, this requirement will not be enforced until the start of School Year 2022-2023.

(h) As follows, all children under the age of 5 in childcare facilities are currently unvaccinated, as there exists no eligible vaccine for this age group. Unvaccinated adults caring for young children present serious risk of spreading the COVID-19 virus. The emergency legislation would require all staff employed at child development facilities licensed by the Office of the State Superintendent to receive a full COVID-19 vaccination and provide related documentation annually.

(i) Multiple families and local education agencies (“LEA”) report a disconnect in vaccine reporting. In order to clear communication channels, this bill will require student certifications of all immunization data to be electronically transmitted by either a healthcare professional authorized to administer a vaccine or the public health authorities directly to the student’s local education agency.

(j) On October 4, 2021, the Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021 was introduced as permanent legislation. Upon a hearing, this bill received a first vote at the December 7, 2021, legislative meeting. The date for which eligible students are required to be fully vaccinated in 3 months away. As follows, an emergency need exists to mandate student vaccination to allow for timely notice.

(k) D.C. Act 24-190, the Protecting Our Children Emergency Amendment Act of 2021, and D.C. Act 24-241, the Protecting Our Children Temporary Amendment Act of 2021, require each District of Columbia Public Schools school and public charter school to conduct weekly asymptomatic testing for the COVID-19 virus of at least 20% of its students attending in-person learning from November 15, 2021, through January 15, 2022. While the Council was hopeful that the number of COVID-19 cases would be declining, and thus, less of a need for asymptomatic testing, the opposite is true due to the spread of the Omicron variant. Therefore, due to the recent rise in the COVID-19 positive cases and the spread of this new variant, the requirement for testing 20% of all of their students – both vaccinated and unvaccinated – is being extended from January 15, 2022, to April 1, 2022.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Coronavirus Immunization of School Students and Early Childhood Workers Regulation Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

24-336

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To declare the existence of an emergency with respect to the need to amend the Redistricting Procedure Act of 1981 to adjust the ward boundaries within the District of Columbia; to amend the Boundaries Act of 1975 to include a reference for clarity; to amend Title 18 of the District of Columbia Municipal Regulations to preserve the existing residential permit parking zones in areas that are changing wards; and to amend the State Board of Education Establishment Act of 2007 to replace residency qualifications that could prevent persons who change wards as a result of redistricting from becoming candidates for the office of ward member in the year following redistricting.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Ward Redistricting Emergency Declaration Resolution of 2021”.

Sec. (a) The Ward Redistricting Amendment Act of 2021, passed on 2nd reading on December 21, 2021 (Enrolled version of Bill 24-371) (“Act”), established new ward boundaries that shall be effective January 1, 2022.

(b) Because the Act is not projected to become law until February at the earliest, and the new boundaries are to take effect January 1, 2022, it is necessary to adopt the ward boundaries on an emergency basis.

Sec. 3. The Council of the District of Columbia determines that the circumstances in section 2 constitute emergency circumstances making it necessary that the Ward Redistricting Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



ENROLLED ORIGINAL

## A RESOLUTION

24-337

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 21, 2021

To declare the existence of an emergency, with respect to the need to extend the Mayor's authority to declare a public emergency.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public Emergency Extension Emergency Declaration Resolution of 2021."

Sec. 2. (a) On March 11, 2020, the Mayor of the District of Columbia issued Mayor's Order 2020-45, declaring a public emergency in the District due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of COVID-19. Additional orders have since been issued. To protect the public the Mayor must continue the public emergency.

(b) The Mayor's current authority to maintain the public emergency expires on January 7, 2022. To continue to limit the spread of COVID-19, it is necessary to extend the Mayor's authority until March 17, 2022.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Public Emergency Extension Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

B24-0578      Dedication of a Portion of W Street, SE, S.O. 16-24322 Act of 2021

Intro. 12-20-2021 by Councilmember T. White and referred to the Committee of the Whole

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B24-0579      900 55th Street NE and 2327-2341 Skyland Terrace SE DC Habitat Real Property Tax Exemption Extension of 2021

Intro. 12-21-2021 by Councilmembers Bonds, Henderson, and Cheh and referred to the Committee on Business and Economic Development

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PR24-0526      Emergency Medical Services Regulations Approval Resolution of 2021

Intro. 12-21-2021 by Chairman Mendelson and referred to the Committee on Health

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COUNCIL OF THE DISTRICT OF COLUMBIA  
**COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT**  
MARY M. CHEH, CHAIR

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**NOTICE OF PUBLIC HEARING ON**

**Bill 24-267, the Climate Commitment Act of 2021**

**and**

**Bill 24-420, the Clean Energy DC Building Code Amendment Act of 2021**

Tuesday, January 25, 2021, at 3:00 PM

**Councilmember Cheh's Facebook Page** ([facebook.com/cmmaricheh](https://www.facebook.com/cmmaricheh))

**DC Council Website** (<https://dccouncil.us/>)

**Council Channel 13** (Cable Television Providers)

**Office of Cable Television Website** ([entertainment.dc.gov](https://www.entertainment.dc.gov))

On Tuesday, January 25, 2021, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a hearing on Bill 24-267, the Climate Commitment Act of 2021, and Bill 24-420, the Clean Energy DC Building Code Amendment Act of 2021. The hearing will begin at 3:00 PM and be broadcast live on DC Council Channel 13 and streamed live at [www.dccouncil.us](https://www.dccouncil.us), [facebook.com/cmmaricheh](https://www.facebook.com/cmmaricheh), and [entertainment.dc.gov](https://www.entertainment.dc.gov).

Bill 24-267 would codify the greenhouse gas emissions reduction goals set in the Sustainable DC Plan, mandating that the District reduce emissions of greenhouse gases to a level consistent with carbon neutrality by 2050, as well as adding interim targets for greenhouse gas reductions between 2025 and 2050. In addition, the legislation would require the District to achieve carbon neutrality for emissions associated with District government operations by 2040, and prepare an inter-agency action plan for achieving this goal. The legislation would also require the Department of Energy and Environment to report annually on the District's progress toward these targets. Bill 24-420 would codify the net-zero energy targets in the Mayor's Clean Energy DC Plan by requiring that, by January 1, 2026, all new construction be subject to net-zero standards set by the Mayor.

Due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of the coronavirus, the Council has adapted the methods by which committees may hold public hearings and roundtables to comply with social distancing, large public gatherings, and other public health and safety requirements. Therefore, this public roundtable will be held remotely through the Zoom teleconferencing platform.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, Staff Assistant to the Committee on Transportation and the Environment, at least 24 hours prior to the start of the hearing at (202) 724-8062 or via e-mail

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT  
MARY M. CHEH, CHAIR

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at [abenjamin@dccouncil.us](mailto:abenjamin@dccouncil.us); witnesses will receive information on how to join the hearing at that time. Witnesses who anticipate needing language interpretation, or requiring sign language interpretation, are requested to inform the Committee of the need as soon as possible but no later than five business days before the hearing, which is January 18, 2022. We will make every effort to fulfill timely requests; however, requests received in less than five business days may not be fulfilled and alternatives may be offered.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record; testimony may be submitted to [abenjamin@dccouncil.us](mailto:abenjamin@dccouncil.us). The public may also leave voicemail testimony for the Committees by calling (202) 350-1344, which will be transcribed and made part of the hearing record. Members of the public leaving voicemail testimony should speak slowly and clearly, state their full name and the organization they represent, if any, and note the bill, hearing, or agency that they are submitting testimony on. Members of the public are asked to not provide an e-mail, phone number, or other personal contact information in voicemail testimony.

The record will close at the end of the business day on February 8, 2022.

COUNCIL OF THE DISTRICT OF COLUMBIA  
**COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT**  
MARY M. CHEH, CHAIR

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**NOTICE OF PUBLIC HEARING ON**

**Bill 24-511, the Department of Motor Vehicles Extension of Deadlines Amendment Act of 2021**

February 4, 2022 at 3:00 PM  
Councilmember Cheh's Facebook Page ([facebook.com/cmmarycheh](https://www.facebook.com/cmmarycheh))  
DC Council Website ([dccouncil.us](https://www.dccouncil.us))  
Council Channel 13 (Cable Television Providers)  
Office of Cable Television Website ([entertainment.dc.gov](https://www.entertainment.dc.gov))

On February 4, 2022, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on Bill 24-511, the Department of Motor Vehicles Extension of Deadlines Amendment Act of 2021. The hearing will begin at 3:00 PM and will be broadcast live on DC Council Channel 13 and streamed live at [www.dccouncil.us](https://www.dccouncil.us), [facebook.com/cmmarycheh](https://www.facebook.com/cmmarycheh), and [entertainment.dc.gov](https://www.entertainment.dc.gov).

Bill 24-511, introduced by Chairman Mendelson at the request of the Mayor, would allow the Director of the Department of Motor Vehicles to extend due dates for matters under the jurisdiction of the Department as a result of a major disruption in the Department's operations.

Due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of the coronavirus, the Council has adapted the methods by which committees may hold public hearings and roundtables to comply with social distancing, large public gatherings, and other public health and safety requirements. Therefore, this public hearing will be held remotely through the Zoom teleconferencing platform.

The public is invited to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, Staff Assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at [abenjamin@dccouncil.us](mailto:abenjamin@dccouncil.us); witnesses will receive information on how to join the hearing at that time. Witnesses who anticipate needing language interpretation, or requiring sign language interpretation, are requested to inform Ms. Benjamin of the need as soon as possible but no later than five business days before the hearing, which is January 28, 2022. We will make every effort to fulfill timely requests, however requests received in less than five business days may not be fulfilled and alternatives may be offered.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record; testimony may be submitted to [abenjamin@dccouncil.us](mailto:abenjamin@dccouncil.us). The public may also leave voicemail testimony for the record by calling (202) 350-1344, which will be transcribed and made part of the hearing record. Members of the public leaving voicemail testimony should speak slowly and clearly, state their full name and the organization they represent, if any, and note the bill about which they are submitting testimony. Members of the public are asked to not provide an e-mail, phone number, or other personal contact information in voicemail testimony.

The record will close at the end of the business day on February 18, 2022.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 24-570 “Schools First in Budgeting Amendment Act of 2021” and  
Bill 24-571 “Schools Full Budgeting Amendment Act of 2021”**

on

**Thursday, January 20, 2022 at 10:30am**

**Live via Zoom Video Conference Broadcast  
Chairman’s Website ([www.ChairmanMendelson.com/live](http://www.ChairmanMendelson.com/live))**

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on **Bill 24-570**, the “Schools First in Budgeting Amendment Act of 2021” and **Bill 24-571**, the “Schools Full Budgeting Amendment Act of 2021.” The hearing will be held on **Thursday, January 20, 2022 at 10:30am** via Zoom Video Conference Broadcast.

Bills 24-570 and 24-571 are aimed at changing the way we budget for schools. Year over year DCPS schools experience budget cuts, disrupting their ability to effectively plan for staffing, programs, and services that students need consistently. Bill 24-570 is a prescriptive approach to revise the method for school budgeting for DCPS by budgeting the local schools first based on each school’s previous year’s budget, adjusting for inflation, with the remainder to be allocated between central administration and school support. The stated purpose of Bill 24-571 is to require, simply, that each year’s annual budget for each local school within DCPS is no less than that school’s budget for the current school year. The goal of both bills with their differing approach is to better protect schools from reductions in funding and to provide a stable foundation upon which schools can plan for meeting their students’ needs. Relevant to these bills, DCPS recently released a new budget model, with little transparency about how the models will impact school-level budgets, to the dismay of many education stakeholders and constituents. The purpose of this hearing is to receive testimony from DCPS and the public on Bills 24-570 and 24-571 and the need for better budgeting to adequately support and stabilize our local schools.

Those who wish to testify must register at <http://www.ChairmanMendelson.com/testify> by 5:00 p.m. on Tuesday, January 18, 2022. **Testimony is limited to 3 minutes.** Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. If you have additional questions, please email [cow@dccouncil.us](mailto:cow@dccouncil.us) or contact Destiny Riley, Committee Assistant, at (202) 724-8196.

The hearing will be conducted virtually on the Internet utilizing Zoom video conference technology. Testimony should be submitted in writing to [cow@dccouncil.us](mailto:cow@dccouncil.us) in advance of the hearing. Written testimony will be posted publicly to <http://www.chairmanmendelson.com/testimony>. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted to [cow@dccouncil.us](mailto:cow@dccouncil.us) or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00pm on Friday, February 4, 2022.

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

**B24-568**, DSLBD Noncompetitive Grant Clarification Temporary Amendment Act of 2021, **B24-573**, Public Emergency Extension Temporary Amendment Act of 2021, and **B24-575**, Gibbs School and Shaed School Leases Extension Authorization Temporary Act of 2021, adopted on first reading on December 21, 2021. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on January 4, 2022.



**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**The Wilson Building**

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**NOTICE OF CONTRACT DISAPPROVAL RESOLUTION**

The Council of the District of Columbia gives notice that the resolution listed below to disapprove CA 24-345, proposed contract modification M14 to Contract No. CW34843 between the District and Covanta Fairfax, LLC to provide solid waste disposal services at the Covanta Fairfax, LLC waste-to-energy facility from January 1, 2022, though December 31, 2022 was filed in the Office of the Secretary on December 22, 2021.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

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PR 24-525: Proposed Contract Modification with Covanta Fairfax, LLC Disapproval Resolution of 2021

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Notice of Grant Budget Modifications**

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

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

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

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**GBM 24-0070**

**FY 2021 Grant Budget Modifications as of December 10, 2021**

RECEIVED: 14-day review begins January 3, 2022

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*READVERTISEMENT**

Placard Posting Date: \*\*December 31, 2021  
Protest Petition Deadline: \*\*March 7, 2022  
Roll Call Hearing Date: \*\*March 28, 2022

License No.: ABRA-116070  
Licensee: Crujiente, LLC  
Trade Name: Anejo Bar & Grill  
License Class: Retailer’s Class “C” Tavern  
Address: 3910 14<sup>th</sup> Street, N.W.  
Contact: Alejandro LePage: (202) 506-7383, [crujientellc@gmail.com](mailto:crujientellc@gmail.com)

WARD 4                      ANC 4C                      SMD 4C04

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on \*\*March 28, 2022 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abra.legal@dc.gov](mailto:abra.legal@dc.gov) on or before the Petition deadline.

**NATURE OF SUBSTANTIAL CHANGE**

Licensee is requesting to add Dancing to the existing Entertainment Endorsement.

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

Sunday and Thursday 11am – 2am, Friday and Saturday 11am – 3am

**CURRENT HOURS OF ENTERTAINMENT**

Sunday and Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*RESCIND**

Placard Posting Date: \*\*December 17, 2021  
Protest Petition Deadline: \*\*February 22, 2022  
Roll Call Hearing Date: \*\*March 14, 2022

License No.: ABRA-116070  
Licensee: Crujiente, LLC  
Trade Name: Anejo Bar & Grill  
License Class: Retailer’s Class “C” Tavern  
Address: 3910 14<sup>th</sup> Street, N.W.  
Contact: Alejandro LePage: (202) 506-7383, [crujientellc@gmail.com](mailto:crujientellc@gmail.com)

WARD 4                      ANC 4C                      SMD 4C04

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on \*\*March 14, 2022 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abra.legal@dc.gov](mailto:abra.legal@dc.gov) on or before the Petition deadline.

**NATURE OF SUBSTANTIAL CHANGE**

Licensee is requesting to add Dancing to the existing Entertainment Endorsement.

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

Sunday and Thursday 11am – 2am, Friday and Saturday 11am – 3am

**CURRENT HOURS OF ENTERTAINMENT**

Sunday and Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: December 31, 2021  
Protest Petition Deadline: March 7, 2022  
Roll Call Hearing Date: March 28, 2022  
Protest Hearing Date: May 25, 2022

License No.: ABRA-120090  
Licensee: Beirut Nights, LLC  
Trade Name: Beirut Nights  
License Class: Retailer's Class "C" Restaurant  
Address: 1025-1027 31<sup>st</sup> Street, N.W.  
Contact: Zakaria Ibrahim: (301) 332-6820, [Ibrahimconsultingservices@gmail.com](mailto:Ibrahimconsultingservices@gmail.com)

WARD 2

ANC 2E

SMD 2E05

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 28, 2022 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abra.legal@dc.gov](mailto:abra.legal@dc.gov) on or before the Petition deadline. The **Protest Hearing date** is scheduled on **May 25, 2022 at 1:30 p.m.**

**NATURE OF OPERATION**

A new Retailer's Class "C" Restaurant with a seating capacity of 13 and Total Occupancy Load of 62. Summer Garden with seating capacity of 49. Live Entertainment inside of the premises and outdoors in the Summer Garden.

**HOURS OF OPERATION FOR INSIDE PREMISES AND SUMMER GARDEN**

Sunday 8am – 2am, Monday through Thursday 8am – 1am, Friday and Saturday 8am – 2am

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

Sunday 10am – 2am, Monday through Thursday 10am – 1am, Friday and Saturday 10am – 2am

**HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES AND SUMMER GARDEN**

Sunday through Thursday 3pm – 12am, Friday and Saturday 3pm – 2am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: December 31, 2021  
Protest Petition Deadline: March 7, 2022  
Roll Call Hearing Date: March 28, 2022

License No.: ABRA-102521  
Licensee: District Still, LLC  
Trade Name: District Still  
License Class: Retailer's Class "A" Liquor Store  
Address: 4400 Jenifer Street, N.W.  
Contact: Richard Bianco, Esq.: (202) 461-2400, [rich@lawrjb.com](mailto:rich@lawrjb.com)

WARD 3

ANC 3E

SMD 3E03

Notice is hereby given that this licensee has requested to Transfer their License to a New Location 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 28, 2022 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abra.legal@dc.gov](mailto:abra.legal@dc.gov) on or before the Petition deadline.

**NATURE OF SUBSTANTIAL CHANGE**

Applicant requests to Transfer License from 175 R Street, N.E., to a new location at 4400 Jenifer Street, N.W. The Establishment is a Class "A" Liquor Store selling beer, wine, and spirits for off-premises consumption.

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

Sunday through Saturday 7am – 12am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: December 31, 2021  
Protest Petition Deadline: March 7, 2022  
Roll Call Hearing Date: March 28, 2022  
Protest Hearing Date: May 25, 2022

License No.: ABRA-120165  
Licensee: Farmbird Restaurant 2, LLC  
Trade Name: Farmbird  
License Class: Retailer's Class "C" Restaurant  
Address: 1251 First Street, S.E.  
Contact: Matthew Minora, Esq.: (202) 625-7700,  
[mminora@malliosobrien.com](mailto:mminora@malliosobrien.com)

WARD 6

ANC 6D

SMD 6D02

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 28, 2022 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abra.legal@dc.gov](mailto:abra.legal@dc.gov) on or before the Petition deadline. The **Protest Hearing date** is scheduled on **May 25, 2022 at 4:30 p.m.**

**NATURE OF OPERATION**

A new Retailer's Class "C" Restaurant with a seating capacity of 81 and Total Occupancy Load of 99. Sidewalk Café with 15 seats. Licensee is requesting an Alcohol Carry-out and Delivery Endorsement.

**HOURS OF OPERATION, ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION, OUTDOOR SIDEWALK CAFÉ, AND ALCOHOLIC BEVERAGE CARRY-OUT AND DELIVERY**

Sunday through Saturday 8am – 12am

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: December 31, 2021  
Protest Petition Deadline: March 7, 2022  
Roll Call Hearing Date: March 28, 2022  
Protest Hearing Date: May 25, 2022

License No.: ABRA-120179  
Licensee: BK Events, LLC  
Trade Name: TBD  
License Class: Retailer's Class "C" Tavern  
Address: 2210 14<sup>th</sup> Street, N.W.  
Contact: Sidon Yohannes: (202) 686-7600,  
syohannes@theveritaslawfirm.com.com

WARD 1

ANC 1B

SMD 1B04

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 28, 2022 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abra.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **May 25, 2022 at 4:30 p.m.**

**NATURE OF OPERATION**

The establishment will be a Tavern serving American food. Total Occupancy Load of 250 which includes seating for 250 patrons. Summer Garden with 50 seats.

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

Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 31, 2021
Protest Petition Deadline: March 7, 2022
Roll Call Hearing Date: March 28, 2022
Protest Hearing Date: May 25, 2022

License No.: ABRA-120039
Licensee: DC Liquor, LLC
Trade Name: TBD
License Class: Retailer's Class "A" Internet
Address: 301 New York Avenue, N.E.
Contact: Frank Knizner: (202) 449-3739, frank.knizner@bevlaw.com

WARD 5 ANC 5D SMD 5D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on March 28, 2022 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 electronically to abra.legal@dc.gov on or before the Petition deadline. The Protest Hearing date is scheduled on May 25, 2022 at 1:30 p.m.

NATURE OF OPERATION

New Class "A" Internet Retailer selling beer, wine, and spirits online only for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am - 12am

## DEPARTMENT OF HEALTH

## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

**NOTICE OF INFORMATION HEARING**

Pursuant to D.C. Official Code § 44-406(b)(4), the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold an information hearing on Honor Health Network, LLC and Webster Equity Partners V, L.P. (Certificate of Need Registration No. 21-6-5) for the Proposed Change of Effective Control for D.C. Home Health Holdings, LLC d/b/a VMT Home Health Agency.

The hearing will be held on **Wednesday, January 12, 2022**, beginning at **10:00 a.m.** using WebEx Conferencing. **Please send an email to [dana.mitchener@dc.gov](mailto:dana.mitchener@dc.gov) to register for the Information Hearing and receive a link to the WebEx Conferencing.**

The hearing will include a presentation by Honor Health Network, LLC and Webster Equity Partners V, L.P. describing its plans and addressing the certifications required pursuant to D.C. Official Code § 44-406(b). The hearing also includes an opportunity for affected and interested persons to testify. Persons who wish to testify should contact the SHPDA at (202) 442-5875 **before 4:45 p.m. on Tuesday, January 11, 2022**. Each member of the public who wish to testify must register in advance of the Information Hearing and will be allowed a maximum of five (5) minutes. Written statements may be submitted to:

The State Health Planning and Development Agency  
899 North Capitol Street, N.E.  
Sixth Floor  
Washington, D.C. 20002

Written statements must be received before the record closes at **4:45 p.m. on Wednesday, January 19, 2022**. Persons who would like to review the Certificate of Need application or who have questions related to the hearing may contact the SHPDA on (202) 442-5875.

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF VIRTUAL PUBLIC HEARING

Proposed Disposition of Property

Notice is hereby given that, pursuant to the requirements of D.C. Official Code Section 42-3171.03 (a)(1), the District of Columbia Department of Housing and Community Development (DHCD) has scheduled a public hearing on Wednesday February 2, 2022 at 6:30 p.m. The hearing will occur virtually to consider the proposed disposition of the properties noted below.

SSL	Property Site	Property Type	Ward	Price	Neighborhood
5781 1000	1319 V Street SE	Single Family Home	8	\$285,000	Anacostia
5781 0999	1328 W Street SE	Single Family Home	8	\$231,000	Anacostia

SCHEDULED VIRTUAL PUBLIC HEARING:

Wednesday February 2, 2022 ~ 6:30 p.m.

Via WebEx Info

Event address for attendees:

<https://dcnet.webex.com/dcnet/onstage/g.php?MTID=ef6e4411ae8281579bb36a7dcd9159357>

Event password:

HPiDJsGX289

Audio conference:

Call-in toll number (US/Canada)

1-650-479-3208

[Show all global call-in numbers](#)

Access code: 2317 833 0086

The above Historic Anacostia Homes were relocated and rehabilitated from the Maple View Flats & Big K development on Martin Luther King Jr. Avenue, SE. Each home features 3 Bedrooms and 2.5 Bathrooms priced for household earning up to 60% of the Median Family Income (MFI).

The public hearing is conducted to ensure that all residents are informed about the selling of the properties identified above and have the opportunity to publicly present their views concerning the impending sale.

If you would like to present oral testimony, you are encouraged to register in advance either by emailing DHCD’s Property Acquisition and Disposition Division (PADD) at [dhcd.padd@dc.gov](mailto:dhcd.padd@dc.gov), or by calling (202) 478-1355. Please provide your name, address, telephone number, and organizational affiliation, if any.

Telecommunications Device for the Deaf (TDD) relay service is available by calling (800) 201-7165. Sign language interpretation and language translation services are available upon request by calling Pamela Hillsman at (202) 442-7251. If you require language translation, please specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Language translation services will be provided to pre-registered persons only. The deadline for requiring interpretation services is seven days prior to the hearing.

Written statements may be submitted at the hearing, or until 4:45 p.m., Friday February 4, 2022, and should be addressed to: Drew Hubbard, Interim Director, DC Department of Housing and Community Development, ATTN: PADD, 1800 Martin Luther King Jr., Avenue SE, Washington, DC 20020.

**BOARD OF ZONING ADJUSTMENT  
REVISED PUBLIC HEARING NOTICE  
WEDNESDAY, MARCH 16, 2022  
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 THREE**

<b>Application of:</b>	<b>WISCO WALLY, LLC</b>
<b>Case No.:</b>	<b>20644</b>
<b>Address:</b>	3427 Wisconsin Avenue N.W. (Square 1913, Lots 8 and 9)
<b>ANC:</b>	<b>3C</b>
<b>Relief:</b>	Special Exception from: <ul style="list-style-type: none"> <li>• the matter of right uses of Subtitle U § 201 (pursuant to Subtitle U § 421 and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a new, detached, three-story with penthouse and cellar, 20-unit multiple dwelling building in the RA-1 Zone.

**WARD FIVE**

<b>Application of:</b>	<b>824 Taylor Street NE. LLC</b>
<b>Case No.:</b>	<b>20648</b>
<b>Address:</b>	824 Taylor Street N.E. (Square 3814, Lot 55)
<b>ANC:</b>	<b>5A</b>
<b>Relief:</b>	Special Exception from: <ul style="list-style-type: none"> <li>• the matter-of-right uses of Subtitle U § 201 (pursuant to Subtitle U § 421 and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a third with roof deck addition, and add four additional residential units, to an existing, semi-detached, two-story with cellar, 4-unit apartment house in the RA-1 Zone.

REVISED BZA PUBLIC HEARING NOTICE  
 MARCH 16, 2022  
 PAGE NO. 2

**WARD ONE**

<b>Application of:</b>	Nancy and Vimesh Patel
<b>Case No.:</b>	20663
<b>Address:</b>	1656 Hobart Street N.W. (Square 2591, Lot 778)
<b>ANC:</b>	1D
<b>Relief:</b>	Special Exceptions from: <ul style="list-style-type: none"> <li>• the rear yard requirements of Subtitle E § 306.1 (pursuant to Subtitle E § 5201 and Subtitle X § 901.2)</li> <li>• the accessory building rear yard requirements of Subtitle E § 5004.1 (pursuant to Subtitle E § 5201 and Subtitle X § 901.2)</li> </ul> Area Variance from: <ul style="list-style-type: none"> <li>• the lot occupancy requirements of Subtitle E § 304.1 (pursuant to Subtitle X § 1002)</li> </ul>
<b>Project:</b>	To construct a rear addition to an existing, attached, two-story with basement, principal dwelling unit in the RF-1 Zone.

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

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**Do you need assistance to participate?**

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

REVISED BZA PUBLIC HEARING NOTICE  
MARCH 16, 2022  
PAGE NO. 3

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Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

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

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

0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

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French

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Korean

참여하시는데 도움이 필요하세요?

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

Spanish

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Vietnamese

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

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REVISED BZA PUBLIC HEARING NOTICE  
MARCH 16, 2022  
PAGE NO. 4

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

**FREDERICK L. HILL, CHAIRPERSON  
LORNA L. JOHN, VICE-CHAIRPERSON  
CARL BLAKE, 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**



**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, MARCH 30, 2022  
VIRTUAL HEARING via WEBEX**

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

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

**WARD FIVE**

<b>Application of:</b>	<b>20<sup>th</sup> and Channing NE, LLC</b>
<b>Case No.:</b>	<b>20655</b>
<b>Address:</b>	2425 20 <sup>th</sup> Street N.E. (Square 4110, Lot 17)
<b>ANC:</b>	<b>5C</b>
<b>Relief:</b>	Special Exception from: <ul style="list-style-type: none"> <li>• the matter-of-right uses of Subtitle U § 201 (pursuant to Subtitle U § 421 and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a new, detached, three-story with cellar and penthouse, 24-unit apartment house in the RA-1 Zone.

**WARD THREE**

<b>Application of:</b>	<b>Laurie and Adam Sieminski</b>
<b>Case No.:</b>	<b>20657</b>
<b>Address:</b>	2930 Brandywine Street N.W. (Square 2255, Lot 3)
<b>ANC:</b>	<b>3F</b>
<b>Relief:</b>	Special Exception from: <ul style="list-style-type: none"> <li>• the vehicle parking space location restrictions of Subtitle C § 710.2(b)(2) (pursuant to Subtitle C § 710.3 and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To permit a nonconforming parking space within the front yard of a detached, two-story principal dwelling unit, in the R-8 Zone.

**PLEASE NOTE:**

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BZA PUBLIC HEARING NOTICE  
MARCH 30, 2022  
PAGE NO. 2

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**Do you need assistance to participate?**

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**Do you need assistance to participate?**

Amharic

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

Chinese

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French

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Korean

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Spanish

BZA PUBLIC HEARING NOTICE  
MARCH 30, 2022  
PAGE NO. 3

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*Vietnamese*

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LORNA L. JOHN, VICE-CHAIRPERSON  
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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**

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, APRIL 6, 2022  
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**

<b>Application of:</b>	<b>Equity Trust Company, Custodian fbo Richard Leavy IRA</b>
<b>Case No.:</b>	<b>20645</b>
<b>Address:</b>	212 57th Place N.E. (Square 5248, Lot 23)
<b>ANC:</b>	7C
<b>Relief:</b>	Special Exceptions from: <ul style="list-style-type: none"> <li>• the side yard requirements of Subtitle D § 206.3 (pursuant to Subtitle D § 5201 and Subtitle X § 901.2)</li> <li>• the lot occupancy requirements of Subtitle D § 304.1 (pursuant to Subtitle D § 5201 and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a new, three-story semi-detached, principal dwelling unit in the R-2 Zone.

**WARD ONE**

<b>Application of:</b>	<b>Tim Geishecker and Andres Consuegra</b>
<b>Case No.:</b>	<b>20649</b>
<b>Address:</b>	2316 20 <sup>th</sup> Street N.W. (Square 2540, Lot 284)
<b>ANC:</b>	1C
<b>Relief:</b>	Special Exceptions from: <ul style="list-style-type: none"> <li>• the lot occupancy requirements of Subtitle F § 304.1 (pursuant to Subtitle F § 5201 and Subtitle X § 901.2)</li> <li>• the rear yard requirements of Subtitle F § 305.1 (pursuant to Subtitles F § 5201 and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a rear, three-story deck and cellar level addition, to an existing, attached, three-story with cellar, principal dwelling unit, in the RA-2 Zone.

BZA PUBLIC HEARING NOTICE

APRIL 6, 2022

PAGE NO. 2

**WARD ONE**

<b>Application of:</b>	<b>1238 Harvard Street, LLC</b>
<b>Case No.:</b>	<b>20660</b>
<b>Address:</b>	1238 Harvard Street N.W. (Square 2856, Lot 137)
<b>ANC:</b>	<b>1B</b>
<b>Relief:</b>	Special Exceptions from: <ul style="list-style-type: none"> <li>• the matter-of-right uses of Subtitle U § 301 (pursuant to Subtitle U § 320.2 and Subtitle X § 901.2)</li> <li>• the building height requirements of Subtitle E § 303.1 (pursuant to Subtitle E § 5203; and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a third story addition, and to convert to a 3 unit apartment house, an existing, semi-detached, three-story with cellar, principal dwelling unit, in the RF-1 Zone.

**WARD THREE**

<b>Application of:</b>	<b>Valerie and Nicholas Alten</b>
<b>Case No.:</b>	<b>20661</b>
<b>Address:</b>	4511 Chesapeake Street N.W. (Square 1570, Lot 30)
<b>ANC:</b>	<b>3E</b>
<b>Relief:</b>	Special Exception from: <ul style="list-style-type: none"> <li>• the accessory building area requirements of Subtitle D § 5003.1 (pursuant to Subtitle D § 5201 and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a rear, detached, two-story garage with accessory dwelling unit, to an existing, detached, two-story with basement, principal dwelling unit, in the R-1-B Zone.

BZA PUBLIC HEARING NOTICE  
 APRIL 6, 2022  
 PAGE NO. 3

**WARD FIVE**

<b>Application of:</b>	<b>Michelle Browne</b>
<b>Case No.:</b>	<b>20662</b>
<b>Address:</b>	3617 18 <sup>th</sup> Street N.E. (Square 4202, Lot 198)
<b>ANC:</b>	<b>5B</b>
<b>Relief:</b>	Special Exceptions from: <ul style="list-style-type: none"> <li>• the matter-of-right uses of Subtitle U § 201 (pursuant to Subtitle U § 203.1(a) and Subtitle X § 901.2)</li> <li>• the accessory apartment minimum gross floor area requirements of Subtitle U § 253.7(a) (pursuant to Subtitle U § 203.1(a) and Subtitle X § 901.2)</li> <li>• the accessory apartment entrance requirements of Subtitle U § 253.7(c) (pursuant to Subtitle U § 203.1(a) and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To permit an accessory apartment in an attached, two-story with basement, principal dwelling unit, in the R-1-B Zone.

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**Do you need assistance to participate?**

BZA PUBLIC HEARING NOTICE

APRIL 6, 2022

PAGE NO. 4

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

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

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

0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

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French

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Korean

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Spanish

¿Necesita ayuda para participar?

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

Vietnamese

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

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

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

**FREDERICK L. HILL, CHAIRPERSON  
LORNA L. JOHN, VICE-CHAIRPERSON  
CARL BLAKE, 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, February 14, 2022, @ 4:00 p.m.**  
**WebEx or Telephone – Instructions will be provided on  
the OZ website by Noon of the Hearing Date**

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

**Z.C. Case No. 21-17 (Congress Park Community Partners, LLC – Zoning Map Amendment  
at Square 5914, Portion of Lot 806)**

**THIS CASE IS OF INTEREST TO ANC 5E**

**Oral and Written Testimony**

- All who wish to testify in this case are **strongly encouraged** to sign up to do so **at least 24 hours prior to the start of the hearing** on OZ’s website at <https://dcoz.dc.gov/service/sign-testify> – see below: *How to participate as a witness – oral statements.*
- All written comments and/or testimony **must be submitted to the record at least 24 hours prior to the start of the hearing** – see below: *How to participate as a witness – written statements.*

On October 5, 2021, the Office of Zoning received an application from Congress Park Community Partners, LLC (the “Applicant”) requesting review and approval for a Zoning Map amendment from the RA-1 zone to the MU-8B zone for the eastern portion of Lot 806 in Square 5914 (the “Property”).

The Property, which contains approximately 46,165 square feet of land area (approximately 1.06 acres), is generally bounded by Alabama Avenue, S.E. to the north, Savannah Street, S.E. to the south, Congress Street, S.E. to the east, and the former school building to the west. The Property is located in the Congress Heights neighborhood of Ward 8. The area surrounding the Property contains a collection of commercial, residential, institutional, and government uses. To the northwest, across Alabama Avenue, is the historic Saint Elizabeths East Campus, including the recently completed Entertainment and Sports Arena and Residences at St. Elizabeths East, and St. Elizabeths Hospital. Directly north of the Property are cemetery and church uses, as well as some moderate-density residential use. To the northeast is moderate-density residential uses. To the south, west, and immediate east are moderate-density residential uses. The Congress Heights Metrorail station is located only approximately 450 feet west of the Property.

The Property is located within the boundary of the Far Southwest / Southeast Area Element of the Comprehensive Plan for the National Capital. The Comprehensive Plan Future Land Use Map (“FLUM”) and Generalized Policy Map (“GPM”) designate the Property as Local Public Facilities and Neighborhood Enhancement Area, respectively.

The Office of Planning submitted its report to the Office of Zoning on December 6, 2021, and the application was set down for a public hearing by the Zoning Commission on December 16, 2021.



The Applicant filed its Prehearing Submission with the Zoning Commission on December 17, 2021.

The complete record in the case, including the Applicant’s filings and the OP report, can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

This virtual public hearing will be conducted in accordance with the contested case provisions Subtitle Z, Chapter 4 of the Zoning Regulations (Title 11, Zoning Regulations of 2016, of the District of Columbia Municipal Regulations), which includes the text provided in the Notice of Final Rulemaking adopted by the Zoning Commission in Z.C. Case No. 20-11 (*effective* October 30, 2020).

**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 Ron Barron at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

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

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

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

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

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

**How to participate as a party.**

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

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

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

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

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

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

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

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

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

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

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

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

Quý vị có cần trợ giúp gì để tham gia không? Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING<sup>1</sup>**

**Z.C. Case No. 20-21**

**Office of Planning**

**(Text Amendment – To Create a New BF (Barry Farm) Zone)**

**December 16, 2021**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend 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), to create a new BF zone for the former Barry Farm Wade Road development (known as “Barry Farm”). The new text appears at the end of this notice.

**SET DOWN**

On September 4, 2020, the Office of Planning (OP) filed a petition (Petition) and a report (OP Set Down Report) to the Commission proposing to create a new BF (Barry Farm) Zone. Barry Farm is one (1) of the identified communities in the Office of the Deputy Mayor for Planning and Economic Development’s (DMPED) New Communities Initiative (NCI) which has as a goal the revitalization and redevelopment of areas developed solely as public housing through the development of mixed income and mixed-use communities into which the existing residents would be integrated.

The OP Set Down Report described the objectives of the amendments as follows: The proposed BF Zone would implement the Barry Farm/Park Chester/Wade Road Redevelopment Plan, which was approved as a small area plan by the Council of the District of Columbia on December 19, 2006, pursuant to the Barry Farm/Park Chester/Wade Road Redevelopment Plan Resolution of 2006 (Res 16-0922). The proposed new zone category, BF, would contain two (2) individual zones, BF-1 and BF-2, each with subzones, which would allow matter-of-right development consistent with the Council-adopted Barry Farm/Park Chester/Wade Road Redevelopment Plan. Each BF zone will have bulk parameters for new construction such as height, Floor-Area-Ratio (FAR), lot occupancy, and yards which are intended to achieve the desired density and building type on each part of the site. The BF-1 zone is proposed as a moderate-density, mixed-use zone that will allow residential use in apartments with ground floor neighborhood retail and service uses with maximum building height of sixty-five feet (65 ft.) and FARs of 4.0 in the BF-1A and 6.0 in the BF-1B zones. The BF-2 zone is a moderate density residential zone that will allow row dwellings, semi-detached units and flats at a maximum height of forty feet (40 ft.). Within the BF-2 zone will also be the area designated for a community park, and the historic landmark.

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<sup>1</sup> This Notice of Final Rulemaking shall also be known as Z.C. Order No. 20-21 only for Office of Zoning tracking purposes

The text amendments would allow for the future redevelopment of Barry Farm, which would include:

- New replacement housing for former Barry Farm residents;
- New mixed income housing in varying unit types;
- Neighborhood retail and service uses;
- Green and open spaces; and
- Preservation and reuse of designated historic landmark buildings.

The OP Set Down Report explained that once the BF Zone is set down, a separate map amendment case will be filed by OP to map the new zone.<sup>2</sup>

At its September 14, 2020 public meeting, the Commission considered the OP Set Down Report and OP's oral presentation, voted to grant OP's request to set down the Petition for a public hearing as a rulemaking case<sup>3</sup>, and requested that OP provide an update on the following issues prior to the public hearing:

- Development potential under the old PUD proposal<sup>4</sup> and the proposed text amendment;
- Tenant Relocation;
- Continued Resident Engagement;
- Comprehensive Plan Amendments Status; and
- Notifications regarding the new BF Zone.

### **PUBLIC HEARING**

OP submitted a November 27, 2020 report (OP Hearing Report), providing the updates the Commission requested at set down as follows:

#### **Development potential under the old PUD proposal and the proposed text amendment**

The development proposed under the First-Stage PUD and Map Amendment of Z.C. Case No. 14-02 would have generated a total of one thousand fourteen (1,014) units and fifty-five thousand, five hundred square feet (55,500 sq. ft.) of retail/service and community space.

#### **Tenant Relocation**

The property is under the authority of the District of Columbia Housing Authority (DCHA). In 2012, in anticipation of the redevelopment of the site, DCHA began relocation of the Barry Farm residents to other DCHA projects or provided various forms of subsidies to other locations throughout the City. DCHA continues to periodically confirm the residents' locations and will continue to provide them with project updates.

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<sup>2</sup> Z.C. Case No. 20-24, the separate map amendment case, was filed by OP on October 5, 2020.

<sup>3</sup> Pursuant to 11-Z DCMR § 201.5, the Commission set this case down as a rulemaking because this case only involves amendments to the text of the Zoning Regulations and is therefore legislative in nature, and because it potentially affects large numbers of persons or property or the public in general.

<sup>4</sup> In Z.C. Case No. 14-02, the Commission approved a PUD to redevelop the Barry Farm neighborhood. The PUD was appealed to the D.C. Court of Appeals which ultimately vacated and remanded the case back to the Commission for "fuller consideration" of the issues identified in the Court's decision. On May 30, 2018, pursuant to 11-Z DCMR § 600.3, DCHA and the Developer submitted a request for the Commission's consent to withdraw the PUD, which the Commission consented to on June 11, 2018.

In December 2018, the Preservation of Affordable Housing, Inc. (POAH) was contracted to undertake the relocation of the remaining residents and all residents were relocated off the property by July 2019. The relocation services provided by POAH included:

- Counseling and other advisory services;
- Housing choices, including private apartments or other public housing, that are comparable units for their household; and
- Payment of moving expenses which included: Application fees; Security deposit; Storage costs; Packing materials; Physical moving assistance; Packing/unpacking assistance (seniors and disabled); and Payment of utility, cable, and other transfer fees.

#### Continued Resident Engagement

A total of three hundred eighty (380) families have been identified with the right to return to the redeveloped site. Engagement with residents is on a continuing basis to address and provide assistance with quality of life issues while off-site. Information on the redevelopment proposals and process and preparation for the transition to the redevelopment to take advantage of the opportunities it will create is being provided. Engagement includes:

- Providing wellness calls and connecting residents to resources;
- Connecting residents to job opportunities and job ready programs;
- Providing monthly newsletters, text blasts, mailings with project updates and other resources;
- Providing weekly office hours;
- Hosting three (3) to four (4) events per year for residents to strengthen the Barry Farm community, such as the Barry Farm Unity Day on August 22, 2020;
- Hosting virtual quarterly meetings; and
- Provision of six hundred (600) meals and over three hundred (300) masks and hand sanitizer for Covid-19 relief.

#### Comprehensive Plan Amendments Status

The District Council Committee of the Whole held public hearings on November 12 and 13, 2020 at which time they heard public testimony but took no action on any of the proposed Comprehensive Plan amendments. The Committee stated that a vote on the proposed Comprehensive Plan is anticipated in January or February 2021.<sup>5</sup>

#### Notifications regarding the new BF Zone

DCHA and POAH have been in contact with the community and former residents and they have been kept up to date on the proposed redevelopment of the site. Regarding the proposed text amendment, OP and POAH gave a presentation on the proposed text amendment to ANC 8C on November 4, 2020.

Prior to the December 7, 2020 public hearing, several individuals and members of the community submitted letters in support of the Petition.

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<sup>5</sup> The DC Council adopted amendments to the Comprehensive Plan which became final and effective on August 21, 2021.

ANC 8C submitted a December 3, 2020 letter in support of the Petition, citing no issues and concerns.

At the December 7, 2020 public hearing, OP presented the Petition and answered the Commission's questions. In addition, seven (7) members of the public and/or organizations testified in opposition; five (5) members of the public and/or organizations testified in support; and five (5) members of the public and/or organizations submitted written testimony. The members of the public and organizations that testified in opposition expressed concerns about ensuring former Barry Farm residents' right to return to the replacement units following the redevelopment, and the failures associated with ongoing community outreach and services for displaced former residents.

OP Hearing Report Discussion of Comprehensive Plan Consistency

OP's November 27, 2020 report, explained that the new BF zone would not be inconsistent with the Comprehensive Plan and would implement the Barry Farm Park Chester Wade Road Development Plan, noting:

The Comprehensive Plan provides that the zoning of any given area should be guided by the Future Land Use Map (FLUM) and the Generalized Policy Map (GPM), interpreted in conjunction with the text of the Comprehensive Plan, including the city-wide and area elements, as well as approved Small Area plans. (10-A DCMR § 226.1 (d).)

The Future Land Use Map (FLUM) indicates that the proposed BF zone is appropriate for moderate density residential.<sup>6</sup>

***Moderate Density Residential:*** *This designation is used to define neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The R3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply. (227.6.)*

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<sup>6</sup> The amendments to the Comprehensive Plan adopted by the DC Council became final and effective on August 21, 2021. The amendments changed the FLUM designation for a portion of the property from Moderate Density Residential to Medium Density Residential/Medium Density Commercial; the change in the FLUM designation eliminated any inconsistency of the proposed BF zone with the Comprehensive Plan maps and will allow the redevelopment of Barry Farm with the significant public benefits of affordable housing, open space, historic preservation, and neighborhood retail uses.

The proposed BF zone is an appropriate location for new zoning to apply. The proposed row dwellings, semi-detached units, flats and multifamily buildings and neighborhood retail and service uses are appropriate for this location and is as recommended by the detail study on which the Barry Farm Small Area Plan was done to accommodate a moderate density development.

The Generalized Policy Map indicates that the proposed BF zone is designated as a Neighborhood Enhancement Area.<sup>7</sup>

*Neighborhood Enhancement Areas are neighborhoods with substantial amounts of vacant and underutilized land. They include areas that are primarily residential in character, as well as mixed-use and industrial areas. Many of these areas are characterized by a patchwork of existing homes and individual vacant lots, some privately owned and others owned by the public sector or non-profit developers. These areas present opportunities for compatible infill development, including new single-family homes, townhomes, other density housing types, mixed-use buildings, and, where appropriate, light industrial facilities. Land uses that reflect the historical mixture and diversity of each community and promote inclusivity should be encouraged. (225.6.)*

The proposed BF zone will not be inconsistent with the recommendations for Neighborhood Enhancement Areas as it will allow for redevelopment of a District owned property to be mainly residential with various housing types reflective of the diversity of housing types in the Anacostia Area. The new zone will allow for lots with private open space as well as designated public, open spaces to serve the wider community. The redevelopment of Barry Farm will include the creation of a new street grid to better connect to adjacent streets and provide better access and security for residents. To complement the residences, the new zone provides for neighborhood retail uses and services to serve residents everyday needs.

#### **Citywide Elements:**

The proposed text amendment will allow for a development that will meet or further many of the Citywide elements of the Comprehensive Plan.

### **Chapter 3 - Land Use Element**

#### **LU-2.1.2: Neighborhood Revitalization**

*Facilitate orderly neighborhood revitalization and stabilization by focusing District grants, loans, housing rehabilitation efforts, commercial investment programs, capital improvements, and other government actions in those areas that are most in need. Use social, economic, and physical indicators such as the poverty rate, the number of abandoned or substandard buildings, the crime rate, and the unemployment rate as key indicators of need. (309.7.)*

#### **LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods**

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<sup>7</sup> The amendments to the Comprehensive Plan, adopted by the DC Council became final and effective on August 21, 2021, and made no changes to the property's designation of the GPM.



*Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. The overarching goal to “create successful neighborhoods” in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others.*

**LU-2.4.6: Scale and Design of New Commercial Uses**

*Ensure that new uses within commercial districts are developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas.*

The proposed text amendment should facilitate the revitalization of the Barry Farm neighborhood and allow for a mix of housing types, family sizes and incomes. The revitalized neighborhood will include a portion of the site which has been landmarked to preserve resources of the former Barry Farm development. The retail and service uses allowed will complement the residences to provide for the day to day needs of residents.

The proposal will retain many of the existing streets but will introduce new streets and alley to create a new grid pattern typical in the City that will allow better internal circulation as well as provide additional connections to external streets and easier connections.

**Chapter 5 - Housing Element**

**H-1.1.5: Housing Quality**

*Require the design of affordable housing to meet the same high-quality architectural standards required of market-rate housing. Regardless of its affordability level, new or renovated housing should be indistinguishable from market rate housing in its exterior appearance and should address the need for open space and recreational amenities, and respect the design integrity of adjacent properties and the surrounding neighborhood. (503.6.)*

**H-1.2.3: Mixed Income Housing**

*Focus investment strategies and affordable housing programs to distribute mixed income housing more equitably across the entire city, taking steps to avoid further concentration of poverty within areas of the city that already have substantial affordable housing. (504.8.)*

**H-1.3.1: Housing for Families**

*Provide a larger number of housing units for families with children by encouraging new and retaining existing single family homes, duplexes, row houses, and three- and four bedroom apartments. (505.6.)*

**H-1.4.4: Public Housing Renovation**

*Continue efforts to transform distressed public and assisted housing projects into viable mixed-income neighborhoods, providing one-for-one replacement within the District of Columbia of any public housing units that are removed. Target such efforts to locations where private sector development interest can be leveraged to assist in revitalization. (506.10.)*

The text amendment will allow for the development of a mix of income, a mix of unit types (apartments, rowhouses, rowhouses with accessory buildings and flats) and sizes for a range of family sizes and incomes, including very low-income households at thirty percent (30%) AMI or below, and will encourage and accommodate extended family living on the same property. To complement the residences, both private open space and public open space and recreational areas will be provided.

Because the property will be developed by the District of Columbia, under Subtitle C § 1001.6(a) the development will not be subject to the requirements of Subtitle C Chapter 10 (IZ). However, the affordable housing requirements of the BF zone are higher than IZ and will have to be met by the District.

### **Chapter 7 - Economic Development Element**

#### **ED-2.2.3: Neighborhood Shopping**

*Create additional shopping opportunities in Washington's neighborhood commercial districts to better meet the demand for basic goods and services. . . (708.7.)*

The proposed text amendment will allow for neighborhood commercial uses in the BF-1 zone and will provide retail and service uses to residents of the community.

### **Chapter 9 - Urban Design**

#### **UD-2.3.1: Reintegrating Large Sites**

*Reintegrate large self-contained sites back into the city pattern. Plans for each site should establish urban design goals and principles which guide their subsequent redevelopment. (911.2.)*

#### **UD-2.3.2: Large Site Scale and Block Patterns**

*Establish a development scale on large sites that is in keeping with surrounding areas. "Superblocks" (e.g., oversized tracts of land with no through-streets) should generally be avoided in favor of a finer-grained street grid that is more compatible with the texture of Washington's neighborhoods. This also allows for more appropriately scaled development and avoids large internalized complexes or oversized structures (see Figure 9.16). (911.4.)*

The proposed text amendment for the new BF zone is guided by the Barry Farm, Park Chester, Wade Road Redevelopment Plan which outlines goals, vision, and principles for the redevelopment of the property. The Plan proposes moderate apartment buildings along Firth Sterling Avenue in the BF-1 zone with lower scaled duplexes, row houses and flats in the BF-2 zone.

### **Chapter 10 - Historic Preservation Element**

#### **HP-2.4.6: Preservations Standards for Zoning Review**

*Ensure consistency between zoning regulations and design standards for historic properties. Zoning for each historic district shall be consistent with the predominant height and density of contributing buildings in the district. Where needed, specialized*

*standards or regulations should be developed to help preserve the characteristic building patterns of historic districts and minimize design conflicts between preservation and zoning controls. (1011.11.)*

The proposed text amendments recognize the historic buildings and surrounding areas, and the density and uses allowed in the BF-2D zone will reflect the height and density of the landmarked buildings and their surrounding areas.

### **Chapter 18 - Far Southeast and Southwest Area Element**

#### **FSS-1.1.7: Retail Development**

*Support additional retail development within the Far Southeast/Southwest, especially in Historic Anacostia, and in the neighborhood centers at Malcolm X/Martin Luther King Jr. Avenue and South Capitol/Atlantic. Projects which combine upper story housing or offices and ground floor retail are particularly encouraged in these three locations.*

Ground floor, neighborhood retail and service uses with residential above will be allowed in the BF-1 zone.

#### **FSS-2: Policy Focus Areas 1810**

*The Comprehensive Plan has identified seven areas in the Far Southeast/Southwest as “policy focus areas,” indicating that they require a level of direction and guidance above that in the prior section of this Area Element and in the citywide elements (see Map 18.1 and Table 18.2).*

*These areas are:*

- *Historic Anacostia*
- *St. Elizabeths Campus*
- **Barry Farm/Hillsdale/Fort Stanton** [emphasis added]
- *Congress Heights Metro Station*
- *Congress Heights Commercial District*
- *Bellevue/Washington Highlands*
- *DC Village. 1810.1*

The proposed text amendment provides the additional focus for the redevelopment of Barry Farm.

***FSS-2.3.1: Barry Farm New Community*** *Encourage the revitalization of Barry Farm in a manner which:*

- a) Ensures one-for-one replacement of any public housing that is removed, along with measures to assist residents and avoid dislocation or personal hardship;*
- b) Creates additional opportunities for workforce and market rate housing on the site, consistent with the goals of the city’s New Communities program; and*
- c) Provides new amenities such as community facilities, parks, and improved access to the Anacostia River and Anacostia Metro Station.*

*While some increase in density will be required to meet the one-for-one replacement requirement, consideration should be given to including nearby vacant land in the New Community site, so that densities may remain in the moderate to medium range. (1813.3.)*

The BF zone will provide additional density at a moderate range and allow for the incorporation of retail and service uses to serve the daily need of the residents. The unit types allowed will provide the opportunity for a range of household sizes and incomes. Open space/park areas will accommodate a variety of community activities.

The proposed BF zone would implement the Barry Farm/Park Chester/Wade Road Redevelopment Plan, which was approved as a small area plan by the Council of the District of Columbia to provide “...a level of direction and guidance above that in the prior section of this [FSS] Area Element and in the citywide elements” as called for in the FSS-2 Policy Focus Areas of the Comprehensive Plan.

The Barry Farm/Park Chester/Wade Road Redevelopment Plan consists of three main elements: the Human Capital Plan; the Physical Plan; and a Development and Finance Strategy. The vision of the plan is to “create a vibrant mixed-income neighborhood where resident have quality housing options, real economic opportunities and access to appropriate human services for children and adults.” A set of key guiding principles was developed in a partnership between the District of Columbia and the Barry Farm Advisory Committee that addressed affordable housing; human capital; economic opportunity; and culture and heritage. The Physical Plan makes detailed recommendations for improving the area’s housing, public facilities, neighborhood design, open space and transportation. Key elements of the Physical Plan for the neighborhood include:

- *Creating a mixed-income community of mid-rise apartments and low-rise family housing on the Neighborhood site which includes 373 replacement units together with new affordable and market rate units for a total of 1,110 units.*
- *Partnering with local property owners, the Anacostia Waterfront Corporation, private developers at St. Elizabeth’s East and others to create an additional 281 replacement units in mixed-income neighborhoods.*
- *Creating a vibrant-mixed use main street at Firth Sterling Avenue that capitalizes on transportation improvements and new development at St. Elizabeth’s West and provides new neighborhood retail.*
- *Creating a new grid of residential streets linking Sumner Road and Martin Luther King Jr. Avenue eliminating the isolation of the existing neighborhood and providing addresses for new residential units*
- *Proposing the reconstruction of a new K-5 Elementary School on the existing Birney Elementary School site and the rebuilding the existing Recreation Center*
- *Creating a new linear park and community open space which provides views of the District’s skyline*
- *Utilizing sustainable practices in the urban and architectural design of the new neighborhood to preserve existing natural site features and minimize the development’s impact on the environment*

The proposal will be consistent with the Physical Plan, as the amendment will allow the redevelopment of Barry Farm and Wade Road Apartments with a mix of mid-rise apartments, rowhouses, semi-detached units and flats to accommodate a mix of replacement public housing, affordable and market rate units of which three hundred eighty (380) will be affordable

replacement units. To complement the residences, neighborhood retail and service uses will be permitted in the BF-1.

### **PROPOSED ACTION**

The Commission received an opposition letter on December 9, 2020, from an organization that had testified at the December 7, 2020 public hearing, reiterating their testimony:

- That the Petition will displace Barry Farm residents and exclude them from the redevelopment process that a PUD would afford;
- That the Petition is contrary to the Office of the Deputy Mayor for Planning and Economic Development's (DMPED) New Communities Initiative (NCI) mission to build first at true one-to-one replacement;
- That the Petition is inconsistent with the Comprehensive Plan and the Barry Farm/Park Chester/Wade Road Redevelopment Plan; and
- That the land parcels at issue in this Petition are on remand because of Z.C. Case No. 14-02; and therefore, the Commission should have set this case down as a contested case to allow for parties to participate in the public hearing instead of as a rulemaking case.<sup>8</sup>

In response to the December 9, 2020 opposition letter, POAH submitted an April 30, 2021 letter, responding to the concerns raised and reiterating several of the points in OP's Hearing Report. POAH's response noted its community engagement efforts with Barry Farm residents, including:

- Providing quarterly project updates to residents on project status (which have been virtual throughout COVID); and
- Scheduling regular (monthly or bimonthly) events to keep residents engaged, build community, and share resource information; this has included meetings with other partners such as DCHA, DMPED, and Far SE Family Strengthening Collaborative. Our most recent Barry Farm Meeting was March 30th, a Virtual Resource Fair to connect residents with service providers. Some residents have communicated that being offsite and away from their former networks has been challenging, so the activities that our team hosts serve not only to keep POAH connected with residents, but also to keep residents connected with other residents. A great example of community building is our Resident Virtual Holiday Party that took place December 2020.

The POAH's response also included DCHA Resolution 16-06, Relocation and Re-entry Policies for NCI Developments as an attachment, and explained that the policies address a residents' eligibility for right of return, prohibit the establishment of any minimum work or service requirements as a condition for a residents' return, establish an intention to work with District

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<sup>8</sup> As previously noted, Z.C. Case No. 14-02 approved a PUD for redevelopment of Barry Farm. Although the case was appealed to the District of Columbia Court of Appeals and vacated and remanded back to the Commission, ultimately Z.C. Case No. 14-02 was withdrawn by DCHA and the Developer on May 30, 2018 and the Commission consented to the withdrawal on June 11, 2018. Therefore, there is no longer an active remand of the Commission's approval of the PUD in Z.C. Case No. 14-02. Furthermore, the proposed text amendment to the Zoning Regulations to create the BF zone, which is the sole subject of this case, was set down by the Commission on September 14, 2020, as a rulemaking case pursuant to 11-Z DCMR § 201.5. However, the opposition letter, which was filed on December 9, 2020, was the first time an issue was raised with this case being set down as a rulemaking.

and development partners to provide relocation support and establish resident return preferences for each NCI community.

The Commission found the proposed amendments to create the new BF zone to not be inconsistent with the Comprehensive Plan. The Commission also found that taking action on the proposed amendments would not further displace Barry Farm residents or facilitate excluding them from the process of redeveloping Barry Farm. To the contrary, the Commission concluded that taking action on the proposed amendments as a rulemaking was the appropriate planning and zoning tool to further NCI revitalization and redevelopment goals and implement the Council-adopted Barry Farm/Park Chester/Wade Road Redevelopment Plan. The Commission is committed to ensuring that former Barry Farm residents have a right to return to the replacement units following the redevelopment; therefore, the proposed amendments should include language to increase transparency about the required number of replacement units. To this end, OP has proposed a revision to the amendments to add a new Subtitle K § 1105.4(c) requiring the replacement unit report be submitted to both the Zoning Administrator and the Commission in Z.C. Case No. 20-24 each time an application for a Building Permit is requested for a residential use.<sup>9</sup> The Commission agrees with OP's recommendation.

The Commission found persuasive, and concurred with, OP's recommendations that the Commission adopt the Petition, particularly:

The analyses in OP's Hearing Report which addressed most of the opposition comments/testimony and concludes that the proposed BF zone would not be inconsistent with the Comprehensive Plan, including the FLUM, the GPM, city-wide and area elements, and adopted Small Area plans and would implement the Barry Farm/Park Chester/Wade Road Redevelopment Plan; and the recommendation in OP's Second Supplemental Report filed in Z.C. Case No. 20-24 to add a new Subtitle K § 1105.4(c) to the proposed amendments.

ANC 8C submitted a letter in support of the Petition, but noted no specific issues and concerns for the Commission to give great weight to.

At its July 26, 2021 public meeting, the Commission voted to take **PROPOSED ACTION** to:

- Adopt the Petition, including the proposed version of Subtitle K § 1105.4(c) to require the replacement unit report be submitted to both the Zoning Administrator and the Commission case record for Z.C. Case No. 20-24 each time an application for a Building Permit is filed for a residential use; and
- Authorize the publication of a Notice of Proposed Rulemaking (NPR).

**VOTE (July 26, 2021):**        **5-0-0**        (Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to **APPROVE**)

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<sup>9</sup> OP's Second Supplemental Report in Z.C. Case No.20-24, Exhibit 203 in that case file, was filed on July 19, 2021, and recommended a revision to the text in this case to add a new Subtitle K § 1105.4(c).

**National Capital Planning Commission (NCPC)**

The Commission referred the proposed amendment to the NCPC on July 27, 2021, for the thirty (30)-day review period required by Section 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl.).

NCPC filed a September 2, 2021 report, stating that NCPC had determined that the Petition to create the Barry Farm Zones was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any identified federal interests.

OZ published a Notice of Proposed Rulemaking (NPR) in the November 12, 2021 *District of Columbia Register* (68 DCR 012002)

Prior to its December 16, 2021 public meeting, the Commission received no comments in response to the Notice of Proposed Rulemaking.

**FINAL ACTION*****“Great Weight” to the Recommendations of OP***

The Commission must give “great weight” to the recommendations of the Office of Planning (OP) pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. ((D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).)

The Commission finds persuasive and concurs with OP’s recommendation that the Commission adopt the Petition as published in the Notice of Proposed Rulemaking.

***“Great Weight” to the Written Report of the ANCs***

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

As previously noted, ANC 8C submitted a letter in support of the Petition but noted no specific issues and concerns. Further, no ANC comments were submitted in response to the NPR for the Commission to give great weight to.

The Commission reiterated its commitment to ensuring that former Barry Farm residents have a right to return to the replacement units following redevelopment; and noted the inclusion of the language in Subtitle K § 1105.4(c) requiring the replacement unit report be submitted to both the Zoning Administrator and the Zoning Commission case record for Z.C. Case No. 20-24 each time an application for a Building Permit is filed for a residential use.

At its December 16, 2021 public meeting, the Zoning Commission voted to take **FINAL ACTION** to:

- Adopt the Petition; and
- Authorize the publication of a Notice of Final Rulemaking.

**Vote (December 16, 2021): 4-0-1** (Peter G. May, Anthony J. Hood, Robert E. Miller, and Peter A. Shapiro to **APPROVE**; Architect of the Capitol Representative, Joseph S. Imamura, abstaining having not participated)

The following text amendments to the Zoning Regulations are hereby adopted.

**TEXT AMENDMENTS TO ADD NEW Subtitle K, Chapter 11**

**I. Amendment to Subtitle A, AUTHORITY AND APPLICABILITY**

**Subsection 101.9 of § 101.9, INTERPRETATION AND APPLICATION, of Chapter 1, INTRODUCTION TO TITLE 11, of Subtitle A, AUTHORITY AND APPLICABILITY, is proposed to be amended, to read as follows:**

101.9 The following zone districts are considered residential zone districts:

- (a) R, Residential House ...
- ...
- (e) CG-1 Capital Gateway (multi-family); and
- (f) D-1 Downtown (multi-family); and
- (g) BF Barry Farm.

**II. Amendments to Subtitle K, SPECIAL PURPOSE ZONES**

**Chapter 1, INTRODUCTION TO SPECIAL PURPOSE ZONES, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended by adding a new § 100 and renumbering and modifying § 100 as § 101, to read as follows:**

**100 GENERAL PROVISIONS**

100.1 Subtitle E is to be read and applied in addition to the regulations included in:

- (a) Subtitle A, Authority and Applicability;
- (b) Subtitle B, Definitions, Rules of Measurement, and Use Categories;



(c) Subtitle C, General Rules; and

(d) Subtitle U, Use Permissions.

100.2 For those zones with a geographic identifier, the zone boundaries are described in Subtitle W, Specific Zone Boundaries, and identified on the official Zoning Map.

**101 GENERAL PROVISIONS PURPOSE AND INTENT**

101.1 The purpose of the special purpose zones is to provide for single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, land uses, or other aspects of development.

**A new Chapter 11 is proposed to be added to Subtitle K, SPECIAL PURPOSE ZONES, of Subtitle K, SPECIAL PURPOSE ZONES, to read as follows:**

**CHAPTER 11 BARRY FARM ZONES – BF-1 THROUGH BF-2**

**1100 GENERAL PROVISIONS AND PURPOSE AND INTENT (BF)**

1100.1 The purposes of the Barry Farm (BF) zones (BF-1 through BF-2) are to:

- (a) Facilitate implementation of the Barry Farm/Park Chester/Wade Road Redevelopment Plan, which was approved as a small area plan by the Council of the District of Columbia on December 19, 2006, pursuant to the Barry Farm/Park Chester/Wade Road Redevelopment Plan Resolution of 2006 (Res 16-0922);
- (b) Establish a vibrant mixed-use, mixed-income neighborhood where residents have quality housing options in a variety of configurations;
- (c) Ensure the development of approximately one thousand one hundred and ten (1,110) dwelling units, including approximately three hundred and eighty (380) affordable replacement units, within mid-rise apartment buildings, and attached and semi-detached single-family dwellings and flats;
- (d) Encourage the development of neighborhood retail and service uses in the ground floor of mixed-use buildings fronting on Firth Sterling Avenue, S.E.; and
- (e) Create open and green spaces suitable for passive private enjoyment and active community recreation and amenities.

**1101 GENERAL DEVELOPMENT STANDARDS (BF)**

- 1101.1 The development standards of this section and Subtitle K § 1102 apply to all BF zones except as modified for a specific zone, in which case the modified zone-specific standard shall apply. When only a portion of a development standard is modified the remaining portions of the development standards shall still apply.
- 1101.2 A court is not required in a BF zone, but where provided, it shall have the following minimum dimensions:

**TABLE K § 1101.2: MINIMUM COURT DIMENSIONS**

Type of Structure	Open Court Minimum Width	Closed Court Minimum Width	Closed Court Minimum Area
Detached, Semi-detached, Row Dwellings, and Flats	N/A	N/A	N/A
Residential, more than 3 units	2.5 inches per foot of height of court; 10 ft. minimum	2.5 inches per foot of height of court; 12 ft. minimum	Twice the square of the required closed court width; 250 square ft. minimum
Non-residential and Lodging	2.5 inches per foot of height of court; 6 ft. minimum	2.5 inches per foot of height of court; 10 ft. minimum	Twice the square of the required closed court width; 250 square ft. minimum

**1102 PENTHOUSES AND ROOFTOP STRUCTURES (BF)**

- 1102.1 Unless otherwise modified in this section, penthouses or rooftop structures in BF zones shall be subject to the regulations of Subtitle C, Chapter 15.
- 1102.2 An apartment building in a BF zone other than the BF-2C zone shall be permitted to have a penthouse or rooftop structure with a maximum permitted height and stories of twelve feet (12 ft.) and one (1) story, with mechanical space limited to eighteen feet and six inches (18 ft., 6 in.) and two (2) stories.
- 1102.3 A detached, semi-detached, or row building with a single dwelling unit, or a flat in a BF zone other than the BF-2C zone shall be permitted to have a penthouse or rooftop structure that:
  - (a) Only contains either:
    - (i) Screening for mechanical equipment or a guard-rail required by the Construction Codes (Title 12 of the DCMR) for a roof deck; or
    - (ii) Stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck; and

(b) Is no more than eleven feet (11 ft.) and one (1) story tall.

1102.4 Any building or structure located in the BF-2C zone shall be permitted a mechanical penthouse or rooftop structure with a maximum height of eighteen feet, six inches (18 ft. 6 in.).

**1103 VEHICLE AND BICYCLE PARKING (BF)**

1103.1 Unless otherwise modified by this section, vehicle and bicycle parking requirements for BF zones shall be as specified in Subtitle C, Chapters 7 and 8.

1103.2 Required vehicle parking spaces need not be located on the same lot as the building or building(s) that generates the requirement, subject to the following conditions:

- (a) The off-site location shall be located within the same block as the use for which the parking space is required;
- (b) Parking spaces provided off-site shall not serve as required parking for any other use; and
- (c) Each application to the Department of Consumer and Regulatory Affairs for a development that requires parking shall clearly demonstrate compliance with conditions (a) and (b) of this subsection.

1103.3 Vehicle parking spaces shall not be required:

- (a) For uses permitted under Subtitle K §§ 1113.2(a) and (b) and 1113.3, regardless of zone; and
- (b) For a building containing a single principal dwelling unit or flat if the lot does not have access to an open, improved, and public alley with a right of way of ten feet (10 ft.) width minimum.

1103.4 Vehicle parking spaces shall not be subject to the requirements of Subtitle C § 707.

**1104 LOADING (BF)**

1104.1 Loading shall be provided in accordance with the requirements of Subtitle C, Chapter 9.

**1105 AFFORDABLE HOUSING (BF)**

1105.1 Affordable housing shall be provided in the BF zones as described in this section. The provisions of Subtitle C, Chapter 10, shall not apply to the BF zones, except

that the relevant penthouse habitable space affordable housing provisions pursuant to Subtitle C § 1500.112 shall apply to the BF zones.

- 1105.2 The purposes of this section are to:
- (a) Ensure the provision of a significant amount of affordable housing, including for very low-income households; and
  - (b) Ensure that the affordable housing is distributed throughout the BF zones.
- 1105.3 The FAR, lot occupancy, and height listed in the Development Standards for each BF zone shall serve as the maximum permitted density and building envelopes for buildings and structures, including for the provision of affordable units.
- 1105.4 The affordable housing requirement for the entire BF zones shall consist of no less than three hundred and eighty (380) affordable dwelling units that shall be provided as D.C. Housing Authority replacement public housing units (“Affordable Replacement Unit”), subject to the following:
- (a) The Affordable Replacement Units shall be subject to and comply with the requirements of Subtitle C § 1001.6(a);
  - (b) Each application for a building permit for a residential use for a property in a BF zone shall include the following information in tabular and map format of how the provisions of this section are being met:
    - (i) The number and type of Affordable Replacement Units proposed to be constructed by the building permit application;
    - (ii) The number and type of Affordable Replacement Units for which a building permit has been issued, together with the location and status of completion of each unit; and
    - (iii) The number and type of Affordable Replacement Units that have yet to be provided, together with the planned location and the anticipated date of building permit application and construction of each remaining unit; and
  - (c) A copy of the information required by Subtitle K § 1105.4(b) shall be submitted to the Zoning Administrator and the Zoning Commission case record for Z.C. Case No. 20-24.
- 1105.5 Each application for a building permit for a residential use shall include in tabular and map format a description of which Affordable Replacement Units have been provided to date and where, which Affordable Replacement Units have yet to be provided and where they are anticipated to be provided, and how the provisions of this section are being met.

1105.6 Affordable units arising from penthouse habitable space pursuant to Subtitle C §§ 1500.11 and 1500.12 shall be provided in accordance with the relevant provisions of Subtitle C, Chapter 10 for residential penthouse habitable space or Subtitle C § 1505 for non-residential penthouse space, expect that such units may be located anywhere within the BF zones.

**1106 BF-1 ZONE**

1106.1 The BF-1 zone is intended to:

- (a) Permit moderate-density mixed-use development;
- (b) Provide a range of neighborhood-serving retail, service, and commercial uses and multiple dwelling unit residential development.
- (c) Create a vibrant mixed-use main street along Firth Sterling Avenue, S.E. that capitalizes on transportation improvements and new development at St. Elizabeth’s West Campus and provides new neighborhood-serving retail.

**1107 DEVELOPMENT STANDARDS (BF-1)**

1107.1 The development standards in Subtitle K §§ 1101 and 1102 shall apply to the BF-1 zones except as specifically modified by this section. In the event of a conflict between the provisions of this section and other regulations of this subtitle, the provisions of this section shall prevail.

1107.2 Except as elsewhere in this section, the development standards for each BF-1A and BF-1B zone shall be as set forth in the following table:

**TABLE K § 1107.2: BF-1 DEVELOPMENT STANDARDS**

<b>BF-1 Zone</b>	<b>Total FAR</b>	<b>Non-Residential FAR</b>	<b>Height (ft.)</b>	<b>Lot Occupancy (Residential (%))</b>	<b>Rear Yard (ft.)</b>
BF-1A	4.0	1.0	65 ft.	80%	15 ft.
BF-1B	6.0	1.0	65 ft.	80%	15 ft.

1107.3 Unless otherwise limited by regulations governing courts, yards, and setbacks, lot occupancy on the first two (2) stories is permitted up to one hundred percent (100%), regardless of use.

1107.4 A rear yard is required only above a horizontal plane located twenty feet (20 ft.) above the mean finished grade at the middle of the rear façade of the principal building and shall be measured as follows:

- (a) Where a lot abuts a public or private street, the rear yard may be measured from the centerline of the street; or

- (b) Where a lot abuts a public or private alley:
  - (i) The rear yard may be measured from the centerline of the alley; or
  - (ii) In lieu of the rear yard required by this subsection, a lot may provide a court complying with the width requirements for a closed court as specified in Subtitle K § 1101.2 located above the horizontal plane.

1107.5 A rear yard is not required to be provided below a horizontal plane as described in Subtitle K § 1107.6.

1107.6 A semi-detached building with a single dwelling unit shall have one (1) side yard, a minimum of five feet (5 ft.) in width.

1107.7 A building or structure other than a detached or semi-detached building with a single dwelling unit is not required to provide a side yard; however, if a side yard is provided, it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of building height, but no less than five feet (5 ft.).

#### **1108 USE PERMISSIONS (BF-1)**

1108.1 Unless otherwise modified in this section, use permissions for the BF-1 zones are those of the MU-Use Group E of Subtitle U, Chapter 5, including uses permitted as a matter of right, as a special exception, or as an accessory use, and uses not permitted.

1108.2 A building in the BF-1 zones that has frontage along Firth Sterling Avenue, S.E., shall devote the equivalent of not less than fifty percent (50%) of its ground floor linear footage along Firth Sterling Avenue, S.E., at a continuous depth of at least twenty feet (20 ft.) in from the property line, regardless of where such uses are located to uses in the following preferred use categories:

- (a) Arts, design, and creation;
- (b) Daytime Care;
- (c) Eating and drinking establishments;
- (d) Retail; or
- (e) Service, including both general and financial services.

#### **1109 PROHIBITED USES (BF-1)**

1109.1 The following uses are prohibited in the BF-1 zone as either a principal or accessory use:

- (a) Drive-through;
- (b) Firearms retail sales establishments;
- (b) Gasoline service station or repair garage;
- (c) Liquor store;
- (d) Pawn shop; and
- (e) Self-storage facility.

**1110 GREEN AREA RATIO (GAR) (BF-1)**

- 1110.1 A minimum GAR of 0.3 shall be required in the BF-1 zone.
- 1110.2 Exceptions from GAR shall be permitted if approved by the Zoning Commission as a special exception pursuant to Subtitle X, Chapter 9, and the conditions of Subtitle C § 605.

**1111 BF-2 ZONE**

- 1111.1 The BF-2 zone is intended to:
  - (a) Permit predominantly moderate-density row and semi-detached buildings with residential and live-work dwelling units and flats; and
  - (b) Provide open and green space suitable for passive private enjoyment and active community recreation and amenities, as appropriate.

**1112 DEVELOPMENT STANDARDS (BF-2)**

- 1112.1 The development standards in Subtitle K §§ 1101 and 1102 shall apply to the BF-2 zones except as specifically modified by this section. In the event of a conflict between the provisions of this section and other regulations of this subtitle, the provisions of this section shall prevail.
- 1112.2 The development standards for each lot in the BF-2 zone shall be as set forth in the following table:

**TABLE K § 1112.2: BF-2 DEVELOPMENT STANDARDS**

BF-2 Zones	Minimum Lot Width (ft.)	Height (ft.)	Maximum Stories	Maximum Lot Occupancy	Minimum Rear Yard
BF-2A BF-2B	Single Dwelling Unit - 16;	40	N/A	80%	4 inches per foot of building height; 15 ft. minimum

	All others - N/A				
BF-2C	N/A	40	N/A	20%	4 in / 1 ft. (15 ft. min)
BF-2D	N/A	40	3	The greater of 40% or the lot occupancy as of the date of adoption of this chapter	The lesser of 4 inches per foot of building height; 15 ft. minimum or the rear yard as of the date of adoption of this chapter

1112.3 In the BF-2 zone, rear yards shall be measured as follows:

- (a) Where a lot abuts an alley, the rear yard may be measured from the centerline of the alley to the rear wall of the building or structure; or
- (b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

1112.4 A detached building with a single dwelling unit shall have two (2) side yards, each a minimum of five feet (5 ft.) in width.

1112.5 A semi-detached building with a single dwelling unit shall have one (1) side yard, a minimum of five feet (5 ft.) in width.

1112.6 A building or structure other than a detached or semi-detached building with a single dwelling unit is not required to provide a side yard; however, if a side yard is provided, it shall be no less than four feet (4 ft.).

**1113 USE PERMISSIONS (BF-2)**

1113.1 Unless otherwise modified in this section, use permissions for the BF-2 zones are those of the RF zones of Subtitle U, Chapter 3, including uses permitted as a matter of right, as a special exception, or as an accessory use, and uses not permitted.

1113.2 In the BF-2A zone, in addition to the uses permitted under Subtitle K § 1113.1, the following uses shall also be permitted as a matter-of-right in buildings or structures with frontage along Sumner Road, S.E.:

- (a) Arts, Design, and Creation uses, including an artist live-work studio, provided:
  - (i) Such uses shall be limited to the ground floor;
  - (ii) All operations and storage of materials shall occur inside the building; and



(iii) Sales of art work produced by the occupants of the studio shall be permitted within the studio; and

(b) A home occupation use, subject to the conditions and requirements of Subtitle U § 251.

1113.3 In the BF-2C zone, only the following uses shall be permitted as a matter-of-right:

- (a) Arts, Design, and Creation;
- (b) Daytime Care;
- (c) Education, public;
- (d) Entertainment, Assembly, and Performing Arts;
- (e) Institutional, General;
- (f) Park and Recreation; and
- (g) Recreational Building or Use.

1113.4 In the BF-2D zone, only the uses permitted under Subtitle K § 1113.3 and residential use shall be permitted as a matter-of-right.

**1114 PERVIOUS SURFACE (BF-2)**

1114.1 Each building in the BF-2 zones shall meet the minimum pervious surface requirements set forth in the following table on its own lot:

**TABLE K § 1118.1: MINIMUM PERVIOUS SURFACE REQUIREMENTS**

Minimum Lot Size Minimum	Minimum Pervious Surface
Less than 1,800 sq. ft.	0%
1,801 – 2,000 sq. ft.	10%
Larger than 2,000 sq. ft.	20%

1115-1149 [RESERVED]

**1150 ALLEY LOT DEVELOPMENT STANDARDS (BF)**

1150.1 Notwithstanding Subtitle C § 306.1, new alley record lots in the BF zones shall comply with the following requirements:

- (a) Have frontage along a public alley with a minimum alley width or twenty feet (20 ft.) and have access to a street from the alley through an alley or alleys not less than twenty feet (20 ft.) in width; and

(b) Have a minimum of one thousand square feet (1,000 sq. ft.).

1150.2 Notwithstanding Subtitle B § 308.9, building height on alley lots in BF zones shall be measured from the middle of the building façade that faces the alley, which shall also serve as the building front for zoning purposes.

1150.3 An alley lot in the BF zones is subject to the general and zone-specific development standards and use permissions applicable to the alley lot's zone.

## **1151 THEORETICAL SUBDIVISIONS (BF)**

1151.1 In the BF zones, multiple primary buildings on a single record lot shall be permitted as a matter of right, subject to the following conditions:

(a) The number of buildings permitted by this section shall not be limited; provided each building is located on an individual theoretical lot that serves as boundaries for assessment of compliance with the Zoning Regulations;

(b) Side and rear yards of a theoretical lot shall be consistent with the requirements of the applicable BF zone;

(c) The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade selected as the front of the building of zoning purposes; and

(d) The height measurement rule of this subsection shall supersede any other height measurement rule except the Height Act.

## **1152 SPECIAL EXCEPTION RELIEF (BF)**

1152.1 Relief from the requirements of Subtitle K §§ 1101, 1102, 1107, 1112, 1113.2, 1114, 1150, and 1151, or as provided elsewhere in this chapter, may be granted by the Zoning Commission as a special exception pursuant to Subtitle X, Chapter 9, and the Zoning Commission's determination that the request for relief is consistent with the purposes of the applicable BF zone.

The text amendments shall become effective upon publication of this notice in the *District of Columbia Register*, that is on December 31, 2021.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING<sup>1</sup>**

**Z.C. CASE NO. 20-24**

**Office of Planning**

**(Zoning Map Amendment @ Square 5862, Lots 137-143; Square 5865, Lots 243, 249, 254, 259, 260-280, 893, 963-978, and 992; Square 5866, Lots 130, 133-136, 141-144, 147-150, 152, 831-835; and Square 5867, Lots 143, 172-174, 890-891, and 898)**

**December 16, 2021**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2018 Repl.)), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl.)), hereby gives notice of its adoption of the following amendments to the Zoning Map:

Rezone Square 5862, Lots 137-143; Square 5865, Lots 243, 249, 254, 259, 260-280, 893, 963-978, and 992; Square 5866, Lots 130, 133-136, 141-144, 147-150, 152, 831-835; and Square 5867, Lots 143, 172-174, 890-891, and 898 (the “Property”) from the RA-1 zone to the proposed Barry Farm (BF) zone.<sup>2</sup>

**Setdown**

On October 5, 2020, the Office of Planning (OP) filed a report that served as a petition (OP Petition and Setdown Report) requesting the Commission approve a proposed amendment of the Zoning Map for the Property from the current RA-1 zone to the proposed Barry Farm (BF) zone (Map Amendment). Barry Farm is one of the identified communities in the Office of the Deputy Mayor for Planning and Economic Development’s (DMPED) New Communities Initiative (NCI) which has a goal of the revitalization and redevelopment of areas developed solely as public housing through the development of mixed income and mixed-use communities into which the existing residents would be integrated. In November of 2005, the District of Columbia in conjunction with the Barry Farm Advisory Committee initiated a public planning process to create a revitalization plan with a goal of “*creating a vibrant mixed-income neighborhood where residents have quality, housing options, real economic opportunities and access to appropriate human services for children and adults.*” The process involved residents, community stakeholders, city agencies, and public leaders and resulted in the Barry Farm/Park Chester/Wade Road Redevelopment Plan. The Map Amendment to the BF zone would implement the Barry Farm/Park Chester/Wade Road Redevelopment Plan, which was approved as a small area plan by the Council of the District of Columbia on December 19, 2006, pursuant to the Barry Farm/Park Chester/Wade Road Redevelopment Plan Resolution of 2006 (Res 16-0922).

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<sup>1</sup> This Notice of Final Rulemaking shall also be known as Z.C. Order No. 20-24 only for Office of Zoning tracking purposes

<sup>2</sup> On September 14, 2020, the Commission set down a rulemaking case, Z.C. Case No. 20-21, a text amendment to create a new Barry Farm (BF) zone. (The public hearing for Z.C. Case No. 20-21 took place on December 7, 2020.

The Property consists of approximately 1,106,850 square feet or 25.4 acres generally bounded by Suitland Parkway and the new Barry Farm Recreational Center to the north; Wade Road, S.E. to the east; St. Elizabeths West Campus to the south, and the Firth Sterling Avenue, S.E. to the west. The Property is located in the Anacostia neighborhood of Ward 8 and is zoned RA-1. To the west, across Firth Sterling Avenue, are lands in the PDR-1 zone; to the north is the new Barry Farm Recreation Center and the Excel Academy Charter School in the RA-1 zone; to the east is the Park Chester apartments and rowhouses in the RA-1 zone; and to the south is the St. Elizabeths West Campus with the U.S. Department of Homeland Security offices that is not subject to zoning. At this time, the Property is mostly vacant as a majority of the structures have been demolished. A few residential structures remain in the western portion of the site. Five of the buildings and their surrounding area have been designated a historic landmark in recognition of the rich and unique history of Barry Farm.

The Property's current RA-1 zone provides for areas predominantly developed with low- to moderate-density development, including detached dwellings, rowhouses, and low-rise apartments. The proposed BF zone for the Property would contain two individual zones, BF-1 and BF-2, each with subzones, which would allow matter-of-right development consistent with the Council-adopted Barry Farm/Park Chester/Wade Road Redevelopment Plan. Each BF zone will have bulk parameters for new construction such as height, FAR, lot occupancy, and yards which are intended to achieve the desired density and building type on each part of the Property. The BF-1 zone is proposed as a moderate-density, mixed-use zone that will allow residential use for apartments with ground floor neighborhood retail and service uses with maximum building height of sixty-five feet (65 ft.) and FARs of 4.0 in the BF-1A zone and 6.0 in the BF-1B zone. The BF-2 zone is a moderate-density residential zone that will allow row dwellings, semi-detached units, and flats at a maximum height of forty feet (40 ft.). Within the BF-2 zone, there will also be the area designated for a community park and the Barry Farm Historic Landmark.

The OP Petition (OP Setdown Report) asserted that, on balance, the proposed Map Amendment to the BF zone would not be inconsistent with the Comprehensive Plan. Currently, the entire Property is designated Moderate Density Residential on the Future Land Use Map (FLUM). The Mayor's recommendation for Comprehensive Plan amendments, recommend a FLUM change for a portion of the Property from Moderate-Density Residential to Medium-Density Residential/Medium Density Commercial.<sup>3</sup> The proposed Map Amendment to the BF zone is not an exact reflection of the current Comprehensive Plan Future Land Use Map (FLUM) designation of Moderate-Density Residential; however, it is balanced by the recommendations of the Generalized Policy Map (GPM), Citywide Elements, the Far Southeast Southwest Policy Area of the Comprehensive Plan, and the Barry Farm/Park Chester/Wade Road Redevelopment Plan. Further, the pending amendments to the Comprehensive Plan FLUM would eliminate the inconsistency of the proposed Map Amendment and allow the redevelopment of Barry Farm with the significant public benefits of affordable housing, open space, historic preservation, and neighborhood retail uses.

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<sup>3</sup> The DC Council adopted amendments to the Comprehensive Plan which became final and effective on August 21, 2021. The amendments changed a portion of the Property's FLUM designation from Moderate Density Residential to Medium-Density Residential/Medium Density Commercial.

At its October 15, 2020 public meeting, the Commission heard testimony from OP in support of the Map Amendment and set the case down as rulemaking case<sup>4</sup>. At setdown, the Commission requested that the case not be scheduled for a public hearing until there was a more definite timetable for the DC Council vote on impending amendments to the Comprehensive Plan that would change a portion of the Property's designation on the FLUM. OP submitted a November 20, 2020 letter stating that the DC Council vote on the amendments to the Comprehensive Plan was anticipated in January/February 2021; and requesting that the Commission not schedule a public hearing for the case until February 2021, and not take final action until the DC Council votes on the proposed amendments to the Comprehensive Plan.

OP submitted an April 23, 2021 report (OP Hearing Report), that reiterated the statements in the OP Setdown Report.

The Commission scheduled the public hearing for May 3, 2021. At the May 3<sup>rd</sup> public hearing, the Commission opened the hearing but decided to postpone it to June 7, 2021, to allow more for the DC Council vote on the amendments to the Comprehensive Plan, and to allow more time for OP to prepare a supplemental report incorporating the amendments.

OP submitted a June 4, 2021 request, to postpone the public hearing scheduled for June 7, 2021 to July 1, 2021, to allow OP more time to prepare a supplemental report addressing the changes to the Comprehensive Plan.

At the June 7, 2021 public hearing, the Commission opened the hearing and granted OP's request to postpone the hearing to July 1, 2021.

Prior to the scheduled May 3<sup>rd</sup> hearing, the scheduled June 7<sup>th</sup> hearing, and the July 1<sup>st</sup> hearing, several letters and comments in support of the Map Amendment were submitted by individuals and organizations, but many expressed concern about the rights of former Barry Farm residents to return to the new units to be managed by the District of Columbia Housing Authority (DCHA) in coordination with the Preservation of Affordable Housing (POAH).

The POAH submitted a letter of support noting that:

- 125 letters have been submitted in support of the Map Amendment;
- It has continued engagement efforts, even during COVID, to ensure that all Barry Farm residents have accurate and up-to-date information about the redevelopment process; and
- It is fully committed to the Barry Farm Redevelopment and, more importantly, to residents returning to the site so that they can take advantage of the benefits that will result from this redevelopment.

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<sup>4</sup> Pursuant to 11-Z DCMR § 201.7, the Commission set this case down as a rulemaking because the property is publicly-owned by the District of Columbia Housing Authority and the case was initiated by the Office of Planning to amend the zoning map for a neighborhood, commercial district, or other geographic area encompassing multiple properties - in this case, Barry Farm.

DMPED submitted a letter of support noting that the Map Amendment will enable the NCI to fulfill the following guiding tenets:

- The creation of mixed-income housing which aims to end the concentration of low-income housing and poverty where residents will have access to high quality housing options at all income levels; and
- One-for-one replacement of every public housing unit that was demolished to ensure no net loss of affordable housing units.

DCHA submitted a letter of support noting that the proposed Map Amendment:

- Will facilitate the revitalization of the Barry Farm neighborhood and allow for a mix of housing types, family sizes and incomes;
- No less than 380 affordable units shall be provided as DCHA replacement public housing units;
- The revitalized neighborhood would include a portion of the site which has been landmarked to preserve resources of the former Barry Farm development; and
- The retail and service uses would complement the residences to provide for the day to day needs of residents.

### **ANC Report**

The property is within ANC 8C, the “affected ANC” as defined by Subtitle Z § 101.8. At its November 4, 2020 meeting, the ANC voted to support the proposed Map Amendment, citing no issues and concerns. The ANC resolution is at Exhibit 126 of Z.C. Case No. 20-21.

### **Public Hearing**

At the July 1, 2021 public hearing, the Commission heard testimony from five (5) individuals and/or organizations in support; four (4) individuals and/or organizations in opposition; and three undeclared individuals. Most of the testimony was from former Barry Farm residents; they all wanted to return to Barry Farm following the redevelopment. Notably, the opponent testimony was from individuals or organizations concerned that former residents would have no actionable or guaranteed right of return as a result of the Commission’s action on the proposed Map Amendment.

At the close its July 1, 2021 hearing, the Commission requested an OP supplemental report, including:

- Information on the unit mix and type;
- Information on the MFI breakdown;
- Updates on the location of former Barry Farm residents;
- Information from DCHA on any obstacles to ensuring that former Barry Farm residents have a right to return to the redevelopment; and
- Information/guidance from Mayor’s Offices on Racial Equity.

Following the July 1, 2021 public hearing, the POAH submitted a July 16, 2021 letter noting its community engagement efforts with former Barry Farm residents, including:

- Providing quarterly project updates to residents on project status (which have been virtual throughout COVID); and
- Scheduling regular (monthly or bimonthly) events to keep residents engaged, build community, and share resource information; this has included meetings with other partners such as DCHA, DMPED, and Far SE Family Strengthening Collaborative. The most recent Barry Farm meetings at the time of submission were May 24 and June 21, 2021, at which more design information for the first building, the Senior Building, was shared with residents. Some residents have communicated that being offsite and away from their former networks has been challenging, so POAH outreach activities serve not only to keep POAH connected with residents, but also to keep residents connected with other residents. The letter also referenced a scheduled resident meeting for July 19, 2021, during which meeting POAH intended to discuss financial literacy and pathways to homeownership.

POAH also attached a list of the engagement events hosted to date with Barry Farm residents and other key stakeholders to their letter.

### **OP Supplemental Reports Discussion and Summary of Updated Comprehensive Plan, Racial Equity and Zoning Maps Consistency Analysis**

As previously noted, the public hearing for this Map Amendment was postponed allowing time for the amendments to the Comprehensive Plan to become effective. OP provided a First Supplemental Report explaining the updates to the Comprehensive Plan, in particular the changes to incorporate equity and racial equity analysis and the changes to the Property's designation on the FLUM. This section summarizes the updated Comprehensive Plan Consistency Analysis explained in OP's First Supplemental Report; and summarizes the responses to the issues raised by the Commission at the conclusion of the July 1, 2021 public hearing, explained in OP's Second Supplemental Report.

- I. **OP submitted a June 28, 2021 First Supplemental Report<sup>5</sup> explaining that the proposed Map Amendment to the BF zone would not be inconsistent with the Comprehensive Plan update, the Future Land Use Map (FLUM) and Generalized Policy Map (GPM) designations, the Citywide Elements including land use and housing, and would further the policies of the Far Southeast Southwest Area Element, specifically Policy FSS-2.3.1: Barry Farm New Community and the recommendations of the Barry Farm/Park Chester/Wade Road Redevelopment Plan.**

The following is a summary of OP's First Supplemental Report.

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<sup>5</sup> On the date of this report, the amendments to the Comprehensive Plan had been approved, but they were not adopted by the DC Council and final and effective until August 21, 2021.

### Equity and Racial Equity

The recently approved Comprehensive Plan amendment (Comp Plan update) emphasizes the importance of equity and racial equity as a guiding principle for planning and policy making in the District of Columbia. The Implementation Element states that:

[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide the equity interests and needs of different areas of the District. (2501.5.)

As a way to advance equity, the Comp Plan calls for training of District officials and preparation of equity tools “to assist District agencies in evaluating and implementing the Comprehensive Plan’s policies and actions through an equity, particularly a racial equity lens.” (2501.7.) Further, the Comp Plan specifically calls for “a process for the Zoning Commission to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis.” (2501.7.) Achieving equity and more specifically racial equity, requires a broad range of policies and tools, some of which fall under the zoning authorities granted to the Commission and some of which do not. Commission actions are land use focused, but the broader equity goal includes public policies, budget investments, civic improvements and social services which are beyond the scope of the Commission.

The direction to consider equity “as part of its Comprehensive Plan consistency analysis” indicates that the equity analysis is intended to be based on the policies of the Comp Plan and part of the Commission’s consideration of whether a proposed zoning action is “not inconsistent” with the Comp Plan, rather than a separate determination about a zoning action’s equitable impact. And as is the case whenever the Commission considers Comp Plan consistency, the scope of the review and Comp Plan policies that apply will depend on the nature of the proposed zoning action.

The scope of evaluation of “all actions through a racial equity lens” will vary depending on the type of zoning action before the Commission and what aspects of the outcome the Commission can control. Equity is conveyed throughout the Comp Plan, particularly in the context of zoning, where certain priorities stand out. These include affordable housing, displacement, and access to opportunity. One of the keyways the Comp Plan seeks to address equity is by supporting additional housing development. The Comp Plan recognizes that without increased housing the imbalance between supply and demand will drive up housing prices in a way that creates challenges for many residents, particularly low-income residents.

A map amendment of the Property from the RA-1 zone to the BF zone is the zoning action before the Commission in this case. A map amendment establishes what can be allowed and potentially developed on a property. In this circumstance there is a large amount of information known about the project that is intended to be developed under the new BF zones because the site is owned by DCHA, and there is a small area plan and the research done for the historic designation of a portion of the Barry Farm site.



Equity and displacement were central issues of the small area redevelopment plan which was incorporated into the Comp Plan update. The proposed new BF zoning (Z.C. Case No. 20-21) and subsequent map amendment (this Z.C. Case No. 20-24) follow directly from that redevelopment plan and Comp Plan update with the purpose to facilitate the development.

These central issues serve as guiding principles and vision for the new Barry Farm have been incorporated into the proposed text and map amendment and would provide for a new mixed-income community with low-income replacement public housing units in addition to other affordable rental and homeownership units. The units would be available in a variety of sizes and unit types: apartments flats, two-over-twos, and single row dwellings. The amendments would allow for community spaces to accommodate supportive uses and services on-site to enhance training and development.

The proposed text and map amendment would implement the small area redevelopment plan with a combination of apartments and low-rise units with a mix of duplexes, townhouses and “two-over-two” stacked flat/townhouse combinations. The current RA-1 zone does not allow these residential types as a matter of right nor at the necessary density and height. The development is required to provide 380, low-income replacement public housing units in addition to other affordable and market-rate units for a total of up to 1,100 units.

The map and text amendment would allow for a variety of neighborhood retail uses on the ground floor of buildings along Firth Sterling Avenue which will complement the residential uses.

A new street grid has been created for Barry Farm that incorporates some of the original streets and would allow for each building within the Barry Farm to have an address. The new street grid would create more residentially scaled blocks and allow for better internal cross connections and direct connections between Firth Sterling Avenue, Sumner Road and Martin Luther King Jr. Avenue. The new grid also provides multiple entrance/exit points into and out of Barry Farm. The new streets would have bicycle and pedestrian ways and would provide more eyes on the street for security.

In 2020, the Historic Preservation Review Board designated a portion of Barry Farm Dwellings as a historic landmark. It is envisioned that one of the landmarks buildings would house a museum and cultural center to commemorate the heritage and history of Barry Farm. The African American culture and Barry Farm heritage would also be incorporated throughout the development through items such as street names and names of buildings.

To the northeast of Barry Farm is the reconstructed Barry Farm Recreation Center and the DC Preparatory School. The recreation center has fields and facilities operated by the DC Department of Parks and Recreation. The proposed map and text amendment provide a BF-2D zone to accommodate community open space to allow passive and active recreational uses as well as cultural activities. The development would be subject to all the District’s environmental regulations to minimize the impact of the development on the environment and further environmental equity.

### **Racial Equity, Proposed BF Zones and Housing**

The Comp Plan update addresses the issue of housing and the disparity of incomes between Black households and white households in the District of Columbia:

It is important to note that use of a regional MFI skews high for the District. In 2017, for example, the actual median household income, rather than MFI adjusted by family size, was \$82,372 in the District and \$99,669 for the DC metropolitan area. Affordability in the District is further skewed given the District's comparatively higher market rate housing costs. The 2017 median value for homes in the District is \$607,000 compared to \$424,000 for the metropolitan area. Further, the regional MFI does not disaggregate and consider information by race, an important consideration given the income gap for communities of color in the District, with the MFI for Black households in the District less than the MFI for white households. The 2017 median income for Black families in the District is \$51,114 (less than 50 percent of the MFI), while it is \$190,957 for white families in the District. Proportionately, this means that more Black families are likely to fall within the extremely low and very low-income categories, as shown in Figure 1, below. Fewer Black households will be able to afford housing in the low- or moderate-income categories. (500.7(c).)

More deeply affordable housing production and preservation is needed to advance racial equity in housing because of the racial income gap. (500.7(e).)

In the proposed BF zone text amendment, § 1105.2 specifically identifies as a purpose of the BF zone the provision of “affordable housing including for very low-income households.”

The text and map amendments in these cases will result in new housing available to families of various income levels, including households earning less than 30 % of the MFI. The population is predominately Black and the Black population in Ward 8 has a median household income of approximately \$31,972 with approximately 27% of the households earning less than \$15,000<sup>6</sup>. The replacement units will serve public housing families which are at or below 30% of the MFI for District households. There is a critical need for the production of units that serve this very low-income population.

The greatest share of burdened and severely burdened households are the 39,500 rental households earning less than 30 percent of the MFI.<sup>6</sup> The market has also become more segmented, with dwindling housing choices for working families and the middle class in general. Expanded housing options for lower- and middle-income households have become limited, and the opportunity for many residents to build individual wealth through homeownership has become more difficult. Racial representation differs across income groups, and communities of color are disproportionately impacted by increasing housing costs and diminishing supply

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<sup>6</sup> The U.S. Census Bureau American Community Survey for the five-year period between 2014 through 2018.

of affordable options. The District’s Black and Hispanic households experience higher levels of rent burden that increase the likelihood of displacement. (Housing Element 500.19.)

The variety of housing types allowed under the proposed BF zone and its mapping on the site will also provide opportunities for homeownership for a population that has a low rate of homeownership compared to the total District population. The U.S. Census Bureau American Community Survey reports that for the five (5)-year period between 2014 through 2018, only twenty-two and four tenths percent (22.4%) of households in Ward 8 were owner occupied compared to forty-one and eight tenths percent (41.8 %) of the total District households. Importantly, homeownership provides a long-term asset to build long-term personal wealth. Affordable homeownership programs provide families with the benefits of value appreciation of their homes, one of the most important tangential benefits of owning instead of renting. (Housing Element 512.2.)

While many of these issues are beyond the control of the Commission, the zoning action to approve the BF zone and map it on the site will result in the creation of two hundred (200) for-sale townhomes; one hundred sixty (160) market rate, and forty (40) affordable. The redevelopment of Barry Farm as facilitated by the new BF zone is anticipated to result in a mix of housing type, housing tenure and income from rental housing for very-low income households to market rate for-sale units.

Rental:	380 Public Housing Replacement Units
	320 Additional Units Affordable up to 80% MFI
Homeownership:	160 Market Rate Units
	40 Affordable Units up to 80% MFI

Replacement Units: At the public hearing on this case and on Case No. 20-21, concern was raised in public testimony about the enforcement of replacement units. The requirement for one-for-one (1:1) replacement is required and enforced through:

- U.S. Department of Housing and Urban Development approval of demolition and disposition of the Barry Farm Dwellings, with conditions requiring the one-for-one replacement of the demolished public housing units and compliance with other HUD/Federal public housing requirements;
- Master development agreement between Barry Farm Redevelopment Associates (“BFRA”) and DCHA;
- Tax regulatory agreements between POAH and DCHFA where applicable;
- Low Income Housing Tax Credit Indenture of Restrictive Covenants between POAH and D.C. Department of Housing and Community Development; and
- Affordable housing covenants between POAH and DMPED.

In the proposed BF zone text amendment, the issue of replacement units is also included and required in § 1105.4 of the proposed text amendment.

The physical development called for by the adopted small area plan and Comp Plan update could not be achieved under the current RA-1 zone. In the area to be rezoned to the BF-1 zones, the current RA-1 zone limits the density to 0.9 FAR, height to forty feet (40 ft.) and lot occupancy to forty percent (40%). The proposed BF-1 zones would accommodate mixed-use buildings with a density of 4.0 to 6.0 FAR, a height of sixty-five feet (65 ft.) and a lot occupancy of eighty percent (80%).

### **Zoning Maps**

The changes/updates to the Future Land Use Map (FLUM) designate the western and northwestern portions of the Property as appropriate for a mix of Medium-Density Residential and Medium-Density commercial while the remainder of the Property is recommended for Moderate-Density Residential Use.

The Moderate-Density Residential category is defined in 10-A DCMR § 227.6 of the Framework Element as applying to neighborhoods with row houses and low-rise apartment buildings, and some single-family houses, as well as older multi-story apartment buildings that pre-date current zoning or land use designations. Typical zones include, the R-3, RF, and RA-2 zones, although “other zones may also apply” according to the Framework Element. The Framework Element also suggests that the types of uses noted above are not “exclusively” the types of uses appropriate to moderate density residential areas.

The Medium-Density Residential category is defined in 10-A DCMR § 227.7 of the Framework Element as applying to neighborhoods suited for mid-rise apartment buildings but also may apply to taller residential buildings surrounded by permanent open space areas. Density typically ranges from 1.8 to 4.0 although greater density may be possible when complying with Inclusionary Zoning. A typical zone is the RA-3 zone although “other zones may also apply.”

The Medium-Density Commercial category is defined at 10-A DCMR § 227.12 of the Framework Element as applying to shopping and service areas where retail, office, and service businesses are the predominant uses. Density typically ranges between FAR of 4.0 and 6.0 FAR with greater density possible when complying with Inclusionary Zoning. The typical zones are MU-8 and MU-10 although “other zones may also apply”.

The proposed text and map amendment are not inconsistent with these map designations which comport with the recommendations of the Barry Farm/Park Chester/Wade Road Redevelopment Plan (Small Area Plan (SAP)) to include row dwelling and apartment unit types and sizes complemented by neighborhood retail and service uses, green and open spaces, and would also preserve and reuse designated historic landmark buildings.

The update to the Generalized Policy Map (GPM) made no change to the designation of the Property as appropriate for Neighborhood Enhancement Areas. Neighborhood Enhancement Areas are neighborhoods with substantial amounts of vacant and underutilized land. They include areas that are primarily residential in character, as well as mixed-use and industrial areas. Many of these areas are characterized by a patchwork of existing homes and individual vacant lots, some privately owned, and others owned by the public sector or non-profit developers. “These areas present opportunities for compatible infill development, including new single-

family homes, townhomes, other density housing types, mixed-use buildings, and, where appropriate, light industrial facilities. Land uses that reflect the historical mixture and diversity of each community and promote inclusivity should be encouraged.” (225.6.)

The guiding philosophy in Neighborhood Enhancement Areas is to ensure that new development responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood and must be consistent with the land-use designation on the Future Land Use Map and with Comprehensive Plan policies. The unique and special qualities of each area should be maintained, and conserved, and overall *neighborhood character should be protected or enhanced as development takes place. Publicly ‘owned open space within these areas should be preserved and enhanced to make these communities more attractive and desirable.* (225.7.)

The proposed BF zone for Barry Farm would not be inconsistent with the recommendations for Neighborhood Enhancement Areas as it would allow for redevelopment of a District owned property to be mainly residential with various housing types, and sizes. The new zone would allow for lots with private open space as well as designated public, open spaces to serve the wider community. The redevelopment of Barry Farm would include the creation of a new street grid to better connect to adjacent streets and provide better access and security for residents. To complement the residences, the new zone provides for neighborhood retail uses and services to serve residents everyday needs.

## **Chapter 18 - Far Southeast and Southwest Area Element**

### **FSS-1.1.7: Retail Development**

*Support additional retail development within the Far Southeast/Southwest, especially in Historic Anacostia, and in the neighborhood centers at Malcolm X/Martin Luther King Jr. Avenue and South Capitol/Atlantic. Projects which combine upper story housing or offices and ground floor retail are particularly encouraged in these three locations.*

### **FSS-1.1.11: Increasing Homeownership**

*Address the low rate of home ownership in Far Southeast/Southwest by providing more owner-occupied housing in new construction, encouraging the construction of single-family homes, and supporting the conversion of rental apartments to owner-occupied housing, with an emphasis on units that are affordable to current tenants. (1808.12.)*

The proposed map and text amendment support the provision of neighborhood, ground floor, retail, and service use with residential above. Specifically, the BF-1 zone is intended to permit mixed-use developments, provide a range of neighboring serving retail and service uses and “create a mixed-use main street along Firth Sterling Avenue, SE” (§§ 1106.1(a), 1106.1(b), and 1106.1(c).) The proposed BF-zone would allow for the provision of a mix of unit types, including affordable, owner-occupied, single-family units that would be available to qualified returning residents. The amendment would advance homeownership in the Far Southeast/Southwest area.

## **FSS-2: Policy Focus Areas 1810**

*The Comprehensive Plan has identified seven areas in the Far Southeast/Southwest as “policy focus areas,” indicating that they require a level of direction and guidance above that in the prior section of this Area Element and in the citywide elements (see Map 18.1 and Table 18.2).*

*These areas are:*

- *Historic Anacostia*
- *St. Elizabeths Campus*
- ***Barry Farm/Hillsdale/Fort Stanton*** [emphasis added]
- *Congress Heights Metro Station*
- *Congress Heights Commercial District*
- *Bellevue/Washington Highlands*
- *DC Village. 1810.1*

The proposed text amendment provides the additional focus for the redevelopment of Barry Farm.

***Policy FSS-2.3.1: Barry Farm New Community***

*Rebuild Barry Farm in a manner that:*

- *Ensures one for one replacement of any public housing unit that is removed, at sizes needed by former residents and residents’ right to return to a replacement unit under the same tenancy qualifications. Provide family sized housing in a manner that meets tenants’ housing needs and the needs of households on the public housing waiting list.*
- *Incorporates measures to assist residents and avoid dislocation and displacement or personal hardship, such as provision of storage.*
- *Creates additional opportunities for affordable, moderate-income and market rate housing on the site, consistent with the requirements of the District’s NCI, homeownership opportunities for returning residents.*
- *Provides new amenities, such as community facilities, parks, early childhood development, incubation of resident-owned businesses, and improved access to the Anacostia River and Anacostia Metro station.*
- *The District of Columbia Housing Authority and site developers must continue to engage, inform and provide equitable community participation with the residents, neighborhood, and other stakeholders throughout the redevelopment of the Barry Farms property, and document site development and community agreements.*
- *Honors the significant history of the Barry Farm community and its many residents who have contributed to DC’s culture through academic, sports, music and the struggle for the liberation of African Americans through the study of the commemorative reuse of the Barry Farm historic landmark site.*
- *Respects the self-governance and leadership of subsidized tenants by recognizing and supporting resident-led organizations and initiatives, respecting resident input and influence over decision making, and ensuring that no two-tiered system of residency rights and privileges is created whereby subsidized tenants are treated differently or have lesser access to amenities than their nonsubsidized counterparts.*

*While some increase in density will be required to meet the one-for-one replacement goal, consideration should be given to including nearby vacant land in the new*

*community site, so that densities may remain in the moderate to medium range with ample green and open space as anticipated by the 2006 Barry Farm Redevelopment Plan and as measured across the overall new community site. Building heights may exceed those heights typically used in medium- density zones, particularly near larger roads on the edge of the site, to accommodate the moderate to medium density over the entire site. (1813.3.)*

The proposed text and map amendments are not inconsistent with the policies established for the Far Southeast/Southwest Planning Area. The text and map amendments would foster the revitalization of the Barry Farm site in a manner that ensures the replacement of public housing, creates opportunities for a range of low, moderate, and market-rate housing, and provides new community amenities. The amendments would provide three hundred eight (380) replacement units for former residents to minimize displacement. The BF Zone would allow additional density at a moderate to medium range, provide a variety of unit types; apartments, row dwellings, and flats and provide the opportunity for a range of household sizes and incomes. The BF-1 zone would encourage the development of new ground floor, neighborhood-serving retail and service uses, with residential uses above. The amendments would also foster the development of open spaces/park areas that could accommodate a variety of individual and community activities.

The amendment would facilitate a redeveloped Barry Farm which will have a new street layout including pedestrian and bicycle infrastructure and would include road connections between nearby communities and better access to the Anacostia Metrorail station and nearby parks and open spaces. The BF-2D zone has been assigned to the designated area to honor the history of Barry Farm and would allow for the preservation of the buildings and allow uses which would allow for a museum and neighborhood heritage and cultural center.

***Action FSS-2.3.4: Barry Farm Historic Landmark***

*Work with nonprofit partners and residents to restore the Barry Farm Historic Landmark, a grouping of five buildings at the corner of Stevens Road SE and Firth Sterling Avenue SE, to create a public museum, archive and educational space dedicated to the study of Barry Farm neighborhood history, and the connections to the early post-Civil War community, civil rights, public housing, go-go music, and other themes connected to the history of the community. (1813.6.)*

The proposed text amendment and map amendment has identified the historic landmark with its own subzone, BF-2D, which permits uses that could include a museum and neighborhood heritage and cultural center.

**The Barry Farm/Park Chester/Wade Road Redevelopment Plan**

The Barry Farm/Park Chester/Wade Road Redevelopment Plan consists of three main elements: the Human Capital Plan; the Physical Plan; and a Development and Finance Strategy. The vision of the plan is to “create a vibrant mixed-income neighborhood where residents have quality housing options, real economic opportunities and access to appropriate human services for children and adults.” A set of key guiding principles was developed in a partnership between the District of Columbia and the Barry Farm Advisory Committee that addressed affordable housing;

human capital; economic opportunity; and culture and heritage. The Physical Plan makes detailed recommendations for improving the area's housing, public facilities, neighborhood design, open space and transportation. Key elements of the Physical Plan for the neighborhood include:

- *Creating a mixed-income community of mid-rise apartments and low-rise family housing on the Neighborhood site which includes 373 replacement units together with new affordable and market rate units for a total of 1110 units.*
- *Partnering with local property owners, the Anacostia Waterfront Corporation, private developers at St. Elizabeth's East and others to create an additional 281 replacement units in mixed-income neighborhoods.*
- *Creating a vibrant-mixed use main street at Firth Sterling Avenue that capitalizes on transportation improvements and new development at St. Elizabeth's West and provides new neighborhood retail.*
- *Creating a new grid of residential streets linking Sumner Road and Martin Luther King Jr. Avenue eliminating the isolation of the existing neighborhood and providing addresses for new residential units.*
- *Proposing the reconstruction of a new K-5 Elementary School on the existing Birney Elementary School site and the rebuilding the existing Recreation Center.*
- *Creating a new linear park and community open space which provides views of the District's skyline.*
- *Utilizing sustainable practices in the urban and architectural design of the new neighborhood to preserve existing natural site features and minimize the development's impact on the environment.*

The proposal will be consistent with the Physical Plan, as the amendment will allow the redevelopment of Barry Farm and Wade Road Apartments with a mix of mid-rise apartments, rowhouses, semi-detached units and flats to accommodate a mix of replacement public housing, affordable and market rate units of which three hundred eighty (380) will be affordable replacement units. To complement the residences, neighborhood retail and service uses will be permitted in the BF-1.

**II. OP submitted a July 19, 2021 Second Supplemental Report including responses to the issues raised by the Commission at the conclusion of the July 1, 2021 public hearing.**

First, OP's Second Supplemental Report responded to following issues:

- **Information on the unit mix and type**  
The Text Amendment of Z.C. Case No. 20-21, Subtitle K § 1100.1(c) would allow approximately 1,110 units at Barry Farm. The Developer states that they anticipate at least nine hundred (900) units in total:
  - Three hundred eighty (380) public housing replacement units;
  - Anticipate approximately three hundred twenty (320) other affordable rental units;
  - and
  - Anticipate approximately two hundred (200) for-sale units.



The units for returning residents would be a mix of senior housing, multi-unit apartments, and townhouse units.

- **Information on the MFI breakdown**

The three hundred eighty (380) public housing replacement units will serve between zero and fifty percent (0-50%) MFI. There would be approximately three hundred twenty (320) additional affordable rental units at forty-five to eighty percent (45%-80%) MFI with the average of all units not to exceed sixty percent (60%) MFI, all being affordable LIHTC rental units.

Of the two hundred (200) for-sale units, forty (40) would be affordable for-sale townhome units. The forty (40) for-sale townhome units are not included in the three hundred eighty (380)-replacement unit count. However, anyone that qualifies, including former residents, can purchase an affordable for-sale unit. The unit sizes will likely be three (3)- and four (4)-bedrooms. The exact MFI levels are unknown at this time as the multi-year, multi-phase development, and the funding sources (and corresponding MFIs) could potentially change. Returning Barry Farm residents who are eligible would be able to purchase affordable for-sale units. The affordable for-sale units are not considered replacement units. DCHA offers homeownership classes and will work to increase enrollment. POAH is also working with residents to get them prepared to return through lease compliance support discussed below.

- **Updates on the location of former Barry Farm residents**

At Exhibit 129, POAH provided a document containing recent newsletters and information on engagements events with residents. An update of the information is provided at Exhibits 201A1 to 201A4, which are also discussed above in the Public Hearing section.

- **Information from DCHA on any obstacles to ensuring that former Barry Farm residents have a right to return to the redevelopment**

Residents' Right to return was codified in DCHA's Resolution 16-06, Relocation and Re-entry Policies for NCI Developments.<sup>7</sup> DCHA states that at move-out, all tenants received a Relocation and Re-Occupancy Plan which outlined the tenant's right to return, relocation services, and other details regarding the redevelopment at pages 14 to 17 of Exhibit 202.

The right to return is administered and enforced by DCHA with coordination and support from the Developer. DCHA and Developer will communicate with the residents to help ensure that they remain lease compliant and will also ensure that the right to return is implemented during lease-up.

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<sup>7</sup> See Z.C. Case No. 20-21, Proposed Barry Farm Text Amendment, Exhibit 140A.

Barry Farm families are required to maintain a level of lease compliancy during their temporary housing. Lease Compliance support is administered by DCHA and the Developer. The Developer is working with families to help them remain lease compliant. Some examples are:

Lease Compliance Support through DCHA

The DCHA Southwest Enhancement Center is opened and offered to all residents as a resource for credit counseling, financial literacy training, homeownership and workforce development and is administered through the Department of Resident Services.

During the COVID-19 pandemic, an initiative was launched called the “Rent Café” which is an online self-service portal designed to make it easier for residents to pay their rent.

Lease Compliance Support from POAH

To support the residents, POAH works to offer support in the following areas:

- **Rental Assistance** – POAH works with outside providers to assist families in accessing rental assistance in paying their rent if necessary (mostly voucher holders).
- **Utility Bill assistance** - POAH works with outside resources and connects Barry Farm families to these resources to ensure they get the assistance they need in paying their utilities.
- **Employment Assistance** – POAH coordinates hiring for Barry Farm Head of Household and all other family members by being the initial intake and referring to partners that have job readiness programs and/or actual employment opportunities. Additionally, POAH acts as the liaison between the DCHA Section 3 team, the construction hiring teams and residents to ensure families are navigating construction hiring successfully as positions on site become available
- **Housekeeping and Neighbor to Neighbor conflict** – POAH and DCHA partner to address individual challenges related to property management and resident issues that arise. POAH’s role is one of referral and support to families while working with the DCHA who determines the best DCHA contact to address challenges.
- **Landlord – Resident relationships** - POAH and the DCHA Relocation and Voucher teams work to assist families temporarily housed using a voucher to address challenges, questions and concerns that may arise in living with landlords in and around the city.

DCHA states that given the concerns regarding the right to return, they will continue to develop methods to help former residents understand their right to return to the site.

- **Information/guidance from Mayor’s Offices on Racial Equity**

OP sent its report to the Office of Racial Equity on July 8, 2021 and received no comments.

Second, OP's July 19, 2021 Second Supplemental Report recommended a revision to the text amendments in Z.C. Case No. 20-21 to increase the transparency about the required number of replacement units. The revision to the text amendment would add a new Subtitle K § 1105.4(c) requiring the replacement unit report be submitted to both the Zoning Administrator and the Commission case file for Z.C. Case No. 20-24 each time an application for a Building Permit is requested for a residential use.

This concludes the section summarizing OP's Analysis of the Updated Comprehensive Plan explained in its First Supplemental Report; and OP's responses to the issues raised by the Commission at the conclusion of the July 1, 2021 public hearing, explained in its Second Supplemental Report.

### **Proposed Action**

The Commission found the proposed Map Amendment zoning action to not be inconsistent with the updated Comprehensive Plan, particularly when viewed through a racial equity lens, given the amount of affordable and replacement public housing that the Map Amendment will generate and the numerous checks in place, including HUD/Federal requirements, the DCHA Relocation and Re-entry Policies, and the proposed revision to add Subtitle K § 1105.4(c)<sup>8</sup>, to mitigate the further displacement of former Barry Farm residents and ensure their right to return to the Barry Farm redevelopment upon completion. Moreover, the Commission found the proposed Map Amendment to not be inconsistent with the updated Future Land Use Map (FLUM) and Generalized Policy Map (GPM) designations, the Citywide Elements including land use and housing, and finds that the Map Amendment would further the policies of the Far Southeast Southwest Area Element, specifically *Policy FSS-2.3.1: Barry Farm New Community* and the recommendations of the Barry Farm/Park Chester/Wade Road Redevelopment Plan.

The Commission found OP's recommendation that the Commission take proposed action to adopt the proposed Map Amendment persuasive and concurred in that judgment based on the analyses in OP's Hearing Report, OP's First Supplemental Report, and OP's Second Supplemental Report.

ANC 8C submitted a letter in support of the Map Amendment, but noted no specific issues and concerns for the Commission to give great weight to.

At its July 26, 2021, public meeting, the Commission voted to take **PROPOSED ACTION** to adopt the Map Amendment and to authorize the publication of a Notice of Proposed Rulemaking:

**VOTE (July 26, 2021):**        **5-0-0** (Robert E. Miller, Peter G. May, Anthony J. Hood, Peter A. Shapiro, and Michael G. Turnbull to **APPROVE**)

<sup>8</sup> At its July 26, 2021, the Commission took proposed action in Z.C. Case No. 20-21 to adopt the text amendments to create the new BF zone including the proposed revisions to add Subtitle K §1105.4 (c).

**National Capital Planning Commission (NCPC)**

The Commission referred the proposed amendment to the NCPC on July 27, 2021, for the thirty (30)-day review period required by Section 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl.).

NCPC filed a September 7, 2021 report, stating that NCPC had determined that the Map Amendment from the RA-1 Zone to the BF zones for various lots at Squares 5862, 5865, 5866, and 5867 to allow matter-of-right development consistent with the Barry Farm Redevelopment Plan was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any identified federal interests.

OZ published a Notice of Proposed Rulemaking (NOPR) in the November 12, 2021 *D.C. Register* (68 DCR 012025 *et seq.*)

Prior to its December 16, 2021 public meeting, the Commission received no comments in response to the Notice of Proposed Rulemaking.

**Final Action*****“Great Weight” to the Recommendations of OP***

The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

The Commission finds persuasive and concurs with OP’s recommendation that the Commission adopt the Map Amendment as published in the Notice of Proposed Rulemaking.

***“Great Weight” to the Written Report of the ANC’s***

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

As previously noted, ANC 8C submitted a letter in support of the Map Amendment but noted no specific issues and concerns. Further, no ANC comments were submitted in response to the NOPR for the Commission to give great weight to.

At its December 16, 2021 public meeting, the Zoning Commission voted to take **FINAL ACTION** to adopt the Map Amendment and to authorize the publication of a Notice of Final Rulemaking.

**Vote (December 16, 2021): 4-0-1** (Peter G. May, Anthony J. Hood, Robert E. Miller, and Peter A. Shapiro to **APPROVE**; Architect of the Capitol Representative, Joseph S. Imamura, abstaining having not participated)

The following amendments to the Zoning Map are hereby adopted.

SQUARE	LOTS	MAP AMENDMENT
5862	137-143	RA-1 zone to BF-1A zone
5865	263-265 & 277-279 and parts of Lots 262, 266, 267, 275, and 276	RA-1 zone to BF-2A zone
5865	253, 255, 256, and 268-274 and parts of 251, 252, 257, 258, 267, 275, and 276	RA-1 zone to BF-1B zone
5865	63, 242-247, 259-261, 280 and 284 and parts of 262 and 282	RA-1 zone to BF-2B zone
5866	130, 141-145, 147-154	RA-1 zone to BF-2B zone
5867	3, 143, and 172-174	RA-1 zone to BF-2B zone
5865	248-250, and 281 and parts of Lots 251, 257, 258, and 282	RA-1 zone to BF-2C zone
5865	254	RA-1 zone to BF-2D zone
5866	133-136	RA-1 zone to BF-2D zone

The amendments shall become effective upon publication of this notice in the *District of Columbia Register*, that is on December 31, 2021.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING<sup>1</sup>**

**Z.C. Case No. 21-05**

**Office of Planning**

**(Text Amendment – Subtitle C, IZ-XL Phase #2, Applying Inclusionary  
Zoning to Conversions of Non-Residential Buildings to Residential Use)**

**December 16, 2021**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend Subtitle C 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), with the text at the end of this notice.

**SET DOWN**

On March 1, 2021, the Office of Planning (OP) filed a petition (Petition) to the Commission proposing a text amendment to apply the existing Inclusionary Zoning (IZ) program to buildings that are converted from non-residential use to residential use. The amendments would apply the IZ requirements, in zones where IZ already applies, to non-residential use conversions to residential use, regardless of whether the existing building envelope is enlarged or retained. A conversion must be in a zone where IZ already applies and propose ten (10) or more dwelling units at the time of the building permit. The ten (10) or more dwelling unit threshold can be a combination of existing floor area converted to residential use and new floor area built for residential use. All other requirements of the IZ program would apply to a conversion, including the existing set-aside requirements and the use of bonus density.

The following table summarizes the existing regulations and the change in how IZ would be applied to a conversion from non-residential to residential use under the text amendment.

<b>Non-Residential Building Converts to Residential Use</b>	<b>Uses IZ-Related Bonus Density</b>	<b>IZ Applies Under Existing Regulations?</b>	<b>IZ Applies Under Text Amendment?</b>
Less than 10 units	Not available	No	No
10 units or more; no addition	No	No	Whole building
10 or more units that result from addition of less than 50% of existing GFA	No	New GFA only	Whole building
	Yes	Whole building	Whole building
10 or more units that result from addition of 50% or more of existing GFA	No	Whole building	Whole building
	Yes	Whole building	Whole building

<sup>1</sup> For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 21-05.

At its March 11, 2021 public meeting, the Commission voted to grant OP's request to set down the Petition for a public hearing.

### PUBLIC HEARING

On June 17, 2021, OP submitted its Analysis of Assessments of Commercial to Residential Conversions in the District of Columbia Q2, 2020 along with a report (OP Hearing Report), stating that no substantive changes to the proposed amendments had been made since set down, but that the amendments were revised to:

- Reorganize Subtitle C § 1001 to streamline the existing program applicability requirements and to better integrate the new applicability requirements for conversions;
- Refine what establishes a conversion by referencing the residential use category of Subtitle B § 200.2;
- Clarify that a conversion is subject to an IZ requirement when ten (10) or more dwelling units are proposed by either:
  - Converting existing non-residential floor area to residential floor area; or
  - A combination of converting existing non-residential gross floor area to residential floor area and adding new residential floor area that did not previously exist; and
- Revise Subtitle C § 1001.4 to clarify when existing residential floor area in a mixed-use building is subject to the IZ set aside requirements where the non-residential portion of the building converts to residential use.

Prior to the public hearing, no comments or testimony were submitted to the record.

At the June 28, 2021 public hearing, OP presented the Petition and responded to questions of the Commission. In addition, organizations and members of the public testified:

- In opposition to the Petition, concerned it will act as a disincentive to non-residential to residential conversion projects and make such projects less likely to be underwritten;
- In opposition to the Petition, concerned that applying IZ to conversions without any offsetting benefit will further challenge conversion projects, and concerned about including a vesting provision to allow projects currently underway to continue; and
- In support of the Petition, noting that non-residential buildings such as hotel, institutional and office uses may be obsolete and/or located in high-cost areas with potential to be converted to affordable housing.

At the conclusion of the hearing, the Commission decided to continue the hearing to allow time for the following:

- City wide input from ANCs;
- Submission of all the hearing testimony in writing to the record; and
- Submission of an OP supplemental report to the record addressing all opposition to the proposed amendments.

Prior to the continued hearing on October 7, 2021, OP submitted an October 4, 2021 (OP Supplemental Hearing Report). OP's report noted that it had addressed the Commission's requests by:



- Contacting all ANCs by email on August 18, 2021, to serve as a reminder that this case was heard at a public hearing on June 28, 2021, and that the Commission was providing an additional opportunity for their comment on the case. No ANC comments were submitted to the record; and
- Responding to all opposition testimony and comments submitted to the case record in four categories: financing and housing production comments; density comments; vesting comments; and set-aside comments, as follows:
  - Financing and Housing Production Comments  
OP explained that: (i) the proposed amendments should be clear, but the language must be flexible to cover a diversity of potential scenarios making clarity more challenging; (ii) the proposed amendments will not have an impact on the supply or demand of office uses due to the limits on office floor-area-ratio (FAR) in mixed-use (MU) zones, other than Downtown zones (D zones), where there is usually additional residential FAR available for redevelopment; and (iii) the proposed amendments application of IZ to existing structures will result in a net gain in IZ units compared to the hypothetical loss of conversion projects that choose to stay non-residential;
  - Density Comments  
OP explained that: (i) due to the limits on non-residential FAR in mixed-use (MU) zones, there is likely additional density for redevelopment; and (ii) for properties where there is not additional residential FAR available, the decision about conversion becomes a business decision by the property owner as to how they will maximize land value given potential costs, revenues, and profit requirements;
  - Vesting Comments  
OP reiterated that the proposed amendments will only apply to IZ conversions located in zones where IZ already applies; given that set down occurred on March 11, 2021, OP does not see a need for a vesting provision; and
  - Set-Aside Comments  
OP explained that it recommends keeping the set-aside for conversions consistent with existing IZ requirements rather than lowering it, which also keeps the regulations clear and simple.

At the October 7, 2021 continued public hearing, the Commission acknowledged OP for its outreach efforts and its detailed supplemental report addressing all issues raised at the initial hearing. The Commission also expressed disappointment that there was no ANC input submitted to the record. OP reiterated the statements in its supplemental report regarding how the expansion of IZ to non-residential to residential conversions would likely not reduce affordable housing because the amendments will impact MU zones the most, and in those zones residential FAR is more available because of limits on non-residential FAR.

### **PROPOSED ACTION**

The Commission found persuasive, and concurred with, OP's recommendations that the Commission adopt the Petition, particularly:

OP's conclusion that the decision to pursue a conversion is a business decision where a property owner considers how to maximize land value given potential costs, revenues, and profit requirements. Further, when an existing non-residential use is no longer viable, a

property owner has several options to ensure the best use of the land, including retaining existing non-residential uses or converting to residential uses.

Since no ANC filed a response to the Petition as advertised in the public hearing notice, there was nothing to which the Commission could give great weight at proposed action.

At the conclusion of the October 7, 2021 continued public hearing, the Commission voted to take **PROPOSED ACTION** to:

- Adopt the Petition; and
- Authorize the publication of a Notice of Proposed Rulemaking (NOPR).

**VOTE (October 7, 2021): 4-0-1** (Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, and Peter G. May to **APPROVE**; Architect of the Capitol Representative, not present, not voting)

### **National Capital Planning Commission (NCPC)**

The Commission referred the proposed amendment to the NCPC on October 8, 2021, for the thirty (30)-day review period required by Section 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl.).

NCPC filed a November 4, 2021 report, stating that NCPC had determined that the text amendments to Subtitle C-Inclusionary Zoning XL, Phase 2 would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital, nor would it impact any other identified federal interest.

OZ published a Notice of Proposed Rulemaking (NOPR) in the November 5, 2021 *District of Columbia Register* (68 DCR 011817).

Prior to its December 16, 2021 public meeting, the Commission received one comment from a community organization in response to the NOPR. The comments were in support of the Petition, but they urged the Commission to take far more comprehensive and aggressive action to better meet the city's growing income divide and affordable housing deficit by:

- Increasing the IZ set aside requirements for the percentage of affordable units produced as they have remained unchanged since enactment in 2006; and
- Lifting the IZ exemption from the central core of the District as a new way to use IZ to create additional affordable housing.

### **FINAL ACTION**

#### ***“Great Weight” to the Recommendations of OP***

The Commission must give “great weight” to the recommendations of the Office of Planning (OP) pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. ((D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

The Commission finds persuasive, and concurs with, OP's recommendations that the Commission adopt the Petition, as published in the NOPR.

***“Great Weight” to the Written Report of the ANCs***

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

Since no ANC submitted comments in response to the NOPR, there is nothing to which the Commission can give great weight.

The Commission acknowledged the comment in response to the NOPR encouraging additional amendments to the Inclusionary Zoning program and its intent to address the issues raised in the near future.

At its December 16, 2021 public meeting, the Zoning Commission voted to take **FINAL ACTION** to:

- Adopt the Petition; and
- Authorize the publication of a Notice of Final Rulemaking.

**Vote (December 16, 2021): 4-0-1** (Peter A. Shapiro, Robert E. Miller, Anthony J. Hood, Peter G. May, and to **APPROVE**; Architect of the Capitol Representative, Joseph S. Imamura, not voting, having not participated.)

The following amendments to the Zoning Regulations are hereby adopted:

**TEXT AMENDMENTS**

**Subsections 1001.2, 1001.3, 1001.4, and 1001.6 of § 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, are proposed to be amended, to read as follows:**

1001.2 Except as provided in Subtitle C § 1001.5, the requirements of this chapter shall apply to, and the modifications to certain development standards and bonus density of this chapter shall be available to, developments in zones in which this chapter is identified as applicable as specified in the individual subtitles of this title; provided the development falls into one of the following categories:

- (a) A “Mandatory Inclusionary Development” – a development that:
  - (1) Proposes to create ten (10) or more new dwelling units, including dwelling units located in a cellar or penthouse, by:
    - (i) Adding new gross floor area beyond that existing at the time of the building permit application;
    - (ii) Changing the use of existing gross floor area to the “Residential” use category of Subtitle B § 200.2; or
    - (iii) A combination of (i) and (ii);
  - (2) Consists of a residential building that has penthouse habitable space pursuant to Subtitle C § 1500.11; or
  - (3) An “IZ Plus Inclusionary Development” – a development located on property that was the subject of a map amendment that increased the allowable FAR pursuant to Subtitle X § 502 and as indicated with an “IZ+” on the Zoning Map and that meets one of the categories of subparagraphs (1) through (2) of this paragraph 1001.2(a); or
- (b) A “Voluntary Inclusionary Development” – any single household ...<sup>2</sup>

1001.3 The number of dwelling units and the gross floor area used pursuant to Subtitle C § 1001.2(a) to establish the applicability of the IZ requirements, and associated IZ modifications, shall be based on:

- (a) The new dwelling units and the gross floor area constructed or converted to the “Residential” use category of Subtitle B § 200.2 concurrently or in phases, on a single lot, on contiguous lots, or on lots divided by an alley, that were under common ownership, control, or affiliation within one (1) year prior to the application for the first building permit; and
- (b) All building permits issued for the development within a three (3)-year period, starting from the issuance of the first building permit for the development.

1001.4 For existing buildings that become subject to the requirements of this chapter pursuant to Subtitle C § 1001.2, the requirements of Subtitle C §§ 1003.1 through

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<sup>2</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

1003.4 and the available modifications to applicable development standards shall apply as follows:

- (a) For any development described by Subtitle C §§ 1001.2(a), to both the existing and new gross floor area if the development:
  - (1) Utilizes the bonus density provided by Subtitle C § 1002; or
  - (2) Results in an increase of fifty percent (50%) or more in the building’s existing gross floor area;
- (b) For developments described by Subtitle C §§ 1001.2(a)(1)(i) or (a)(3), to only the new gross floor area if the development:
  - (1) Does not utilize the bonus density provided by Subtitle C § 1002; and
  - (2) Does not result in an increase of fifty percent (50%) or more in the building’s existing gross floor area;
- (c) For developments described by Subtitle C § 1001.2(a)(1)(ii), to only the existing gross floor area for which the use is changed to the “Residential” use category of Subtitle B § 200.2 if the development:
  - (1) Does not utilize the bonus density provided by Subtitle C § 1002; and
  - (2) Does not result in an increase of fifty percent (50%) or more in the building’s existing gross floor area; and
- (d) For developments described by Subtitle C §§ 1001.2(a)(1)(iii), to the portion of the existing gross floor area for which the use is changed to the “Residential” use category of Subtitle B § 200.2 as well as to the new gross floor area if the development:
  - (1) Does not utilize the bonus density provided by Subtitle C § 1002; and
  - (2) Does not result in an increase of fifty percent (50%) or more in the building’s existing gross floor area.

...

1001.6 The requirements of this chapter shall not apply to:

- (a) Any development subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District of law or financial subsidies ... ; provided:
  - (1) The development shall set aside, for so long as the project exists, affordable dwelling units (Temporarily Exempt Inclusionary Units) in accordance with the minimum income standards of Subtitle C § 1001.6(a)(2) and equal to at least the gross square footage that would have been otherwise required pursuant to the set-aside requirements in Subtitle C § 1003 for the zone in which the development is located and these Temporarily Exempt Inclusionary Units shall be identified on plans submitted for building permit;
  - (2) The Temporarily Exempt Inclusionary Units shall be reserved ...
  - (3) The Temporarily Exempt Inclusionary Units shall be sold or rented in accordance with the Inclusionary Zoning Program (as defined by the IZ Act) upon the expiration of the affordable housing requirements of the District law or financial subsidies administered by DHCD, DCHFA, or DCHA;
  - (4) The requirements set forth in subparagraphs (1), (2), and (3) of this paragraph, shall be stated as declarations, accompanied by plans identifying the Temporarily Exempt Affordable Inclusionary Units, within a covenant running with the land for the benefit of the District of Columbia ...

...

The text amendments shall become effective upon publication of this notice in the *District of Columbia Register*, that is on December 31, 2021.

## DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PROPOSED RULEMAKING**Amendments to Nuisance Odor Requirements**

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984 (the “Act”), effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06 (2016 Repl. & 2019 Supp.)); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4) (2016 Repl. and 2019 Supp.)); and Mayor’s Order 2006-61, dated June 14, 2006; hereby gives notice of intent to adopt the following amendments to § 903 (Odorous and Other Nuisance Pollutants) of Chapter 9 (Air Quality – Motor Vehicular Pollutants, Lead, Odors, and Nuisance Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR) in no less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

The Act authorizes the Department to “[a]dopt standards governing emission of nuisance air pollutants likely to injure public health or welfare or interfere with reasonable enjoyment of life and property.” D.C. Official Code § 8-101.05(b)(1)(F). Moreover, regulations adopted as part of the Act prohibit emitting odorous or other air pollutants likely to injure public health or interfere with the reasonable enjoyment of life or property. Act § 3 (20 DCMR § 903; 32 DCR 647). The proposed amendments will strengthen DOEE’s ability to enforce this nuisance-odor prohibition. Though DOEE receives regular citizen complaints regarding nuisance odors from various types of sources, the complaints have, at times, been difficult to investigate due to the potential for odors to dissipate by the time the inspector arrives at the scene. Consequently, the Department is proposing to adopt a requirement that stationary sources emitting odors adopt an Odor Control Plan (OCP) under certain circumstances. This gives DOEE the ability to enforce compliance with the OCP in addition to the nuisance odor prohibition. If a source continues to emit nuisance odors despite compliance with the plan, DOEE would have the authority to require the source to update the plan in order to abate the nuisance.

The proposed rulemaking would require an OCP in three (3) circumstances. First, an OCP is required when DOEE identifies a nuisance odor from a source that is detectable when one (1) volume of odorous air has been diluted with two (2) or more volumes of odor-free air. Second, an OCP is required when DOEE receives odor complaints about a source from three (3) or more separate households or businesses within a thirty (30) day period, and a DOEE investigation verifies the suspected source of the odor and the affected parties. The third circumstance is if the source falls into one of six (6) source categories that are the most frequent sources of odor complaints. These source categories are (1) cannabis production operations; (2) certain types of painting operations, including autobody paint booths; (3) trash transfer stations; (4) asphalt processing plants; (5) wastewater treatment facilities; and (6) commercial solid fuel-fired cooking operations.

DOEE hereby gives notice of the intent to adopt these rules as final in not less than thirty days after the publication of the notice in the District of Columbia Register. Instructions for submitting comments may be found at the end of this notice.

**Chapter 9, AIR QUALITY – MOTOR VEHICULAR POLLUTANTS, LEAD, ODORS, AND NUISANCE POLLUTANTS, of Title 20, ENVIRONMENT, of the DMCR is amended as follows:**

**Section 903, ODOROUS OR OTHER NUISANCE AIR POLLUTANTS, is amended to read as follows:**

- 903.1 An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic and duration that is, or is likely to be, injurious to the public health or welfare, or that interferes with the reasonable enjoyment of life and property, is prohibited.
- 903.2 The Department may require an owner or operator of a stationary source of odorous air pollutants to submit an Odor Control Plan (OCP) to the Department if:
- (a) The source emits odorous air pollutants that are detected by a trained inspector using a field olfactometer when one (1) volume of odorous air has been diluted with two (2) or more volumes of odor-free air, as measured at a location or locations where it is likely odorous air pollutants will be detected given the prevailing atmospheric conditions; or
  - (b) The Department receives three (3) or more complaints about the source from distinct addresses, which includes distinct units, apartments, or suites at a single street address, within a thirty (30) day period; provided, that:
    - (1) Each complainant signs and submits a written statement containing the following information:
      - (A) The complainant's name, address, and business, if applicable;
      - (B) The date, time, duration, and description of the odor that the complainant detected; and
      - (C) The suspected source of the odor; and
    - (2) The Department confirms that the odor identified in the complaints is coming from the suspected source.



903.3 Any stationary source that falls within the following regulated categories shall submit an OCP:

- (a) Cultivation and dispensing of medical marijuana, as described in section 7 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06), and any other marijuana cultivation, processing, or dispensing operation licensed under District law;
- (b) Painting operations subject to the requirements of 20 DCMR §§ 718 and 1409;
- (c) Trash transfer stations;
- (d) Asphalt processing plants;
- (e) Wastewater treatment facilities; and
- (f) Commercial solid fuel-fired cooking operations;

903.4 (a) An owner or operator of a stationary source shall submit an OCP meeting the requirements of § 903.5 by the following deadlines:

- (1) Within sixty (60) days of the issuance of an Administrative Order pursuant to section 903.2; or
- (2) For a source that falls within the regulated categories described in 903.3:
  - (A) Within sixty (60) days of effective date of the final rule, if the source was constructed before that date; or
  - (B) At least sixty (60) days before commencing construction if the source is to be constructed after the effective date of the final rule, or with the source's permit application under 20 DCMR §§ 200.1 or 200.2, whichever is sooner.
- (b) The Department may order submission of an OCP in a period other than sixty (60) days on a case-by-case basis, upon consideration of the following factors:
  - (a) The severity of the odor;
  - (b) The number of distinct complainants;

- (c) The frequency of complaints; and
- (d) The amount of time needed by the source to develop the OCP.

903.5 An OCP shall contain requirements sufficient to control nuisance odors, including, to the extent applicable, the following information:

- (a) Source information:
  - (1) Name of source;
  - (2) Name, phone number, and email address (if available) of source's owner or operator and point of contact;
  - (3) Source physical address;
  - (4) Source mailing address (if different from physical address);
  - (5) Source type;
  - (6) Source hours of operation;
  - (7) Description of source operations; and
  - (8) Emergency contact information;
- (b) The following information about any odor generated by the source:
  - (1) Floor plan, specifying the locations of odor-emitting activity and emissions;
  - (2) Specific odor-emitting activity; and
  - (3) Phases (timing, length, etc.) of odor-emitting activity;
- (c) A description of the proposed odor mitigation procedures and practices, which must either be based on industry-specific best control technologies and best management practices or be otherwise sufficient to effectively prevent nuisance odors for all odor sources, and which must include the following:
  - (1) Administrative controls:

- (A) Maintenance, testing, and audit procedures to ensure that control equipment is functioning properly and the OCP is being adhered to;
  - (B) Staff training;
  - (C) Recordkeeping procedures and forms; and
  - (D) Any other work practices necessary to prevent nuisance odors.
- (2) A proposal concerning engineering controls, reviewed by a professional engineer licensed with the Department of Consumer and Regulatory Affairs and certified by the professional engineer to be sufficient to effectively mitigate odors for all odor sources, to address the following:
- (A) Engineering controls shall include each of the following components:
    - (i) System design;
    - (ii) Operational processes; and
    - (iii) Maintenance plan; or
  - (B) If the owner or operator of a source determines that engineering controls are not necessary to effectively mitigate odors for all or specific odor sources, the owner or operator shall submit that determination to the Department as part of its OCP.
- (d) A timeline for implementation of odor mitigation practices, commencing upon notice from the Department that it has approved the OCP.
- (e) A description of the source's procedures for receiving, responding to, and tracking complaints.
- 903.6 The Department shall review the OCP and determine whether it meets the requirements of § 903.5:
- (a) If the Department determines that the OCP meets the requirements of § 903.5, it shall approve the OCP and notify the source's owner or operator of the approval; or

- (b) If the Department determines that the OCP does not meet the requirements of § 903.5, it shall disapprove the OCP and notify the source owner or operator in accordance with § 903.6.
- 903.7 If the Department notifies a source's owner or operator that it has disapproved the OCP for that source, the Department shall provide a written description of the reason(s) for the disapproval and the owner or operator shall:
- (a) Submit modifications to the source's OCP to address the deficiencies within a period established by the Department; and
- (b) Cease odor-emitting activities that are likely to cause a nuisance upon issuance of an order under § 106 until the modified OCP is approved.
- 903.8 If the Department notifies a source's owner or operator that it has approved the OCP for that source, the owner or operator shall:
- (a) Implement its OCP per the timeline it has provided under § 903.5(d); and
- (b) Comply with the OCP, including any approved amendments, until the source ceases operation.
- 903.9 When a modification is made to a source or process at the source that has the potential to affect the nature or degree of odor, or affects the control of odor, the owner or operator of the source must submit an update to its OCP within thirty (30) days of the modification. If the modification is subject to the requirements of 20 DCMR § 200, the owner shall submit an updated OCP as part of the source's permit application pursuant to that section.
- 903.10 Any owner or operator of a source that seeks a variance from the requirements of this section shall comply with the procedures under 20 DCMR § 103.
- 903.11 The owner or operator shall provide all records maintained pursuant to § 903.5(c)(1)(C) to the Department upon request.
- 903.12 The owner or operator shall report all deviations from the OCP to the Department within one (1) business day of the deviation;
- 903.13 Compliance with this section shall be determined as follows:
- (a) Compliance with the OCP shall be an affirmative defense to violations of § 903.1; however, in the event that the Department

determines the OCP is inadequate to prevent violations of § 903.1, the Department may require the owner or operator to modify the OCP, in accordance with the procedures under § 903.7 and

- (b) Violation of standards set forth in this section that occur as a result of unavoidable malfunction, despite the conscientious employment of control practices, shall be an affirmative defense for which the owner or operator shall bear the burden of proof. A malfunction shall not be considered unavoidable if the owner or operator could have taken, but did not take, appropriate steps to eliminate the malfunction within a reasonable time, as determined by the Department.

**Section 999, DEFINITIONS AND ABBREVIATIONS, is amended as follows:**

**Section 999.1 is amended by adding the following definitions:**

**Administrative Controls** – written procedural mechanisms used for odor mitigation.

**Deviation** – the failure to comply with any of the administrative or engineering controls in the source’s Odor Control Plan.

**Engineering Controls** – physical mechanisms used for odor mitigation, such as the installation of process equipment or the physical modification of a source’s process or process equipment.

**Odor** – the property of a substance that stimulates the human olfactory organ.

**Wastewater treatment facility** – publicly owned treatment works as defined in 40 C.F.R. § 63.1595, sewer lift-stations, wastewater pumping stations, and equipment for on-site treatment of wastewater.

**Section 999.2 is amended by adding the following abbreviation:**

**OCP** – Odor Control Plan

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*, to Lauren Maxwell, Office of the General Counsel, 1200 First St, NE, Washington, DC 20002 or by electronic mail to [airqualityregulations@dc.gov](mailto:airqualityregulations@dc.gov). Please use “Amendments to Nuisance Odor Requirements” in the subject line.

Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Myra Campbell, Staff Assistant, at (202) 715-7645 or [myra.campbell@dc.gov](mailto:myra.campbell@dc.gov).

**DEPARTMENT OF MOTOR VEHICLES****NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Motor Vehicles (“Director”), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905) and Section 107 of the Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104, D.C. Official Code § 50-2301.07) hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 30 (Adjudication and Enforcement) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rules update and correct statutory references, update and correct the name of the Department of Motor Vehicles’ (“DMV’s”) Adjudication Services, adds references to agencies other than the Department of Public Works that issue parking tickets, updates the manner in which payments may be made, repeals the outdated payment plan references which were taken over by the Central Collection Unit of the Office of the Chief Financial Officer, repeals and updates outdated language regarding the scheduling of hearings, updates outdated language in reference to DMV’s Adjudication Services, clarifies the hearing examiner process when making a final determination, updates and clarifies the process of seeking to appeal a hearing examiner’s decision to the Traffic Adjudication Appeals Board, updates and clarifies language pertaining to when an appeal can proceed without a transcript, updates and clarifies language pertaining to how a transcript shall be ordered and the consequences of not ordering a transcript when required, updates the manner in which appeal decisions are sent to appellants or their representatives, repeals outdated language pertaining to computation of time, and repeals certain provisions that repeat requirements or standards established by statute.

The Director also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

**Chapter 30, ADJUDICATION AND ENFORCEMENT, of Title 18 DCMR is amended as follows:**

**Section 3000, NOTICE OF INFRACTION, is amended as follows;**

**Subsection 3000.9 is amended by striking the term “§ 40-623 (1998 Repl.)” and inserting the term “§ 50-2303.03” in its place so that it reads as follows:**

3000.9           Uploading of the data contained in hand-held electronic devices into the automatic ticket database shall be deemed the filing of a facsimile with the Department in accordance with the provisions of § 303 of the Traffic Adjudication Act, D.C. Official Code § 50-2303.03.

**Section 3004, SERVICE OF THE NOTICE OF INFRACTION, is amended as follows:**

**Subsection 3004.6 is amended by striking the word “Bureau” and inserting the word “Department” in its place so that it reads as follows:**

3004.6 The Department shall provide, upon request of the respondent, his or her attorney, or authorized agent, photocopies of tickets or, if issued from a hand-held electronic device or automated parking enforcement system, printouts of data contained on tickets issued to that respondent.

**Section 3005, RETURN ON NOTICE OF SERVICE, is amended as follows:**

**Subsection 3005.4 is repealed.**

**Subsection 3005.6 is amended by striking the phrase “Department of Public Works” and inserting the phrase “officer’s employing agency” in its place so that it reads as follows:**

3005.6 An officer using a hand-held electronic device to issue Notices of Infraction for parking violations shall, at the end of the officer’s shift or duty, deliver the hand-held electronic device to the place designated by the officer’s employing agency for the download from the hand-held electronic device of all Notices of Infraction issued by the officer during the officer’s shift.

**Subsection 3005.7 is amended by striking the phrase “Department of Public Works” and inserting the phrase “officer’s employing agency” in its place so that it reads as follows:**

3005.7 An officer using a hand-held electronic device to issue Notices of Infraction for parking violations shall notify the official designated by the officer’s employing agency of a lost device or any tickets that were keyed and printed, but not issued to the alleged violator and explain the circumstances.

**Section 3007, PAYMENT OF CIVIL FINES, is amended as follows:**

**Subsection 3007.1 is amended to read as follows:**

3007.1 Payments may be made online at the Department’s website, via the Department’s mobile app, or by phone by credit/debit card; in-person by credit card, debit card, check, money order, or cash at the Department, or by check or money order through the mail.

**Subsections 3007.3, 3007.4, 3007.5, 3007.6, 3007.7, 3007.8, 3007.9, 3007.10, 3007.11, 3007.12 and 3007.13 are repealed.**

**Section 3009, SCHEDULE OF HEARINGS, is amended as follows:**

**Subsection 3009.1 is repealed.**

**Subsection 3009.2 is repealed.**

**Subsection 3009.3 is amended to read as follows:**

- 3009.3 Hearings will be held daily except Saturdays, Sundays, holidays observed by the District government, periods during which the District government is closed, and except during those hours established by the Department.

**Subsection 3009.4 is amended to read as follows:**

- 3009.4 The Department, in its discretion, may set additional or alternative times and days for hearings to meet its needs.

**Section 3011, HEARING PROCEDURES, is amended as follows:****Subsection 3011.1 is amended by striking the word “Bureau” and inserting the word “Department” in its place and inserting a reference to a Supervisory Hearing Examiner so that it reads as follows:**

- 3011.1 Each hearing will be held before a Hearing Examiner, Supervisory Hearing Examiner, or the Chief Hearing Examiner. No other person has the authority to adjudicate a traffic infraction or to dismiss a notice that has been returned to the Department.

**Subsection 3011.3 is amended by striking the phrase “Bureau of Traffic Adjudication, 65 K Street, N.E.,” and inserting the phrase “Department of Motor Vehicle’s Adjudication Services, 955 L’Enfant Plaza, SW,” in its place so that it reads as follows:**

- 3011.3 Hearings will be held at the Department of Motor Vehicle’s Adjudication Services, 955 L’Enfant Plaza, SW, Washington, D.C.; provided, that the Director, in the Director’s discretion, may establish other permanent or temporary hearing locations.

**Subsection 3011.5 is amended by striking the word “Bureau” and inserting the word “Department” in its place so that it reads as follows:**

- 3011.5 The Department may, with or without the consent of the respondent, consolidate for hearing or appeal any or all matters within the Department’s jurisdiction pending against a respondent.

**Subsection 3011.6 is amended by striking the phrase “Bureau of Traffic Adjudication” and inserting “Department” in its place so that it reads as follows:**

- 3011.6 The Rules of Civil Procedure and the Rules of Criminal Procedure for the Superior Court of the District of Columbia are not binding on the Department.



**Subsection 3011.7 is amended by striking the word “Bureau” and inserting “Department” in its place so that it reads as follows:**

3011.7 Forms of pleadings, motion practice, and discovery procedures set forth in the rules cited in § 3011.6 do not apply to any proceedings conducted by the Department unless specifically authorized by this chapter.

**Section 3013, FINAL DETERMINATIONS, is amended as follows:**

**Subsection 3013.1 is amended to read as follows:**

3013.1 After making a determination sustaining the charges and, as applicable, imposing fines and assessing penalties, or a determination dismissing the charges, the hearing examiner shall issue a written decision setting forth the determination and the basis that determination.

**Section 3014, APPEALS, is amended as follows:**

**Subsection 3014.9 is amended to read as follows:**

- 3014.9 (a) A notice of appeal from a final determination as described in subsections 1042.2 or 1042.3 shall be filed with the Appeals Board within thirty (30) days after the final determination.
- (b) An appeal shall be dismissed, as provided in subsection 3014.11, if it does not meet any of the following requirements, as applicable:
  - (1) The notice of appeal shall be filed on a form prescribed by the Director;
  - (2) The notice of appeal form shall contain complete and accurate information;
  - (3) The fines and penalties assessed by the hearing examiner shall have been paid by the respondent, subject to the full or partial reimbursement of the fines and penalties in the event of reversal or modification.
  - (4) The appeal fee, as required by § 3015, shall have been paid by the respondent; and
  - (5) The deposit for the transcript, as required by § 3017, shall have been paid by the respondent.

**Subsection 3014.10 is repealed.**

**Subsection 3014.11 is amended by striking the number “3014.10” and inserting the number**

**“3014.9” in its place so that it reads as follows:**

3014.11 If the appellant fails to satisfy all of the provisions of § 3014.9 within the thirty (30) days’ time period provided in subsection 3014.9, the appeal shall be dismissed by the Appeals Board or the Chairperson of the Appeals Board without consideration.

**Section 3016, APPEALS WITHOUT TRANSCRIPTS, is amended as follows:****Subsection 3016.1 is amended to read as follows:**

3016.1 An appellant shall obtain a transcript pursuant to § 3017 in order to appeal a final determination of a moving violation, except for automated traffic enforcement violations, a mail adjudication, or when the only issue being appealed is the appropriateness of the fines and penalties assessed.

**Subsection 3016.2 is amended to read as follows:**

3016.2 In all cases other than where a transcript is required by § 3016.1, obtaining and filing a transcript is optional.

**Subsection 3016.3 is repealed.****Section 3017, TRANSCRIPTS OF HEARINGS, is amended as follows:****Subsection 3017.1 is amended by striking the word “Bureau” and inserting the word “Department” in its place so that it reads as follows:**

3017.1 Transcripts of hearings shall be ordered through the Department, on a form prescribed for that purpose.

**Subsection 3017.3 is amended by striking the word “may” and inserting the word “shall” in its place so that it reads as follows:**

3017.3 Transcripts shall be ordered upon payment of a deposit of fifty dollars (\$50). This fee shall be refunded to any appellant who is successful in an appeal.

**Subsection 3017.4 is amended to read as follows:**

3017.4 If a respondent is required to obtain a transcript under § 3016.1 for an appeal of a final determination, a notice of appeal of that final determination shall not be accepted for filing by the Appeals Board unless accompanied by the deposit.

**Section 3019, DETERMINATION OF APPEALS, is amended as follows:**

Subsection 3019.1 is amended to read as follows:

3019.1 The Appeals Board shall issue a decision in the form as determined by the Director. The Appeals Board shall send the decision by ordinary postal mail to the appellant at the address of the appellant's attorney or representative, and if none, to the appellant's address of record on file with the Department. For out-of-state respondents, the address of the appellant available through the Washington Area Law Enforcement System, or similar interstate database containing information from state license-issuing agencies shall be considered the appellant's address of record on file with the Department.

**Section 3020, COMPUTATION OF TIME, is amended to read as follows:**

**Subsection 3020.3 is repealed.**

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, with David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024, [dmvpubliccomments@dc.gov](mailto:dmvpubliccomments@dc.gov), or online at [www.dcregs.dc.gov](http://www.dcregs.dc.gov). Comments must be received not later than thirty (30) days after the publication of this notice in the *District of Columbia*. Copies of this proposed rulemaking may be obtained, at cost, by writing to the above address.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA****NOTICE OF SECOND PROPOSED RULEMAKING****RM36-2020-02-E, ELECTRICITY QUALITY OF SERVICE STANDARDS**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 34-802 and 2-505 of the District of Columbia Code,<sup>1</sup> of its intent to amend Chapter 36 (Electricity Quality of Service Standards), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking (Notice) in the *District of Columbia Register*.

2. Chapter 36 of Title 15 DCMR contains customer service and reliability standards applicable to the Potomac Electric Power Company's (Pepco) provision of retail electric distribution service in the District of Columbia (District). These reliability performance standards are found in Section 3603 and set forth the requirement that Pepco not exceed the annual system-wide reliability performance standards established for System Average Interruption Frequency Index (SAIFI), a numeric measurement, and System Average Interruption Duration Index (SAIDI), measured in hours (Subsections 3603.10 – 3603.12). These standards include provisions (Subsections 3603.13 and 3603.14) for the enforceability of the reliability performance standards. In addition, Pepco is required to report to the Commission annually on its reliability performance, as measured under these SAIFI and SAIDI indices, as well as under a Customer Average Interruption Duration Index (CAIDI) (Subsection 3603.16).

3. On October 9, 2020, the Commission issued a Notice of Proposed Rulemaking (NOPR) (67 DCR 011709). The NOPR amended the present SAIDI and SAIFI performance standards to prescribe further reliability improvements in Pepco's distribution service in the District.<sup>2</sup> The NOPR maintained Pepco's existing annual reporting of SAIDI, SAIFI and CAIDI but required (at Subsection 3603.16) Pepco to report annually the number of customers experiencing three or more interruptions over the course of the year (CEMI<sub>3</sub>). The proposed Subsection 3603.16 required Pepco to report annually its CEMI<sub>3</sub> across the District as a whole, by Ward, and within each District neighborhood by Ward. Finally, the NOPR proposed the addition of Section 3968 (Enforcement) to clearly note the Commission's authority to issue civil penalties pursuant to the provisions of Title 34 of the District of Columbia Code, Sections 34-706(e)(1) and (4), for violations of the Commission's reliability performance standards.<sup>3</sup>

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<sup>1</sup> D.C. Official Code § 34-802 (2019 Repl.); § 2-505 (2016 Repl.).

<sup>2</sup> 67 DCR 11709 (October 9, 2020).

<sup>3</sup> D.C. Official Code §§ 34-706(e)(1) and (4) (2019 Repl.).

4. On October 20, 2020, the Office of the People’s Counsel for the District of Columbia (“OPC” or “Office”) filed an unopposed motion for enlargement of time to submit comments.<sup>4</sup> On November 6, 2020, the Commission issued public notice to an extension to file comments.<sup>5</sup> On December 18, 2020, OPC and Pepco filed comments.<sup>6</sup> On August 11, 2021 the Commission issued a public notice of intent to hold a technical conference.<sup>7</sup> On September 23, 2021, Commission Staff convened a technical conference which was attended by OPC, Pepco, and the District of Columbia Government (“DCG”). On September 30, 2021, Pepco filed a technical conference report.<sup>8</sup> On November 9, 2021, Pepco filed informal data responses to request for information made by Commission Staff at the Technical Conference.<sup>9</sup>

5. As a result of the comments received by stakeholders, the Commission issues a second NOPR to further address and clarify concerns surrounding the proposed SAIDI and SAIFI performance standards, customers experiencing three or more interruptions (CEMI-3) reporting, and enforcement language. The CEMI-3 metric is also being discussed in Formal Case 1156 as a part of Performance Incentive Mechanisms (PIMs) Working Group including the addition of heat maps. The second NOPR preserves the CEMI-3 enhancements noted in the first NOPR. Given the elapse of time, the Commission is proposing to establish standards for 2022, 2023, and 2024. The proposed SAIDI and SAIFI standards were reached in a similar fashion as the first NOPR. This includes, but is not limited to, Pepco’s top-decile industry performance in many of the post-merger years, a review of Pepco’s actual performance for years 2017 through 2020, Exelon’s utility fleet electric reliability performance trends, Pepco’s recent and ongoing reliability improvement programs, Pepco and Exelon merger commitments, the technical

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<sup>4</sup> *RM36-2020-02-E, Electric Quality Service Standards (“RM36-2020-02-E”)*, Office of the People’s Counsel for the District of Columbia’s Unopposed Motion for Enlargement of Time to Submit Comments Pursuant to the District of Columbia Public Service Commission’s Notice of Proposed Rulemaking, filed October 20, 2020.

<sup>5</sup> 67 DCR 13138 (November 6, 2020).

<sup>6</sup> *RM36-2020-02-E*, Comments of The Office of the People’s Counsel for the District of Columbia Regarding the Proposed Amendments to the Electric Quality of Service Standards, filed December 18, 2020; *RM36-2020-02-E*, Potomac Electric Power Company’s Comments Regarding Reliability Standards and Reporting Rulemaking, filed December 18, 2020.

<sup>7</sup> *RM36-2020-02-E*, Public Notice, rel. August 11, 2021. We note that a revised public notice was later issued that only changed the time of the technical conference.

<sup>8</sup> *RM36-2020-02-E*, Technical Conference Meeting Minutes, filed September 30, 2021.

<sup>9</sup> *RM36, 2020-02-E*, Potomac Electric Power Company’s Responses to Commission Staff Requests, filed November 9, 2021.

conference report, Pepco’s informal data responses, and consideration of OPC and Pepco’s recommendations. This Second NOPR supersedes the October 9, 2020, NOPR.

**Chapter 36, ELECTRICITY QUALITY OF SERVICE STANDARDS, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:**

**Section 3603, RELIABILITY PERFORMANCE STANDARDS, is amended as follows:**

3603.11 The reliability performance standards adopted by the Public Service Commission for SAIDI and SAIFI are established as follows:

- (a) For 2022, SAIDI shall be one and four hundredths (1.04) and SAIFI shall be fifty-seven hundredths (0.57);
- (b) For 2023, SAIDI shall be one and two hundredths (1.02) and SAIFI shall be fifty-six hundredths (0.56); and
- (c) For 2024, SAIDI shall be one (1.00) and SAIFI shall be fifty-five hundredths (0.55).

3603.12 The calculations of these indices shall exclude District of Columbia Major Service Outages (MSOs) and include only outages on District of Columbia feeders.

3603.13 If the electric utility fails to comply with the reliability performance standards in Subsection 3603.11, it may be subject to forfeiture in accordance with D.C. Official Code §§ 34-706 and 34-1508 (2019 Repl.) pursuant to the enforcement procedures in § 3698 of this chapter. The electric utility shall also be required to develop a corrective action plan, which it shall file for the Commission’s information within thirty (30) days of filing its Annual Consolidated Report of the following year.

3603.14 The corrective action plan shall clearly describe the cause(s) of the electric utility’s failure to comply with Subsection 3603.11, describe the corrective measure(s) to be taken to ensure that the standard is met or improved upon in the future, and provide a target date for completion of the corrective measure(s).

...

3603.16 The electric utility shall also report in its Annual Consolidated Report of the following year the following reliability performance information:

- (a) Its annual reliability indices of SAIFI, SAIDI, and CAIDI, calculated first, using District-only data with and without Major Service Outages (MSOs); and second, using District-only data

based on the IEEE 1366-2003 standard with and without Major Event Days (MEDs); and.

- (b) The number of its customers experiencing three or more sustained interruptions of power (CEMI<sub>3</sub>) inclusive of MSOs. When reporting CEMI<sub>3</sub>, Pepco shall indicate its CEMI<sub>3</sub> first, across the District as a whole, second, by Ward and third, within each District neighborhood by Ward.

3603.17 [Reserved]

**A new Section 3698, ENFORCEMENT, is added to read as follows:**

**3698 ENFORCEMENT**

- 3698.1 The rules in Section 3603 are electric reliability performance standards adopted by the Commission in accordance with D.C. Official Code § 34-706(e)(1), and failure to comply with them may result in a civil penalty of up to one hundred thousand dollars (\$100,000) for each violation.
- 3698.2 The Commission may consider the following factors in determining the amount of any civil penalty:
- (a) Number, gravity and duration of previous violation(s);
- (b) Number, gravity and duration of current violation(s); and
- (c) The electric utility's good-faith attempt to achieve compliance.
- 3698.3 The Commission may periodically issue compliance guidance outlining its compliance and enforcement priorities and providing additional guidance on penalty assessment for specific repeated or high-risk types of violations.
- 3698.4 Any civil penalty assessed shall be paid in full no more than thirty (30) days after the date of the Notice of Probable Violation. If there is a request for compromise through mitigation and compromise of the assessed civil penalty or a request for hearing, the civil penalty shall be paid within fifteen (15) days after an agreement is reached or after a final order is issued following a hearing.
- 3698.5 The electric utility shall not pass on to ratepayers in rates or in any other manner, or obtain tax benefits from any civil penalty imposed under this section and any other provision of Title 34 of the D.C. Official Code.

**Subsection 3699.1 of Section 3699, DEFINITIONS, is amended by adding the following definitions:**

...

**Customers Experiencing Multiple Interruptions (CEMI<sub>n</sub>)** – is a reliability performance index, a number that expresses the ratio of individual customers experiencing *n* or more sustained interruptions when compared to the total number of customers served.

**District Neighborhood** – is a unique geographical area of the District of Columbia, the boundaries and identification which are published by the D. C. Office of Planning.

6. Any person interested in commenting on this second proposed rulemaking action may submit written comments, not later than thirty (30) days after publication of this Notice in the *District of Columbia Register*. Comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 and are to be submitted electronically through the Commission's website at [https://edocket.dcpsec.org/public/public\\_comments](https://edocket.dcpsec.org/public/public_comments). Copies of the proposed rules may be obtained by visiting the Commission's website at [www.dcpsec.org](http://www.dcpsec.org). Persons with questions concerning this Notice should call (202) 626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).



## DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Small and Local Business Development (“Director”), pursuant to the authority set forth in Mayor’s Order 2021-124, dated October 14, 2021, and Section 4(i) of the Public Restroom Facilities Installation and Promotion Act of 2018 (“Act”), effective April 11, 2019 (D.C. Law 22-280; D.C. Official Code § 10-1053(i)), hereby gives notice of the intent to adopt the following new Chapter 105 (Public Restroom Incentive Pilot Program) of Title 29 (Public Welfare of the District of Columbia Municipal Regulations (“DCMR”), in not less than thirty (30) days after the publication of this notice in the *District of Columbia Register*.

Section 4 of the Act established a Community Restroom Incentive Pilot Program (“Pilot Program”), to be administered and enforced by the Mayor, and to provide funding, pursuant to rules issued by the Mayor, to participants that make their restrooms available free of charge to any person, regardless of whether the person patronizes the business. Pursuant to Mayor’s Order 2021-124, the Mayor delegated her authority under Section 4 of the Act to the Director. This proposed rulemaking details how the Department of Small and Local Business Development intends to administer and implement the Pilot Program.

**A new Chapter 105, PUBLIC RESTROOM INCENTIVE PILOT PROGRAM, of Title 29, PUBLIC WELFARE, of the DCMR, is proposed to read as follows:**

**10500 COMMUNITY RESTROOM INCENTIVE PILOT PROGRAM**

- 10500.1 The Department shall implement and administer the Community Restroom Incentive Pilot Program (“Pilot Program”) established pursuant to section 4 of the Public Restroom Facilities Installation and Promotion Act of 2018 (the “Community Restroom Act”), effective April 11, 2019 (D.C. Law 22-280; D.C. Official Code § 10-1053).
- 10500.2 The Department shall provide available Pilot Program funds as a financial incentive to places of public accommodation participating in the Pilot Program, and located within the business improvement district (“BID”) selected by the Department, that make their restroom facilities available, free of charge, to any person, regardless of whether that person patronizes the place of public accommodation.
- 10500.3 The Department shall select one (1) BID registered by the Mayor pursuant to Section 6 of the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.06) as the geographic area within which the Pilot Program will be implemented.
- 10500.4 To be eligible to participate in the Pilot Program, a place of public accommodation must:

- (a) Be located within the geographic boundaries of the BID selected by the Department pursuant to § 853.2;
- (b) Have a basic business license issued by the Department of Consumer and Regulatory Affairs and such other licenses, registrations, and certifications that may be required by District law;
- (c) Be in good standing with the Department of Consumer and Regulatory Affairs;
- (d) Have a Certificate of Clean Hands from the Office of Tax and Revenue;
- (e) Have a minimum of one (1) restroom facility that is accessible to the public during stated hours of operations.

10500.5 An eligible applicant seeking to participate in the Pilot Program shall submit a written application to the Department on such form or forms as may be prescribed by the Department and shall provide such other information and documents as the Department may request to determine the applicant's eligibility. The completed application form shall include a signed statement by the applicant attesting that all of the information provided in the application is true and accurate to the best of the applicant's knowledge and belief.

10500.6 Within sixty (60) days after receipt of a complete application, the Department shall notify the applicant whether their application has been approved or denied or if additional information or documentation is needed to make a determination. If an application is denied, the Department shall provide the applicant with a written explanation of the reason for the denial.

10500.7 An applicant may appeal the denial by the Department in writing to the Director within ten (10) days after receipt of the Department's determination. An applicant may not appeal a decision that is based in whole or in part on the unavailability of funds for the Pilot Program. The Department shall issue a decision on the appeal within thirty (30) days after receipt of the appeal.

10500.8 If the application is approved, the applicant shall be required, as a condition of its participation in the Pilot Program, to execute an agreement, provided by the Department, which shall include:

- (a) The dollar amount of the Pilot Program incentive award;
- (b) The period of time during which the participant is required to participate in the Pilot Program;
- (c) The terms and conditions of the participant's participation in the Pilot Program, including the requirements set forth in section 4 of the Community Restroom Act (D.C. Official Code § 10-1053);

- (d) Post-Pilot Program reporting requirements; and
  - (e) A requirement that the participant return the incentive award funding, or a portion thereof, if the Department determines that the participant is not in compliance with the terms of the agreement or the participant voluntarily rescinds its participation in the Pilot Program.
- 10500.9 The Pilot Program agreement shall be signed by the owner of the property where the place of public accommodation is located or by the holder of a possessory interest in the place of public accommodation.
- 10500.10 The Department may provide an incentive award to each participant in the Pilot Program. The Department shall determine the amount of the incentive award for each participant based on the number of restrooms made available to the public in the place of public accommodation.
- 10500.11
- (a) The Department shall provide a Pilot Program participation sign to each participant in the Pilot Program.
  - (b) The sign shall state that any person may use the place of public accommodation's restroom facility free of charge regardless of whether the person patronizes the place of public accommodation.
  - (c) The sign shall also include fields that allow the participant to indicate the:
    - (1) Hours of operation of the place of public accommodation;
    - (2) Availability of gender-based or unisex toilets;
    - (3) Availability of access for persons with disabilities; and
    - (4) Availability of a baby changing station.
  - (d) The Department's contact information for persons filing a complaint shall be pre-printed on the sign.
  - (e) Within thirty (30) days after receiving a sign from the Department the participant shall indicate the hours of operation in writing on the signage, mark with an "X" any of the restroom facility options above that are available at the place of public accommodation and display the sign at the place of public accommodation in a prominent location that is visible from the street or sidewalk.
  - (f) If the participant does not display the sign in a prominent location that is visible from the street or sidewalk within thirty (30) days after it receives the sign, the Department shall issue a warning and notice to cure to the participant.

- 10500.12 (a) A Pilot Program participant shall use all of the incentive award funding to pay for maintenance of its restroom facility and restroom facility supply costs.
- (b) Allowable restroom facility maintenance costs include but are not limited to the cost of maintaining and replacing:
- (1) Plumbing;
  - (2) Soap dispensers;
  - (3) Paper towel dispensers; and
  - (4) Waste receptacles.
- (c) Allowable restroom facility supply costs include but are not limited to the costs of:
- (1) Toilet tissue;
  - (2) Cleaning supplies;
  - (3) Paper towels;
  - (4) Seat covers; and
  - (5) Soap.
- 10500.13 The Department may request that a Pilot Program participant provide an accounting of its expenditures of the incentive award funding. The accounting shall list each cost paid for from the incentive award and a description of the purpose of the payment.
- 10500.14 A Pilot Program participant shall be deemed ineligible to remain in the Pilot Program if:
- (a) The participant fails to display the Pilot Program participation sign at the place of public accommodation in a prominent location that is visible from the street or sidewalk within thirty (30) days after receiving the sign from the Department and, after receiving a warning and notice to cure from the Department, the participant fails to so display the sign; or
  - (b) The Department determines, after investigation, that the participant denied access to a person to use its restroom, unless the person was denied access because they were violating District law, posed a health risk, or posed a threat of harm to themselves or others.
- 10500.15 A person who has been denied access, or a person acting as a representative of a person who has been denied access, to a restroom facility at a Pilot Program

participant may file a complaint with the Department in a manner determined by the Department. The Department may investigate the complaint if it determines that the complaint is not frivolous or otherwise without merit.

- 10500.16 If the Department determines that a Pilot Program participant is ineligible to remain in the Pilot Program, it shall issue a notice to the participant that:
- (a) Includes a statement of the Department's determination that the participant is ineligible to remain in the Pilot Program and its basis for the determination;
  - (b) Informs the participant that they may file an appeal within ten (10) days after receipt of the notice.
- 10500.17 The participant may appeal the determination in writing to the Department within ten (10) days after receipt of the notice. If the participant does not timely submit an appeal, the participant shall, within thirty (30) days after receipt of the notice, return to the Department all incentive award funding disbursed to the participant.
- 10500.18 An appeal shall outline the reasons the Department's determination should be reversed and shall include any supporting information and documentation.
- 10500.19 The Department shall review the participant's appeal and issue a written determination within thirty (30) days after receipt of the appeal.
- 10500.20 If the Department upholds its determination, it shall issue a notice of determination on appeal to the participant. The participant shall return to the Department all incentive award funding disbursed to the participant within thirty (30) days after receipt of the Department's notice of determination on appeal.
- 10500.21 The Department may make unannounced site visits to any Pilot Program participant during the participant's posted hours of operation, either through the use of departmental staff or through a non-governmental designee chosen by the Department, to ensure adherence to the requirements of the Pilot Program.
- 10500.22 If a participant voluntarily chooses to leave the Pilot Program before the end of the time period it agreed to participate in the Program, the participant shall return to the Department a portion of the Pilot Program funding. The amount of the Pilot Program funding that shall be returned by the participant shall be equal to (the total incentive award amount) minus ((the participant's total incentive award amount divided by the number of days the participant agreed to participate in the Pilot Program) multiplied by (the number of days in which the participant participated in the Pilot Program)).
- 10500.23 Upon completion of the Pilot Program, the Department may require a participant to provide programmatic feedback on a form prescribed by the Department.
- 10500.24 The Department shall maintain a public list of all Pilot Program participants. The

list shall include the participant's business entity name, address, and hours of operation. The Department shall make the list available on the Department's website.

Persons wishing to comment on these rules should submit their comments in writing to Kristi C. Whitfield, Director, Department of Small and Local Business Development, 441 4th Street, NW, Suite 850N, Washington, D.C. 20001, Attn: Robert "Bobby" Dorsey, Deputy Chief of Staff or via email to [robert.dorsey1@dc.gov](mailto:robert.dorsey1@dc.gov). All comments must be received by the Department of Small and Local Business Development not later than thirty (30) days after publication of this notice in the *District of Columbia Register*. Copies of this rulemaking may be obtained on the Department's website at [dslbd.dc.gov](http://dslbd.dc.gov), by writing to the above address, or by calling the Department of Small and Local Business Development at (202) 727-3900.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

**Z.C. Case No. 20-26B**

**Office of Zoning**

**(Text Amendment to Subtitles Y & Z to Extend Eligibility for Administrative Approvals of  
Validity Period of Approvals During COVID-19 Pandemic)**

**December 16, 2021**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.), and pursuant to § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its amendment on an emergency basis, and of its intent to amend on a permanent basis, the following provisions 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), with the specific text at the end of this notice:

- Subtitle Y: Board of Zoning Adjustment Rules of Practice and Procedure - § 705; and
- Subtitle Z: Zoning Commission Rules of Practice and Procedure - § 705.

**Setdown**

On December 8, 2021, the Office of Zoning (OZ) filed a petition (Petition) with the Commission proposing the emergency and proposed provisions in response to complications of the COVID-19 pandemic to extend the eligibility for administrative extension of the validity of orders approved by the Commission and the Board of Zoning Adjustment to include orders scheduled to expire between December 31, 2021 and June 30, 2022.

**Emergency & Proposed Action**

At its December 16, 2021 public meeting, the Commission heard testimony from OZ in favor of the amendment. At the close of the meeting, the Commission voted to grant the Petition to:

- Take emergency action to adopt the Petition;
- Set the Petition down for a public hearing;
- Authorize an immediate publication of proposed rulemaking for the Petition; and
- Authorize a thirty (30)-day notice period prior to the public hearing by granting a waiver under Subtitle Z § 101.9 from the forty (40)-day requirement of Subtitle Z § 502.1 for good cause as detailed below.

The Commission concludes that taking emergency action to adopt the proposed text amendment is necessary for the “immediate preservation of the public ... welfare,” as authorized by § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), because it accommodates delays caused by the COVID-19 pandemic.

**Vote (December 16, 2021):**      **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Joseph Imamura, and Peter G. May)

The complete record in the case, including the OP report and the transcript of the public meeting, can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

### **Emergency Action**

The emergency rule is effective as of the Commission's December 16, 2021, vote and will expire on April 15, 2022, which is the one hundred-twentieth (120<sup>th</sup>) day after the adoption of this rule, or upon publication of a Notice of Final Rulemaking in the *District of Columbia Register* that supersedes this emergency rule, whichever occurs first.

### **Proposed Action**

The Commission hereby also gives notice of its intent to adopt on a permanent basis the following text amendment to the Zoning Regulations in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov); or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at [Sharon.Schellin@dc.gov](mailto:Sharon.Schellin@dc.gov). Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

## **EMERGENCY/PROPOSED TEXT AMENDMENT**

The following amendments to the Zoning Regulations are adopted on an emergency basis, and are proposed for the Commission's final consideration (additions are shown in **bold** and **underlined** text and deletions are shown in **bold** and **strikethrough** text):

### **I. Amendments to Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE**

**Subsection 705.7 of § 705, TIME EXTENSIONS, of Chapter 7, APPROVALS AND ORDERS, of Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended to read as follows:**

- 705.7 For an order scheduled to expire between October 27, 2020 and ~~December 31, 2021~~**June 30, 2022**, an applicant may request an extension due to the complications from the COVID-19 pandemic by filing an application with the Director prior to the expiration of the order sought to be extended, which shall be extended administratively by the Director upon payment of the fee specified in Subtitle Y § 1600.1 and Table Y § 1600.



**II. Amendments to Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE**

**Subsection 705.9 of § 705, TIME EXTENSIONS, of Chapter 7, APPROVALS AND ORDERS, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended to read as follows:**

705.9 For an order scheduled to expire between October 27, 2020, and ~~December 31, 2021~~ June 30, 2022, an applicant may request an extension due to the complications from the COVID-19 pandemic by filing an application with the Director prior to the expiration of the order sought to be extended, which shall be extended administratively by the Director upon payment of the fee specified in Subtitle Z § 1600.10 and Table Z § 1600.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2021-148  
December 22, 2021

**SUBJECT:** Vaccination Requirement for Entrance into Certain Indoor Establishments and Facilities

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code § 1-204.22 (2016 Repl.); section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981, D.C. Law 3-149, D.C. Official Code §§ 7-2304 and 7-2304.01 (2018 Repl.); and section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939, 53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.* (2018 Repl.); and in accordance with the Foreclosure Moratorium Extension, Scheduled Eviction Assistance, and Public Emergency Extension Emergency Declaration Resolution of 2021, R 24-0337, effective December 21, 2021, and any subsequently-enacted authorizations to extend the public emergency, it is hereby **ORDERED** that:

**I. BACKGROUND**

1. The COVID-19 pandemic, including the exponential spread of its Omicron variant, threatens the health and welfare of District residents, workers, and visitors and threatens to overwhelm our hospital capacity.
2. More than 21 months after the World Health Organization declared a pandemic and the Secretary of the U.S. Department of Health and Human Services and the Mayor of the District of Columbia declared a public health emergency for the 2019 novel coronavirus, more than 51.4 million persons in the United States have been diagnosed with COVID-19 and more than 807,146 have died from the disease. Locally, transmission stands at a seven-day average of 123.8 new daily cases per 100,000 persons; total infections in the District have risen to 76,137; and tragically, 1,207 District residents have lost their lives due to COVID-19.
3. On November 26, 2021, the Centers for Disease Control and Prevention (CDC) classified Omicron as a Variant of Concern. Since then, the variant has been detected in the District. In the past month, the daily case rate in the District has multiplied ninefold and is expected to rise further still. More than 1,000 Washingtonians per day are now contracting COVID-19, and it is uncertain how many of them will experience symptoms of “long COVID”.

4. The COVID-19 vaccines that are authorized for use have proven to be safe and have remained highly effective in preventing severe illness, hospitalization, and death among vaccinated persons, even with the emergence and spread of the Delta and Omicron variants. Boosters are increasingly proving to be important in protecting persons against the worst effects of COVID-19.
5. Nearly 100% of COVID-19 related hospitalizations in the District in the past week occurred in unvaccinated persons, and the percent of hospitalized persons with COVID-19 since January 2021 who were fully vaccinated stands at 2.8%. Death due to COVID-19 in fully vaccinated persons remains a rare event.
6. In the District, the virus is spreading most rapidly among those aged 25-34, and 80% of recent cases are among residents under the age of 44. This population also tends to go out most to venues such as restaurants and taverns, nightclubs, concert and sporting venues. Vaccine coverage is also lower among residents under the age of 40 compared to older age groups.
7. Vaccine requirements have resulted in more persons who were vaccine hesitant deciding to get vaccinated, thereby providing protection to themselves, those with whom they come in contact, and helping to maintain hospital capacity. Furthermore, subsequent increases in vaccine coverage help to reduce the amount of virus circulating in our community and protect those residents who remain at risk for severe disease despite getting vaccinated themselves, such as persons with immunosuppressive conditions or the elderly.
8. It is critically important that the District take immediate measures to mitigate the spread of COVID-19 and its health impacts to avoid further straining our health care facilities and hospitals and to avoid collateral health impacts on persons not suffering from COVID-19 but whose care is affected by COVID-19. Further, we must avoid overcrowding or any other deterrents to people seeking hospital and medical services, so that persons needing care do not delay care to the detriment of their own health.
9. In order to avoid resorting to the more drastic remedy of closing non-essential businesses or re-imposing capacity limits, we must implement a vaccine requirement to preserve life, health, and hospital capacity, and to help ensure continuity of operations of government and business operations by preventing the long absences that ensue when a person contracts a severe case of COVID-19.
10. Therefore, this Mayor's Order requires certain public venues to implement a vaccination entry requirement for guests, visitors, and customers by January 15, 2022, in conformity with guidance to be issued by December 30, 2021 and as specified below.

## II. VACCINATION ENTRY REQUIREMENT FOR CERTAIN ESTABLISHMENTS AND FACILITIES

### 1. Establishments Subject to Vaccination Entry Requirement

Starting on January 15, 2022, the following establishments and facilities (the "covered establishments and facilities") shall not permit a guest, visitor, or customer over twelve (12) years old to enter their indoor premises without displaying proof of vaccination against COVID-19:

- a. **Restaurants, bars and nightclub establishments**, including restaurants and taverns, coffee shops and fast-food establishments that have seating if guests choose to sit down; breweries, wineries and distillery tasting rooms; mixed-use facilities; food courts;
- b. **Indoor entertainment establishments**, including nightclubs, hookah bars, pool and billiard halls, and cigar bars; concert, live entertainment and sporting venues; movie theatres; adult entertainment venues; bowling alleys;
- c. **Indoor exercise and recreational establishments**, including exercise facilities, dance, yoga and pilates studios; any facilities used for group fitness classes;
- d. **Indoor event and meeting establishments**, including hotel common rooms, banquet halls, conference centers meeting facilities, convention centers, auditoriums; shared work facilities;
- e. Any other indoor establishment designated by the Director of the Department of Health.

### 2. Establishments Not Subject to Vaccine Entry Requirement

Except as specified in paragraph II.2.k, this proof of vaccine requirement imposed by paragraph II.1. does not apply to the following establishments or facilities:

- a. Houses of worship;
- b. Grocery stores, farmer's markets, and food service establishments providing charitable food services;
- c. Pharmacies, medical offices, urgent care centers, or hospitals;
- d. Big box stores and retail establishments where people tend to be in motion and not standing or seated in close proximity to others for long periods of time;

- e. Private meeting spaces in residences or office buildings;
- f. Facilities relating to governmental regulation, licensing, administrative hearings, judicial proceedings, law enforcement, the provision of legal services, and the Department of Motor Vehicles;
- g. Facilities relating to essential human services such as warming and cooling centers, day service facilities for homeless persons, shelters serving homeless persons or victims of domestic violence;
- h. Polling places during elections;
- i. Such other facilities as exempted by the Department of Health.
- j. If an exempt facility under Section II.3 conducts a non-exempt activity, the vaccine requirement shall apply. For example, if a house of worship is rented for a non-religious purpose, the vaccine requirement applies. If a retail bookstore hosts a seated event, proof of vaccination shall be required to enter the area where people will be closely congregated for a prolonged time.

3. **Individuals Exempt from Vaccination Entry Requirement**

The proof of vaccination requirement imposed by Section II.1. of this Order does not apply to the following individuals:

- a. Individuals entering a covered establishment for a quick and limited purpose (for example, placing an order for takeout, picking up an order, or making a delivery); or
- b. A person entitled by law to a reasonable accommodation due to a medical condition or a sincerely held religious belief.

4. **Signage Requirement**

Covered facilities shall prominently post signage at their entrances notifying the public of the vaccination entry requirement.

5. **Timing**

Covered facilities shall post signs and verify that entrants aged twelve (12) years and older has had a first vaccination by Sunday, January 15, 2022. Proof of having had a full initial course of vaccination will be required effective Tuesday, February 15, 2022. On those dates, the requirements take effect at 6:00 a.m.

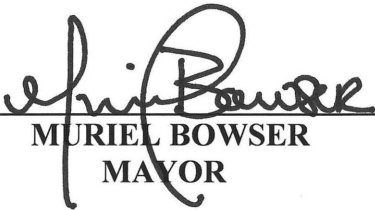
### III. DELEGATION OF AUTHORITY

1. The Director of the Department of Health shall further specify the applicability of this Order and any reasonable accommodations that may be necessary including when a recent negative test may substitute for vaccination; the requirements for vaccination and any further phasing in of requirements for second shots or boosters; grace periods for children who recently turned twelve years old; acceptable proof of vaccination; signage requirements and where within a facility proof of vaccination must be verified.
2. The Deputy Mayor for Planning and Economic Development, in conjunction with the Department of Health, shall further outline a plan to help businesses understand, publicize, and enforce the vaccination requirements of this Order and provide for reporting complaints and violations;
3. The City Administrator or his designee shall be responsible for implementation and any necessary modification of the Order as it applies or does not apply to District government facilities;
4. Businesses and other entities may exclude persons and take appropriate employment actions against their employees who endanger themselves or others by being in violation of this Order or acting in violation of it, or in violation of a rule, order, or other issuance issued under the authority of this Order, other Mayor's Orders, or City Administrator's Orders relating to mitigating the spread of COVID-19 consistent with District and federal law.
5. All District government agencies that issue licenses, permits, certificates, endorsements, or other authorizations, including the Department of Consumer and Regulatory Affairs, the District Department of Transportation, the Alcoholic Beverage Regulation Administration, the Office of the State Superintendent of Education, the Department of For-Hire Vehicles, and the Department of Health may issue rules consistent with or take enforcement action directly under this Order or a rule, order, or other issuance issued under the authority of this Order to provide for the revocation, suspension, or limitation of a license, permit, certificate, endorsement, or other authorization of a person or entity that violates this Order.
6. Any individual or entity that knowingly violates this Order, or a rule, order, or other issuance issued under the authority of this Order, may be subject to civil and administrative penalties authorized by law, including sanctions or penalties for

violating section 8 of the District of Columbia Public Emergency Act of 1980, D.C. Official Code § 7-2307, which can result in civil fines of not more than \$1,000 or summary suspension or revocation of licenses.

**IV. EFFECTIVE DATE AND DURATION**

The first phase of implementation of this Order shall begin by January 15, 2022 at 6:00 a.m., and shall remain in effect until repealed, amended, or superseded.

  
\_\_\_\_\_  
MURIEL BOWSER  
MAYOR

ATTEST:   
\_\_\_\_\_  
KIMBERLY A. BASSETT  
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

OFFICE OF THE CHIEF FINANCIAL OFFICER  
Office of Revenue Analysis

**NOTICE of INCREASES**  
**for the 2022 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 2022 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 2021:	274.57
The percent change in the index during the above time period:	16.61%

**Therefore, effective Tax Year 2022 (beginning October 1, 2021):**

- **the Homestead Deduction amount will be<sup>1</sup> \$78,700.00**

**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 2022 is adjusted in the following manner

The Washington Area Average CPI value for Calendar Year 2020:	267.05
The Washington Area Average CPI value for Calendar Year 2021:	277.16
The percent change in the index during the above time period:	3.79%

**Therefore, effective Tax Year 2022 (beginning October 1, 2021):**

- **the Trash Collection Trash Credit amount will be<sup>2</sup> \$117.00**

**III. The Senior Citizen or Disabled Real Property Tax Relief Income Threshold**

<sup>1</sup> Annual dollar amount changes are rounded down to the nearest \$50.00 increment.

<sup>2</sup> Annual dollar amount changes are rounded to the nearest whole dollar.



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 2022 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 2021:	274.57
The percent change in the index during the above time period:	11.94%

Therefore, effective Tax Year 2022 (beginning October 1, 2021):

- the maximum household federal adjusted gross income for the real property tax senior citizen or disabled tax relief shall be<sup>3</sup> **\$139,900.00**

**A Summary of  
Homestead Deduction, Trash Credit and Senior Income Threshold Amounts  
for Tax Year 2022**

	<b>Base Amounts</b>	<b>CPI Adjustment Factor*</b>	<b>2022 Amounts</b>
Homestead Deduction	\$67,500.00	1.1661	\$78,700.00
Trash Collection Credit	\$113.00	1.0379	\$117.00
Senior Citizen Maximum Income Threshold	\$125,000.00	1.1194	\$139,900.00

Source: U.S. Bureau of Labor Statistics, data accessed December 10, 2021

<sup>3</sup> Annual dollar amount changes are rounded down to the nearest \$50.00 increment.

**CHILD AND FAMILY SERVICES AGENCY**  
**MAYOR'S ADVISORY COMMITTEE ON CHILD ABUSE AND NEGLECT**  
**2022 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 remain scheduled as virtual meetings on the WebEx platform until further notice.

For further information, please contact Roni Seabrook at 202-724-7076 or [roni.seabrook@dc.gov](mailto:roni.seabrook@dc.gov)

<b>DATE</b>	<b>TIME</b>	<b>VIRTUAL</b>
<b>Tuesday, January 25, 2022</b>	<b>10:00 AM</b>	<b>WebEx</b>
<b>Tuesday, April 26, 2022</b>	<b>10:00 AM</b>	<b>WebEx</b>
<b>Tuesday, August 30, 2022</b>	<b>10:00 AM</b>	<b>WebEx</b>
<b>Tuesday, December 6, 2022</b>	<b>10:00 AM</b>	<b>WebEx</b>

## OFFICE OF THE DISTRICT OF COLUMBIA CLEMENCY BOARD

## NOTICE OF PUBLIC MEETING

The Clemency Board will be holding its meeting on Friday, January 7, 2022 at 10:30 a.m. The meeting will be held via WebEx at the link (and numbers) below. Below is the agenda for this meeting.

## AGENDA

1. Welcome and Call to Order
2. Old Business
  - a. Review and vote on application form the Clemency Board
  - b. Review and vote on letter to Council to add a returning citizen seat to the Clemency Board
3. New Business
  - a. None
4. Public Comments
5. Adjournment

**Meeting Link:**

<https://dcnet.webex.com/dcnet/onstage/g.php?MTID=ed71657aedde59a913fb429d1a83d5dd6>

**Registration:** Please press Ctrl and click the link above to pre-register for the meeting.

**Registration password:** This meeting does not require a password for registration.

**Event number (access code):** 2311 855 3161

**Event password:** pTAJUd9aP75 (no event password required)

**Join the audio conference only:** 1-650-479-3208 Call-in toll number (US/Canada)

**Join from a video system or application:** Dial 23118553161@dcnet.webex.com

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

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

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
CONSTRUCTION CODES COORDINATING BOARD**

**NOTICE OF 2022 REGULAR MEETING DATES**

Regular meetings of the Construction Codes Coordinating Board will be held on the following dates from 10:30 a.m. to 12:30 p.m. via Cisco WebEx. Login instructions for each meeting will be provided on the District of Columbia Office of Open Government website at:

<https://www.open-dc.gov/public-bodies/construction-codes-coordinating-board>

Thursday, January 20, 2022  
Thursday, February 17, 2022  
Thursday, March 17, 2022  
Thursday, April 21, 2022  
Thursday, May 19, 2022  
Thursday, June 16, 2022  
Thursday, July 21, 2022  
Thursday, August 18, 2022  
Thursday, September 15, 2022  
Thursday, October 20, 2022  
Thursday, November 17, 2022  
Thursday, December 15, 2022

The CCCB Meeting Calendar and copies of associated meeting minutes and agendas are available on the District of Columbia Office of Open Government website at:

<https://www.open-dc.gov/public-bodies/construction-codes-coordinating-board>

**EAGLE ACADEMY PUBLIC CHARTER SCHOOL****NOTICE OF REQUEST FOR PROPOSALS****Documentary Film Production**

**Concept:** This documentary details the triumphant journey of Cassandra Pinkney, a black female educator and native Washingtonian with a mission to start the first pre-K public charter school in Washington, DC. The story speaks to the unlikely pairing of Cassandra and Joe Smith in 2000 whom both having a common desire to offer children in underserved communities' equal education in a safe, nurturing, and secure environment. In 2003, Eagle Academy opens in the Eastern Market neighborhood in SE serving 114 students with an emphasis on special needs and kids who learn differently.

It's a feel-good story about two people who meet by circumstance and go on to create a success story of the first early childhood charter school in Washington, DC, where children are the focus and legacy is front and center.

**Pre-Production:** Scripting interview questions, scouting locations, and story development.

**Production:** Days required for production is contingent on the availability of faculty, staff, principals, and supporting characters. All, filming is slated to take place during the academic school year 2021 - 2022.

**Post-Production:** An internal 3–5-minute sizzler reel in HD shall be made available for content review ahead of completion of filming. Numerous rounds of editing is required after all filming and recording is complete, this includes but is not limited to color correction, audio syncing and sound mixing. The final product shall result in a long form documentary, 60 minutes in duration.

**Soundtrack:** The utilization of original music and/or licensed music with a perpetual lifespan will be chosen. The primary track will be 5 minutes in duration and shall be utilized throughout the documentary in part and/or in its entirety.

**Licensing:** Some material from DC Economic Partnership, DC Convention and Bureau Association and archival footage of leaders such as Marion S. Barry will be required.

**Travel:** All travel will take place in the DMV - District of Columbia, Maryland, and Virginia.

**Rights:** The ownership/rights to all captured content shall be solely that of Eagle Academy Public Charter School.

**Project Estimate:** \$50,000 USD is the estimated cost of the entire project

**Please Contact:** Ivana Thornton at [ithornton@eagleacademypcs.org](mailto:ithornton@eagleacademypcs.org) or 202.459.6803

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION****2022 NOTICE OF PUBLIC MEETING SCHEDULE****Community Schools Advisory Committee**

The Community Schools Advisory Committee will meet on the following dates in 2022. An agenda for each meeting will be posted on the Office of the State Superintendent of Education's [Community Schools Incentive Initiative website](#). Please note, this schedule is subject to change. All Community Schools Advisory Committee meetings will be held via Microsoft Teams and can be accessed through the virtual meeting link provided in each agenda.

- Wednesday, Jan. 19, 2022
- Wednesday, March 16, 2022
- Wednesday, May 18, 2022
- Wednesday, July 20, 2022
- Wednesday, Sept. 21, 2022
- Wednesday, Nov. 16, 2022

## DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FILING OF A REQUEST FOR A  
VOLUNTARY CLEANUP CERTIFICATE OF COMPLETION

**340 Morse Street, NE  
Case No. VCP2019-065**

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000, D.C. Law 13-312, D.C. Official Code § 8-631 *et seq.*, as amended April 8, 2011, D.C. Law 18-369 (herein referred to as the “Act”), the Voluntary Cleanup Program (VCP) in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch (LRDB), is informing the public that it has received a Site Completion Report and a request for a Certificate of Completion to support a Voluntary Cleanup Program (VCP) project addressed as 340 Morse Street, NE, consisting of square 3587 and lot 0818. The applicant for the property is Grosvenor USA Limited, c/o Jonathan Carr, 1701 Pennsylvania Avenue, Suite 450, Washington DC, 20006.

The application identified the presence of petroleum compounds, Polycyclic Aromatic Hydrocarbons (PAH), trace PCBs in soil, and petroleum compounds and chlorinated solvents in groundwater. The proposed redevelopment comprises two below-grade levels of parking, retail, mail storage and other amenity spaces on the first floor and residential for floors 2 through 13. A revised Cleanup Action Plan (CAP) for this site was approved by the Program on February 24, 2020. Based on the cleanup oversight and review of the Site Completion Report, the Voluntary Cleanup Program may issue a Certificate of Completion.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-5D01) for the area in which the property is located. The Site Completion Report is available for public review at the following location:

Voluntary Cleanup Program  
Department of Energy and Environment (DOEE)  
1200 First Street NE, Fifth Floor  
Washington, DC 20002

Interested parties may also request a copy of the application by contacting the Voluntary Cleanup Program at the above address or by calling (202) 499-0437. An electronic copy of the application may be viewed at <http://doee.dc.gov/service/vcp-cleanup-sites>.

Written comments on the proposed approval of the application must be received by the VCP office at the address listed above within fourteen (14) days from the date of this publication. DOEE is required to consider all public comments it receives before acting on request for a Certificate of Completion.

Please refer to Case No. VCP2019-065 in any correspondence related to this notice

## DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FILING OF A REQUEST FOR A  
VOLUNTARY CLEANUP CERTIFICATE OF COMPLETION5816 Georgia Avenue, NW  
Case No. VCP2018-061

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000, D.C. Law 13-312, D.C. Official Code § 8-631 *et seq.*, as amended April 8, 2011, D.C. Law 18-369 (herein referred to as the “Act”), the Voluntary Cleanup Program (VCP) in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch (LRDB), is informing the public that it has received a Site Completion Report and a request for a Certificate of Completion to support a Voluntary Cleanup Program (VCP) project addressed as 5816 Georgia Avenue, NW, consisting of square 2937 and lot 844/3/4/30. The applicant for real property located at 5816 Georgia Avenue, NW, Washington, DC 20011, is 5816 Georgia Avenue, LLC, 2702 N. Carroll Avenue, Southlake, Texas 26092.

The application identifies impacted soil and groundwater associated with dry Chlorinated solvent in Sub-Slab. Though the redevelopment plan is not known at this time, the applicant intends to perform remediation action to address site-specific chemicals of concern. The Cleanup Action Plan (CAP) for this site was approved by the Program on December 18, 2019. Based on the cleanup oversight and review of the Site Completion Report, the Voluntary Cleanup Program may issue a Certificate of Completion.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-4C01) for the area in which the property is located. The Site Completion Report is available for public review at the following location:

Voluntary Cleanup Program  
Department of Energy and Environment (DOEE)  
1200 First Street NE, Fifth Floor  
Washington, DC 20002

Interested parties may also request a copy of the application by contacting the Voluntary Cleanup Program at the above address or by calling (202) 499-0437. An electronic copy of the application may be viewed at <http://doee.dc.gov/service/vcp-cleanup-sites>.

Written comments on the proposed approval of the application must be received by the VCP office at the address listed above within fourteen (14) days from the date of this publication. DOEE is required to consider all public comments it receives before acting on a request for a Certificate of Completion.

Please refer to Case No. VCP2019-061 in any correspondence related to this application



DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF INTENT TO ISSUE WATER QUALITY CERTIFICATION

Notice is hereby given that, pursuant to 21 DCMR Chapters 25 and 26, and 33 U.S.C § 1341, the Water Quality Division (WQD) of the Department of Energy & Environment (DOEE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington DC, intends to issue Water Quality Certification (WQC) WQC-DC-2021-55 to District Department of Transportation (DDOT) to perform repair work on culvert 181C in a perennial stream along Minnesota Avenue SE, in Washington DC. The contact person for the project is EJ Simie, DDOT, (202) 673-6813 or [Ej.simie@dc.gov](mailto:Ej.simie@dc.gov).

Proposed Aquatic Resource Impacts:

Resource Type (stream/wetland)	Classification	Impact Size (square feet)	Activity Type	Impact Type (permanent/temporary)
Pope Branch	perennial	2,423	riprap installation	permanent
Pope Branch	perennial	1,707	construction access	temporary
Wetland	PFO	2,356	riprap installation	permanent
Wetland	PFO	3,189	construction access	temporary

The following conditions will be included in the WQC:

1. The Permittee shall incorporate best management practices as an integral part of the performance of the work to ensure the activity will comply with the Water Pollution Control Act of 1984, D.C. Official Code § 8-103.02 and 21 DCMR § 1104.
2. To monitor turbidity in the water body, the Permittee shall:
  - a. Establish background turbidity and measure turbidity by using U.S. Environmental Protection Agency (EPA) approved methods in accordance with 40 C.F.R. Part 136 procedures. Background turbidity must be established before starting any work, before equipment is anchored and before any turbidity curtains or coffer dams are in place. These measurements must be made within 25 feet upstream and 25 feet downstream outside of the curtains. Measurements must be conducted at different depths, for example, near the bottom, 1/4 of the depth from the bottom, 3/4 of the depth from the bottom, and near the surface.
  - b. Once the operations begin, turbidity measurements must be taken continually from the same locations 25 feet upstream and 25 feet downstream of the turbidity curtains. This is to ensure compliance with District of Columbia Water Quality Standards in 21 DCMR § 1104.8. Turbidity monitoring must be conducted at different depths, for example, near the bottom, 1/4 of the depth from the bottom, 3/4 of the depth from the bottom, and near the surface. If turbidity measurements exceed a maximum of 20 Nephelometric Turbidity Units (NTU) above background turbidity,

- stop all activities and implement best management practices until the 20 NTU maximum differential (i.e., background turbidity  $\pm$  20 NTU) is reached.
- c. If a sediment plume is observed coming out of the sediment-disturbing activity location or if the turbidity exceeds the District of Columbia surface water quality standard, the Permittee shall:
    - i. Immediately stop all activities and notify DOEE Illicit Discharge and NPDES Branch at (202) 805-1355; and
    - ii. Adjust all activities and implement best management practices until there is no more sediment escaping the sediment-disturbing activity location. When the measured turbidity is less than or equal to the background turbidity, the Permittee may resume the work.
  - d. Prior to opening turbidity curtains, turbidity measurements must be taken inside the turbidity curtains. The turbidity curtains must not be opened until the levels inside the turbidity curtains are below the 20 NTU maximum differential. This is to ensure compliance with District of Columbia Water Quality Standards in 21 DCMR § 1104.8.
  - e. The turbidity readings must be recorded in a log book and kept on site. In addition to the turbidity readings, records must also be kept of the date and time of the readings, and name(s) of the person(s) taking the sample and making the readings.
3. To monitor turbidity in the water body, the Permittee shall:
- a. Establish background turbidity and measure turbidity by using U.S. Environmental Protection Agency (EPA) approved methods in accordance with 40 C.F.R. Part 136 procedures. Background turbidity must be established before starting any work, before equipment is anchored and before any turbidity curtains or coffer dams are in place. These measurements must be made within 25 feet upstream and 25 feet downstream outside of the curtains. Measurements must be conducted at different depths, for example, near the bottom,  $\frac{1}{4}$  of the depth from the bottom,  $\frac{3}{4}$  of the depth from the bottom, and near the surface.
  - b. Once the operations begin, turbidity measurements must be taken continually from the same locations 25 feet upstream and 25 feet downstream of the turbidity curtains. This is to ensure compliance with District of Columbia Water Quality Standards in 21 DCMR § 1104.8. Turbidity monitoring must be conducted at different depths, for example, near the bottom,  $\frac{1}{4}$  of the depth from the bottom,  $\frac{3}{4}$  of the depth from the bottom, and near the surface. If turbidity measurements exceed a maximum of 20 Nephelometric Turbidity Units (NTU) above background turbidity, stop all activities and implement best management practices until the 20 NTU maximum differential (i.e., background turbidity + 20 NTU) is reached.

- c. If a sediment plume is observed coming out of the sediment-disturbing activity location or if the turbidity exceeds the District of Columbia surface water quality standard, the Permittee shall:
  - i. Immediately stop all activities and notify DOEE Illicit Discharge and NPDES Branch at (202) 805-1355; and
  - ii. Adjust all activities and implement best management practices until there is no more sediment escaping the sediment-disturbing activity location. When the measured turbidity is less than or equal to the background turbidity, the Permittee may resume the work.
- d. Prior to opening turbidity curtains, turbidity measurements must be taken inside the turbidity curtains. The turbidity curtains must not be opened until the levels inside the turbidity curtains are below the 20 NTU maximum differential. This is to ensure compliance with District of Columbia Water Quality Standards in 21 DCMR § 1104.8.
- e. The turbidity readings must be recorded in a logbook and kept on site. In addition to the turbidity readings, records must also be kept of the date and time of the readings and name(s) of the person(s) taking the sample and making the readings.
4. Any water impacted by the project shall be pumped to an appropriate treatment system in order to comply with the Water Pollution Control Act of 1984, D.C. Official Code § 8-103.02 and 21 DCMR § 1104.
5. Any oil sheen or other visible evidence of hydrocarbons or other pollution generated (e.g., color changes in the water column, turbidity plumes) during any of the activities shall be immediately reported to DOEE Illicit Discharge and NPDES Branch at (202) 805-1355 and contained (e.g., oil boom, sorbent materials) or containerized in a sealed container in accordance with D.C. Official Code § 8-103.08.
6. All excavated (e.g., dredged) sediments and sampling sediments (e.g., within cofferdams or excess sediment samples), drill cuttings, drilling mud, and wastes (both solid and liquid) shall be contained, sampled, and analyzed for disposal at appropriate disposal sites. The wastes shall not be used as backfill material in the water body or on land in order to comply with the Water Pollution Control Act of 1984, D.C. Official Code § 8-103.02 and 21 DCMR § 1104.
7. All debris and waste water must be captured and not enter the river and shall be contained and disposed of properly at an appropriate treatment facility to prevent materials from entering the water body in order to comply with the Water Pollution Control Act of 1984, D.C. Official Code § 8-103.02 and 21 DCMR § 1104.

8. In accordance with 21 DCMR §§ 2607, 2608, and 2611, the permittee shall mitigate permanent impacts to Pope Branch and the forested wetland via payment into the District Wetland and Stream Mitigation Trust Fund.
9. Temporary impacts to Pope Branch and the forested wetland must be mitigated in-place by restoring those resources to pre-construction condition or better. A report of the restoration of temporary impacts must be submitted to DOEE RRD for review and approval prior to completion of the authorized activities.
10. The Permittee shall obtain all necessary permits and other authorizations from appropriate federal and local offices, including approval of plans for Stormwater Management, and Erosion and Sediment Control from DOEE in accordance with 21 DCMR §§ 516-534 and 540-547. All staging and temporary activity areas not covered by any permit shall have adequate soil erosion and sedimentation measures.
11. In the District, the anadromous fish migration and spawning season is generally considered to occur between March 1st and June 30th. Any activities proposed to occur in District waters during this period shall first be approved by the U.S. Army Corps of Engineers, accompanied by concurrence from commenting federal agencies, including the U.S. National Park Service, U.S. Fish and Wildlife Service, and U.S. National Oceanic and Atmospheric Administration. All of the aforementioned approvals must be submitted to and subsequently certified by DOEE Fisheries and Wildlife Division in accordance with 21 DCMR § 1405 to ensure compliance with 21 DCMR §§ 1101 and 1104.
12. The Permittee shall obtain all required permits and authorizations from the U.S. Coast Guard and Metropolitan Police Department Harbor Patrol in accordance with 19 DCMR §§ 1001-1005, 1028-1030, and 1033.
13. Reporting Requirements:
  - a) The Permittee shall submit written notification to DOEE Regulatory Review Division (RRD) at least seven (7) business days before work commences in accordance with 21 DCMR § 2502.3.
  - b) If the Permittee observes any water quality standard exceedances at the site, the Permittee must notify DOEE Illicit Discharge and NPDES Branch immediately at (202) 805-1355, stop the work, prepare and submit for review and approval a corrective action plan, and then implement the DOEE-approved corrective action plan in accordance with D.C. Official Code § 8-103.08.
  - c) The Permittee shall submit final reports of the monitoring results. Reports must be submitted to DOEE RRD no later than 45 days after the completion of the work. All data generated during the operation shall be summarized in a final report. The report shall also include any violations, water quality standards exceedances, actions taken or to be taken to remediate those violations, and any other relevant information. The report shall be submitted to:

Ms. Jennifer Dietzen  
Regulatory Review Division  
Department of Energy and Environment  
1200 First Street NE, 5<sup>th</sup> Floor  
Washington, DC 20002

The application for a WQC and supporting documents and the draft WQC may be made available upon request. Interested parties wishing to view these documents should provide their names, email addresses, telephone numbers and affiliation, if any, to Jennifer Dietzen at [Jennifer.dietzen@dc.gov](mailto:Jennifer.dietzen@dc.gov) or (202) 536-8556.

#### Public Hearing Request

Interested persons may request a hearing on the WQC application by submitting a request in writing within 10 calendar days of publication of this notice.

Any request for a public hearing should be addressed to:

Ms. Jennifer Dietzen  
Regulatory Review Division  
Department of Energy and Environment  
1200 First Street, N.E., 5<sup>th</sup> Floor  
Washington, DC 20002  
[Jennifer.dietzen@dc.gov](mailto:Jennifer.dietzen@dc.gov)

**No hearing requests submitted after December 27, 2021 will be accepted.**

For more information, please contact Jennifer Dietzen at [Jennifer.dietzen@dc.gov](mailto:Jennifer.dietzen@dc.gov) or (202)-536-8556.

## DEPARTMENT OF ENERGY AND ENVIRONMENT

## NOTICE OF INTENT TO ISSUE WATER QUALITY CERTIFICATION

Notice is hereby given that, pursuant to 21 DCMR Chapters 25 and 26, and 33 U.S.C § 1341, the Water Quality Division (WQD) of the Department of Energy & Environment (DOEE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington DC, intends to issue Water Quality Certification (WQC) WQC-DC-2021-68 to the University of Maryland Center for Environmental Science to plant submerged aquatic vegetation (SAV) in 11,000 square feet of tidal waters by placing 1,000 plastic enclosures 1.5 feet in circumference and 3 feet tall anchored to the sediment surface around 1,000 snow poles that are spaced 3 feet apart and planted with *Vallisneria americana* (wild celery) creating approximately 11,000 square feet of new SAV, all to extend no more than 180 feet channelward of the mean high water line in Oxon Cove, a sub-estuary of the Potomac River, Washington D.C, and at Buzzard Point and Half Street Pier of the Anacostia River, Washington D. C. The contact person for the project is Katia Englehardt, University of Maryland Center for Environmental Science, kengelhardt@umces.edu.

The following conditions will be included in the WQC:

1. The Permittee shall incorporate best management practices as an integral part of the performance of the work to ensure the activity will meet the Water Quality Standards of the District of Columbia and have minimal impact to the waters of the District of Columbia.
2. Any water impacted by the project shall be pumped to an appropriate treatment system in order to comply with Water Quality Standards of the District of Columbia in Title 21 of the District of Columbia Municipal Regulations (DCMR) Chapter 11, and the Water Quality Monitoring Regulations in Title 21 DCMR Chapter 19.
3. Any oil sheen or other visible evidence of hydrocarbons or other pollution generated (e.g., color changes in the water column, turbidity plumes) during any of the activities shall be immediately reported to DOEE Illicit Discharge and NPDES Branch at (202) 805-1355 and contained (e.g., oil boom, sorbent materials) or containerized in a sealed container.
4. All debris and any waste water must be captured and not enter the river and shall be contained and disposed of properly at an appropriate treatment facility to prevent materials from entering the water body.
5. In the District, the anadromous fish migration and spawning season is generally considered to occur between March 1st and June 30th. Any activities proposed to occur in District waters during this period shall first be approved by the U.S. Army Corps of Engineers, accompanied by concurrence from commenting federal agencies, including the U.S. National Park Service, U.S. Fish and Wildlife Service, and U.S. National Oceanic and Atmospheric Administration. All of the aforementioned approvals must be submitted to and subsequently certified by DOEE Fisheries and Wildlife Division.

6. The Permittee shall obtain all required permits and authorizations from the U.S. National Park Service. Please contact the Right-of-Way Program Coordinator at (202) 619-7276 for more information.
7. The Permittee shall obtain all required permits and authorizations from the U.S. Coast Guard and Metropolitan Police Department Harbor Patrol.
8. Reporting Requirements:
  - a. The Permittee shall submit written notification to DOEE Regulatory Review Division (RRD) at least five (5) business days before work commences.
  - b. If the Permittee observes any water quality standard exceedances at the site, the Permittee must notify DOEE Illicit Discharge and NPDES Branch immediately at (202) 805-1355; stop the work; prepare and submit for review and approval a corrective action plan, and then implement the DOEE-approved corrective action plan.
  - c. The Permittee shall submit final reports of the monitoring results. Reports must be submitted to DOEE RRD no later than 45 days after the completion of the work. All data generated during the operation shall be summarized in a final report. The report shall also include any violations, water quality standards exceedances, actions taken or to be taken to remediate those violations, and any other relevant information. The report shall be submitted to:

Ms. Jennifer Dietzen  
Regulatory Review Division  
Department of Energy and Environment  
1200 First Street NE, 5<sup>th</sup> Floor  
Washington, DC 20002

The application for a WQC and supporting documents and the draft WQC may be made available upon request. Interested parties wishing to view these documents should provide their names, email addresses, telephone numbers and affiliation, if any, to Jennifer Dietzen at [Jennifer.dietzen@dc.gov](mailto:Jennifer.dietzen@dc.gov) or (202) 536-8556.

#### Public Hearing Request

Interested persons may request a hearing on the WQC application by submitting a request in writing within 10 calendar days of publication of this notice.

Any request for a public hearing should be addressed to:

Ms. Jennifer Dietzen  
Regulatory Review Division

Department of Energy and Environment  
1200 First Street, N.E., 5<sup>th</sup> Floor  
Washington, DC 20002  
[Jennifer.dietzen@dc.gov](mailto:Jennifer.dietzen@dc.gov)

**No hearing requests submitted after December 27, 2021 will be accepted.**

For more information, please contact Jennifer Dietzen at [Jennifer.dietzen@dc.gov](mailto:Jennifer.dietzen@dc.gov) or (202)-536-8556.



## FRIENDSHIP PUBLIC CHARTER SCHOOL

## REQUEST FOR PROPOSALS

## Various Services

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

- **Staffing recruitment and Direct Hire Services** for key leadership roles within a K-12 organization.

The competitive RFP can be found on FPCS website at:

<http://www.friendshipschools.org/procurement>. Proposals are due no later than **4:00 P.M., EST, Friday January 28, 2022**. Questions and Proposals should be submitted on-line at:

[Procurementinquiry@friendshipschools.org](mailto:Procurementinquiry@friendshipschools.org). All bids not addressing all areas as outlined in the

RFP will not be considered. No proposals will be accepted after the deadline.

## DEPARTMENT OF HEALTH CARE FINANCE

**PUBLIC NOTICE OF PROPOSED AMENDMENT TO THE DISTRICT  
OF COLUMBIA STATE PLAN FOR MEDICAL ASSISTANCE  
GOVERNING MEDICAID ROUTINE PATIENT COSTS ASSOCIATED WITH  
PARTICIPATION IN A QUALIFYING CLINICAL TRIAL**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code §1-307.02 (2016 Repl. & 2019 Supp.)) and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.01 *et seq.* (2019 Repl.)) hereby gives notice of the intent to submit amendments to the District of Columbia State Plan for Medical Assistance (State Plan) to the federal Centers for Medicare and Medicaid Services (CMS) for review and approval.

The proposed State Plan Amendments (SPAs) will authorize DHCF to clarify that routine patient costs associated with participation in a qualifying clinical trial are covered Medicaid services. Routine patient costs associated with participation in a qualifying clinical trial are currently covered in the District Medicaid program, but per CMS guidance issued in State Medicaid Director Letter #21-005, DHCF must submit SPAs to create new State Plan pages describing routine patient costs associated with participation in a qualifying clinical trial as a required benefit for Medicaid beneficiaries, including Medicaid beneficiaries enrolled in Alternative Benefit Plans (ABPs), in compliance with Division CC, Title II, Section 210 of the Consolidated Appropriation Act, 2021, effective January 1, 2022 (Pub. L. 116-260; 134 Stat. 1182).

Under the proposed SPAs, DHCF is not proposing any changes to the ABP delivery system. Coverage of routine patient costs associated with participation in a qualifying clinical trial shall be mandatory under the State Plan and for ABPs. For enrollees, ages 19 and 20, who are still eligible for early and periodic, screening, diagnosis and treatment (EPSDT) services, DHCF assures these SPAs comply with 42 C.F.R. § 440.345 and does not alter the maximum availability of access to those services.

Under the proposed SPAs, DHCF will reimburse routine patient costs associated with participation in a qualifying clinical trial in accordance with the Medicaid Fee Schedule. The Medicaid Fee Schedule is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/home>. The SPA requires approval by CMS. These changes shall become effective for services rendered on or after January 1, 2022.

DHCF projects a net increase in aggregate Medicaid expenditures of approximately \$0 for Fiscal Year 2022, with a total increase in federal Medicaid expenditures of approximately \$0 as a result of the proposed changes.

If you have any questions, please contact Mario Ramsey, Associate Director, Division of Regulation & Policy Management, Health Care Policy & Research Administration, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, or email at [mario.ramsey@dc.gov](mailto:mario.ramsey@dc.gov).

## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Chiropractic (“Board”) hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

The Board’s regular meetings shall now be conducted on the second Tuesday of every other month starting on January 11, 2022. The meetings will be held from 1:30 PM to 3:30 PM and will be open to the public from 1:30 PM until 2:30PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 2:30 PM until 3:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board’s meetings during the next twelve-month period will be as follows:

January 11, 2022  
March 8, 2022  
May 10, 2022  
July 12, 2022  
September 13, 2022  
November 8, 2022  
January 10, 2023

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002 unless otherwise indicated. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Long Term Care Administration (“Board”) hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

The Board’s regular meetings shall now be conducted on the second Wednesday of each quarter starting on January 12, 2022. The meetings will be held from 10:00 AM to 12:00 PM and will be open to the public from 10:00 AM until 11:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 11:00 AM until 12:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board’s meetings during the next twelve-month period will be as follows:

January 12, 2022  
April 13, 2022  
July 13, 2022  
October 12, 2022  
January 11, 2023

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002 unless otherwise indicated. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Massage Therapy (“Board”) hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

The Board’s regular meetings shall now be conducted on the third Thursday of each quarter starting on January 20, 2022. The meetings will be held from 9:30 AM to 11:30 AM and will be open to the public from 9:30 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 10:30 AM until 11:30 AM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board’s meetings during the next twelve-month period will be as follows:

January 20, 2022  
March 17, 2022  
May 19, 2022  
July 21, 2022  
September 15, 2022  
November 17, 2022  
January 19, 2023  
March 16, 2023

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002 unless otherwise indicated. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Optometry (“Board”) hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

The Board’s regular meetings shall now be conducted on the third Thursday of each quarter starting on January 20, 2022. The meetings will be held from 9:30 AM to 11:30 AM and will be open to the public from 9:30 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 10:30 AM until 11:30 AM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board’s meetings during the next twelve-month period will be as follows:

January 20, 2022  
April 21, 2022  
July 21, 2022  
October 20, 2022  
January 19, 2023  
April 20, 2023

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002 unless otherwise indicated. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Podiatry (“Board”) hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

The Board’s regular meetings shall now be conducted on the first Wednesday of each quarter starting on April 6, 2022. The meetings will held from 1:30 PM to 3:30 PM and will be open to the public from 1:30 PM until 2:30PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 2:30 PM until 3:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board’s meetings during the next twenty four-month period will be as follows:

January 12, 2022  
April 6, 2022  
July 13, 2022  
October 5, 2022  
January 11, 2023  
April 5, 2023

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002 unless otherwise indicated. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Nursing (“Board”) hereby gives notice of its upcoming meetings for the calendar year 2022, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

The Board meets bi-monthly on the first Wednesday of every other month from 9:00 AM – 12:00 PM. The meetings will be open to the public from 9:00 AM until 10:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 10:00 AM to 12:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

In the calendar year 2022, the Board will meet on the following dates:

January 5, 2022  
March 2, 2022  
May 4, 2022  
July 6, 2022  
September 7, 2022  
November 2, 2022

The meetings will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:

Meeting number: 172 969 3891

Password: HBwPs3Cfw57

<https://dcnet.webex.com/dcnet/j.php?MTID=mc6734897c0edfe6f8e75edfcef175f34>

By phone:

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

Access code: 172 969 3891

The agenda is available at <https://dchealth.dc.gov/event/board-nursing-monthly-meeting-agenda>. For additional information, contact Concheeta Wright at [concheeta.wright@dc.gov](mailto:concheeta.wright@dc.gov).



## DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Professional Counseling (“Board”) hereby gives notice of its upcoming meetings in 2022 pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b) (2016 Repl.).

The Board meets monthly on the third Friday of each month from 10:00 AM to 1:00 PM. The meeting will be open to the public from 10:00 AM until 10:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 10:30 AM to 1:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

During 2022, the Board will meet on the following dates (with recess in August):

January 21, 2022

February 18, 2022

March 18, 2022

April 8, 2022 (Rescheduled due to Emancipation Day falling on April 15, 2022)

May 20, 2022

June 17, 2022

July 15, 2022

September 16, 2022

October 21, 2022

November 18, 2022

December 16, 2022

The meetings will be conducted via videoconference. Until further notice, the public may attend the open session in the following ways:

By videoconference:

Meeting number: 475 199 633

Password: b5aXwWhTi49

<https://dcnet.webex.com/dcnet/j.php?MTID=m0d5d7c16ea055f3350294ef4e11c3f95>

By phone:

1-650-479-3208 Call-in toll number (US/Canada)

Access code: 475 199 633

The agenda is available at <https://dchealth.dc.gov/page/board-professional-counseling-open-session-agendas>. For additional information, contact the Health Licensing Specialist at [dcbopec@dc.gov](mailto:dcbopec@dc.gov) or (202) 727-1611.

## DEPARTMENT OF HEALTH

**NOTICE OF MEETING DATES FOR 2022**

Board of Audiology and Speech-Language Pathology  
March 21, 2022

The District of Columbia Board of Audiology and Speech-Language Pathology (“Board”) hereby gives notice of its upcoming meetings, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a quarterly basis on the third Monday of the month. The meeting will be open to the public from 10:00 AM until 11:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 11:00AM to 12:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The upcoming meetings for the Board are:

March 21, 2022  
June 20, 2022  
September 19, 2022  
December 19, 2022

The agenda is available at <https://dchealth.dc.gov/node/1170311>. For additional information, contact the Health Licensing Specialist at [Tamika.wells@dc.gov](mailto:Tamika.wells@dc.gov) or (202) 724-8677.

## DEPARTMENT OF HEALTH

**NOTICE OF 2022 REGULARLY SCHEDULED MEETING DATES****Board of Physical Therapy  
First meeting of 2022 - January 12, 2022 – 2:30 pm**

The District of Columbia Board of Physical Therapy (“Board”) hereby gives notice of its upcoming meetings, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a monthly basis on the second Wednesday of the month. The first meeting of 2022 will be held on Wednesday, January 12, 2022. The meeting will begin at 2:30 pm and will be open to the public from 2:30 pm until 3:30 pm to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 3:30 pm to 4:30 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The upcoming meetings for the Board are:

January 12, 2022  
February 9, 2022  
March 9, 2022  
April 13, 2022  
May 11, 2022  
June 8, 2022  
July 13, 2022  
September 14, 2022  
October 12, 2022  
November 9, 2022  
December 14, 2022

The agenda is available at <https://dchealth.dc.gov/node/1169761>. For additional information, contact the Health Licensing Specialist, David Walker, at david.walker2@dc.gov or (202) 727-1611.

**DISTRICT OF COLUMBIA  
HISTORIC PRESERVATION REVIEW BOARD**

**NOTICE OF HISTORIC LANDMARK DESIGNATION**

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

**Designation Case No. 22-01: The Hampshire Apartments**

5000 and 5040 New Hampshire Avenue NW (Square 3400, Lots 1 and 2)

Designated December 16, 2021

Applicant: Wesley New Hampshire LLC (owner)

Affected Advisory Neighborhood Commission: 4D

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

## DISTRICT OF COLUMBIA HOUSING AUTHORITY

## NOTICE OF PUBLIC MEETINGS

## Board of Commissioners

The Regular Meetings of the Board of Commissioners of the District of Columbia Housing Authority are held in open session on the second Wednesday of each month. The following dates and times of the meetings are for the year 2022. All meetings will be held via WebEx until further notice.

January 12, 2022	VIA WEBEX	1:00 p.m.
February 9, 2022	VIA WEBEX	1:00 p.m.
March 9, 2022	VIA WEBEX	1:00 p.m.
April 13, 2022	VIA WEBEX	1:00 p.m.
May 11, 2022	VIA WEBEX	1:00 p.m.
June 8, 2022	VIA WEBEX	1:00 p.m.
July 13, 2022	VIA WEBEX	1:00 p.m.
September 14, 2022	VIA WEBEX	1:00 p.m.
October 12, 2022	VIA WEBEX	1:00 p.m.
November 9, 2022	VIA WEBEX	1:00 p.m.
December 14, 2022	VIA WEBEX	1:00 p.m.

For questions, contact [publicationcomments@dchousing.org](mailto:publicationcomments@dchousing.org).

**D.C. COMMISSION ON HUMAN RIGHTS****BI-MONTHLY PUBLIC MEETING****2022 MEETING SCHEDULE**

This notice outlines the schedule of the regular meetings of the D.C. Commission on Human Rights. The meetings are held in open session on the second Wednesday of every other month (odd months), and the public is invited to attend.

In-person meetings are held at 441 4<sup>th</sup> Street, NW, Washington, D.C. 20001. However, due to the ongoing concerns with COVID19, decisions will be made monthly whether the meeting will be held in person or virtually. Virtual meetings are held on Microsoft Teams. Updated meeting information will be posted on the websites of the Office of Human Rights: [www.ohr.dc.gov/Commission](http://www.ohr.dc.gov/Commission) and on the D.C. Government Open Meetings website: <https://www.open-dc.gov/>.

For further information, please contact the Commission on Human Rights at [Commission.COHR@dc.gov](mailto:Commission.COHR@dc.gov) or (202) 727-0656.

<b>DATE</b>	<b>TIME</b>	<b>LOCATION</b>
<b>Wednesday, January 12, 2022</b>	<b>6:30 PM</b>	<b>TBD</b>
<b>Wednesday, March 9, 2022</b>	<b>6:30 PM</b>	<b>TBD</b>
<b>Wednesday, May 11, 2022</b>	<b>6:30 PM</b>	<b>TBD</b>
<b>Wednesday, July 13, 2022</b>	<b>6:30 PM</b>	<b>TBD</b>
<b>Wednesday, September 14, 2022</b>	<b>6:30 PM</b>	<b>TBD</b>
<b>Wednesday, November 9, 2022</b>	<b>6:30 PM</b>	<b>TBD</b>

**DISTRICT OF COLUMBIA PUBLIC LIBRARY  
NOTICE OF BOARD OF LIBRARY TRUSTEES MEETINGS**

<b>Month</b>	<b>Meeting</b>	<b>Date</b>	<b>Time</b>	<b>Location</b>
<b>January 2022</b>	Board of Library Trustees Meeting	Wednesday, January 26	6:00 p.m.	Martin Luther King Jr. Memorial Library – 901 G Street, NW
<b>March 2022</b>	Board of Library Trustees Meeting	Wednesday, March 23	6:00 p.m.	Martin Luther King Jr. Memorial Library – 901 G Street, NW
<b>May 2022</b>	Board of Library Trustees Meeting	Wednesday, May 25	6:00 p.m.	Martin Luther King Jr. Memorial Library – 901 G Street, NW
<b>July 2022</b>	Board of Library Trustees Meeting	Wednesday, July 27	6:00 p.m.	Martin Luther King Jr. Memorial Library – 901 G Street, NW
<b>September 2022</b>	Board of Library Trustees Meeting	Wednesday, September 26	6:00 p.m.	Martin Luther King Jr. Memorial Library – 901 G Street, NW
<b>November 2022</b>	Board of Library Trustees Meeting	Wednesday, November 16	6:00 p.m.	Martin Luther King Jr. Memorial Library – 901 G Street, NW

For additional information, please contact Gary Romero at 202-727-9907 or [Gary.Romero@dc.gov](mailto:Gary.Romero@dc.gov).

OFFICE OF PLANNING

COMMEMORATIVE WORKS COMMITTEE

2022 Meeting Schedule

The regular monthly meetings of the District of Columbia Commemorative Works Committee are held in open session on the **third Friday of the month** unless otherwise noted.

All meetings are held virtually in the Office of Planning’s meeting room at:

<https://dcnet.webex.com/meet/OP> | 734 753 331

To join from a video conferencing system or Smartphone application call 1-650-479-3208 Call-in toll number (US/Canada), Access code: 734-753-331.

Additional information will be posted on open-dc.gov for each meeting, including a draft agenda.

The meeting dates for the Calendar Year 2022 are:

January 21, 2022	1:00 PM
February 18, 2022	1:00 PM
March 18, 2022	1:00 PM
April 15, 2022	1:00 PM
May 20, 2022	1:00 PM
June 17, 2022	1:00 PM
July 15, 2022	1:00 PM
August 19, 2022	1:00 PM
September 16, 2022	1:00 PM
October 21, 2022	1:00 PM
November 18, 2022	1:00 PM
December 16, 2022	1:00 PM

This schedule is subject to change.

Inquiries concerning meeting may be addressed to Chris Shaheen, Public Space Program Manager, at (202) 442-7616 or at [chris.shaheen@dc.gov](mailto:chris.shaheen@dc.gov).





Decision and Order  
PERB Case No. 22-A-01  
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## II. Arbitration Award

### A. Background

The Arbitrator made the following factual findings. The Grievant began her position as an MPD officer in 2009.<sup>3</sup> MPD terminated the Grievant effective October 22, 2018, as a result of charges stemming from the Grievant's alleged involvement with a used car dealership that the Grievant's ex-husband operated during their marriage.<sup>4</sup>

Relying on the record, the Arbitrator found that, in 2009, the Grievant's ex-husband asked to use her name to obtain financing for a used car dealership that he planned to establish.<sup>5</sup> The Arbitrator found that the record was ambiguous as to whether the ex-husband ever obtained any loans in the Grievant's name but determined that he established the dealership in or about 2010.<sup>6</sup>

On or about March 31, 2016, the Maryland State Police obtained and executed a search warrant for the dealership property and the homes of individuals associated with the dealership.<sup>7</sup> The search warrant was a result of multiple traffic stops where the drivers of vehicles had invalid temporary registration tags and/or invalid proof of insurance cards purchased from the dealership.<sup>8</sup> According to a report (Report) by the Maryland State Police, they reviewed the Grievant's email account, but did not discover any evidence of illegal activity on her part or any evidence that she was aware of such activity.<sup>9</sup> Though it was alleged that the Grievant was president of the dealership, the Arbitrator found the Report "revealed that the Grievant was not observed...at the business premises of [the dealership]"<sup>10</sup> and the Maryland State Police did not find any evidence that she was even aware of the business's revenue or losses.<sup>11</sup>

As for the dealership's bank account, the Arbitrator found that the Grievant was one of two individuals licensed to use the bank account.<sup>12</sup> However, the Arbitrator reviewed the checks and bank slips from the account and concluded that the checks she supposedly signed showed different spellings of her name, exhibited varying handwriting styles, included unexplained and illegible notations, and showed evidence that the proceeds went to third parties and not to the Grievant.<sup>13</sup> The Arbitrator also reviewed the bank's video footage and found that multiple unauthorized signers affiliated with the dealership, including the Grievant's ex-husband, had transacted with the dealership bank account without the Grievant, in contravention of the bank's policy.<sup>14</sup> The

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<sup>3</sup> Award at 5.

<sup>4</sup> Award at 7-10.

<sup>5</sup> Award at 5.

<sup>6</sup> Award at 5.

<sup>7</sup> Award at 7-8.

<sup>8</sup> Award at 7.

<sup>9</sup> Award at 8,15.

<sup>10</sup> Award at 9.

<sup>11</sup> Award at 15.

<sup>12</sup> Award at 10-11.

<sup>13</sup> Award at 13.

<sup>14</sup> Award at 14.

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Arbitrator noted that the Report did not contain any evidence that the Grievant ever relinquished her status as an authorized user on the bank account or removed her name from the dealership, though she asserted that she asked her ex-husband to remove her name in or about 2012, and had assumed that he honored her request.<sup>15</sup>

The events directly leading to the Grievant's disciplinary charges stemmed from her ex-husband's deportation proceedings. As a result of the Maryland State Police's investigation of the dealership, they uncovered that the Grievant's ex-husband had been residing in the U.S. illegally since 2006.<sup>16</sup> He was arraigned in federal court in connection with the dealership's illegal business practices.<sup>17</sup> In November 2017, an MPD Special Agent informed MPD that he had witnessed the Grievant appear, in plain clothes, at that arraignment, and state that she was "willing to take responsibility for [her ex-husband] as his third-party custodian, including having him live with her in [her] home."<sup>18</sup> In early 2018, following the Special Agent's discovery of the Grievant's connection to her ex-husband's business, the Internal Affairs Division (IAD) began investigating her.<sup>19</sup> In a February 2018 interview, the Grievant told IAD that she did not consider herself the owner of the dealership, had never signed any checks in association with it, and had assumed her ex-husband had honored her request to take the business out of her name although she had allowed him to put her name on the dealership paperwork.<sup>20</sup> She initially asserted that she had never received any compensation for her role in the business,<sup>21</sup> but later clarified that she had periodically withdrawn small sums of money from the account via an ATM to cover bills and basic living expenses for her family in lieu of a formal, child support order.<sup>22</sup>

On March 28, 2018, MPD served the Grievant with a Notice of Proposed Adverse Action, charging her with (1) willfully and knowingly making untrue statements in a report pertaining to her official duties as a police officer,<sup>23</sup> (2) failing to obey orders and directives issued by the Chief of Police, and (3) engaging in conduct "prejudicial to the reputation and good order of the police force, or involving failure to obey, or properly observe any of the rules, regulations, and orders relating to the discipline and permanence of the force."<sup>24</sup> "The Grievant pled Not Guilty to Charge No. 1 (Untruthful Statements) and Charge No. 3 (Prejudicial Conduct), but pled 'Guilty with an explanation' to Charge No. 2 (Outside Employment)."<sup>25</sup>

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<sup>15</sup> Award at 15.

<sup>16</sup> Award at 6,

<sup>17</sup> Award at 7.

<sup>18</sup> Award at 19-20.

<sup>19</sup> See Award at 2.

<sup>20</sup> Award at 16.

<sup>21</sup> Award at 16.

<sup>22</sup> Award at 19.

<sup>23</sup> Charge No. 1 comprised two Specifications, the first alleging that the Grievant falsely stated to the police interviewer that she did not receive any money from the dealership, the second alleging that the Grievant falsely stated during the course of the same interview that she did not sign any checks from the dealership's business account.

<sup>24</sup> Award at 3-4.

<sup>25</sup> Award at 4.

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At the Grievant's request, there was an Adverse Action Hearing before a Panel on September 10, 2018.<sup>26</sup> The Panel sustained all charges and specifications, recommending the following penalties: Charge No. 1, Specification 1 (15-day suspension), Charge No. 1, Specification 2 (removal), Charge No. 2, Specification 1 (10-day suspension), and Charge No. 3, Specification 1 (removal).<sup>27</sup>

MPD issued a Final Notice of Adverse Action to the Grievant, sustaining the recommended penalties and terminating her, effective October 22, 2018.<sup>28</sup> The Grievant appealed the decision to the Chief of Police, who denied her appeal on November 9, 2018.<sup>29</sup> On November 29, 2018, FOP invoked arbitration.<sup>30</sup>

### **B. Arbitrator's Findings**

The parties submitted the following issues to the Arbitrator: "whether the discharge of the Grievant...was for cause and if not, to determine the appropriate remedy."<sup>31</sup> As an initial matter, the Arbitrator established that MPD had the burden of proving "by a preponderance of the credible record evidence that the discipline in question was appropriate and for cause."<sup>32</sup>

The Arbitrator reviewed Charge No. 3, Specification No. 1, which asserted that "from 2014 through March 3, 2016 [the Grievant] w[as] the owner of a business...which produced fraudulent temporary vehicle tags, vehicle registrations, and fraudulent vehicle insurance policies for a fee."<sup>33</sup> After reviewing the evidence, the Arbitrator concluded that the Grievant was the dealership owner in name only.<sup>34</sup> He found no evidence that she was ever present at the business location or performed services for the dealership.<sup>35</sup> He determined that the record failed to show that the Grievant had knowledge of the dealership's illegal activities "or even any information that should reasonably have led her to investigate further."<sup>36</sup> Moreover, he concluded that the Grievant believed that "her ex-husband had removed her name from the business as requested in or about 2012."<sup>37</sup> The Arbitrator determined the only evidence connecting the Grievant to the ownership of the dealership was a screenshot of a listing from an online third-party database.<sup>38</sup>

On Charge No. 3, Specification No. 1, the Arbitrator found that "the record in this case failed to establish that the Grievant ever enjoyed a legal right to any of the income or assets" from

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<sup>26</sup> Award at 2.

<sup>27</sup> Award at 2.

<sup>28</sup> Award at 2.

<sup>29</sup> Award at 2.

<sup>30</sup> Award Exhibit 2 at 1042.

<sup>31</sup> Award at 1.

<sup>32</sup> Award at 33-34.

<sup>33</sup> Award at 4.

<sup>34</sup> Award at 34.

<sup>35</sup> Award at 35.

<sup>36</sup> Award at 35.

<sup>37</sup> Award at 35.

<sup>38</sup> Award at 9.

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the dealership.<sup>39</sup> He determined that the only benefit she had received from the business was the occasional ATM withdrawal of a few hundred dollars to cover her family's bills.<sup>40</sup> Considering these facts, the Arbitrator concluded there was no evidence that the Grievant "failed to obey or properly observe any of the rules, regulations, and orders of the Department."<sup>41</sup> Therefore, he determined that "Charge No. 3, Specification No. 1, [was un]substantiated and no discipline based upon this unproven Charge...[was] for cause."<sup>42</sup>

Next, the Arbitrator considered Charge No. 1, Specification Nos. 1 and 2, "which assert[ed] that the Grievant willfully and knowingly made two untruthful statements in her IAD interview" relating to her "receiving money or signing checks from the [dealership] business account."<sup>43</sup> The Arbitrator found that the preponderance of the evidence "failed to establish that she was untruthful, much less that she was willfully and intentionally untruthful in her statements to IAD."<sup>44</sup> The Arbitrator concluded that the Grievant's statements that she did not receive monies or compensation from the business "must be understood in the context" of the interview as a whole.<sup>45</sup> He found that she told the IAD Investigator she never put in hours at the dealership or received payment in exchange for services and "never received any monies from the business," but, later in the interview, stated "that she received some monies from [her husband to cover] rent and food and that she also made some withdrawals from the [dealership] account directly for those purposes."<sup>46</sup> The Arbitrator found that MPD did not prove its allegation that the Grievant untruthfully denied having signed checks in connection with the dealership.<sup>47</sup> Further, the Arbitrator did not find any evidence that the signatures on the checks were the Grievant's or proof that she had written herself any checks or received the proceeds of any checks.<sup>48</sup> For these reasons, the Arbitrator determined that Charge No. 1, Specification Nos. 1 and 2 were unsubstantiated and no discipline based on these accusations was for cause.<sup>49</sup>

The Arbitrator did not discuss or rule on Charge No. 2 (Outside Employment), as the Grievant did not appeal the discipline imposed for her "Guilty with an explanation" plea.<sup>50</sup> Therefore, the Arbitrator did not order that the Grievant's 10-day suspension be reversed.<sup>51</sup>

Based on his conclusions, the Arbitrator directed MPD "to reinstate the Grievant, forthwith, with full uninterrupted seniority and to make her whole in accordance with the Agreement and applicable law, rule, and regulation, including but not limited to the Back Pay Act."<sup>52</sup> Additionally,

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<sup>39</sup> Award at 35.

<sup>40</sup> Award at 37.

<sup>41</sup> Award at 37.

<sup>42</sup> Award at 37.

<sup>43</sup> Award at 37.

<sup>44</sup> Award at 38.

<sup>45</sup> Award at 38.

<sup>46</sup> Award at 39.

<sup>47</sup> Award at 39.

<sup>48</sup> Award at 39-40.

<sup>49</sup> Award at 40.

<sup>50</sup> Award at 40.

<sup>51</sup> Award at 40.

<sup>52</sup> Award at 40.

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he directed that “in accordance with Article 19.E.5.7. of the [parties’] Agreement, the fees and expenses of the Arbitrator [should] be borne in full by the losing party, which in this case is the [Metropolitan Police] Department.”<sup>53</sup>

### III. Discussion

Section 1-605.02(6) of the D.C. Official Code permits the Board to modify, set aside, or remand a grievance arbitration award in three narrow circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.<sup>54</sup> MPD requests review of the Award on the grounds that the Arbitrator exceeded his authority.

When determining whether an arbitrator exceeded his authority in rendering an award, the Board analyzes whether the award “draws its essence from the parties[’] collective bargaining agreement.”<sup>55</sup> The relevant questions in this analysis are whether the arbitrator acted outside his authority by resolving a dispute not committed to arbitration and whether the arbitrator was arguably construing or applying the contract in resolving legal and factual disputes.<sup>56</sup> “[S]o long as the arbitrator does not offend any of these requirements, the request for [Board] intervention should be resisted even though the arbitrator made serious, improvident, or silly errors in resolving the merits of the dispute.”<sup>57</sup>

In its Request, MPD argues that the Board should reverse the Award and affirm MPD’s final decision because the Arbitrator “exceeded the jurisdiction granted to him by rendering a decision that made findings not pertinent to the issues presented for arbitration.”<sup>58</sup> The Request states, “Under Article 19, Section E(5)(4) of the parties’ CBA, the arbitrator is required to confine his decision solely to the precise issue submitted for arbitration.”<sup>59</sup> MPD alleges that those “non-pertinent findings led to his determination that Grievant was not guilty of Charge Nos. 1 and 3.”<sup>60</sup>

#### A. The Board affirms the Arbitrator’s conclusion for Charge No. 1, Specification No. 1.

MPD argues that the Arbitrator exceeded his jurisdiction, because the “Arbitrator did not base his findings on the actual charges as listed by MPD in the record.”<sup>61</sup> MPD contends that the

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<sup>53</sup> Award at 41.

<sup>54</sup> D.C. Official Code § 1-605.02(6).

<sup>55</sup> *AFGE, Local 2725 v. DCHA*, 61 D.C. Reg. 9062, Slip Op. 1480 at 5, PERB Case No. 14-A-01 (2014).

<sup>56</sup> *Mich. Family Resources, Inc. v. SEIU, Local 517M*, 475 F.3d 746, 753 (2007), quoted in *FOP/DOC Labor Comm. v. DOC*, 59 D.C. Reg. 9798, Slip Op. 1271 at 7, PERB Case No. 10-A-20 (2012), and *DCFMS v. AFGE, Local 3721*, 59 D.C. Reg. 9757, Slip Op. 1258 at 4, PERB Case No. 10-A-09 (2012).

<sup>57</sup> *FOP/DOC Labor Comm. v. DOC*, 59 D.C. Reg. 9798, Slip Op. No. 1271 at 7, PERB Case No. 10-A-20 (2012) (citing *Mich. Family Resources, Inc. v. SEIU, Local 517M*, 475 F.3d 746, 753 (2007)).

<sup>58</sup> Request at 2,19.

<sup>59</sup> Request at 11.

<sup>60</sup> Request at 2.

<sup>61</sup> Request at 12.

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Arbitrator erred in his consideration of the record and determination that MPD did not meet its burden of proof regarding Charge No. 1, Specification No. 1.<sup>62</sup> MPD asserts that Charge No. 1, Specification No. 1 “only require[d] that [the] Grievant was untruthful with IAD when she reported that she had not received any money from [the dealership], when in fact, by her own admission, [the] Grievant withdrew money from the [dealership] Business account.”<sup>63</sup> MPD contends that the Arbitrator exceeded his jurisdiction because Charge No. 1, Specification No. 1 “did not refer to a specific amount received by [the] Grievant; thus, the fact that it was a relatively modest sum of money...is irrelevant. [The] Grievant undeniably admitted she received money from the business – but only after she initially denied receiving any money from the business.”<sup>64</sup> In its Opposition, FOP addressed Charge No. 1, Specification No. 1, arguing that MPD interpreted the facts differently, which does not “establish that the Arbitrator exceeded his bargained-for jurisdiction in any way.”<sup>65</sup>

The Board has found that, by submitting a matter to arbitration, “the parties also agree to be bound by the Arbitrator’s decision which necessarily includes the Arbitrator’s...evidentiary findings and conclusions...”<sup>66</sup> Here, the parties expressly charged the Arbitrator with the task of reviewing whether the Grievant’s discharge was for cause.<sup>67</sup> The Arbitrator based his decision on the record and briefs provided by the parties and determined that the Panel’s decision was not supported by the evidence presented. In particular, MPD fails to acknowledge that the issue presented to the Arbitrator included a determination as to whether the Grievant “[w]illfully and knowingly ma[de] an untruthful statement.”<sup>68</sup> A determination of whether an act was committed willfully or knowingly is an evidentiary conclusion. Therefore, the Board finds that MPD’s argument is based on a disagreement with the Arbitrator’s evidentiary findings.

The Board has held that “disputes over credibility determinations” and “assessing what weight and significance such evidence should be afforded” is within the jurisdictional authority of the Arbitrator.<sup>69</sup> The Arbitrator made an evidentiary finding and the Board will not substitute its judgment for that of the Arbitrator.<sup>70</sup> Therefore, the Board finds that the Arbitrator did not exceed his jurisdiction in his determination regarding Charge No. 1, Specification No. 1.

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<sup>62</sup> Request at 11.

<sup>63</sup> Request at 13.

<sup>64</sup> Request at 13.

<sup>65</sup> Opposition at 11 (citing *AFGE, Local 872 v. D.C. Water*, 63 D.C. Reg. 11725, Slip Op. 1588 at 3, PERB Case No. 16-A-10 (2016)).

<sup>66</sup> *MPD v. NAGE Local R3-5 ex. rel. Burrell*, Slip Op. No. 785 at 4, PERB Op. No. 03-A-08 (2006) (citing *UDC v. UDCFA*, 39 DCR 9628, Slip Op. No. 320 at 2, PERB Case No. 92-A-04 (1992)).

<sup>67</sup> Request at 1.

<sup>68</sup> Award at 3, citing Charge 1.

<sup>69</sup> *MPD v. NAGE, Local R3-5 ex. rel. Burrell*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2012) (citing *AFSCME, District Council 20 v. District of Columbia Gen. Hosp.*, 37 D.C. Reg. 6172, Slip Op. No. 253 at 2, PERB Case No. 90-A-04 (1990)).

<sup>70</sup> *MPD v. NAGE, Local R3-5 ex. rel. Burrell*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2012).

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**B. The Board affirms the Arbitrator's conclusion for Charge No. 1, Specification No. 2.**

MPD argues that the Arbitrator exceeded his jurisdiction “by asserting that...[C]harge [No. 1] and corresponding [S]pecification [No. 2] required the Grievant to have received large sums of money from the business.”<sup>71</sup> MPD asserts that “all that was required [for Charge No. 1, Specification No. 2] was that MPD prove, by a preponderance of the evidence, that [the] Grievant wrote and signed several checks for cash made payable to herself from the [dealership] account.”<sup>72</sup> MPD contends that it proved this specification by showing that the Grievant informed the IAD agent that she did not sign any checks from the dealership account “when in fact, [she] wrote and signed several checks for cash made payable to [her]self from the...account.”<sup>73</sup> In response, FOP argues again that MPD merely disagrees with the Arbitrator's factual findings,<sup>74</sup> asserting that the Arbitrator thoroughly examined the entirety of the record and found no evidence contradicting the Grievant's testimony.<sup>75</sup>

MPD's contention “that [the] Grievant wrote and signed several checks for cash made payable to herself from the [dealership] account”<sup>76</sup> is a version of the facts with which the Arbitrator disagreed. Based on his examination of the checks and bank video footage in the record, the Arbitrator concluded that the Grievant was not the one who signed the checks in question, despite her name appearing on some of them.<sup>77</sup> The Board does not act as a finder of fact nor does it substitute its judgment for that of the arbitrator on credibility determinations and the weight attributed evidence.<sup>78</sup> Therefore, the Board finds that the Arbitrator did not exceed his jurisdiction when he made evidentiary findings for Charge No. 1, Specification 2.

**C. The Board affirms the Arbitrator's conclusion for Charge No. 3, Specification No. 1.**

MPD argues that “the Arbitrator exceeded his jurisdiction when he failed to determine whether there was substantial evidence in the record that supported Charge No. 3, Specification No. 1....”<sup>79</sup> Charge No. 3, Specification No. 1 alleges that “from 2014 through March 3, 2016 [the Grievant was] the owner of a business...which produced fraudulent temporary vehicle tags, vehicle registrations, and fraudulent vehicle insurance policies for a fee.”<sup>80</sup> In the Request, MPD

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<sup>71</sup> Request at 15.

<sup>72</sup> Request at 15.

<sup>73</sup> Request at 14 (quoting Notice of Proposed Adverse Action at 1).

<sup>74</sup> Opposition at 11-12.

<sup>75</sup> Opposition at 12.

<sup>76</sup> Request at 15.

<sup>77</sup> Award at 23.

<sup>78</sup> *Teamsters Local Union No. 1714 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, AFL-CIO v. DOC*, 41 D.C. Reg. 1510, Slip Op. No. 296 at fn. 6, PERB Case No. 87-A-11 (1994) (citing *AFSCME, District Council 20, Local 2743, AFL-CIO v. DCRA*, 38 D.C. 5076, Slip Op. No. 281 at fn. 3, PERB Case No. 90-A-12 (1991)).

<sup>79</sup> Request at 18.

<sup>80</sup> Request at 17 (quoting Award at 34).



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argues that even if, as the Arbitrator concluded, the Grievant had no knowledge of the dealership's illegal activities and did not enjoy any legal rights to the proceeds, she was still the business owner, as alleged.<sup>81</sup> MPD contends that, by pleading guilty to Charge No. 2, Specification No. 1 (Outside Employment), the Grievant had already admitted ownership of the dealership.<sup>82</sup> Furthermore, the Request states that the record contains no evidence that the Grievant was ever removed as the record owner of the business.<sup>83</sup> FOP argues that MPD failed to consider "the fact that the specification contemplated not just ownership, but also illegal activity that was being conducted by the business—activity in which [the Grievant] was never involved."<sup>84</sup>

As stated, the Board does not act as a finder of fact nor does it substitute its judgment for that of the arbitrator on credibility determinations and the weight attributed to evidence.<sup>85</sup> The Board will not disrupt the Arbitrator's factual findings that the Grievant had no knowledge of the dealership's illegal activities, did not enjoy any legal rights to the proceeds, and did not act as or consider herself the owner of the dealership. The Award demonstrates that the Arbitrator was aware, when reaching his factual and evidentiary conclusions, that the Grievant pleaded "Guilty with an explanation" to Charge No. 2, Specification No. 1 (Outside Employment).<sup>86</sup>

Contrary to MPD's assertions, the Arbitrator's findings were pertinent to the issues presented. He addressed the question of whether the Grievant was terminated for cause and based his Award on the record evidence and the parties' CBA. As previously stated, the Arbitrator's weight of evidence before him is within his jurisdiction. Therefore, the Board does not find that the Arbitrator exceeded his jurisdiction in his findings for Charge 3, Specification 1.

#### IV. Conclusion

The Board rejects MPD's arguments and finds no cause to modify, set aside, or remand the Award. Accordingly, MPD's Request is denied and the matter is dismissed in its entirety.

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<sup>81</sup> Request at 18.

<sup>82</sup> Request at 18.

<sup>83</sup> Request at 18.

<sup>84</sup> Opposition at 13.

<sup>85</sup> *Teamsters Local Union No. 1714 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, AFL-CIO v. DOC*, 41 D.C. Reg. 1510, Slip Op. No. 296 at fn. 6, PERB Case No. 87-A-11 (1994) (citing *AFSCME, District Council 20, Local 2743, AFL-CIO v. DCRA*, 38 D.C. 5076, Slip Op. No. 281 at fn. 3, PERB Case No. 90-A-12 (1991)).

<sup>86</sup> Award at 9-10, 18.

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**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The arbitration review request is hereby denied.
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 Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons, and Peter Winkler.

December 16, 2021

Washington, D.C.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order - Opinion No. 1803 was served to the following parties via File & ServeXpress on this the 21<sup>st</sup> day of December 2021:

Jhumur Razzaque, Esq.  
D.C. Office of the Attorney General  
400 6<sup>th</sup> Street NW, Suite 9100  
Washington, D.C. 20001

Daniel J. McCartin, Esq.  
Conti Fenn, LLC  
36 South Charles Street, Suite 2501  
Baltimore, MD 21201

/s/ Elizabeth Slover  
Public Employee Relations Board

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**

**2022 SCHEDULE OF COMMISSION MEETINGS**

The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to D.C. Official Code Section 2-576, of the Commission’s 2022 Schedule of Open Meetings to consider formal case matters and other applications that require the Commission’s action. The proposed agenda and time for each meeting will be posted on the Commission’s website ([www.dcpssc.org](http://www.dcpssc.org)) not less than 48 hours before each meeting. The Meetings are scheduled to convene at 2:00 p.m. and will be held virtually (unless otherwise noticed), with a recording of the meeting posted on the Commission’s website before the close of business:

January 12, 2022  
January 26, 2022

July 13, 2022  
July 27, 2022

February 9, 2022  
February 23, 2022

August 10, 2022

March 9, 2022  
March 23, 2022

September 7, 2022  
September 21, 2022

April 6, 2022  
April 20, 2022

October 5, 2022  
October 19, 2022

May 4, 2022  
May 18, 2022

November 2, 2022  
November 16, 2022  
November 30, 2022

June 1, 2022  
June 15, 2022  
June 29, 2022

December 14, 2022

## DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF PUBLIC INTEREST**CERTIFICATION OF WINNER OF THE ELECTION FOR THE  
RETIRED TEACHER TRUSTEE REPRESENTATIVE TO THE BOARD**

The District of Columbia Retirement Board (the “Board”) is required to conduct elections for its retired member representatives to the Board. *See* D.C. Official Code § 1-711(b)(2)(2001). In accordance with the Board’s Rules for the Election of Members to the Board (“Election Rules”) under Chapter 15 of Title 7 of the District of Columbia Municipal Regulations (“DCMR”), the Board, through election manager YesElections, conducted an election for a representative of the District of Columbia Retired Teachers to serve on the Board.

The ballots were counted on Tuesday, December 14, 2021, by YesElections under the virtual supervision of Board representatives.

YesElections submitted the Certification of Results to the Board on December 16, 2021. Pursuant to the Election Rules at 7 DCMR § 1522, the Board hereby certifies the results of the election and declares the winner to be **Mary Collins**, a retired District of Columbia teacher.

Pursuant to the Election Rules at 7 DCMR § 1523, any eligible candidate for this election may petition the Board in writing for a recount of votes within seven (7) calendar days of the date of publication of the certification of the winner. The petition must be filed in writing with YesElections via email at [aalbanese@election-america.com](mailto:aalbanese@election-america.com) or via postal mail at 1775 Eye Street NW, Suite 1150, Washington, D.C., 20006. In the absence of a timely request for a recount, the election results will become final and cannot be appealed thirty (30) days after this publication of the Board’s certification.

The Election Rules and the Certification of Results can be accessed on the Board’s website:

<http://www.dcrb.dc.gov>

Please address any questions regarding this notice to:

Gianpiero (JP) Balestrieri, Executive Director  
D.C. Retirement Board  
900 7th Street, N.W., 2nd Floor  
Washington, D.C. 20001

**OFFICE OF THE SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA**  
**2022 ANNUAL MEETING SCHEDULE - COMMISSION ON THE MARTIN LUTHER**  
**KING, JR. HOLIDAY**

**Release Date: Monday, December 27, 2021**

The Office of the Secretary of the State of the District of Columbia has scheduled the meetings of the District of Columbia's Commission on the Martin Luther King, Jr. Holiday for 2022.

The District of Columbia Commission on the Martin Luther King, Jr. Holiday meetings will be held in open session. The meetings will begin at 6:30 pm and will be conducted remotely via WebEx. Members of the public are invited to join the meeting via live stream. This schedule is subject to change.

The meeting dates for Calendar Year 2022 are:

- **January 04, 2022** at 6:30 pm
- **January 11, 2022** at 6:30 pm

Martin Luther King, Jr. Holiday will be observed on Monday, January 17, 2022 in the District of Columbia. Inquiries concerning the meeting may be addressed to Alma Candelaria, Deputy Secretary, at 202-727-6306.

The public may participate in the meeting using the below link. The link is also available on the Office of the Secretary of State's website at <https://os.dc.gov/page/commission-martin-luther-king-jr-holiday> and in the calendar on the Open Meetings website: <https://www.open-dc.gov/>.

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA  
COMMISSION ON THE MARTIN LUTHER KING, JR. HOLIDAY  
AGENDA**

VIA WEBEX

<https://dcnet.webex.com/dcnet/j.php?MTID=m515524138d667b73cd496f1c8daeb253>

Tuesday, January 04, 2022  
6:30PM - 7:30PM

**Call to Order**

**Commissioners Attending:**

**OS Staff:**

**Roll Call**

**New Members**

**OS Update**

**Upcoming Events**

**Open Discussion**

**Adjournment**

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA  
COMMISSION ON THE MARTIN LUTHER KING, JR. HOLIDAY  
AGENDA**

VIA WEBEX

<https://dcnet.webex.com/dcnet/j.php?MTID=m210ac1a8e2d464f90eb38b4a52c57f44>

Tuesday, January 11, 2022  
6:30PM - 7:30PM

**Call to Order**

**Commissioners Attending:**

**OS Staff:**

**Roll Call**

**New Members**

**OS Update**

**Upcoming Events**

**Open Discussion**

**Adjournment**



**OFFICE OF THE SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA  
DISTRICT OF COLUMBIA COMPENSATED EMANCIPATION COMMISSION**

**2022 ANNUAL MEETING SCHEDULE**

**Release Date: Monday, December 27, 2021**

The Office of the Secretary of the State of the District of Columbia has scheduled the meetings of the District of Columbia Compensated Emancipation Commission for 2022.

The District of Columbia Compensated Emancipation Commission meetings will be held in open session. The meetings will begin at 6:30 pm and will be conducted remotely via WebEx. Members of the public are invited to join the meeting via live stream. A link is provided with a meeting agenda in the notice of public meeting published in this *District of Columbia Register*. This schedule is subject to change.

The meeting dates for Calendar Year 2022 are:

- **January 13, 2022** at 6:30 pm
- **January 27, 2022** at 6:30 pm
- **February 03, 2022** at 6:30 pm
- **February 17, 2022** at 6:30 pm
- **March 10, 2022** at 6:30 pm
- **March 24, 2022** at 6:30 pm
- **April 07, 2022** at 6:30 pm

Emancipation Day will be observed on Friday, April 15, 2022 in the District of Columbia. Inquiries concerning the meeting may be addressed to Alma Candelaria, Deputy Secretary, at 202-727-6306.

The public may participate in the meeting using the below link. The link is also available on the Office of the Secretary of State's website at <https://os.dc.gov/page/dc-emancipation-day> and in the calendar on the Open Meetings website: <https://www.open-dc.gov/>.

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA  
DISTRICT OF COLUMBIA COMPENSATED EMANCIPATION COMMISSION  
AGENDA**

VIA WEBEX

<https://dcnet.webex.com/dcnet/j.php?MTID=ma173d63fee7c83caa7f3eb079d212a34>

Thursday, January 13, 2022  
6:30PM - 7:30PM

**Call to Order**

**Commissioners Attending:**

**OS Staff:**

**Roll Call**

**New Members**

**OS Update**

**Upcoming Events**

**Open Discussion**

**Adjournment**

**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 January 2, 2022.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> 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 December 31, 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](http://www.os.dc.gov).

D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries PublicEffective: January 2, 2022  
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Adjmul	Imran	PNC Bank 800 H Street, NE	20002
Akinwumi	Deborah Pelumi	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Alarca	Ma Sheena	Citibank 1000 Vermont Avenue, NW	20005
Allison	Shirley	United States Tax Court 400 Second Street, NW	20217
Anderson	Leatrice	Self 2018 Tremont Street, SE	20020
Angelo	Chelsea Anne	Capitol Seniors Housing 1275 Pennsylvania Avenue, NW, Second Floor	20004
Arias	Adrian	National Veterans Legal Services Program 1600 K Street, NW, Suite 500	20006
Barnes, Jr.	Edgar Lee	District of Columbia Housing Authority Office of Public Safety 1133 North Capitol Street, NE	20002
Bell	Lisa B.	Self 2317 North Capitol Street, NE	20002
Bellinger	Judith E.	Planet Depos 1100 Connecticut Avenue, NW	20036
Ben Hamza	El Bachir	United Bank 250 M Street, SE, Suite 100	20003
Berdea	Carmen	The Elder & Disability Law Center 1020 19th Street, NW, Suite 510	20036
Blackstone	Karen	Sidley Austin, LLP 1501 K Street, NW	20005

D.C. Office of the Secretary  
 Recommendations for Appointments as DC Notaries Public

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Blagrove	Judith Marie	Wells Fargo Bank 1001 Connecticut Avenue, NW	20036
Blanco	Raquel E.	Innovo Construction, LLC 6230 Georgia Avenue, NW, Suite 200	20011
Blonder	Sheri Taub	Tifereth Israel Congregation 7701 16th Street, NW	20012
Bond	Donald M.	Bredhoff & Kaiser, P.L.L.C 805 15th Street, NW, Suite 1000	20005
Bonilla	Rosa Evelyn	Innovo Construction, LLC 6230 Georgia Avenue, NW, Suite 200	20011
Boswell	Crystal Renee	Self 57 Danbury Street, SW	20020
Brand	Kathryn Rose	Akridge 601 Thirteenth Street, NW	20005
Buchanan	Malaika	Henry S. Washington & Sons Co., Inc. 4925 Nannie Helen Burroughs Avenue, NE	20019
Burns	Katrina Latacia	The UPS Store 1835 7th Street, NW	20001
Butler	John	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Butler	Sheila G.	Self (Dual) 905 6th Street, SW, #301	20008
Cambridge	Latisha Lynnette	Self 113 Trenton Place, SE	20032
Chatman	Naprea Nat'e	Southeast Children's Fund Nonprofit 4228 6th Street, SE	20003
Chung	Daisy	Self (Dual)	

D.C. Office of the Secretary  
 Recommendations for Appointments as DC Notaries Public

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		3003 Van Ness Street, NW, Apt. 730 West	20008
Clark	Valerie J.	Locke Lord, LLP 701 Eighth Street, NW, Suite 500	20001
Coleman	Juanita Patrice	Self 1460 Bruce Place, SE	20020
Copa Montes	Fabiola Mayra	JPMorgan Chase & Co. 1212 18th Street, NW	20036
Crane	Kristina	FreedomWorks 111 K Street, NW, Suite 600	20002
Davis-DeBose	Natasha Denise	Department of Behavioral Health 64 New York Avenue, NE, 3rd Floor	20002
Duke	Ian	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Dupuis	Janel Brienna	Bank Policy Institute 600 13th Street, NW, Suite 400	20005
Duran	Sindy	Self 625 Monroe Street, NE, #C-253	20017
Eckstein	Olivia C.	Self (Dual) 50 Florida Avenue, NE, #801	20002
Edwards	Judy M.	Mark A. Tromblay, DMD, PC 2440 M Street, NW, Suite 601	20037
Evans	Christine	Whiteford Taylor & Preston, LLP 1800 M Street, NW, Suite 450N	20036
Figueroa	Diana	CBS News 2020 M Street, NW	20036
Freeman	Peter	Cleveland Park Valet 3303 Connecticut Avenue, NW	20008
Freeman	Sherry D.	Self 3983 Ames Street, NE	20019

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Recommendations for Appointments as DC Notaries PublicEffective: January 2, 2022  
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Garcia	Jennifer	Merrill Lynch 1152 15th Street, NW	20005
Ghaith	Ala N.	DVS Visa Services 1629 K Street, NW, Suite 300	20006
Gloger	Erica Faye	Self (Dual) 1330 New Hampshire Avenue, NW, #310	20036
Gordon	Conway	CWCapital 900 19th Street, NW, 8th Floor	20006
Graham	Tracie Elizabeth	Stinson LLP 1775 Pennsylvania Avenue, NW, Suite 800	20006
Gregory	Marilyn Z.	RTI 701 13th Street, NW, Suite 750	20005
Guevara	Timothy	Veritext Legal Solutions 1250 Eye Street, NW, Suite 350	20005
Gustavo	Marulanda	Wilson-Epes Printing 1115 H Street, NE	20002
Hall	Jasmin	Jones Lang LaSalle 2020 K Street, NW, Suite 1100	20006
Hammond	Ashley Michelle	Department of Public Works 2000 14th Street, NW	20009
Hanna	Matthew	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Harley	LaVonda Michelle	Paul Weiss Rifkind Wharton & Garrison, LLP 2001 K Street, NW, Lower Level	20006
Haskins	Naketa	Tina's Baby 2833 Alabama Avenue, SE	20020
Hays	Michael Christopher	LPJ Legal, PLLC	

D.C. Office of the Secretary  
 Recommendations for Appointments as DC Notaries Public

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		700 Pennsylvania Avenue, SE, Suite 2050	20003
Headley	Sylvon L.	Skadden, Arps, Slate, Meagher & Flom, LLP 1440 New York Avenue, NW	20005
Herrera	Janiece	Self 2516 Sheridan Road, SE, #106	20020
Hodson	Tawna L.	American University - Washington College of Law 4300 Nebraska Avenue, NW, Suite Y265	20016
Hooper- Thompson	Lynda Ann	Self 3808 Hansberry Court, NE	20018
Hotsko	Christina Shawn	Veritext 1250 I Street, NW, Suite 350	20005
Ingram	Ethel Mae	Self 1225 17th Street, NE	20002
Inparaj	Marjorie S.	O'Melveny & Myers, LLP 1625 Eye Street, NW	20006
Jefferies	Lisa	Squire Patton Boggs 2550 M Street, NW	20037
Johnson	Ashley E.	Hogan Lovells US, LLP 555 Thirteenth Street, NW	20004
Jones	Brenda M.	Foley & Lardner, LLP 3000 K Street, NW, Suite 600	20007
Jordan	Oni Nyasha	DBA Oni Jordan 842 51st Street, SE	20019
Keisler	Dylan Matthew	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Kellermeyer	Tara	District Title A Corporation 1775 I Street, NW, Suite 560	20006
Kilgore Stukes	Alfonzo J.	District of Columbia Water & Sewer Authority	



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		1385 Canal Street, SE	20003
Leese	Jacqueline B.	Klein Hornig, LLP 1325 G Street, NW, Suite 770	20005
Leinenweber	Stephen Becket	Sudow Kohlhagen, LLP 1000 Maine Avenue, SW, #325	20024
Lewis	Markeete W.	Covington & Burling, LLP 850 Tenth Street, NW	20001
Lewis	Versia	Earth(equals)Love, LLC 1325 5th Street, NW, Suite 304	20001
Lingo	Yared	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Lochner	Sara Florence	Freedom Works 111 K Street, NE, Suite 600	20002
Lockerman	Crystal Yvonne	Priority Documents Services LLC 1403 Shippen Lane, SE	20020
London	Christopher T.	Self 102 6th Street, NE	20002
Lopez	Jenny	Michael Marshall Design, LLC 2201 Wisconsin Avenue, NW, Suite 305	20007
Lopez Varela	Ruben Rolando	Columbia Lighthouse for the Blind 1825 K Street, NW, Suite 1103	20006
Lovo	Dinia	Suntrust Now Truist Bank 2929 M Street, NW	20007
Lowery	Kaitlin Rose Mohr	Potomac Elevator Company 5125 MacArthur Boulevard, NW, Suite 41	20016
Mack	Dameka Lucille	Self (Dual) 2205 31st Place, SE	20020

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Manes	Kathleen Elise	Evans Reporting 10 G Street, NE, Suite 600	20002
Marshall	Louis C.	Housing Assistance Council 1025 Vermont Avenue, NW, Suite 606	20005
Martin	Myzhae	Wells Fargo Bank 1350 New York Avenue, NW	20005
Maryanne Moore	Maryanne	Self 720 58th Street, NE	20019
Maverick	Rita	Self 2808 6th Street, NE	20017
Maxson	Megan Renee	Self (Dual) 30 Upper Rock Circle, #121	20850
McCray	Andrea Simms	Berkeley Research Group 1800 M Street, NW, 2nd floor	20036
McDermitt	Edward	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
McDowell	Valerie L.	Center for Children's Law and Policy 1701 K Street, NW, Suite 1100	20006
McKeen	Kelsey Ellen	EastBanc Technologies, LLC 1211 31st Street, NW	20007
McMahon	Keely	Self 2726 Connecticut Avenue, NW, #402	20008
McNulty	Grace	Akridge 601 13th Street, NW	20005
Meruvia	Lorena	Public Defender Service Office for the District of Columbia 633 Indiana Avenue, NW	20004
Mimms	Jo Ann	Morgan Lewis & Bockius, LLP 1111 Pennsylvania Avenue, NW	20004

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Mishler	Sue	CW Financial Services, LLC 900 19th Street, NW, 8th Floor	20006
Morrison	Winston C.	Manufacturers And Traders Bank 1899 L Street, NW	20036
Mosley	Tiffanee	Department of Public Works 2000 14th Street, NE	20009
Muse	Deborah	The Humane Society of the United States 1255 23rd Street, NW, Suite 450	20037
Nayini	Pavan	Potomac Elevator Company, LLC 5125 MacArthur Boulevard, NW, Suite 41	20016
Nonga	Amandine	Sustainable Forestry Initiative Inc. 2121 K Street, NW, Suite 750	20037
Parris	Tracey Nicole	Tracey Parris 3700 O Street, NW	20057
Pedroso	Tamisha	Department of Insurance, Securities and Banking 1050 First Street, NE, Suite 801	20002
Piatok	Jacob Max	Chemonics International, Inc. 1717 H Street, NW	20006
Prince	Misti	Self 3320 Ames Street, NE	20019
Proctor	Tiera Monique	Vida Fitness 1612 U Street, NW	20009
Quinonez	Susana	Georgetown University 2115 Wisconsin Avenue, NW, 4th Floor	20007
Ramcharan	Jeannette E.	Busy Bee Agent Services, LLC 951 Shepherd Street, NW	20011
Ramos Jimenez	Maria Esteffany	Chase Bank 700 Pennsylvania Avenue, SE, Suite A	20003
Randolph	Ebony J.	Self	

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		701 Jefferson Street, NE	20011
Rasheed	Jihad	Self 502 20th Street, NE	20002
Reeves	Anthony R.	D.C. Registered Agent, Inc. 2300 N Street, NW, Suite 300-RLK	20037
Revilleza	Marika Therese Roxas	Bancroft Global Development  2507 Massachusetts Avenue, NW	20008
Ricks	Brian B.	Undisputed Legal, Inc. 2200 Pennsylvania Avenue, NW, 4th Floor East	20037
Rogers	Laticia Alicia	The Residences at Thomas Circle 1330 Massachusetts Avenue, NW	20005
Rudolph	Siobhan Noelle	Stinson, LLP 1775 Pennsylvania Avenue, NW, Suite 800	20006
Salmeron	Noemi Sinai	Self 1364 Shepherd Street, NW	20011
Sanchez-Sorto	Luis Majin	UPS Store 1380 Monroe Street, NW	20010
Savage	Inga M.	Cornerstone Research 2001 K Street, NW, Suite 800	20006
Seabrook	Christina-Mary Danielle	Self  4310 Bowen Road, SE	20019
Serrano	Evelyn	The George Washington University Hospital 900 23rd Street, NW	20037
Shannon	Patrice	Pillsbury Winthrop Shaw Pittman, LLP 1200 17th Street, NW	20036
Shears	Cindy R.	Krooth & Altman, LLP	

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		1850 M Street, NW, Suite 400	20036
Short	Tameca L.	Chase 3527 Connecticut Avenue, NW	20008
Shukla	Sanjay	Vinson & Elkins, LLP 2200 Pennsylvania Avenue, NW, Suite 500 West	20037
Smith	Tyrees	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Stack	Margaret M.	Himmelfarb Properties, Inc. 1293 Taylor Street, NW	20011
Starr	Michelle	Self (Dual) 2928 Mills Avenue, NE	20018
Stephens	Selena Lynn	Jones Lang LaSalle 2020 K Street, NW, Suite 1100	20006
Stewart	Barbara Jean	United Medical Center 1310 Southern Avenue, SE, 4th Floor	20032
Strianse	Stephanie	Metropolitan Educational Solutions 2011 Bunker Hill Road, NE, Suite B	20018
Stubenrauch	Brianna	Difede Ramsdell Bender, PLLC 900 7th Street, NW, Suite 810	20001
Stubits	Adam	Atlantic Council of the United States, Inc. 1030 15th Street, NW, 12th Floor	20005
Taylor	Ashley M.	Wilson-Epes Printing 1115 H Street, NE	20002
Thomas	Chandler Drew	Chase Bank N.A. 700 Pennsylvania Avenue, SE	20003
Thompson	Catrina	Jackson & Associates 7600 Georgia Avenue, NW, Suite 411	20012

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Virgen	Andres	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
VonWiegen	Lauren	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Walker	Andrew	The Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Wanyama	Michael	Redemptorist Fathers of New York 3112 7th Street, NE	20017
Whitehead	Tiara Keshawn	Pillsbury Winthrop Shaw Pittman, LLP 1200 Seventeenth Street, NW	20036
Whitten	Briana K.	Exela Technologies 655 New York Avenue, NW, Suite 10	20001
Williams-Radway	Joni	Accon Services, LLC 7600 Georgia Avenue, NW, Suite 303	20012
Wilson	Katrina Lavola	Self (Dual) 2933 Nash Place, SE, #1	20019
Woods	Joalene	Truist Bank 5000 Connecticut Avenue, NW	20008
Yates	Stephanie W.	Self (Dual) 1532 Taylor Street, NE	20017
Young	Diona L.	Titan Title Group 700 Pennsylvania Avenue, SE, 2nd Floor	20003

## UNIVERSITY OF THE DISTRICT OF COLUMBIA BOARD OF TRUSTEES

## MEETING SCHEDULE

The regular meetings of the Board of Trustees for the University of the District of Columbia are held in open session on the **Tuesdays** listed below.

Until further notice, these meetings will be held through WebEx. A notice will be published in the *D.C. Register* for each meeting with a draft agenda.

The meeting dates for Calendar Year 2022 are:

March 1, 2022	6:00 pm
April 26, 2022	6:00 pm.
June 28, 2022	6:00 pm.
September 27, 2022	6:00 pm
November 15, 2022	6:00 pm

This schedule is subject to change.

Inquiries concerning the meeting may be addressed to Frenika Rivers, Executive Secretary to the Board of Trustees at 202.536.9851 or [Frenika.rivers@udc.edu](mailto:Frenika.rivers@udc.edu).

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

**BZA Application No. 13540-B  
National Geographic Society  
1600 M Street, NW (Square 183, Lot 883 and 884)**

<b>HEARING DATE (13540):</b>	July 29, 1981
<b>DECISION DATE (13540):</b>	September 4, 1981
<b>ORDER ISSUANCE DATE (13540):</b>	November 26, 1981
<b>MODIFICATION OF CONSEQUENCE</b>	
<b>DECISION DATE (13540-A):</b>	November 6, 2019
<b>MODIFICATION OF CONSEQUENCE</b>	
<b>ORDER ISSUANCE DATE (13540-A):</b>	November 7, 2019
<b>TIME EXTENSION</b>	
<b>DECISION DATE (13540-B)</b>	December 15, 2021

**SUMMARY ORDER ON REQUEST FOR  
TWO-YEAR TIME EXTENSION**

**ORIGINAL APPLICATION AND MODIFICATION.** The Property contains three buildings for the headquarters of the National Geographic Society (the “**Applicant**”), including the 16th Street Building, the 17th Street Building, and the M Street Building. In Application No. 13540, the Board of Zoning Adjustment (“**Board**” or “**BZA**”) approved special exception and variance relief to allow the construction of the M Street Building as an addition to the 16th Street Building in Application No. 13540. The approval allowed the Applicant to extend office use into the SP-2 zone (now D-2), extend the permitted uses of the C-4 zone (now D-6) into the SP-2, and to vary the open court requirements. The Board issued Order No. 13450 on November 26, 1981.

In Application No. 13540-A, the Board approved a modification of consequence to add a new front entry pavilion located on the north side of the Property between the 17th Street Building and the M Street Building. The Board issued Order No. 13540-A on November 7, 2019 (the “**Order**,” Exhibit 3). Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became effective.

**REQUEST FOR TWO-YEAR TIME EXTENSION.** On October 29, 2021, the Applicant submitted a request that the Board grant a two-year extension of Order No. 13540-A. (Exhibits 1-6.)



**NOTICE OF THE REQUEST.** Pursuant to Subtitle Y §§ 705.2(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 5.)

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2B.

**ANC REPORT.** The ANC did not submit a report to the record.

**OFFICE OF PLANNING ("OP") REPORT.** OP submitted a report recommending approval of the time extension. (Exhibit 8.)

**DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT.** DDOT did not submit a report to the record.

### **CONCLUSIONS**

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.2(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.2(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.2(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.2 to extend the validity of the underlying order.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

**DECISION**

It is therefore **ORDERED** that the request for a two-year time extension to the validity of the Board's approval in Order No. 13540-A is hereby **APPROVED**, and the Order shall be valid until **November 17, 2023.**

**VOTE: 4-0-1** (Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Peter A. Shapiro to APPROVE; Frederick L. Hill not present, not participating)

**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, 2021

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.

**BZA ORDER NO. 13540-B  
PAGE NO. 3**

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

**BZA Application No. 20354  
Cambridge Holdings, LLC  
2400-2402 20th Street, NE and 1914 Bryant Street, NE  
(Square 4112E, Lots 9-11)**

**HEARING DATES:** December 15, 2021<sup>1</sup>  
**DECISION DATE:** December 15, 2021

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to raze the existing principal dwelling unit and construct three new apartment houses with a total of 30 units in the RA-1 Zone:

- Special Exception under the new residential development requirements of Subtitle U § 421, pursuant to Subtitle X § 901.2
- Special Exception from the parking screening requirements of Subtitle C § 714.2, pursuant to Subtitle C § 714.3 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 64B (Final Revised); Exhibit 59 (2<sup>nd</sup> Revised); Exhibit 47 (1<sup>st</sup> Revised); Exhibit 5 (Original).)<sup>2</sup>

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5C, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board of Zoning Adjustment (the "Board") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

**ANC REPORT.** The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 17, 2021, at which a quorum was present, the ANC voted not to support the application, and to take a neutral position. (Exhibit 72.) The ANC report raised concerns

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<sup>1</sup> The hearing was postponed multiple times to allow for revisions to the project.

<sup>2</sup> The application was amended to add special exception relief from the parking screening requirements of Subtitle C § 714.2 and increase the number of dwelling units in the project.

regarding an insufficient number of Inclusionary Zoning units, the lack of specific inclusion of a minimum of three handicap parking spaces, and the lack of community support at the ANC meeting. The Board acknowledged the ANC's concerns at the hearing. ANC Commissioner Jeremiah Montague testified on behalf of the ANC at the public hearing and clarified the ANC's position on the application.

**OFFICE OF PLANNING (“OP”) REPORT.** OP submitted two reports to the record:

- The original OP report, dated October 22, 2021, indicated that additional information was needed, and OP was unable to make a recommendation at that time. (Exhibit 62.)
- The supplemental OP report recommended approval of the application. (Exhibit 69.)

**DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT.** DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 34.) The Applicant testified at the public hearing they are continuing discussions with DDOT regarding proposed curb cuts.

### **CONCLUSIONS**

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

### **DECISION**

Based on the case record and the testimony at the hearing, the Board concludes that the Applicant has satisfied the burden of proof for the requested relief and therefore **APPROVES** the following relief:

- Special Exception under the new residential development requirements of Subtitle U § 421, pursuant to Subtitle X § 901.2
- Special Exception from the parking screening requirements of Subtitle C § 714.2, pursuant to Subtitle C § 714.3 and Subtitle X § 901.2

Subject to the following **CONDITION**:

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1. The project shall be constructed in accordance with the revised plans submitted as Exhibit 68 in the record,<sup>3</sup> as required by Subtitle Y §§ 604.9 and 604.10.

**VOTE: 4-0-1** (Lorna L. John, Chrishaun S. Smith, Carl H. Blake, and Peter A. Shapiro to APPROVE: Frederick L. Hill not present, not participating)

**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, 2021

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.

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<sup>3</sup> Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. 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 such application that would require additional or different zoning relief from what is granted by this Order.

**BZA ORDER NO. 20354**

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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**BZA Application No. 20553  
Income One LLC  
4410 Douglas Street, NE (Square 5116, Lot 122)**

**HEARING DATE:** December 15, 2021<sup>1</sup>  
**DECISION DATE:** December 15, 2021

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to construct a new, two-story principal dwelling unit in the R-1-B zone:

- Special exception from the side yard requirements of Subtitle D § 206.2, pursuant to Subtitle D § 5201 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 2.)

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 7D, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board of Zoning Adjustment (the "Board") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

**ANC REPORT.** The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 12, 2021, at which a quorum was present, the ANC voted to support the application. (Exhibit 39.) The ANC report raised no issues or concerns.

**OFFICE OF PLANNING ("OP") REPORT.** OP submitted a report recommending approval of the application. (Exhibit 37.)

**DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT.** DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 33.)

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<sup>1</sup> The public hearing was administratively rescheduled from November 10, 2021 to December 15, 2021.

**PERSONS IN OPPOSITION.** The Board received one letter from a neighbor in opposition to the application. (Exhibit 34.)

### **CONCLUSIONS**

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

### **DECISION**

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief and therefore **APPROVES** the following relief:

- Special exception from the side yard requirements of Subtitle D § 206.2, pursuant to Subtitle D § 5201 and Subtitle X § 901.2

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 32 in the record,<sup>2</sup> as required by Subtitle Y §§ 604.9 and 604.10.

**VOTE:** **4-0-1** (Lorna L. John, Chrishaun S. Smith, Carl H. Blake, and Peter A. Shapiro to APPROVE; Frederick L. Hill not present, not participating)

### **BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

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<sup>2</sup> **Self-Certification.** The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. 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 such application that would require additional or different zoning relief from what is granted by this Order.



**FINAL DATE OF ORDER:** December 21, 2021

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.

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

**BZA Application No. 20570  
Janelle and Jonathan Hurwitz  
3201 15th Street, N.E. (Square 4013, Lot 28)**

**HEARING DATE:** Applicant waived the right to a public hearing  
**DECISION DATE:** December 8, 2021 (Expedited Review Calendar)

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to construct a second story rear addition to an existing, detached, two-story principal dwelling unit in the R-1-B zone:

- Special Exception from the lot occupancy requirements of Subtitle D § 304.1, pursuant to Subtitle D § 5201 and Subtitle X § 902.1
- Special Exception from the rear yard requirements of Subtitle D § 306.1, pursuant to Subtitle D § 5201 and Subtitle X § 902.1

The zoning relief requested in this case was self-certified. (Exhibit 13.)

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5B, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**EXPEDITED REVIEW.** Pursuant to 11 DCMR Subtitle Y § 401, this application was tentatively placed on the Board of Zoning Adjustment (the "**Board**" or "**BZA**") expedited review calendar for decision as a result of the Applicant's waiver of its right to a hearing. No objections to expedited review consideration were made by any person or entity entitled to do so under Subtitle Y §§ 401.7 and 401.8.

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

**ANC REPORT.** The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 17, 2021, at which a quorum was present, the ANC voted to support the application. (Exhibit 35.) The ANC report raised no issues or concerns.

**OFFICE OF PLANNING (“OP”) REPORT.** OP submitted a report recommending approval of the application. (Exhibit 32.)

**DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT.** DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District’s transportation network. (Exhibit 33.)

**PERSONS IN SUPPORT.** The Board received two letters from adjacent neighbors in support of the application. (Exhibits 10, 11.)

### **CONCLUSIONS**

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

### **DECISION**

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief and therefore **APPROVES** the following relief:

- Special Exception from the lot occupancy requirements of Subtitle D § 304.1, pursuant to Subtitle D § 5201 and Subtitle X § 902.1
- Special Exception from the rear yard requirements of Subtitle D § 306.1, pursuant to Subtitle D § 5201 and Subtitle X § 902.1

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 4 in the record,<sup>1</sup> as required by Subtitle Y §§ 604.9 and 604.10.

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<sup>1</sup> **Self-Certification.** The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the Zoning

**VOTE: 5-0-0** (Frederick L. Hill, Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Anthony J. Hood to APPROVE).

**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 15, 2021

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

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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 such application that would require additional or different zoning relief from what is granted by this Order.

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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**

**BZA Application No. 20573  
AT&T  
2500 Benning Road, NE (Square 160, Lot 42)**

**HEARING DATE:** December 15, 2021

**DECISION DATE:** December 15, 2021

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to raze an existing monopole and construct a new monopole in the RA-2 zone:

- Special exception from the use permissions of Subtitle C § 1313.2, pursuant to Subtitle C § 1313.1 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 15.)

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5D and 7D, the "affected ANCs" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board of Zoning Adjustment (the "Board") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

**ANC REPORT.** ANC 5D submitted a report that indicated at a regularly scheduled, properly noticed public meeting on December 14, 2021, at which a quorum was present, the ANC voted to support the application. (Exhibit 46.) The ANC report raised no issues or concerns.

**OFFICE OF PLANNING ("OP") REPORT.** OP submitted a report recommending approval of the application. (Exhibit 40.)

**DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT.** DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 42.)

**PERSONS IN SUPPORT.** The Board received a letter from FirstNet Authority in support of the application. (Exhibits 37 and 38.) The Board also received a letter in support from Two Rivers Public Charter School in support of the application. (Exhibit 41.)

**PERSONS IN OPPOSITION.** The Board received three letters from the Kingman Park Civic Association in opposition to the application. (Exhibits 11, 16, and 45.) The Board also received two letters from ANC SMD 5D04 Commissioner Bernice Blacknell in opposition to the application. (Exhibits 13 and 14.) Additionally, a neighbor submitted a letter in opposition to the application. (Exhibit 35.)

Veronica Raglin, Frazer Walton, and ANC SMD 5D04 Commissioner Bernice Blacknell testified in opposition to the application at the public hearing.

### **CONCLUSIONS**

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

### **DECISION**

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief and therefore **APPROVES** the following relief:

- Special exception from the use permissions of Subtitle C § 1313.2, pursuant to Subtitle C § 1313.1 and Subtitle X § 901.2

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 3 in the record,<sup>1</sup> as required by Subtitle Y §§ 604.9 and 604.10.

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<sup>1</sup> **Self-Certification.** The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. 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 such application that would require additional or different zoning relief from what is granted by this Order.

**VOTE: 4-0-1** (Lorna L. John, Chrishaun S. Smith, Carl H. Blake, and Peter A. Shapiro to APPROVE; Frederick L. Hill not present, not participating)

**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, 2021

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

**BZA ORDER NO. 20573**

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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**

**BZA Application No. 20578  
Naseem and Gregory Kourosh  
1527 1st Street, NW (Square 615, Lot 268)**

**HEARING DATE:** December 15, 2021

**DECISION DATE:** December 15, 2021

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to construct a rear deck to an existing, attached, two-story with cellar, principal dwelling unit in the RF-1 Zone:

- Special exception from the lot occupancy requirements of Subtitle E § 304.1, pursuant to Subtitle E § 5201 and Subtitle X § 902.

The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 4.)

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5E, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board of Zoning Adjustment (the "Board") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

**ANC REPORT.** The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 19, 2021, at which a quorum was present, the ANC voted to support the application. (Exhibit 39.) The ANC report raised no unresolved issues or concerns.

**OFFICE OF PLANNING ("OP") REPORT.** OP submitted a report recommending approval of the application. (Exhibit 41.)

**DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT.** DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 42.)

**PERSONS IN SUPPORT.** The Board received nine letters from neighbors in support of the application. (Exhibits 11-18, and 34.)

### **CONCLUSIONS**

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

### **DECISION**

Based on the case record and the testimony at the hearing, the Board concludes that the Applicant has satisfied the burden of proof for the requested relief and therefore **APPROVES** the following relief:

- Special Exception from the lot occupancy requirements of Subtitle E § 304.1, pursuant to Subtitle E § 5201 and Subtitle X § 902.1

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 6 in the record, as required by Subtitle Y §§ 604.9 and 604.10.

**VOTE: 5-0-0** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, Carl H. Blake, and Peter A. Shapiro to APPROVE).

**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, 2021

**BZA ORDER NO. 20578**

**PAGE NO. 2**

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**

**BZA Application No. 20579  
Alexis Chappell and Greg Kendall  
4215 7<sup>th</sup> Street, NW (Square 3226, Lot 59)**

**HEARING DATE:** December 15, 2021  
**DECISION DATE:** December 15, 2021

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to construct a two-story rear addition to an existing, attached, two-story with basement, principal dwelling unit in the RF-1 zone:

- Special exception from the lot occupancy requirements of Subtitle E § 304.1, pursuant to Subtitle E § 5201 and Subtitle X § 902.1

The zoning relief requested in this case was self-certified. (Exhibit 9.)

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 4C, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board of Zoning Adjustment (the "Board") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

**ANC REPORT.** The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on December 8, 2021, at which a quorum was present, the ANC voted to support the application. (Exhibit 43.) The ANC report raised no issues or concerns.

**OFFICE OF PLANNING ("OP") REPORT.** OP submitted a report recommending approval of the application. (Exhibit 41.)

**DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT.** DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 40.)

### CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

### DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief and therefore **APPROVES** the following relief:

- Special exception from the lot occupancy requirements of Subtitle E § 304.1, pursuant to Subtitle E § 5201 and Subtitle X § 902.1

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 8 in the record,<sup>1</sup> as required by Subtitle Y §§ 604.9 and 604.10.

**VOTE: 5-0-0** (Frederick L. Hill, Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Peter A. Shapiro to APPROVE)

### **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, 2021

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<sup>1</sup> Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. 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 such application that would require additional or different zoning relief from what is granted by this Order.

**BZA ORDER NO. 20579**

**PAGE NO. 2**

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.

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**BOARD OF ZONING ADJUSTMENT  
PUBLIC MEETING NOTICE  
WEDNESDAY, JANUARY 26, 2022  
VIRTUAL MEETING 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 TWO**

<b>Application of:</b>	<b>MR 622 Eye Street Land, LLC and ACY and YL Cheng, LLC</b>
<b>Case No.:</b>	<b>19124C</b>
<b>Address:</b>	Eye Street N.W. (Square 453, Lots 40, 815-819, 821, 835, 843, and 844)
<b>ANC:</b>	<b>2C</b>
<b>Relief:</b>	Time Extension to: <ul style="list-style-type: none"> <li>• Board of Zoning Adjustment Order No. 19124-B effective October 11, 2019 (pursuant to Subtitle Y § 703)</li> </ul>
<b>Project:</b>	To extend for an additional two years, BZA Order No. 19124-B, pursuant to 11 DCMR Subtitle Y § 703, to allow for the construction of a new, mixed-use, residential building in the D-5-R 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



BZA PUBLIC MEETING NOTICE

JANUARY 26, 2022

PAGE NO. 2

at 202-727-5471. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board may impose time limits on the testimony of all individuals and organizations.

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

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

**Do you need assistance to participate?**

Amharic

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0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

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French

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Korean

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Spanish

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Vietnamese

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**BZA PUBLIC MEETING NOTICE****JANUARY 26, 2022****PAGE NO. 3**

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

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

**FREDERICK L. HILL, CHAIRPERSON  
LORNA L. JOHN, VICE-CHAIRPERSON  
CARL BLAKE, 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**

**BOARD OF ZONING ADJUSTMENT  
PUBLIC MEETING NOTICE  
WEDNESDAY, MARCH 16, 2022  
VIRTUAL MEETING 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.**

**EXPEDITED REVIEW**

**WARD FOUR**

<b>Application of:</b>	<b>Betty Matthews and Joseph Matthews</b>
<b>Case No.:</b>	<b>20659</b>
<b>Address:</b>	604 Gallatin Street N.W. (Square 3212, Lot 139)
<b>ANC:</b>	<b>4D</b>
<b>Relief:</b>	Special Exception from: <ul style="list-style-type: none"> <li>• the rear addition requirements of Subtitle D § 306.3 (pursuant to Subtitles D §§ 306.4 and 5201; and Subtitle X § 901.2)</li> </ul>
<b>Project:</b>	To construct a rear, two-story plus basement addition, to an existing, attached, two-story with basement, principal dwelling unit, in the R-3 Zone.

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BZA PUBLIC MEETING NOTICE

MARCH 16, 2022

PAGE NO. 2

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Chinese

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**BZA PUBLIC MEETING NOTICE****MARCH 16, 2022****PAGE NO. 3**

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 00-33A**  
**Z.C. Case No. 00-33A**  
**Jemal's Cayre Woodies L.L.C.**  
**Planned Unit Development Modification of Consequence**  
**@ 1025 F Street, NW (Lot 805 in Square 346)**  
**November 18, 2021**

Pursuant to notice, at its November 18, 2021, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Jemal's Cayre Woodies L.L.C. (the "Applicant") for a Modification of Consequence to the conditions and approved plans of the planned unit development originally approved by Z.C. Order No. 940 (Case No. 00-33C) (the "Original Order") for Lot 805 in Square 346, with a street address of 1025 F Street, N.W. (the "Property"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the "Zoning Regulations", to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**  
**I. BACKGROUND**

**Prior Approval**

1. The Original Order facilitated the comprehensive rehabilitation of the historic Woodward & Lothrop headquarters building (the "Building") on the Property with a mixed-use redevelopment consisting of retail and service uses in the cellar and first two floors of the Building and office uses on all floors above. The Building has been occupied and operated consistent with the Original Order for nearly twenty years. The Original Order also established controls on two additional properties elsewhere in the downtown area, providing for the construction of two residential buildings near the Property, in Squares 377 and 517. Both residential buildings were timely constructed and have been consistently occupied for residential use.

**Parties**

2. The only party to the Z.C Case No. 00-33A other than the Applicant was Advisory Neighborhood Commission ("ANC") 2C, the "affected" ANC pursuant to Subtitle Z § 101.8.

**II. The Application**

3. On October 20, 2021, the Applicant filed the Application requesting a Modification of Consequence to authorize modifications to the conditions approved by Z.C. Order No. 940 in order to provide flexibility for the Applicant to: (a) expand the permissible uses of the second floor of the Building to include office uses as well as the retail/service and arts/arts-related uses provided in the PUD approval; and (b) convert a portion of vacant cellar level space to building amenity space for use by the occupants of the Building, all in order to

enhance the marketability of the Building for leasing purposes given the current very challenging leasing environment.

4. The Applicant provided evidence that on October 20, 2021, it served the Application on ANC 2C and the Office of Planning (“OP”) as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 2.)
5. OP submitted a report dated November 8, 2021, stating no objection to the Application being considered as a Modification of Consequence and recommending approval of the Application (the “OP Report”). (Ex. 3.) The OP Report noted that the retail and other preferred uses in the Building generated and transferred 43,260 Transferable Development Rights (“TDR”) under § 1703.4 of the 1958 regulations and requested that the Applicant compare that number of TDR with the number of TDR that would have been generated under the reduced preferred-use square footage proposed by the Applicant in this Application. The Applicant provided responsive materials to OP's request in its submission dated November 17, 2021. (Ex. 5.)
6. ANC 2C submitted a written report dated November 17, 2021, stating that at its duly noticed public meeting of September 14, 2021, at which a quorum was present, ANC 2C voted to support the Application (the “ANC Report”) noting the current very challenging retail environment. (Ex. 4.)

### CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.
2. Subtitle Z § 703.3 defines a Modification of Consequence as “a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance”.
3. Subtitle Z § 703.4 includes “a proposed change to a condition in the final order” and “a redesign or relocation of architectural elements” as examples of Modifications of Consequence.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 2C.
5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the conditions and architectural elements approved by the Original Order and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).
6. The Commission concludes that because ANC 2C, the only party other than the Applicant to the Original Order, had filed a response to the Application, the requirement of Subtitle

Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met, and therefore the Commission could consider the merits of the Application at its November 18, 2021 public meeting.

7. The Commission finds that the Application is in keeping with the approved planned unit development, as authorized by the Original Order, because grant of the requested flexibility to allow the Applicant to lease the second floor of the Building for office or other permissible uses in the zone district is likely to invigorate the Building, which has suffered extensive retail vacancies over the course of the past few years, by enhancing the opportunity for the ground floor space to be leased to retail, service, eating and drinking establishments or entertainment and arts uses that would not be able to move forward with leasing the larger space.

#### **“Great Weight” to the Recommendations of OP**

8. Pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8, the Commission must give “great weight” to the recommendations of OP. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
9. The Commission notes OP’s lack of objection to the Application being considered as a Modification of Consequence and finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

#### **“Great Weight” to the Written Report of the ANC**

10. Pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) and Subtitle Z § 406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
11. The Commission finds the ANC Report’s support for the Application persuasive and concurs in that judgment that the requested Application merits approval given the very challenging current state of retail, especially in the downtown area.

### **DECISION**

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and, therefore, **APPROVES** the Applicant’s request for a Modification of Consequence to modify Z.C. Order No. 940, subject to the following conditions and provisions:



The conditions in Z.C. Order No. 940, remain unchanged and in effect, except that:

Condition No. 3 as stated or incorporated in these orders, is hereby revised to read as follows (deletions shown in **bold** and ~~striketrough~~ text; additions in **bold** and underlined text):

3. The permitted uses on the cellar level, vaults, and first ~~two~~ floors of the PUD building shall be limited to those preferred uses listed in §§ 1710 and 1711 of the Zoning Regulations as more specifically referenced in Condition No. 5, below. The remainder of the building may be used for any use permitted in the DD/C-4 district. **Notwithstanding the above requirement, approximately 10,000 square feet of building amenity space shall be permitted to be provided in the cellar level.**

**VOTE (November 18, 2021):**      **5-0-0** (Peter G. May, Robert E. Miller, Anthony J. Hood, Peter A. Shapiro, Peter G. May, and Joseph S. Imamura to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is, on December 31, 2021.

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.

Z.C. ORDER No. 00-33A

Z.C. CASE No. 00-33A

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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 13-08B**

**Z.C. Case No. 13-08B**

**Standard Real Estate Partners, LP & Trammell Crow Company**

**(Two-Year Time Extension for PUD**

**@ Parcels 229/103, 229/151, 229/160, 229/153, 229/161 and Lots 6 and 7 in Square 5914)**

**October 28, 2021**

Pursuant to notice, at its October 28, 2021 public meeting, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of Standard Real Estate Partners, LP and Trammel Crow Company<sup>1</sup> (the “Applicant”) for a two-year time extension of Z.C. Order No. 13-08 (the “Original Order”), as modified by Z.C. Orders Nos. 13-08A and 13-08A(1), for Parcels 229/103, 229/151, 229/160, 229/153, 229/161 and Lots 6 and 7 in Square 5914 (the “Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations”, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**Background**

1. Pursuant to the Original Order, Z.C. Order No. 13-08, the Commission granted the Applicant approval for a Consolidated PUD and Related Map Amendment for the Property (the “Approved PUD”). The Approved PUD authorized construction of a mixed-use transit-oriented development consisting of two buildings including residential, retail, and office uses along Alabama Avenue, S.E. and 13<sup>th</sup> Street, S.E. and across from the Congress Heights Metro Station. More specifically, a nine-story building would primarily be residential with 205-215 affordable and market rate units along with ground floor retail and office uses; and an eight-story building would primarily be office with ground floor retail.
2. The Original Order became effective on June 5, 2015, and required the filing of the building permit application for the construction of the first building by June 5, 2018, and construction to start by June 5, 2019; and the filing of the building permit application for the construction of the second building by June 5, 2020, and construction to start by June 5, 2021. (Condition No. 5.)
3. On June 1, 2018, a Foundation-to-Grade Building permit application for the construction of the first building was filed with the Department of Consumer and Regulatory Affairs (“DCRA”). (FD# 1800081.) On May 31, 2019, prior to the expiration of the Original Order, the Applicant filed an Application for a two-year time extension of the June 5, 2019 deadline to start construction of the Approved PUD by June 5, 2021.

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<sup>1</sup> The applicant in Z.C. Case No. 13-08 was Square 5914, LLC. The interests of Square 5914, LLC were transferred to CityPartners 5914, LLC, which was the applicant in Z.C. Case Nos. 13-08A and 13-08A(1). Standard Real Estate Partners, LP and Trammel Crow Company are the contract purchasers of CityPartners 5914, LLC’s interests in properties included in the Approved PUD.

4. On April 17, 2020, in Z.C. Order No. 13-08A (the “First Time Extension”), the Commission extended the Original Order’s June 5, 2019 deadline to start construction of the Approved PUD for one-year<sup>2</sup> to June 5, 2020. The Original Order’s validity was automatically extended by six months per Subtitle Z §§ 702.1-702.2, to expire on December 5, 2020. Pursuant to Subtitle Z § 705.9, as adopted by the Commission’s emergency action in Z.C. Case No. 20-26, the Applicant filed an Application to extend the Original Order’s validity for one year. On December 7, 2020, in Z.C. Order No. 13-08A(1)<sup>3</sup>, the Director of the Office of Zoning extended the Original Order’s validity from December 5, 2020 to December 5, 2021 for the start of construction on the first building and the filing of a building permit application for the second building.
5. In the fall of 2020, the Applicant was informed of the opportunity to purchase the properties, which included the Approved PUD. Since that time, the Applicant has taken the following actions to move the project forward:
  - Executed a contract with CityPartners 5914, LLC to acquire their interests in a portion of the Approved PUD property;
  - Executed a development agreement with NHT Communities (“NHTC”), who is the selected developer to deliver the residential portion of the Approved PUD;
  - Executed a contract with Congress Heights Community Training and Development Corporation (“CHCTDC”) to acquire the Approved PUD property located at the corner of Alabama Avenue, S.E. and 13<sup>th</sup> Street, S.E.;
  - Executed an assignment of contract from WMATA that replaces CityPartners 5914, LLC with the Applicant as the new contract purchaser;
  - Commenced negotiating an extension to the existing affordable covenant with DHCD that required affordable units to be delivered as part of the acquisition of the Approved PUD property owned by CHCTDC; and
  - NHTC has been working with the Congress Heights S.E. Tenants Association (“CHSETA”), the tenants of the buildings that were on the PUD site, to modify the Approved PUD to include approximately 180 units reserved for residents at 30% to 80% median family income (“MFI”); approximately 85% of the units would be set aside for the residents at 50% MFI; and approximately 30% of the units would be two- or three-bedroom units.<sup>4</sup>

### Parties

6. The parties to the Original Order were:
  - a. The Applicant;
  - b. Advisory Neighborhood Commission (“ANC”) 8E, the “affected” ANC pursuant to Subtitle Z § 101.8; and

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<sup>2</sup> The Application in Z.C. Case No. 13-08A requested a two-year time extension; however, the Commission decided that the time extension approval should be limited to one year.

<sup>3</sup> Pursuant to Subtitle Z § 705.5, a time extension granted due to the COVID-19 pandemic under Subtitle Z §§ 702.1-702.3 OR 705.9 does not count toward the two requests for a time extension allowed thereunder. Accordingly, the time extension granted in Z.C. Case No. 13-08A(1) does not count as a request for a time extension under Subtitle Z § 705.5.

<sup>4</sup> NHTC plans to submit an application to DHCD for an allocation from the Housing Production Trust Fund for the residential portion of the PUD Project in late 2021 and anticipates award of the full allocation by Summer 2022.

- c. The Alabama Avenue/13<sup>th</sup> Street Tenants Coalition<sup>5</sup>.

### The Application

7. On September 13, 2021, prior to the expiration of the time extension granted in Z.C. Order No. 13-08A(1), the Applicant filed an Application for a two-year time extension of the December 5, 2021 deadline, requesting flexibility to file a building permit application for a modified PUD Project and to start construction on the first building of the modified PUD by December 5, 2023. Within that time, the Applicant will file modification of consequence applications to the Commission for approval of minor changes to both the residential and office portions of the Approved PUD.<sup>6</sup> The Application also requested a waiver from Subtitle Z §705.5<sup>7</sup> to allow a second request for a time extension to be approved for more than one year.
8. The Applicant provided evidence that on September 13, 2021, it served the Application on ANC 8E, the Office of Planning (“OP”), Alabama Avenue/13<sup>th</sup> Street Tenants Coalition (the “Coalition”), and CHSETA as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 2 at 7.)
9. The Application asserted that no substantial change had occurred to any of the material facts on which the Commission relied in approving the PUD and related map amendment for the Property in the Original Order. In addition, no modifications have been made to the Comprehensive Plan that impact the Commission’s approval of the PUD Project. (Ex. 2.)
10. The Application asserted that good cause justifies the Commission’s granting the time extension because there are still two cases pending before the DC Superior Court regarding the properties included in the Approved PUD and the existence of these cases rendered the Applicant unable to meet the December 5, 2021 time extension deadline granted in Z.C. Order No. 13-08A(1).<sup>8</sup> Since the fall of 2020, the TOPA-related case has been put on hold while negotiations have occurred between the Applicant, NHTC, and CHSETA. The TOPA case will be dismissed once NHTC takes control of the property under the terms of a negotiated development agreement with CHSETA. The OAG Receivership case has continued, but a global settlement is planned that will result in dismissal of the case if CHSETA agrees to transfer their TOPA rights to the Applicant and NHTC, and if CHSETA also agrees to waive current tenancy at the property and to relocation until the new residential building is constructed. (Ex. 2.)

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<sup>5</sup> The Alabama Avenue/13<sup>th</sup> Street Tenants Coalition (the “Coalition”) is now known as the Congress Heights S.E. Tenants Association (“CHSETA”).

<sup>6</sup> The Applicant anticipates filing the modification of consequence applications by Summer/Fall 2022; the modification to the residential portion of the project would include reducing the 205-215 units originally approved to approximately 180 units all reserved for residents between 30%-80% MFI.

<sup>7</sup> Subtitle Z § 705.5 limits applicants with an approved PUD to no more than two requests for a time extension and limits a second time extension approval to only one year.

<sup>8</sup> The Applicant’s First Time Extension application filed on May 31, 2019 and granted in Z.C. Order No. 13-08A noted that two cases were pending before the DC Superior Court. One was a “TOPA-related case” involving the Tenants Opportunity to Purchase Act (“TOPA”) and the Applicant had offered CHSETA the right to purchase the existing residential buildings on the PUD site and made a settlement offer to CHSETA. And a second was the “OAG Receivership case” involving a court appointed receivership; the former owners of the residential buildings on the PUD site defaulted on various loans and a receiver was put in place to remediate various housing code violations in the residential buildings. Both cases were expected to be resolved within 12 months of the May 31, 2019 application but the cases were not resolved as expected.

### Responses to the Application

#### Office of Planning (“OP”)

11. OP submitted a report dated October 7, 2021, recommending approval of the Application for a time extension to December 5, 2023 and a waiver for a two-year extension (the “OP Report”). (Ex. 4.) OP’s Report noted that the Approved PUD continues to be not inconsistent with the Comprehensive Plan and that no substantial change in any of the material facts upon which the Commission relied in issuing the Original Order have occurred. However, OP’s Report explained that subsequent to the original approval there have been changes to the Comprehensive Plan and to the Inclusionary Zoning regulations. Specifically, the Comprehensive Plan Amendment Act of 2021 provides guidance on replacement units and/or relocation of current residents living on the property, and requirements to address affordable replacement housing for persons currently living on the property as well as guidance on affordability at lower MFI’s and unit sizes; and requires development to be evaluated through an equity lens. In addition, the Inclusionary Zoning regulations now limit the MFI to 60% for rental units, but a higher MFI of 80% was used at the original approval and no family sized units were included. Thus, the original approval does not meet the current MFI limit nor did it address the need for more large family sized units.

#### ANC 8E

12. ANC 8E did not submit a written report to the case record.

#### Congress Heights SE Tenants Association (“CHSETA”)

13. CHSETA, through its legal counsel, Arnold & Porter, submitted a letter dated August 6, 2021 in support of the time extension Application. (Ex. 2C.) The letter explained that CHSETA members are long-time tenants of the residential buildings on the PUD site, and they opposed the Approved PUD because it did not provide sufficient assurance to current residents of their ability to return to the property and because it did not provide the amount and type of affordable housing to meet the needs of the existing community. The letter also noted that the proposed modifications to the residential portion of the Approved PUD will provide affordable housing that meets the needs of the CHSETA members, as well as the wider Congress Heights Community. Finally, the letter stated that NHTC has served as CHSETA’s proposed development partner since 2016 and CHSETA has negotiated an agreement ensuring that members can return to the new residential building, providing stability to individual members.

### CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.

2. The Commission concludes that the Applicant timely filed the Application on September 13, 2021, prior to the December 5, 2021 deadline granted in Z.C. Order No. 13-08A(1), to start of construction on the first building and file a building permit application for the second building. The Applicant now seeks to extend the deadline to file a building permit application for a modified PUD Project and to start construction on the first building of the modified PUD by December 5, 2023.
3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.
4. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served all parties to the Original Order – ANC 8E and the Alabama Avenue/13<sup>th</sup> Street Tenants Coalition now CHSETA– and that all were given 30 days to respond from the September 13, 2021 date of service.
5. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission’s justification for approving the PUD.
6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report. OP’s Report noted that the PUD continues to meet many of the issues on which the original determination was made that the PUD is not inconsistent with the Comprehensive Plan.
7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
  - (1) *An inability to obtain sufficient project financing for the development, following an applicant’s diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant’s reasonable control;*
  - (2) *An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant’s reasonable control; or*
  - (3) *The existence of pending litigation or such other condition, circumstance or factor beyond the applicant’s reasonable control that renders the applicant unable to comply with the time limits of the order.*
8. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(3) because the existence of two DC Superior Court cases involving the Approved PUD property has prevented the Applicant from complying with the time limits of the Original Order. As noted, the litigation involving these two cases was ongoing when the First Time Extension was granted in Z.C. Order No. 13-08A. The Applicant ownership has since changed, in latter 2020, and efforts are currently underway to negotiate a global

settlement agreement that will result in the dismissal of both cases. The Applicant and NHTC are negotiating with CHSETA to reach an agreement to purchase their TOPA rights and relocate the residents during the construction period. The Applicant is confident that there will be an agreement in these two cases but requests additional time to finalize the agreement and have the two cases dismissed.

9. The Commission concludes that the Application demonstrated good cause to waive Subtitle Z § 705.5's requirement that a second time extension may be approved for no more than one year. The Commission determined that, pursuant to Subtitle Z § 101.9, granting the waiver to allow a second time extension for more than one year will not prejudice the rights of any party nor is it otherwise prohibited by law.
10. The Commission concludes that granting of the waiver would not prejudice the rights of any party because the opposition party to the Original Order, CHSETA, fully supports the requested two-year time extension, particularly the Applicant's proposal to modify the residential portion of the PUD to an all affordable building (*see* Ex. 2C). Further, the Applicant will need more than one year to finalize all the tasks required to bring this development to fruition. By December 5, 2023, the Applicant will be tasked with finalizing the global settlement agreement with CHSETA to ensure dismissal of the two court cases; submitting application to DHCD for an allocation of the Housing Production Trust Fund (for the residential portion of the project); preparing and filing modification applications to the Commission to modify the PUD Project; preparing and filing construction documents for the modified PUD Project with DCRA to obtain a building permit; and starting construction on the first building.

#### **“Great Weight” to the Recommendations of OP**

11. Pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8, the Commission must give “great weight” to the recommendations of OP. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
12. The Commission finds persuasive OP's recommendation that the Commission approve the Application and therefore concurs in that judgment.

#### **“Great Weight” to the Written Report of the ANC**

13. Pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) and Subtitle Z § 406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

14. ANC 8E did not submit a written report to the case record; therefore, the Commission has nothing to which it can give “great weight.”

### **DECISION**

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application’s request for a two-year Time Extension of Z.C. Order No. 13-08, as modified by Z.C. Order Nos. 13-08A and 13-08A(1), to extend the deadline to December 5, 2023 to file modification application(s) with the Commission for a modified PUD Project, to file a building permit application with DCRA for the modified PUD Project, and to start construction for the first building of the modified PUD Project.

**VOTE (October 28, 2021): 4-0-1** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, and Peter G. May to **APPROVE**; Architect of the Capitol Representative, not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is, on December 31, 2021.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF CLOSED MEETINGS**

**TIME AND PLACE:** Each Monday and Thursday @ 3:15 p.m. that a Public Meeting or Hearing is Scheduled to be Held for the Calendar Year 2022  
Virtually via WebEx

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

The Zoning Commission, in accordance with § 406 of the District of Columbia Administrative Procedure Act (“Act”)(D.C. Official Code § 2-576), hereby provides notice it will hold closed meetings virtually at the time noted above, regarding cases noted on the agendas for meetings and hearings to be held for the calendar year 2022 in order to receive legal advice from its counsel, per § 405(b)(4), and to deliberate, but not voting, on the contested cases, per § 405(b)(13) of the Act (D.C. Official Code § 2-575(b)(4) and (13)).

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

**District of Columbia REGISTER – December 31, 2021 – Vol. 68 - No. 53    014049 – 014333**

## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

### DISTRICT OF COLUMBIA REGISTER 2022 AGENCY SUBMISSION DEADLINE SCHEDULE

The *District of Columbia Register* is published weekly on Fridays, including on public holidays. The *District of Columbia Register* will be published on the following public holidays:

- D.C. Emancipation Day (Observed): Friday, April 15, 2022
- Veteran's Day: Friday, November 11, 2022

The deadline for submitting notices for publication in the *District of Columbia Register* by District agencies, boards, commissions, and public charter schools is THURSDAY, noon of the PREVIOUS week. For example, the deadline for the Friday, January 7, 2022 *District of Columbia Register* is Thursday, noon on December 30, 2021.

The deadline for a Register to be published during a week that has an official District of Columbia holiday is WEDNESDAY noon of the PREVIOUS week. For example, Monday, January 17, 2022 (Martin Luther King Jr. Day) is an official District of Columbia holiday therefore, the deadline for the Friday, January 21, 2022 *District of Columbia Register* is Wednesday, noon on January 12, 2022.

If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, November 24, 2022 is Thanksgiving Day, the deadline for the December 2, 2022 *District of Columbia Register* is Wednesday, noon on November 23, 2022.

**Documents that are uploaded after the noon deadline will be published in the next edition of the Register.**

**DC Register Submission Deadline Schedules will be published at the end of each Register.**

Below is the 2022 District of Columbia Register Submission Deadline schedule.

**OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES**  
**DISTRICT OF COLUMBIA REGISTER**  
**2022 AGENCY SUBMISSION DEADLINE SCHEDULE**

<b>D.C. Register Issue</b>		<b>Submission Deadline</b>	
Vol. 69/1	January 7, 2022	Thursday	December 30, 2021
Vol. 69/2	January 14, 2022	Thursday	January 6, 2022
Vol. 69/3	January 21, 2022*	Wednesday	January 12, 2022
Vol. 69/4	January 28, 2022	Thursday	January 20, 2022
Vol. 69/5	February 4, 2022	Thursday	January 27, 2022
Vol. 69/6	February 11, 2022	Thursday	February 3, 2022
Vol. 69/7	February 18, 2022	Thursday	February 10, 2022
Vol. 69/8	February 25, 2022*	Wednesday	February 16, 2022
Vol. 69/9	March 4, 2022	Thursday	February 24, 2022
Vol. 69/10	March 11, 2022	Thursday	March 3, 2022
Vol. 69/11	March 18, 2022	Thursday	March 10, 2022
Vol. 69/12	March 25, 2022	Thursday	March 17, 2022
Vol. 69/13	April 1, 2022	Thursday	March 24, 2022
Vol. 69/14	April 8, 2022	Thursday	March 31, 2022
Vol. 69/15	April 15, 2022*	Wednesday	April 6, 2022
Vol. 69/16	April 22, 2022	Thursday	April 14, 2022
Vol. 69/17	April 29, 2022	Thursday	April 21, 2022
Vol. 69/18	May 6, 2022	Thursday	April 28, 2022
Vol. 69/19	May 13, 2022	Thursday	May 5, 2022
Vol. 69/20	May 20, 2022	Thursday	May 12, 2022
Vol. 69/21	May 27, 2022	Thursday	May 19, 2022
Vol. 69/22	June 3, 2022 *	Wednesday	May 25, 2022
Vol. 69/23	June 10, 2022	Thursday	June 2, 2022
Vol. 69/24	June 17, 2022	Thursday	June 9, 2022
Vol. 69/25	June 24, 2022*	Wednesday	June 15, 2022
Vol. 69/26	July 1, 2022	Thursday	June 23, 2022
Vol. 69/27	July 8, 2022 *	Wednesday	June 29, 2022
Vol. 69/28	July 15, 2022	Thursday	July 7, 2022
Vol. 69/29	July 22, 2022	Thursday	July 14, 2022
Vol. 69/30	July 29, 2022	Thursday	July 21, 2022
Vol. 69/31	August 5, 2022	Thursday	July 28, 2022
Vol. 69/32	August 12, 2022	Thursday	August 4, 2022
Vol. 69/33	August 19, 2022	Thursday	August 11, 2022
Vol. 69/34	August 26, 2022	Thursday	August 18, 2022
Vol. 69/35	September 2, 2022	Thursday	August 25, 2022
Vol. 69/36	September 9, 2022*	Wednesday	August 31, 2022
Vol. 69/37	September 16, 2022	Thursday	September 8, 2022
Vol. 69/38	September 23, 2022	Thursday	September 15, 2022
Vol. 69/39	September 30, 2022	Thursday	September 22, 2022
Vol. 69/40	October 7, 2022	Thursday	September 29, 2022
Vol. 69/41	October 14, 2022*	Wednesday	October 5, 2022
Vol. 69/42	October 21, 2022	Thursday	October 13, 2022
Vol. 69/43	October 28, 2022	Thursday	October 20, 2022
Vol. 69/44	November 4, 2022	Thursday	October 27, 2022
Vol. 69/45	November 11, 2022*	Wednesday	November 2, 2022
Vol. 69/46	November 18, 2022	Thursday	November 10, 2022
Vol. 69/47	November 25, 2022*	Wednesday	November 16, 2022
Vol. 69/48	December 2, 2022	Wednesday	November 23, 2022
Vol. 69/49	December 9, 2022	Thursday	December 1, 2022
Vol. 69/50	December 16, 2022	Thursday	December 8, 2022
Vol. 69/51	December 23, 2022	Thursday	December 15, 2022
Vol. 69/52	December 30, 2022*	Wednesday	December 21, 2022
Vol. 70/1	January 6, 2023*	Wednesday	December 28, 2022

\*Weeks with District of Columbia Government public holidays.

Last Updated December 21, 2021